

# MAINE STATE LEGISLATURE

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**Legislative Record**  
**House of Representatives**  
**One Hundred and Twenty-First Legislature**  
**State of Maine**

**Volume II**

**First Regular Session**

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**First Special Session**

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**Second Regular Session**

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**Second Special Session**

February 3, 2004 - April 7, 2004

Pages 777-1562

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE  
SECOND SPECIAL SESSION  
5th Legislative Day  
Wednesday, February 11, 2004

The House met according to adjournment and was called to order by the Speaker.

Prayer by Father Ralph Boisvert, Parish of the Holy Spirit, Waterville.

National Anthem by Lindsay Bynum, Farmingdale.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

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**SENATE PAPERS**  
**Pursuant to Resolve**

**Joint Standing Committee on Natural Resources**

Report of the **Joint Standing Committee on Natural Resources** pursuant to Resolve 2003, chapter 39 and chapter 101, section 3 asks leave to report that the accompanying Bill "An Act To Amend the Bacteria Standard and Dissolved Oxygen Standard for Certain Waters"

(S.P. 690) (L.D. 1845)

Be **REFERRED** to the Committee on **NATURAL RESOURCES** and printed pursuant to Joint Rule 218.

Came from the Senate, Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **NATURAL RESOURCES** in concurrence.

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**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

**Pursuant to Resolve**  
**Family Law Advisory Commission**

Representative MILLS for the **Family Law Advisory Commission** pursuant to Resolve 2003, chapter 25, section 2 asks leave to report that the accompanying Bill "An Act To Implement the Recommendations of the Family Law Advisory Commission with Regard to the Uniform Parentage Act"

(H.P. 1377) (L.D. 1851)

Be **REFERRED** to the Committee on **JUDICIARY** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **JUDICIARY** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

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**Pursuant to Statute**  
**Maine State Housing Authority**

Representative SULLIVAN for the **Maine State Housing Authority** pursuant to the Maine Revised Statutes, Title 5, section 8072 asks leave to report that the accompanying Resolve, Regarding Legislative Review of Chapter 31: Affordable Housing Development District - Recovery of Public Revenue, a Major Substantive Rule of the Maine State Housing Authority

(H.P. 1376) (L.D. 1850)

Be **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED**.

On motion of Representative SULLIVAN of Biddeford, the Resolve was **REFERRED** to the Committee on **TAXATION**, ordered printed and sent for concurrence.

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By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

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**Pursuant to Statute**

**Department of Environmental Protection**

Representative KOFFMAN for the **Department of Environmental Protection** pursuant to the Maine Revised Statutes, Title 5, section 8072 asks leave to report that the accompanying Resolve, Regarding Legislative Review of Chapter 355: Sand Dune Rules, a Major Substantive Rule of the Department of Environmental Protection (EMERGENCY)

(H.P. 1375) (L.D. 1849)

Be **REFERRED** to the Committee on **NATURAL RESOURCES** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

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**ORDERS**

On motion of Representative CLARK of Millinocket, the following Joint Resolution: (H.P. 1371) (Under suspension of the rules, cosponsored by Representatives: ADAMS of Portland, ANDREWS of York, ANNIS of Dover-Foxcroft, ASH of Belfast, AUSTIN of Gray, BARSTOW of Gorham, BEAUDETTE of Biddeford, BENNETT of Caribou, BERRY of Belmont, BERUBE of Lisbon, BIERMAN of Sorrento, BLANCHETTE of Bangor, BLISS of South Portland, BOWEN of Rockport, BOWLES of Sanford, BRANNIGAN of Portland, BREault of Buxton, BROWN of South Berwick, BROWNE of Vassalboro, BRUNO of Raymond, BRYANT-DESCHENES of Turner, BULL of Freeport, BUNKER of Kossuth Township, CAMPBELL of Newfield, CANAVAN of Waterville, CARR of Lincoln, CHURCHILL of Orland, CHURCHILL of Washburn, CLOUGH of Scarborough, COLLINS of Wells, Speaker COLWELL of Gardiner, COURTNEY of Sanford, COWGER of Hallowell, CRAVEN of Lewiston, CRESSEY of Baldwin, CROSTHWAITE of Ellsworth, CUMMINGS of Portland, CURLEY of Scarborough, DAIGLE of Arundel, DAVIS of Falmouth, DUDLEY of Portland, DUGAY of Cherryfield, DUNLAP of Old Town, DUPLESSIE of Westbrook, DUPREY of Hampden, DUPREY of Medway, EARLE of Damariscotta, EDER of Portland, FAIRCLOTH of Bangor, FINCH of Fairfield, FISCHER of Presque Isle, FLETCHER of Winslow, GAGNE-FRIEL of Buckfield, GERZOSKY of Brunswick, GLYNN of South Portland, GOODWIN of Pembroke, GREELEY of Levant, GROSE of Woolwich, HATCH of Skowhegan, HEIDRICH of Oxford, HONEY of Boothbay, HOTHAM of Dixfield, HUTTON of Bowdoinham, JACKSON of Fort Kent, JACOBSEN of Waterboro, JENNINGS of Leeds, JODREY of Bethel, JOY of Crystal, KAELIN of Winterport, KANE of Saco, KETTERER of Madison, KOFFMAN of Bar Harbor, LANDRY of Sanford, LEDWIN of Holden, LEMOINE of Old Orchard Beach, LERMAN of Augusta, LESSARD of Topsham, LEWIN of Eliot, LORING of the Penobscot Nation, LUNDEEN of Mars Hill, MAIETTA of South Portland, MAILHOT of Lewiston, MAKAS of Lewiston, MARLEY of Portland, MARRACHÉ of Waterville, McCORMICK of West Gardiner, McGLOCKLIN of Embden, McGOWAN of Pittsfield, McKEE of Wayne, McKENNEY of Cumberland,

McLAUGHLIN of Cape Elizabeth, McNEIL of Rockland, MILLETT of Waterford, MILLS of Farmington, MILLS of Cornville, MOODY of Manchester, MOORE of the Passamaquoddy Tribe, MOORE of Standish, MURPHY of Kennebunk, MUSE of Fryeburg, NORBERT of Portland, NORTON of Bangor, NUTTING of Oakland, O'BRIEN of Augusta, O'BRIEN of Lewiston, O'NEIL of Saco, PARADIS of Frenchville, PATRICK of Rumford, PEAVEY-HASKELL of Greenbush, PELLON of Machias, PERCY of Phippsburg, PERRY of Calais, PERRY of Bangor, PINEAU of Jay, PINGREE of North Haven, PIOTTI of Unity, RECTOR of Thomaston, RICHARDSON of Greenville, RICHARDSON of Brunswick, RICHARDSON of Skowhegan, RINES of Wiscasset, ROGERS of Brewer, ROSEN of Bucksport, SAMPSON of Auburn, SAVIELLO of Wilton, SHERMAN of Hodgdon, SHIELDS of Auburn, SIMPSON of Auburn, SMITH of Monmouth, SMITH of Van Buren, SNOWE-MELLO of Poland, STONE of Berwick, SUKEFORTH of Union, SULLIVAN of Biddeford, SUSLOVIC of Portland, SYKES of Harrison, TARDY of Newport, THOMAS of Orono, THOMPSON of China, TOBIN of Windham, TOBIN of Dexter, TRAHAN of Waldoboro, TREADWELL of Carmel, TWOMEY of Biddeford, USHER of Westbrook, VAUGHAN of Durham, WALCOTT of Lewiston, WATSON of Bath, WHEELER of Kittery, WOODBURY of Yarmouth, WOTTON of Littleton, YOUNG of Limestone, Senators: BENNETT of Oxford, BLAIS of Kennebec, BRENNAN of Cumberland, BROMLEY of Cumberland, BRYANT of Oxford, CARPENTER of York, CATHCART of Penobscot, President DAGGETT of Kennebec, DAMON of Hancock, DAVIS of Piscataquis, DOUGLASS of Androscoggin, EDMONDS of Cumberland, GAGNON of Kennebec, GILMAN of Cumberland, HALL of Lincoln, HATCH of Somerset, KNEELAND of Aroostook, LAFOUNTAIN of York, LEMONT of York, MARTIN of Aroostook, MAYO of Sagadahoc, MITCHELL of Penobscot, NASS of York, PENDLETON of Cumberland, ROTUNDO of Androscoggin, SAVAGE of Knox, SAWYER of Penobscot, SHOREY of Washington, STANLEY of Penobscot, STRIMLING of Cumberland, TREAT of Kennebec, TURNER of Cumberland, WESTON of Waldo, WOODCOCK of Franklin, YOUNGBLOOD of Penobscot)

**JOINT RESOLUTION HONORING MAJOR GENERAL JOSEPH E. TINKHAM, II ON HIS RETIREMENT FROM THE MAINE NATIONAL GUARD**

WHEREAS, Major General Joseph E. Tinkham, II, a resident of Gardiner, has retired as Commissioner of Defense, Veterans and Emergency Management and Adjutant General of the Maine National Guard; and

WHEREAS, Major General Tinkham retired January 14, 2004 after 38 years of military service and 31 years of state service; and

WHEREAS, as Adjutant General, Major General Tinkham has supervised the activities of 3,400 Army National Guard troops situated in Maine, has supervised veterans' services and has overseen all civil emergency management; and

WHEREAS, Major General Tinkham began his military service in 1966 when he was drafted into the active service; and

WHEREAS, Major General Tinkham left active duty with the rank of Captain and joined the Maine Army National Guard in 1973 and was assigned as a battery commander with the 152nd Field Artillery; and

WHEREAS, following a second battery command and the completion of a number of staff assignments, including a tour at the federal National Guard Bureau, he commanded the Troop Command, Maine Army National Guard; and

WHEREAS, Major General Tinkham has also served as the Deputy Commissioner of Defense, Veterans and Emergency

Management and as Executive Director of Maine Veterans' Homes; and

WHEREAS, Major General Tinkham faced some of his greatest challenges during the crisis on September 11, 2001, when he directly oversaw the state response to the terrorist attacks; and

WHEREAS, Major General Tinkham possesses determination, sound judgment and a work ethic that exemplifies the best in Maine people; now, therefore, be it

RESOLVED: That, We, the Members of the 121st Legislature, now assembled in the Second Special Session, on behalf of the people we represent, extend our congratulations and warmest wishes to Major General Joseph E. Tinkham, II on the occasion of his retirement and we take this opportunity to acknowledge his long and distinguished career and thank him for this service to this State and to the Nation; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to Major General Joseph E. Tinkham, II as a token of our esteem.

**READ.**

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House. It gives me great honor today to be able to present a Joint Resolution on behalf of the whole entire Legislature for retired Major General Joseph Tinkham who was the Commissioner of Defense, Emergency Management and Veterans and also the Adjutant General here for the State of Maine. Over the last eight years that I have known General Tinkham, it has been a great honor of the service that he has provided to the people of the State of Maine, not only the veterans, the emergency management, but also for the whole entire state. We are going to be losing a great gentleman in this capacity, but I think his successor will do an outrageous job just like he has done and also his predecessor, General Adams. Mr. Speaker, I would like to thank General Tinkham for serving our great state and wish him the best in his retirement.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Landry.

Representative LANDRY: Mr. Speaker, Ladies and Gentlemen of the House. If you would bear with me this morning, I haven't quite got my voice yet, but such as it is, I would like very much to have it heard on behalf of General Tinkham. Those of you that know me and know my background know that I am a disabled veteran and a career military person. Over the last year I worked quite a bit with General Tinkham. When I first met him, of course, being a retired senior NCO, I had a tremendous amount of respect for him because of his rank that he was able to attain in his career. Beyond that, I came to learn to respect this man for what he is and that is a soldier's soldier. I watched him go through budget cuts. I worked with him on deployments. I gained his trust in allowing me to work and speak with the deploying forces prior to their leaving. I watched him put these people in their vehicles, wave them off and send them off into harms way. Even for a General, that is a very difficult thing to do, to send the sons and daughters and moms and dads and brothers and sisters of our people into harms way, knowing that they could come back injured or worse yet, come back dead.

To do this takes an awful lot of courage and it takes an awful lot of trust on the part of your troops. Every one that I spoke to, soldiers and their families across the state over the past few months, had nothing but praise for General Tinkham and the job he has done and his leadership of our military folks. As a veteran, as a disabled veteran, as a retired MCO, I want to wish

him the best in the future, good health, God speed and thank you, Sir, for everything you have done for us.

The SPEAKER: The Chair recognizes the Representative from Buckfield, Representative Gagne-Friel.

Representative **GAGNE-FRIEL**: Mr. Speaker, Ladies and Gentlemen of the House. I, too, would like to rise and congratulate Major General Tinkham. I was proud and pleased to be on the Legal and Veterans Affairs Committee when we okayed his nomination a few years ago. I found him to be a soldier and a gentleman. He cared for the people of the State of Maine. He accepted his responsibility willingly and he served well during our crisis. I would like to thank him for serving our state and I would like to congratulate him on his retirement and wish him well.

The SPEAKER: The Chair recognizes the Representative from Oxford, Representative Heidrich.

Representative **HEIDRICH**: Mr. Speaker, Ladies and Gentlemen of the House. I, too, understand and thank General Tinkham. What an honor it was to be able to be associated with that man. When I was in Legal and Veterans, I was very, very impressed with him. I think because of his leadership was one of the reasons I ran for re-election again. The State of Maine has been blessed with some very, very fine people. Certainly the General is right up there among the very, very best. General, I say, Semper Fi and God speed and anything you want in the future. I hope it comes to you, Sir.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Blanchette.

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. It is a pleasure to stand today and tell you that although I know he deserves his retirement, it is long overdue for him and his family to spend some quality time. General Tinkham and his service and dedication to the people in the State of Maine will be missed. He was with us during the crisis that we faced during the ice storm and the troops in Maine performed above and beyond the call of duty trying to bring some life back to a pure chaos. He has been with us while we have deployed more troops than any other state in the United States of America into the war on Iraq. He has done so with compassion and dignity for everybody involved. He knows what those soldiers feel like when they are walking away to get on the plane or in the truck to go out to train, to go to war. He has been there with them. He is with their families. General, good luck, God speed on your retirement. You deserve it. Thank you.

The SPEAKER: The Chair is also pleased to offer my thanks and the thanks of the entire Legislature and the entire population of the State of Maine to Major General Joe Tinkham, my neighbor, my friend, a man who has spent an entire lifetime serving his country and the State of Maine and doing it with honor and dignity and compassion.

Subsequently, was **ADOPTED**.

Sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

## REPORTS OF COMMITTEE

### Divided Report

Majority Report of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought Not to Pass** on Bill "An Act To Eliminate State Licensing of Boxers, Wrestlers and Transient Sellers"

(S.P. 468) (L.D. 1410)

Signed:

Representatives:

SULLIVAN of Biddeford  
O'BRIEN of Lewiston  
DUPREY of Medway  
PELLON of Machias  
SMITH of Monmouth  
AUSTIN of Gray  
BERUBE of Lisbon

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-377)** on same Bill.

Signed:

Senators:

BROMLEY of Cumberland  
HALL of Lincoln  
SHOREY of Washington

Representatives:

JACOBSEN of Waterboro  
RECTOR of Thomaston  
ROGERS of Brewer

Came from the Senate with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-377)**.

**READ.**

Representative SULLIVAN of Biddeford moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

On further motion of the same Representative, **TABLED** pending her motion to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned.

Majority Report of the Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-672)** on Bill "An Act To Adopt a Streamlined Sales and Use Tax Agreement That Allows for Local Option Taxes"

(H.P. 552) (L.D. 746)

Signed:

Senators:

STANLEY of Penobscot  
STRIMLING of Cumberland

Representatives:

LEMOINE of Old Orchard Beach  
McGOWAN of Pittsfield  
SUSLOVIC of Portland  
SIMPSON of Auburn  
PERRY of Bangor  
LERMAN of Augusta

Minority Report of the same Committee reporting **Ought Not to Pass** on same Bill.

Signed:

Senator:

NASS of York

Representatives:

CLOUGH of Scarborough  
TARDY of Newport  
McCORMICK of West Gardiner  
COURTNEY of Sanford

**READ.**

Representative LEMOINE of Old Orchard Beach moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report and later today assigned.

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**CONSENT CALENDAR**

**First Day**

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(S.P. 635) (L.D. 1703) Resolve, Authorizing the State Tax Assessor To Convey the Interest of the State in Certain Real Estate in the Unorganized Territory Committee on **TAXATION** reporting **Ought to Pass**

(S.P. 649) (L.D. 1717) Bill "An Act To Clarify Membership on Boards of Directors for Maine Financial Institutions" (EMERGENCY) Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-376)**

(H.P. 132) (L.D. 173) Bill "An Act To Provide for the Passage of Anadromous Fish Species into the Little River" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-677)**

(H.P. 1236) (L.D. 1660) Bill "An Act To Clarify the Law Pertaining to the Discharge of a Firearm near a Dwelling" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-679)**

(H.P. 1253) (L.D. 1731) Bill "An Act To Expand the State Fire Marshal's Responsibilities and To Clarify That the Commissioner of Public Safety Will Follow the Maine Administrative Procedure Act when Adopting Certain Rules" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-681)**

(H.P. 1264) (L.D. 1742) Bill "An Act To Amend the Laws Regarding Humane Agents and Dog Licenses" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-680)**

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

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(S.P. 602) (L.D. 1638) Bill "An Act To Amend the Maine Consumer Credit Code Regarding Balloon Payments" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-378)**

On motion of Representative RICHARDSON of Brunswick, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ**.

On further motion of the same Representative, **TABLED** pending **ACCEPTANCE** of the Committee Report and later today assigned.

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By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

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**CONSENT CALENDAR**

**Second Day**

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the Second Day:

(H.P. 1273) (L.D. 1751) Bill "An Act To Create Consistency between State and Federal Telephone Consumer Protection Laws"

(H.P. 1349) (L.D. 1825) Bill "An Act To Make Allocations from Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Calendar Year Ending December 31, 2005"

(H.P. 134) (L.D. 175) Bill "An Act to Ensure Parity Among Mental Health Professionals Under Medicaid" (C. "A" H-675)

(H.P. 1230) (L.D. 1652) Bill "An Act Regarding the Number of Jurors Required To Render a Verdict in a Civil Trial" (C. "A" H-673)

(H.P. 1272) (L.D. 1750) Bill "An Act To Improve the Ability of Water Utilities To Maintain a Contingency Allowance" (C. "A" H-676)

(H.P. 1290) (L.D. 1768) Bill "An Act To Authorize Certain School Children To Carry Asthma Inhalers on Their Persons" (C. "A" H-674)

No objections having been noted at the end of the Second Legislative Day, the House Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence. **ORDERED SENT FORTHWITH**.

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**ENACTORS**

**Emergency Measure**

An Act To Ensure Women's Health Care Coverage for All Maine Women

(H.P. 995) (L.D. 1353)

(C. "A" H-648)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

Representative DUPLESSIE of Westbrook **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Enactment. All those in favor will vote yes, those opposed will vote no.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken.

**ROLL CALL NO. 295**

YEA - Adams, Andrews, Annis, Ash, Austin, Barstow, Beaudette, Berry, Berube, Bierman, Blanchette, Bliss, Bowles, Brannigan, Breault, Brown R, Browne W, Bruno, Bryant-Deschenes, Bull, Bunker, Campbell, Canavan, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cowger, Craven, Cressey, Crosthwaite, Cummings, Curley, Daigle, Davis, Dudley, Dunlap, Duplessie, Duprey B, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Glynn, Greeley, Grose, Heidrich, Honey, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Kane, Ketterer, Koffman, Landry, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Maietta, Mailhot, Makas, Marley, Marraché, McCormick, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Moore, Murphy, Norbert, Norton, Nutting, O'Neil, Paradis, Patrick, Peavey-Haskell, Pellon, Percy, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Sampson, Sherman, Shields, Simpson, Smith N, Smith W, Snowe-Mello, Stone, Sukeforth, Sullivan, Suslovic, Sykes, Tardy, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Vaughan, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - NONE.

ABSENT - Bennett, Bowen, Dugay, Goodwin, Hatch, Hotham, Muse, O'Brien J, O'Brien L, Perry A, Perry J, Saviello, Usher.

Yes, 138; No, 0; Absent, 13; Excused, 0.

138 having voted in the affirmative and 0 voted in the negative, with 13 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

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#### Emergency Measure

An Act To Provide Reciprocal Authority to New Hampshire Marine Patrol Officers To Investigate Potential Terrorist Activities in Maine Waters

(S.P. 621) (L.D. 1689)  
(C. "A" S-364)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 132 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

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#### Acts

An Act To Amend the Laws Governing the Display of Fireworks and Indoor Pyrotechnics

(H.P. 1266) (L.D. 1744)  
(C. "A" H-644)

An Act To Amend the Uniform Federal Lien Registration Act

(H.P. 1278) (L.D. 1756)  
(S. "A" S-375)

An Act To Correct Certain Errors and Inconsistencies in Marine Resources Laws

(H.P. 1280) (L.D. 1758)  
(C. "A" H-647)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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#### Resolves

Resolve, To Commission a Portrait of the Honorable George J. Mitchell To Hang in the State House

(S.P. 658) (L.D. 1725)  
(C. "A" S-365)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

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By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

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The following items were taken up out of order by unanimous consent:

#### UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Resolve, To Establish the Intergovernmental Advisory Commission

(H.P. 884) (L.D. 1210)

TABLED - January 28, 2004 (Till Later Today) by Representative McLAUGHLIN of Cape Elizabeth.

PENDING - **FURTHER ACTION**.

On motion of Representative McLAUGHLIN of Cape Elizabeth, the Resolve was **REFERRED** to the Joint Select Committee on **REGIONALIZATION AND COMMUNITY COOPERATION**, ordered printed and sent for concurrence.

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Bill "An Act Regarding Habitual Truants"

(H.P. 800) (L.D. 1082)  
(C. "A" H-634)

TABLED - January 29, 2004 (Till Later Today) by Representative RICHARDSON of Brunswick.

PENDING - **PASSAGE TO BE ENGROSSED**.

On motion of Representative CUMMINGS of Portland, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-634)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "A" (H-678)** to **Committee Amendment "A" (H-634)** which was **READ** by the Clerk and **ADOPTED**.

**Committee Amendment "A" (H-634)** as Amended by **House Amendment "A" (H-678)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (H-634)** as Amended by **House Amendment "A" (H-678)** thereto and sent for concurrence.

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By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

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HOUSE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (4) **Ought to Pass** as Amended by **Committee Amendment "A" (H-670)** - Committee on **UTILITIES AND ENERGY** on Bill "An Act Providing for Regulation of the Cable Television Industry by the Public Utilities Commission"

(H.P. 181) (L.D. 222)

TABLED - February 10, 2004 (Till Later Today) by Representative BLISS of South Portland.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGH NOT TO PASS** Report.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Gerzofsky.

Representative GERZOFSKY: Mr. Speaker, Ladies and Gentlemen of the House. I rise today to speak for the people of Brunswick, my constituents that asked to have this bill brought forward and I believe for a lot of the constituents throughout the rest of the state. Back in the '90s the federal government saw fit to deregulate the cable industry. They left us one little window. That would set the stage for the basic tier and the basic services. That is what this bill does. The cable industry has been a monopoly in the State of Maine. There is no way to really

address it if you have problems with your service at home. You can call the cable company and get a machine if you are lucky or you can call Pennsylvania and talk to the owners of the cable company, but you are not going to get any satisfaction. You can't talk to your town or your town council who gets to negotiate the contract every 10 years, except once every 10 years. If you have problems with your service, you should be able to redress the cable company. The only way I can see to do it is through the PUC. I think the people of Maine deserve the right to be able to complain against a monopoly that we sanctioned. I hope that the people here in this body will try and represent those people that they have at home, those seniors who at this time of the year are locked up in their houses because of the weather and use the cable as their window on the world. I hope that you can vote to kill the Ought Not to Pass and bring back the Ought to Pass as Amended and vote for that. Thank you.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Bliss.

Representative **BLISS**: Mr. Speaker, Men and Women of the House. The first thing I want to do is thank my good friend, the Representative from Brunswick and my good friend from South Portland for both bringing bills to our committee last year on this topic. We felt it was an important enough issue as a committee to carry one of the bills over and work it over the break between our two years of our term. We spent a lot of time talking with the Community Television Association, ably and capably run by Mr. Tony Vigue of South Portland and with the Maine Municipal Association. We spoke a lot with the Public Utilities Commission. The truth is there is very little control that a state or a municipality has over cable. In spite of the fact that the feds have deregulated it, the only control that exists deals with what is called basic service. In fact, each individual cable company can define for themselves what basic service actually means. The big stick, if there is a big stick, that any state or municipality has as the good Representative referred to, the once every seven to 10 years when the cable contract is renegotiated between a municipality and their local cable company. There is a lot that a municipality can do and part of the difficulty here has been that most municipalities haven't had the knowledge or the additional funds to hire an attorney or an expert to help them work through that contract. A lot of that load has fallen on the Cable Television Association. Frankly, they would like to get out from under that. We do not believe as a committee that the answer to this is to create another layer of bureaucracy within the Public Utilities Commission to the tune of \$300,000 a year, when the Maine Municipal Association is willing to do the work on behalf of municipalities. The Maine Municipal Association came to us. They offered to learn from the Cable Television Association and put together a handbook for municipalities to offer workshops for municipalities and to try to act on behalf of municipalities.

We were very clear as a committee that if they did not do that, we would do something else. We tabled this bill for as long as we could to give them an opportunity to act and act they did. The Maine Municipal Association has put together a handbook for municipalities of over 100 pages that every city and town manager or selectperson can get from the Maine Municipal Association. They have put on workshops to train people, but at their regular convention and outside of their regular convention. They have made a very serious effort to move forward to help communities all over the state. We think they deserve an opportunity to continue their work, which will also save us \$300,000 a year and the Maine Municipal Association and both of the sponsors of the legislation that were brought to us know that if they don't act, then the 122nd Legislature can certainly take this up again and move forward with the Public Utilities Commission

action. I urge you to support the motion on the floor, the Majority Ought Not to Pass Report. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Blanchette.

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. I rise today to ask you to once again support the Minority Ought to Pass as Amended Report on this bill. I was a cosponsor on this. I spoke in favor of this before the Utilities Commission a year and a half ago. They very graciously agreed to carry it over and to study it. The good Representative from South Portland, Representative Bliss, is right. They studied this. They have done a lot of work, but it is not taking any relief home to our ratepayers.

I served on the Bangor City Council for 12 years and had the pleasure of negotiating two contracts with the cable company that was coming through our municipality. Both times they promised you the world and delivered nothing. It is a contract that will hold you hostage for 10 years. They stopped at their will, not because they were losing money, but because they couldn't get the grand daddy corporation to agree to it to even give our senior citizens a discount for basic cable rates within their community. There are many people and we all have them in our community, the elderly, the infirmed, house bound. The winters are long and the winters are cold in Maine. They depend on the cable television for their touch with the outside world. For many of them this is the only touch they have with the outside world.

My cable rates in Bangor have gone up since we have negotiated the last contract three times. They don't have to ask for permission to do this. They arbitrarily set a new rate. They send you the bill. If you want to pay it, fine, but if not, they will disconnect your cable. We need some regulation on the cable industry. We have the ability through the Public Utilities Commission to regulate rate increases the same way we do on the electrical rates you pay in Maine and on the water rates you pay in Maine. Let's give the people back home that sent us down here the opportunity to have their voice heard through the Public Advocates Office at the PUC and maybe try and bring the big cable conglomerates into line to know that they are here to provide a service to people that need it. I thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Watson.

Representative **WATSON**: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **WATSON**: Mr. Speaker, Ladies and Gentlemen of the House. The question I would pose is whether or not the efforts that MMA has made on this and the resulting cost savings, do those efforts on behalf of the municipalities only apply to contract negotiations that happen every seven to 10 years or do they apply to how to handle day to day problems that people seem to be having with their cable service?

Representative GERZOFKY of Brunswick **REQUESTED** a roll call on the motion to **ACCEPT** the Majority Ought Not to Pass Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Machias, Representative Pellon.

Representative **PELLON**: Mr. Speaker, Ladies and Gentlemen of the House. Speaking as a selectman in Machias, we are going through problems with the cable people right now, Pine Tree Cable. Unfortunately we had to notify them three years in advance of negotiations. We neglected to do that. We were a little bit late, so they just cast us to one side. I am very familiar with the elderly program that Representative Blanchette



spoke about. They have taken the discount away from the elderly and the projects we have. They also raise the rates as they want, but the biggest thing is the neglect and they have not paid personal property tax and refuse to pay the personal property tax. There is very little we can do about it. I support Representative Gerzofsky's Ought Not to Pass and we should go to the Public Utilities Commission to control them.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 296**

YEA - Andrews, Annis, Beaudette, Berry, Berube, Bierman, Bliss, Bowles, Brannigan, Breault, Bruno, Bryant-Deschenes, Bull, Campbell, Cowger, Cummings, Curley, Daigle, Davis, Dunlap, Duplessie, Duprey G, Fischer, Fletcher, Heidrich, Honey, Jodrey, Joy, Kaelin, Kane, Ketterer, Koffman, Ledwin, Lemoine, Lewin, Lundeen, Marraché, McCormick, McGowan, McKee, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Murphy, Norbert, Nutting, O'Neil, Paradis, Piotti, Rector, Richardson E, Richardson J, Richardson M, Rosen, Shields, Smith N, Sukeforth, Sykes, Tardy, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Adams, Ash, Austin, Barstow, Blanchette, Brown R, Browne W, Bunker, Canavan, Carr, Churchill E, Churchill J,

Clark, Clough, Collins, Courtney, Craven, Cressey, Crosthwaite, Dudley, Duprey B, Earle, Eder, Faircloth, Finch, Gagne-Friel, Gerzofsky, Glynn, Goodwin, Greeley, Grose, Hutton, Jackson, Jacobsen, Jennings, Landry, Lerman, Lessard, Maietta, Mailhot, Makas, Marley, McGlocklin, Moore, Norton, Patrick, Peavey-Haskell, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Rines, Rogers, Sampson, Sherman, Simpson, Smith W, Snowe-Mello, Stone, Sullivan, Suslovic, Thomas, Walcott, Watson, Wheeler.

ABSENT - Bennett, Bowen, Dugay, Hatch, Hotham, Muse, O'Brien J, O'Brien L, Saviello, Usher, Vaughan.

Yes, 73; No, 67; Absent, 11; Excused, 0.

73 having voted in the affirmative and 67 voted in the negative, with 11 being absent, and accordingly the Majority Ought Not to Pass Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

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By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH.**

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On motion of Representative RECTOR of Thomaston, the House adjourned at 11:02 a.m., until 10:00 a.m., Thursday, February 12, 2004.