

# MAINE STATE LEGISLATURE

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

**Volume I**

**First Regular Session**

December 1, 2004 - March 30, 2005

**First Special Session**

April 4, 2005 – May 25, 2005

Pages 1-736

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE  
FIRST REGULAR SESSION  
12th Legislative Day  
Thursday, February 3, 2005

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

Prayer by Pastor James A. Weathersby, Second Baptist Church, Islesboro.

National Anthem by Maurice Morin, Auburn.

Pledge of Allegiance.

Doctor of the day, Laurel Coleman, M.D., Manchester.

The Journal of Tuesday, February 1, 2005 was read and approved.

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**COMMUNICATIONS**

The Following Communication: (H.C. 46)

**STATE OF MAINE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE  
COMMITTEE ON AGRICULTURE, CONSERVATION AND  
FORESTRY**

February 1, 2005

Honorable Beth Edmonds, President of the Senate

Honorable John Richardson, Speaker of the House

122nd Maine Legislature

State House

Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Agriculture, Conservation and Forestry has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 62            Resolve, To Require the Department of Conservation To Maintain Public Access To the Fire Tower on Rocky Mountain near Allagash

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. John M. Nutting

Senate Chair

S/Rep. John F. Piotti

House Chair

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (H.C. 47)

**STATE OF MAINE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE  
COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY**

February 1, 2005

Honorable Beth Edmonds, President of the Senate

Honorable John Richardson, Speaker of the House

122nd Maine Legislature

State House

Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Criminal Justice and Public Safety has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 194            An Act To Restrict Personal Benefit by Public Employees

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Bill Diamond

Senate Chair

S/Rep. Patricia A. Blanchette

House Chair

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (S.C. 54)

**MAINE SENATE**

**122ND LEGISLATURE**

**OFFICE OF THE SECRETARY**

February 1, 2005

Honorable Millicent M. MacFarland

Clerk of the House

State House Station 2

Augusta, ME 04333

Dear Clerk MacFarland:

Please be advised the Senate today Insisted to its previous action whereby it referred Bill "An Act To Repeal the Excise Tax on Motor Vehicles" (H.P. 240 L.D. 316) to the Committee on Transportation.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

**READ and ORDERED PLACED ON FILE.**

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**PETITIONS, BILLS AND RESOLVES REQUIRING  
REFERENCE**

The following Bills and Resolve were received, and upon the recommendation of the Committee on Reference of Bills were **REFERRED** to the following Committees, ordered printed and sent for concurrence:

**APPROPRIATIONS AND FINANCIAL AFFAIRS**

Bill "An Act To Appropriate Matching Funds for the Construction of a Convention Center in Oxford Hills" (EMERGENCY)

(H.P. 405) (L.D. 550)

Sponsored by Representative MILLETT of Waterford.

Cosponsored by Senator HASTINGS of Oxford and Representatives: HAMPER of Oxford, HANLEY of Paris, JODREY of Bethel, SYKES of Harrison.

Bill "An Act To Restore Support for HIV and AIDS Treatment and Prevention"

(H.P. 421) (L.D. 588)

Sponsored by Representative DUDLEY of Portland.

Cosponsored by Senator COWGER of Kennebec and Representatives: ADAMS of Portland, BLISS of South Portland, BOWEN of Rockport, MAKAS of Lewiston, MARRACHÉ of Waterville, THOMPSON of China, Senator: STRIMLING of Cumberland.

**BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**

Bill "An Act To Allow Dental Hygienists To Prescribe Fluoride and Chlorhexidine"

(H.P. 407) (L.D. 552)

Sponsored by Representative THOMAS of Ripley.  
Cosponsored by Senator DOW of Lincoln and Representatives: CLARK of Millinocket, McFADDEN of Dennysville, NUTTING of Oakland, PINKHAM of Lexington Township, SMITH of Monmouth.

Bill "An Act To License Real Estate Rental Agents"

(H.P. 434) (L.D. 601)

Sponsored by Representative PILON of Saco.  
Cosponsored by Senator SULLIVAN of York and Representatives: CUMMINGS of Portland, DRISCOLL of Westbrook, HARLOW of Portland, PARADIS of Frenchville, SCHATZ of Blue Hill, SMITH of Monmouth, VALENTINO of Saco.

**CRIMINAL JUSTICE AND PUBLIC SAFETY**

Bill "An Act To Enhance the Prosecution of Child Pornography Cases"

(H.P. 403) (L.D. 548)

Sponsored by Representative SYKES of Harrison.

Bill "An Act To Strengthen Probation Requirements for Convicted Sex Offenders"

(H.P. 409) (L.D. 554)

Sponsored by Representative BERUBE of Lisbon.  
Cosponsored by Senator SNOWE-MELLO of Androscoggin and Representatives: BROWNE of Vassalboro, JACOBSEN of Waterboro, LANSLEY of Sabattus, SHIELDS of Auburn, SYKES of Harrison, VAUGHAN of Durham.

**EDUCATION AND CULTURAL AFFAIRS**

Bill "An Act To Require School Unions To Provide Transportation for Students"

(H.P. 411) (L.D. 556)

Sponsored by Representative PIOTTI of Unity.

Bill "An Act To Amend the Laws Governing the Student Code of Conduct"

(H.P. 419) (L.D. 564)

Sponsored by Representative GROSE of Woolwich.  
Cosponsored by Senator STRIMLING of Cumberland and Representatives: CANAVAN of Waterville, CUMMINGS of Portland, HUTTON of Bowdoinham, MAKAS of Lewiston, PINGREE of North Haven, SYKES of Harrison, WALCOTT of Lewiston, WEBSTER of Freeport.

Bill "An Act To Promote Education in the Unorganized Territory"

(H.P. 427) (L.D. 594)

Sponsored by Representative PERRY of Calais.  
Cosponsored by Senator DAMON of Hancock and Representatives: CLARK of Millinocket, FISCHER of Presque Isle, SMITH of Van Buren.

Bill "An Act To Ensure Accommodation of Students with Disabilities or Illnesses in the University of Maine System and the Maine Community College System"

(H.P. 436) (L.D. 603)

Sponsored by Representative GLYNN of South Portland.

Committee on **EDUCATION AND CULTURAL AFFAIRS** suggested.

On motion of Representative NORTON of Bangor, **TABLED** pending **REFERENCE** and later today assigned.

**HEALTH AND HUMAN SERVICES**

Bill "An Act To Regulate the Display of Tobacco Products"

(H.P. 408) (L.D. 553)

Sponsored by Representative BOWEN of Rockport.

Bill "An Act To Require a Study and Comparative Report on Welfare"

(H.P. 414) (L.D. 559)

Sponsored by Representative SAVIELLO of Wilton.  
Cosponsored by Senator HASTINGS of Oxford and Representatives: BROWNE of Vassalboro, FINCH of Fairfield, FISCHER of Presque Isle, HOTHAM of Dixfield, JOY of Crystal, MOODY of Manchester, SHERMAN of Hodgdon, THOMPSON of China.

Bill "An Act To Rename the Bangor Mental Health Institute the Dorothea Dix Center for Public Service and To Establish the Dorothea Dix Award"

(H.P. 416) (L.D. 561)

Sponsored by Representative FAIRCLOTH of Bangor.  
Cosponsored by Senator PERRY of Penobscot and Representatives: BRANNIGAN of Portland, CANAVAN of Waterville, DUNN of Bangor, Senator: PLOWMAN of Penobscot.

Resolve, Directing the Department of Health and Human Services To Provide Local Alternatives to MaineCare's Mail-order Pharmacy

(H.P. 437) (L.D. 604)

Sponsored by Representative PERRY of Calais.  
Cosponsored by Senator SULLIVAN of York and Representatives: MARRACHÉ of Waterville, SMITH of Van Buren, VAUGHAN of Durham.

**INLAND FISHERIES AND WILDLIFE**

Bill "An Act To Amend the Law Regarding Fishing Derbies"

(H.P. 420) (L.D. 565)

Sponsored by Representative PIOTTI of Unity.  
Cosponsored by Senator WESTON of Waldo and Representative: WATSON of Bath, Senator: BRYANT of Oxford.

**INSURANCE AND FINANCIAL SERVICES**

Bill "An Act Regarding Medical Malpractice Insurance Rate Filings"

(H.P. 423) (L.D. 590)

Sponsored by Representative MILLS of Farmington.  
Cosponsored by Senator MARTIN of Aroostook and Representatives: DUDLEY of Portland, HARLOW of Portland.

Bill "An Act To Ensure Insurance Coverage for Medically Necessary Breast Reduction and Symptomatic Varicose Vein Surgery"

(H.P. 429) (L.D. 596)

Sponsored by Representative PERRY of Calais.  
Cosponsored by Representatives: MARRACHÉ of Waterville, PILON of Saco.

Bill "An Act To Save the Health Care System Money by Ensuring Timely Denials of Claims"

(H.P. 433) (L.D. 600)

Sponsored by Representative GLYNN of South Portland.

Cosponsored by Representative: SHIELDS of Auburn, Senator: ROSEN of Hancock.

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### JUDICIARY

Bill "An Act To Expedite the Forcible Entry and Detainer Process in Nonpayment Cases"

(H.P. 404) (L.D. 549)

Sponsored by Representative MILLS of Farmington.

Bill "An Act To Clarify the Provisions for Child Support Orders Providing Health Insurance for Children"

(H.P. 424) (L.D. 591)

Sponsored by Representative TARDY of Newport.

Cosponsored by Representatives: BRYANT-DESCHENES of Turner, CARR of Lincoln, MILLS of Farmington, PELLETIER-SIMPSON of Auburn.

Bill "An Act To Allow Case Management Officers To Conduct Hearings in Divorce Court"

(H.P. 425) (L.D. 592)

Sponsored by Representative TARDY of Newport.

Cosponsored by Representatives: BRYANT-DESCHENES of Turner, CARR of Lincoln, MILLS of Farmington, PELLETIER-SIMPSON of Auburn, Senator: DAVIS of Piscataquis.

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### LEGAL AND VETERANS AFFAIRS

Bill "An Act To Permit Interstate Wine and Malt Liquor Sales and Delivery to Homes"

(H.P. 415) (L.D. 560)

Sponsored by Representative LINDELL of Frankfort.

Cosponsored by Representative THOMAS of Ripley, Senator PLOWMAN of Penobscot and Representatives: BISHOP of Boothbay, KAELIN of Winterport.

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### MARINE RESOURCES

Bill "An Act To Protect the Recreational Harvesting of Surf Clams in Saco Bay"

(H.P. 413) (L.D. 558)

Sponsored by Representative CLOUGH of Scarborough.

Cosponsored by Senator SULLIVAN of York and Representatives: ADAMS of Portland, ASH of Belfast, CURLEY of Scarborough, DUGAY of Cherryfield, FLETCHER of Winslow, PERCY of Phippsburg, SEAVEY of Kennebunkport, Senator: ANDREWS of York.

Bill "An Act To Allow the Department of Marine Resources To Preserve and Protect Burnt Island and Burnt Island Living Lighthouse and To Regulate Their Use"

(H.P. 428) (L.D. 595)

Sponsored by Representative BISHOP of Boothbay.

Cosponsored by Senator DOW of Lincoln and Representative: ADAMS of Portland, Senators: DAMON of Hancock, MAYO of Sagadahoc.

Submitted by the Department of Marine Resources pursuant to Joint Rule 204.

Bill "An Act To Provide for a Limited Sea Cucumber Fishery"

(H.P. 435) (L.D. 602)

Sponsored by Representative EDER of Portland.

Cosponsored by Representatives: KAELIN of Winterport, PERCY of Phippsburg.

Submitted by the Department of Marine Resources pursuant to Joint Rule 204.

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### NATURAL RESOURCES

Bill "An Act To Amend the Solid Waste Landfill Laws"

(H.P. 430) (L.D. 597)

Sponsored by Representative TWOMEY of Biddeford.

Cosponsored by Senator COWGER of Kennebec and Representatives: ADAMS of Portland, BLANCHETTE of Bangor, JACKSON of Fort Kent, KOFFMAN of Bar Harbor, LORING of the Penobscot Nation, LUNDEEN of Mars Hill, MAKAS of Lewiston, THOMPSON of China.

Bill "An Act To Protect Household Pets and Other Small Animals from Poisoning"

(H.P. 432) (L.D. 599)

Sponsored by Representative GLYNN of South Portland.

Bill "An Act To Revise the Site Location of Development Laws"

(H.P. 438) (L.D. 605)

Sponsored by Representative KOFFMAN of Bar Harbor.

Bill "An Act To Assist Municipal Implementation and Enforcement of Storm Water Management Programs"

(H.P. 441) (L.D. 608)

Sponsored by Representative KOFFMAN of Bar Harbor.

Cosponsored by Senator COWGER of Kennebec and Representatives: DAIGLE of Arundel, DUCHESNE of Hudson, EBERLE of South Portland.

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### STATE AND LOCAL GOVERNMENT

Bill "An Act To Amend the Budget Timetable for Oxford County"

(H.P. 406) (L.D. 551)

Sponsored by Representative HANLEY of Paris.

Cosponsored by Senator HASTINGS of Oxford and Representatives: HAMPER of Oxford, MILLETT of Waterford.

Bill "An Act To Provide Relief from the Cost of Rescue Services to Certain Communities"

(H.P. 412) (L.D. 557)

Sponsored by Representative CARR of Lincoln.

Cosponsored by Senator SCHNEIDER of Penobscot and Representative: McLEOD of Lee.

Bill "An Act To Improve Public Understanding in Rulemaking"

(H.P. 417) (L.D. 562)

Sponsored by Representative SAVIELLO of Wilton.

Cosponsored by Senator NUTTING of Androscoggin and Representatives: BROWNE of Vassalboro, FINCH of Fairfield, FISCHER of Presque Isle, FLETCHER of Winslow, HOTHAM of Dixfield, MARLEY of Portland, MILLS of Farmington, SHERMAN of Hodgdon.

Bill "An Act To Strengthen Ethical Standards Regarding Former Legislators"

(H.P. 422) (L.D. 589)

Sponsored by Representative BOWLES of Sanford.  
Cosponsored by Senator DAVIS of Piscataquis and Representatives: BRYANT-DESCHENES of Turner, FISHER of Brewer, MARRACHÉ of Waterville, MILLETT of Waterford, MILLS of Farmington, MOODY of Manchester, Senator: WESTON of Waldo.

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**TAXATION**

Bill "An Act To Alter Trade-in Allowances Regarding Motor Homes"

(H.P. 426) (L.D. 593)

Sponsored by Representative GERZOFKY of Brunswick.  
Cosponsored by Senator COURTNEY of York and Representatives: ASH of Belfast, BLANCHETTE of Bangor, CHURCHILL of Washburn, FISHER of Brewer, HANLEY of Gardiner, JENNINGS of Leeds, MARLEY of Portland, RINES of Wiscasset.

Bill "An Act To Provide an Income Tax Modification for the Federal Empowerment Zone Employment Credit"

(H.P. 431) (L.D. 598)

Sponsored by Representative FISCHER of Presque Isle.  
Cosponsored by Senator MARTIN of Aroostook and Representatives: BROWNE of Vassalboro, EDGECOMB of Caribou, JACKSON of Fort Kent, LUNDEEN of Mars Hill, PARADIS of Frenchville, SHERMAN of Hodgdon, SMITH of Van Buren, Senator: CLUKEY of Aroostook.

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**TRANSPORTATION**

Bill "An Act To Enhance Driver Education and Safety" (EMERGENCY)

(H.P. 410) (L.D. 555)

Sponsored by Representative FLETCHER of Winslow.  
Cosponsored by Senator SNOWE-MELLO of Androscoggin and Representative: BROWNE of Vassalboro.

Resolve, To Require the Department of Transportation To Rebuild the Frank J. Wood Bridge between Brunswick and Topsham

(H.P. 439) (L.D. 606)

Sponsored by Speaker RICHARDSON of Brunswick.  
Cosponsored by President EDMONDS of Cumberland and Representatives: CROSBY of Topsham, GERZOFKY of Brunswick, GROSE of Woolwich, HUTTON of Bowdoinham, MARLEY of Portland, SAMPSON of Auburn, WATSON of Bath, Senator: MAYO of Sagadahoc.

Bill "An Act To Extend Passenger Rail Service to Midcoast Maine"

(H.P. 440) (L.D. 607)

Sponsored by Speaker RICHARDSON of Brunswick.  
Cosponsored by President EDMONDS of Cumberland and Representatives: CROSBY of Topsham, GERZOFKY of Brunswick, GROSE of Woolwich, HUTTON of Bowdoinham, MARLEY of Portland, SAMPSON of Auburn, WATSON of Bath, Senator: MAYO of Sagadahoc.

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**UTILITIES AND ENERGY**

Bill "An Act To End Discrimination against Persons with Pulmonary Disabilities in Northern and Eastern Maine"

(H.P. 418) (L.D. 563)

Sponsored by Representative FAIRCLOTH of Bangor.

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**ORDERS**

On motion of Representative WHEELER of Kittery, the following House Order: (H.O. 21)

ORDERED, that Representative Joseph C. Brannigan of Portland be excused Tuesday, January 25th and Thursday, January 27th for health reasons.

AND BE IT FURTHER ORDERED, that Representative Harold Ian Emery of Cutler be excused Tuesday, January 25th and Tuesday, February 1st for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Randy E. Hotham of Dixfield be excused Thursday, January 27th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Kimberley C. Rosen of Bucksport be excused Tuesday, January 25th and Thursday, January 27th for health reasons.

AND BE IT FURTHER ORDERED, that Representative Thomas B. Saviello of Wilton be excused Thursday, January 27th for personal reasons.

**READ and PASSED.**

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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 Tuesday, February 1, 2005, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Bill "An Act To Establish Individual Medical Savings Accounts"

(H.P. 382) (L.D. 507)

(Committee on **TAXATION** suggested)

TABLED - February 1, 2005 (Till Later Today) by Representative WOODBURY of Yarmouth.

PENDING - **REFERENCE.**

Subsequently, the Bill was **REFERRED** to the Committee on **TAXATION**, ordered printed and sent for concurrence.

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Bill "An Act To Exempt Insurers of Commercial Vehicle Fleets from the Requirement of Notification to the Secretary of State When Insurance Is Cancelled"

(S.P. 154) (L.D. 528)

- In Senate, **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES.**

TABLED - February 1, 2005 (Till Later Today) by Representative MARLEY of Portland.

PENDING - **REFERENCE IN CONCURRENCE.**

On motion of Representative PERRY of Calais the Bill was **REFERRED** to the Committee on **TRANSPORTATION**, in **NON-CONCURRENCE** and sent for concurrence.

**SENATE PAPERS**

The following Joint Order: (S.P. 182)

**ORDERED**, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, February 8, 2005, at 10:00 in the morning.

Came from the Senate, **READ** and **PASSED**.

**READ** and **PASSED** in concurrence.

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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 **WHEELER** of Kittery, the House adjourned at 10:40 a.m., until 10:00 a.m., Tuesday, February 8, 2005, pursuant to the Joint Order (S.P. 182) and in honor and lasting tribute to Gordon F. Jarvis, of East Millinocket and Edward S. Godfrey, III, of Portland.