

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 SPECIAL SESSION
14th Legislative Day
Wednesday, May 11, 2005

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

Prayer by Pastor Ian Shearer, Faith Baptist Church, Millinocket.

National Anthem by Maine-ly Harmony.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

SENATE PAPERS
Non-Concurrent Matter

Bill "An Act To Require the Use of Reflective Material on Ice Fishing Shacks"

(H.P. 575) (L.D. 810)

Report "A" (6) **OUGHT TO PASS AS AMENDED** of the Committee on **INLAND FISHERIES AND WILDLIFE READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-231) in the House on May 9, 2005.

Came from the Senate with Report "B" (6) **OUGHT NOT TO PASS** of the Committee on **INLAND FISHERIES AND WILDLIFE READ** and **ACCEPTED** in **NON-CONCURRENCE**.

The House voted to **ADHERE**.

Non-Concurrent Matter

Bill "An Act To Encourage More Dentists To Practice in the State"

(H.P. 443) (L.D. 610)

Majority (9) **OUGHT NOT TO PASS** Report of the Committee on **TAXATION READ** and **ACCEPTED** in the House on April 26, 2005.

Came from the Senate with the Minority (4) **OUGHT TO PASS AS AMENDED** Report of the Committee on **TAXATION READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-177) in **NON-CONCURRENCE**.

The House voted to **ADHERE**.

Non-Concurrent Matter

Bill "An Act To Exempt from the Sales Tax Electricity Used by a Senior Citizen To Heat a Home"

(H.P. 769) (L.D. 1116)

Majority (12) **OUGHT NOT TO PASS** Report of the Committee on **TAXATION READ** and **ACCEPTED** in the House on April 26, 2005.

Came from the Senate with the Minority (1) **OUGHT TO PASS AS AMENDED** Report of the Committee on **TAXATION READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-175) in **NON-CONCURRENCE**.

Representative TARDY of Newport moved that the House **RECEDE AND CONCUR**.

On motion of Representative DUPLESSIE of Westbrook, **TABLED** pending the motion of Representative TARDY of Newport to **RECEDE AND CONCUR** and later today assigned.

Non-Concurrent Matter

Bill "An Act To Clarify State Auditor Qualifications"

(H.P. 512) (L.D. 717)

Minority (6) **OUGHT TO PASS** Report of the Committee on **STATE AND LOCAL GOVERNMENT READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED** in the House on May 10, 2005.

Came from the Senate with the Majority (7) **OUGHT NOT TO PASS** Report of the Committee on **STATE AND LOCAL GOVERNMENT READ** and **ACCEPTED** in **NON-CONCURRENCE**.

Representative BARSTOW of Gorham moved that the House **RECEDE AND CONCUR**.

On further motion of the same Representative, **TABLED** pending his motion to **RECEDE AND CONCUR** and later today assigned.

COMMUNICATIONS

The Following Communication: (H.C. 211)

STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON BUSINESS RESEARCH AND ECONOMIC
DEVELOPMENT

May 9, 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 Business, Research and Economic Development has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 601 An Act To License Real Estate Rental Agents

L.D. 1014 Resolve, Directing the Department of Economic and Community Development To Develop a Clearinghouse of Maine Businesses That Contract Out Work for Completion Off-site within the State

L.D. 1412 An Act To Protect Consumers Regarding Motor Vehicle Rentals

L.D. 1443 An Act To Require the Owner of a Service Dog To Show a Certificate of Completion of a Basic Obedience Class from a Service Dog Trainer in Order for That Dog To Be Admitted to a Retail Establishment or Restaurant

L.D. 1522 An Act To Provide Consumers an Itemized Receipt for Gasoline Purchased with a Credit or Debit Card

L.D. 1549 An Act To Require Funeral Establishments To Counsel Next of Kin on Embalming

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Lynn Bromley

Senate Chair

S/Rep. Nancy E. Smith

House Chair

READ and **ORDERED PLACED ON FILE**.

The Following Communication: (H.C. 212)

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES**

May 5, 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 Health and Human Services has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 1206 Resolve, To Fund a Group Home for Young Adults with Disabilities in Southern Maine
- L.D. 1228 An Act To Create Consistency in the Regulation of Small Group Homes
- L.D. 1270 Resolve, To Increase Prospective Interim Payments to Certain Rural Hospitals
- L.D. 1350 An Act Regarding the Office of Substance Abuse

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Arthur F. Mayo, III
Senate Chair
S/Rep. Hannah Pingree
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 213)

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON TAXATION**

May 9, 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 Taxation has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 705 An Act To Relieve the Income Tax Burden in the State through Revenue-neutral Means
- L.D. 1437 An Act To Broaden the Sales Tax Base and Lower the Sales and Use Tax and Service Provider Tax Rates

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Joseph C. Perry
Senate Chair
S/Rep. Richard G. Woodbury
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 214)

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON UTILITIES AND ENERGY**

May 9, 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 Utilities and Energy has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 1008 Resolve, To Establish a Study Commission To Analyze Regulations Applicable to Sewer Districts
- L.D. 1081 Resolve, Directing the Department of Public Safety and the Public Utilities Commission To Review the E-9-1-1 System
- L.D. 1282 An Act To Clarify the Process To Enforce Dig Safe Requirements

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Philip L. Bartlett II
Senate Chair
S/Rep. Lawrence Bliss
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 215)

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

May 9, 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 Legal and Veterans Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 804 An Act To Prohibit Clean Election Candidates from Using Clean Money for Personal Profit or Use
- L.D. 1099 RESOLUTION, Proposing an Amendment to the Constitution of Maine To Ensure Statewide Participation in Initiating a Referendum by Requiring 10% of the Total Vote by County
- L.D. 1117 An Act To Protect Children Left Unattended at Gambling Establishments
- L.D. 1154 An Act To Recognize and Regulate the Proper Formation of Minor Political Parties
- L.D. 1188 An Act To Ensure Ready Access by Consumers to Information Regarding Alcoholic Beverages and Gambling Activities while Decreasing Gambling Abuse
- L.D. 1207 An Act To Improve the Clean Election Laws
- L.D. 1227 An Act To Fund Pesticide Education in the State
- L.D. 1239 An Act To Promote Clean Elections in Maine
- L.D. 1260 An Act To Establish Daily Loss Limits Relating to Slot Machines and Certain Games of Chance
- L.D. 1281 An Act To Ensure That Direct Initiatives Have Local Support
- L.D. 1371 An Act To Provide Additional Funding for Prescription Drugs for Maine's Elderly

- L.D. 1467 An Act To Limit the Hours of Operation at Certain Gambling Establishments
 L.D. 1485 Resolve, To Publicize the Odds of Winning a State Lottery

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,
 S/Sen. Kenneth T. Gagnon
 Senate Chair
 S/Rep. John L. Patrick
 House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 216)
STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333-0002

May 11, 2005
 Honorable Millicent M. MacFarland
 Clerk of the House
 122nd Legislature
 Augusta, Maine 04333

Dear Madam Clerk:
 Pursuant to my authority under House Rule 201.1 (H), I have appointed Representative Robert W. Duplessie of Westbrook to serve as Speaker Pro Tem when the House convenes on Thursday, May 12, 2005 at 9:00 a.m.

Sincerely,
 S/John Richardson
 Speaker of the House

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 217)
STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON INSURANCE AND FINANCIAL SERVICES

May 9, 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 Insurance and Financial Services has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 394 An Act To Create a High-risk Pool in the Health Insurance Market
 L.D. 898 An Act To Preserve Dirigo Health
 L.D. 1168 An Act To Reduce Individual Health Insurance Premiums
 L.D. 1475 An Act To Establish a Simplified Package of Health Care Insurance Affordable by All
 L.D. 1523 An Act To Create Lower-cost Health Insurance Options
 L.D. 1545 An Act To Establish a Cooperative Approach to Health Care Coverage

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,
 S/Sen. Nancy B. Sullivan

Senate Chair
 S/Rep. Anne C. Perry
 House Chair

READ and ORDERED PLACED ON FILE.

ORDERS

On motion of Representative PELLETIER-SIMPSON of Auburn, the following Joint Order: (H.P. 1179)

ORDERED, the Senate concurring, that the Joint Standing Committee on Judiciary shall report out, to the House, a bill to provide former foster parents with standing to appeal a decision concerning licensing or the removal of children placed with the former foster parents.

READ and PASSED.

Sent for concurrence. **ORDERED SENT FORTHWITH.**

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act To Limit In-kind Contributions to Maine Clean Election Act Candidates"

(H.P. 606) (L.D. 855)

Signed:

Senators:

MITCHELL of Kennebec
 GAGNON of Kennebec

Representatives:

FISHER of Brewer
 PINKHAM of Lexington Township
 VALENTINO of Saco
 PATRICK of Rumford
 TUTTLE of Sanford
 BLANCHETTE of Bangor
 BROWN of South Berwick

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-312)** on same Bill.

Signed:

Senator:

PLOWMAN of Penobscot

Representatives:

OTT of York
 HOTHAM of Dixfield
 MOORE of Standish

Representative MOORE of the Passamaquoddy Tribe - of the House - supports the Majority **Ought Not to Pass** Report.

READ.

Representative PATRICK of Rumford moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Majority Report of the Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-307)** on Bill "An Act Establishing Minimum Energy Efficiency Standards for Certain Products Sold or Installed in the State"

(H.P. 999) (L.D. 1435)

Signed:

Senators:

BARTLETT of Cumberland
COWGER of Kennebec

Representatives:

BLISS of South Portland
BABBIDGE of Kennebunk
BRAUTIGAM of Falmouth
ADAMS of Portland
RINES of Wiscasset

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

Signed:

Senator:

WESTON of Waldo

Representatives:

FITTS of Pittsfield
CURTIS of Madison
FLETCHER of Winslow
RICHARDSON of Skowhegan
McLEOD of Lee

READ.

Representative BLISS of South Portland 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.

CONSENT CALENDAR

First Day

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

(H.P. 163) (L.D. 212) Bill "An Act To Change the Definition of Promoting Prostitution in the Criminal Laws" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-321)**

(H.P. 270) (L.D. 357) Bill "An Act Regarding Bail Conditions" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-322)**

(H.P. 301) (L.D. 398) Bill "An Act To Make Technical Changes to the Medical Licensure Laws" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-318)**

(H.P. 693) (L.D. 983) Bill "An Act To Make Technical Changes to the Maine Criminal Code" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-323)**

(H.P. 795) (L.D. 1152) Bill "An Act To Protect Certain Elderly or Incompetent Dependents" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-324)**

(H.P. 867) (L.D. 1249) Bill "An Act To Amend the Crimes of Unlawful Sexual Contact and Unlawful Sexual Touching" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY**

reporting **Ought to Pass as Amended by Committee Amendment "A" (H-325)**

(H.P. 880) (L.D. 1283) Bill "An Act To Allow Applicants for Limited Radiographer Licenses To Take Qualifying Views" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-319)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the House Papers were **PASSED TO BE ENGROSSED as Amended** and sent for concurrence. **ORDERED SENT FORTHWITH.**

CONSENT CALENDAR

Second Day

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

(H.P. 347) (L.D. 472) Bill "An Act To Amend the Statewide Building Code" (C. "A" H-295)

(H.P. 481) (L.D. 661) Bill "An Act To Allow Dental Hygienists To Perform Temporary Filling Procedures" (C. "A" H-294)

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

BILLS IN THE SECOND READING

House as Amended

Bill "An Act To Expand the Maine Economic Improvement Fund"

(H.P. 38) (L.D. 42)
(C. "A" H-281)

Bill "An Act Allowing Certain Commercial Vehicles at Canadian Weight Limits To Travel from the Canadian Border at Houlton to New Limerick and from the Canadian Border at Calais to Baileyville"

(H.P. 257) (L.D. 334)
(C. "A" H-261)

Bill "An Act To Amend the Laws Relating to Changeable Signs"

(H.P. 373) (L.D. 498)
(C. "A" H-291)

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

(H.P. 412) (L.D. 557)
(C. "A" H-317)

Bill "An Act To Stimulate Economic Development in Maine's Aviation Industry"

(H.P. 727) (L.D. 1074)
(C. "B" H-299)

Bill "An Act To Promote Responsible Advertising by Public Utilities"

(H.P. 826) (L.D. 1198)
(C. "A" H-296)

Bill "An Act To Require That Property Tax Bills Specifically Note the Amount of Land Being Taxed"

(H.P. 862) (L.D. 1244)
(C. "A" H-302)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the House Papers were **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence.

Bill "An Act To Require a 10-day Waiting Period for the Purchase of Firearms by a Person under 22 Years of Age"
(H.P. 234) (L.D. 310)
(C. "A" H-264)

Was reported by the Committee on **Bills in the Second Reading** and **READ** the second time.

On motion of Representative TARDY of Newport, was **SET ASIDE**.

On motion of Representative CUMMINGS of Portland, **TABLED** pending **PASSAGE TO BE ENGROSSED** as **Amended** and later today assigned.

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

**ENACTORS
Emergency Measure**

An Act To Amend the Laws Governing Mobile Service Bars on Maine Golf Courses

(H.P. 215) (L.D. 290)
(C. "A" H-208)

The **SPEAKER**: The Chair recognizes the Representative from Vassalboro, Representative Browne.

Representative **BROWNE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This bill is the result of input from the Department of Public Safety, the Legal and Veteran's Affairs committee and the Golf Course Owners Association. It's just a bill that is trying to make what we passed last year work. What it does is make the standards consistent with a beverage cart and consistent with all other establishments that have on-premise liquor licenses. It is, again, a compromised position. Everybody is in favor of it and I would urge you to support it. Thank you.

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. 122 voted in favor of the same and 8 against, and accordingly the Bill was **READ** by the clerk.

Subsequently, the bill was **PASSSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

An Act To Ensure Continued Federal Funding of the Maine Developmental Disabilities Council

(H.P. 290) (L.D. 388)
(C. "A" H-207)

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. 131 voted in favor of the same and 0 against, and accordingly the Bill was **PASSSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act To Amend the Waldoboro Utility District

(H.P. 291) (L.D. 389)
(C. "A" H-180)

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. 125 voted in favor of the same and

2 against, and accordingly the Bill was **PASSSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act To Provide for the Efficient Administration of Scholarship Resources

(S.P. 216) (L.D. 680)
(C. "A" S-123)

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. 129 voted in favor of the same and 0 against, and accordingly the Bill was **PASSSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

Resolve, Directing the Department of Health and Human Services To Seek Federal Funding To Serve Immigrant and Refugee Populations in Need of Mental Health and Substance Abuse Treatment

(S.P. 17) (L.D. 37)
(C. "A" S-124)

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. 117 voted in favor of the same and 2 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Resolve, To Extend the 2-year Rabies Vaccination Certificate to 3 Years

(H.P. 361) (L.D. 486)
(C. "A" H-178)

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. 117 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

Acts

An Act To Promote Math and Science Education Learning Kindergarten to Grade 12

(H.P. 95) (L.D. 119)
(C. "A" H-204)

An Act To Support and Expand Regional Teacher Development Centers

(H.P. 150) (L.D. 199)
(C. "A" H-205)

An Act Concerning Significant Wildlife Habitat and Wetlands of Special Significance

(H.P. 200) (L.D. 261)
(C. "A" H-193)

An Act To Allow Electronic Calling Devices for Hunting Moose

(S.P. 88) (L.D. 268)
(C. "A" S-80)

An Act To Extend the Tax Credit for Clean Fuel Infrastructure Development

(H.P. 232) (L.D. 308)
(C. "A" H-189)

An Act To Promote the More Efficient Use of Natural Gas
(H.P. 300) (L.D. 397)
(C. "A" H-185)

An Act To Increase Vital Records Fees
(H.P. 348) (L.D. 473)

An Act To Cap Tuition Rates by Schools in the Unorganized Territory
(H.P. 353) (L.D. 478)
(C. "A" H-203)

An Act To Clarify for Tax Purposes That Manure Removal and Storage Are Operations Directly Involved in the Raising and Care of Livestock
(S.P. 161) (L.D. 535)
(C. "A" S-88)

An Act To Amend the Laws Related to Cancellation and Nonrenewal of Insurance
(S.P. 167) (L.D. 541)
(C. "A" S-105)

An Act To Waive Continuing Education Requirements and To Provide an Automatic Extension of a License, Certificate or Registration for Mobilized Military Members
(S.P. 221) (L.D. 685)
(C. "A" S-121)

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.

Resolves

Resolve, To Establish an Education Pilot Program for Registered Nurses
(S.P. 129) (L.D. 405)
(C. "A" S-100)

Resolve, To Improve Access to Emergency Services in State Parks, Historic Sites and the Maine Wildlife Park
(H.P. 323) (L.D. 438)
(C. "A" H-186)

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

An Act To Require That the Department of Health and Human Services Include a Bureau of Elder Services
(H.P. 262) (L.D. 349)

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

On motion of Representative TARDY of Newport, was **SET ASIDE**.

The same Representative **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.

ROLL CALL NO. 123

YEA - Adams, Annis, Ash, Austin, Babbidge, Barstow, Beaudette, Berube, Bierman, Bishop, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Burns, Cain, Campbell, Canavan, Carr, Cebra, Churchill, Clark, Clough, Collins, Craven, Cressey, Crosby, Crosthwaite, Cummings, Curley, Curtis, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Faircloth, Farrington, Finch,

Fischer, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hotham, Hutton, Jacobsen, Jennings, Jodrey, Joy, Koffman, Lansley, Lerman, Lindell, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Moore G, Moulton, Muse, Nass, Norton, Nutting, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Rines, Robinson, Rosen, Sampson, Seavey, Sherman, Shields, Smith N, Smith W, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Twomey, Valentino, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - NONE.

ABSENT - Bryant-Deschenes, Emery, Jackson, Kaelin, Lewin, O'Brien, Ott, Saviello, Schatz, Stedman.

Yes, 141; No, 0; Absent, 10; Excused, 0.

141 having voted in the affirmative and 0 voted in the negative, with 10 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

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.

HOUSE REPORT - **Ought to Pass as Amended by Committee Amendment "A" (H-132)** - Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Enhance the Prosecution of Child Pornography Cases"
(H.P. 403) (L.D. 548)

TABLED - April 26, 2005 (Till Later Today) by Representative DUPLESSIE of Westbrook.

PENDING - **ACCEPTANCE OF COMMITTEE REPORT**.

On motion of Representative BLANCHETTE of Bangor, the Bill and all accompanying papers were **COMMITTED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and sent for concurrence.

Resolve, Requiring the Secretary of State To Develop Voting Systems Standards (EMERGENCY)

(H.P. 76) (L.D. 100)
(H. "A" H-170 to C. "A" H-129)

TABLED - May 10, 2005 (Till Later Today) by Representative CUMMINGS of Portland.

PENDING - **FINAL PASSAGE**.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 135 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

Resolve, Directing the Department of Conservation, Bureau of Parks and Lands To Study the Management and Fee Structure of Scarborough Beach State Park (EMERGENCY)

(H.P. 568) (L.D. 803)
(C. "A" H-167)

TABLED - May 10, 2005 (Till Later Today) by Representative CUMMINGS of Portland.

PENDING - **FINAL PASSAGE.**

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 134 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate..

Resolve, Directing the Commission on Governmental Ethics and Election Practices To Study Ethical Standards Regarding Former Legislators

(H.P. 422) (L.D. 589)
(C. "A" H-134)

TABLED - May 10, 2005 (Till Later Today) by Representative CUMMINGS of Portland.

PENDING - **FINAL PASSAGE.**

Representative CARR of Lincoln **REQUESTED** a roll call on **FINAL PASSAGE.**

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 Final Passage. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 124

YEA - Adams, Annis, Ash, Austin, Babbidge, Barstow, Beaudette, Berube, Bierman, Bishop, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Burns, Cain, Campbell, Carr, Cebra, Churchill, Clark, Clough, Collins, Cressey, Crosby, Crosthwaite, Cummings, Curley, Curtis, Daigle, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Duprey, Eder, Edgecomb, Emery, Faircloth, Farrington, Finch, Fischer, Fisher, Fitts, Fletcher, Flood, Glynn, Goldman, Greeley, Grose, Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Joy, Koffman, Lansley, Lerman, Lindell, Lundeen, Marean, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Moore G, Moulton, Muse, Nass, Norton, Nutting, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Rines, Robinson, Rosen, Sampson, Saviello, Seavey, Sherman, Shields, Smith N, Smith W, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Twomey, Valentino, Vaughan, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Canavan, Craven, Davis G, Makas, Walcott.

ABSENT - Bryant, Bryant-Deschenes, Eberle, Gerzofsky, Kaelin, Lewin, Marley, O'Brien, Ott, Schatz, Stedman.

Yes, 135; No, 5; Absent, 11; Excused, 0.

135 having voted in the affirmative and 5 voted in the negative, with 11 being absent, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Majority Report of the Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-320)** on Bill "An Act To Facilitate Energy Self-sufficiency for Maine's Offshore Islands"

(H.P. 1006) (L.D. 1442)

Signed:

Senators:

BARTLETT of Cumberland
COWGER of Kennebec
WESTON of Waldo

Representatives:

BLISS of South Portland
BABBIDGE of Kennebunk
CURTIS of Madison
BRAUTIGAM of Falmouth
FLETCHER of Winslow
ADAMS of Portland
RICHARDSON of Skowhegan
RINES of Wiscasset
McLEOD of Lee

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

Signed:

Representative:

FITTS of Pittsfield

READ.

On motion of Representative BLISS of South Portland, the Bill and all accompanying papers were **COMMITTED** to the Committee on **UTILITIES AND ENERGY** and sent for concurrence.

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

The House recessed until 11:30 a.m.

(After Recess)

The House was called to order by the Speaker.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

Bill "An Act To Exempt from the Sales Tax Electricity Used by a Senior Citizen To Heat a Home"

(H.P. 769) (L.D. 1116)

Which was **TABLED** by Representative DUPLESSIE of Westbrook pending the motion of Representative TARDY of Newport to **RECEDE AND CONCUR.**

Subsequently, the House voted to **RECEDE AND CONCUR.**

REPORTS OF COMMITTEE
Divided Report

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

Bill "An Act To Clarify State Auditor Qualifications"

(H.P. 512) (L.D. 717)

Which was **TABLED** by Representative **BARSTOW** of Gorham pending the motion to **RECEDE AND CONCUR**.

The **SPEAKER**: The Chair recognizes the Representative from Boothbay, Representative Bishop.

Representative **BISHOP**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Simply, I let you down. This particular bill made it to the other body faster than I had anticipated and I failed to prepare its way of passage. This is a good bill. It's good for the fiscal future of the State of Maine and it's a good reflection on the honest efforts of this body to inspire continuing high standards for government service. It is a bill that we can all be proud of. I ask that you reject the motion to recede and concur and that this body insist and ask for a Committee of Conference. Thank you Mr. Speaker. I request the yeas and nays.

The same Representative **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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 Gorham, Representative Barstow.

Representative **BARSTOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I appreciate the good Representative from Boothbay and the comments that he has made with regards to this legislation. Having worked with him in committee, I know that he is a very good individual who has high integrity and I know that working with the members of my committee on many different issues, we aim to do nothing but the best to ensure the integrity, the most efficient and productive, and the most representative government and officials that we can for our great state.

Changing these qualifications from the existing qualifications that are already in statute is something that I honestly think the integrity of is good right now. I think that everything is right and just as it is presented in existing statute. The qualifications work; we have not had a situation in our past or our present.

The **SPEAKER**: The Chair recognizes the Representative from Boothbay, Representative Bishop.

Representative **BISHOP**: Mr. Speaker, point of order.

The **SPEAKER**: The Representative may proceed.

Representative **BISHOP**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Point of Order Mr. Speaker, this is about the motion to Recede and Concur. It is not about the bill itself.

The **SPEAKER**: The Representative will be instructed that this is a motion to Recede and Concur and that the Representative will keep the remarks tailored to a Recede and Concur motion, which also includes the question of whether or not we pass or not pass the legislation.

Representative **BISHOP**: Thank you Mr. Speaker, and thank you very much to the good Representative from Gorham. Thank you.

The **SPEAKER**: The Representative may proceed.

Representative **BARSTOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I do appreciate the good Representative from Boothbay for his comments and for sticking with process. I do rise and do stand to support the Recede and Concur motion. As you know, I did support the previous motion as we considered this piece of legislation. My reasons have been outlined and I feel that the other body has had wisdom in that it did reject this original bill and accepted the

Ought Not to Pass motion. I feel that there are other ways beyond this piece of legislation. We can work to improve the integrity of government and we can work to improve the efficiency of government and the representation. I would further state that this bill, and thereby Receding and Concurring and defeating this bill helps us to stay on track and deal with the work ahead of us that our committee has been dealing with, with accountability and with financial orders. I would urge my colleagues again to support the Recede and Concur motion and thank you for your indulgence.

The **SPEAKER**: The Chair recognizes the Representative from Auburn, Representative Shields.

Representative **SHIELDS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. If we Recede and Concur on this bill it will go against what we already voted on and it will prevent us from going forward to achieve an accommodations so that we can have a higher standard of this particular office in this state. Again this bill only has to do with future State Auditors.

The **SPEAKER**: The Chair recognizes the Representative from Gorham, Representative Barstow.

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

The **SPEAKER**: The Representative may pose his question.

Representative **BARSTOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. If I may ask the body, is there a problem that precipitated this and has made us look prospectively to change the qualifications?

The **SPEAKER**: The Representative from Gorham, Representative Barstow has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Boothbay, Representative Bishop.

Representative **BISHOP**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The only reason that we chose to follow through on this bill to raise the bar for qualifications for the position of State Auditor was because we were looking at the situation in the State of Maine realizing that it is increasingly complex fiscally and that one of the primary jobs of the State Auditor is to submit an annual audit to the federal government. It is very, very important that this particular piece of the State of Maine, which is and goes in front of the federal government be absolutely correct in every single facet. We know, all of us, that experience is one of the best teachers that can possibly be. A perfect example of that was my mistake a couple of minutes earlier. With experience, all of us become much more confident and much more able to deal with situations that are increasingly complex and that is what we would look to in the future for this particularly difficult position of State Auditor

We would also expect that a state auditor, of course, would have administrative abilities and we would also expect that a State Auditor, of course, would have the ability to function well in a political situation, but the simple experience of many years that it takes to practice as a certified public accountant would give this position more strength, more experience and more ability to deal with the increasingly difficult financial situations that we are going to encounter. Thank you very much Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Auburn, Representative Shields.

Representative **SHIELDS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In answer to the question, there are four ways in the current law that you can become a State Auditor. We have reviewed all of them. Nobody has the experience requirements, the education requirements and the training requirements that a CPA does, all the others

have lesser requirements and a lesser degree of education so that is why the CPA is the gold standard.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Woodbury.

Representative **WOODBURY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I know many chief financial officers of corporations. In know professors of finance, I know many PhD economists as well as exceptionally capable people from other backgrounds as well. People who I believe could do an exceptional job at the job of State Auditor. Most, possibly all of the people I am referring to, do not have CPA certifications now, but I do believe would be highly capable of getting that certification very quickly. I would not want to preclude any of these people from running for this office. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Barstow.

Representative **BARSTOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As I close my discussion and listen to others and as we approach a vote, there is one thing I would like you to think about as we look at the qualifications that exist, the qualifications that we are looking at and the question that I posed earlier. With regards to the good Representative from Boothbay and his concern that the future auditor and our representative to the federal government, in fulfilling that rule might be in jeopardy because of somebody who does not fit the qualifications that are outlined in this bill, I remind you that good leaders surround themselves with good individuals and capable people that can help them in this duty.

I ask him to think. Do you think that our Chief Executive sits down and writes the state budget on his own? No, he has good staff members that are around to help him. As your selectmen, your town councilors and your city selectmen sit down to draft their budgets and their financial workings do you think that they as five, seven or three individuals in their community write out this document as the citizens representation. No I think they have assistance as well. I ask you to think about this and support the Recede and Concur motion and keep us on the track that we are on. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Austin.

Representative **AUSTIN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As many of you know, I serve on the Business, Research and Economic Development Committee. Every day in our committee we review bills from professions that are licensed under our committee who are pursuing to raise the bar within their profession. They are constantly striving to define, redefine and lift the credentials so that their profession is a cut above. For the life of me I cannot understand why the addition of this credentialing of a CPA would, in any way, be unsupported by this body. This is one of the most important financial positions we have and as we have all heard here today, certainly a CPA certificate is the top of the bar. Why would we not want that to be one of those credentials? I ask you please, to consider adding this. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is to Recede and Concur motion. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 125

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Faircloth, Farrington, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jennings, Koffman,

Lerman, Lundeen, Makas, Marley, Marraché, Miller, Mills, Moody, Norton, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Richardson E, Rines, Sampson, Smith N, Smith W, Thompson, Tuttle, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Eder, Edgecomb, Emery, Finch, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Lansley, Lindell, Marean, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Millett, Moore G, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson M, Richardson W, Robinson, Rosen, Saviello, Seavey, Sherman, Shields, Sykes, Tardy, Thomas, Trahan, Twomey, Vaughan.

ABSENT - Jackson, Kaelin, Lewin, O'Brien, Schatz, Stedman. Yes, 70; No, 75; Absent, 6; Excused, 0.

70 having voted in the affirmative and 75 voted in the negative, with 6 being absent, and accordingly the motion to **RECEDE AND CONCUR FAILED**.

Subsequently, on motion of Representative BISHOP of Boothbay, the House voted to **INSIST** and **ASK** for a **COMMITTEE OF CONFERENCE**. Sent for concurrence.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

HOUSE DIVIDED REPORT - Majority (9) **Ought Not to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (H-312)**- Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Limit In-kind Contributions to Maine Clean Election Act Candidates"

(H.P. 606) (L.D. 855)

Which was **TABLED** by Representative PATRICK of Rumford pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

Subsequently, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

HOUSE DIVIDED REPORT - Majority (7) **Ought to Pass as Amended Amended by Committee Amendment "A" (H-307)**- - Minority (6) **Ought Not to Pass** - Committee on **UTILITIES AND ENERGY** on Bill "An Act Establishing Minimum Energy Efficiency Standards for Certain Products Sold or Installed in the State"

(H.P. 999) (L.D. 1435)

Which was **TABLED** by Representative BLISS of South Portland pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Fletcher.

Representative **FLETCHER**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have gotten a compliment that is probably the best compliment that I have been given today. Thank you.

On the surface this sounds like the right thing to do. We all want to save energy. We all want to make sure that we are not wasting energy, but I would ask you to carefully read LD 1435. There is much more there than what the title would infer and I

would like to point a few of those things out. This is a product ban that will be determined by a single government agency and I want you to also note that these products are also available currently in the marketplace. The efficient products are already there and people are already purchasing them, but what this legislation will do is put in place a ban on the other products, which are also in the marketplace.

The bill talks about minimum energy standards but the legislation actually requires the most stringent standards. You may hear that Maine people will not be harmed because three other states will have to adopt comparable standards for a product to be banned in Maine. Please note that the bill does not say same standard, but comparable standard. Please also note that the three state criteria does not require any other New England state to adopt similar standards.

I'll ask you this question: is this appliance ban legislation going to be just one more reason for people to drive a few extra miles to New Hampshire to buy their appliances because they will have full choice? What a deal. Not only can you save on sales tax, but you also have the opportunity to buy products you may want to buy.

Maine consumers and merchants will need to spend millions of dollars more each year than people in other states to buy products of the same type. It may be a good investment, but Maine consumers won't be able to make that choice because they won't have the other product to say, you know what, I just don't have the extra money so I am going to have to buy the cheaper product that may not be as efficient. Still legal, still within federal standards, but Maine has now developed such a high standard that we are going to require people to invest their money without a choice.

I think one more important thing that this bill will do will take the PUC, the Public Utilities Commission, and make them the appliance police. They will have the power to go in and inspect retailer's inventories and if they find that there is one of these banned products in the inventory they will then contact the Attorney General who will start legal action. The PUC would become the appliance police.

There is an important thing I am sure we all realize. Maine already has an energy conservation program which ratepayers pay \$15 million a year into to conserve energy. It is a great program. It leads with education, provides positive incentives for people to make the right choices. You probably all bought some of these compact fluorescent lights and you had the little rebate. It is an education. It's a positive step, it is not a punitive step and I want to stress that this is working. It is working very well and why do we need to take the freedom of choice away from Maine consumers by establishing product bans when people in Maine want to save energy.

The last point, and this may be the most significant point in my mind, I believe that this is a defining moment in consumer and marketplace freedom in the state of Maine. By accepting the premise that is put forth in this bill, that state government should be able to restrict consumer choices, not for safety, not for any other reason other than the fact that we have come to the conclusion that Maine people are unable or unwilling to make the right consumer choices, state government will be making the choice for them.

We all talk about slippery slopes, which I cannot say because my mouth is dry, but I think the slope is pretty steep. Taking this step, we will have now said, "People of Maine, we don't trust your judgment anymore." So, we are going to decide how much, and on what products you can spend your dollars on, because state government knows so much that we are going to make that decision for you. I hope that you will agree with me that Maine

consumers have a right and have the ability to make decisions about what they purchase, particularly with regard to energy efficiency. I have a great deal of confidence that given the information and given the resources to positive incentives, Maine consumers will make the right choice. This bill is going in a direction that says, "We don't believe people of Maine can make the right choice so government is going to make it for you," and guess what, the bill also provides a provision, not just for the nineteen items that are already listed, but the PUC can then decide that they think there are a few more they should add. Where is it going to end? All the rules are routine and technical. The PUC is a great agency but can then decide tomorrow how many TVs. Why not? If you have more than one TV it must be a waste. That is a pretty steep slope I realize but think about the decision we are making here. Let's let the Maine consumers make the decisions with their money and if we need to use the Efficiency Maine program as it was intended and as it is working, to educate and provide incentives let's continue to do that. Mr. Speaker, when the vote is taken I request the yeas and nays. Thank you very much Ladies and Gentlemen.

Representative FLETCHER of Winslow **REQUESTED** a roll call on the motion to **ACCEPT** the Majority Ought to Pass as **Amended 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 South Portland, Representative Bliss.

Representative BLISS: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. It's not very often that we have an opportunity to help every single consumer in the State of Maine and not empty out Maine's state treasury of the little pittance that is currently in it – if there is anything left in it. This is one of those times. We have seen the cost of electricity increase 40% in the last year. We have seen the cost of natural gas increase by more than 25% in the last year. We have seen the cost of home heating oil in some parts of the State of Maine increase 100% in the last year. We have to find ways to help consumers really save money. This is a perfect way to do that without taking money out of the treasury of the state. An added bonus, Men and Women of the House, is the opportunity to decrease pollution in the state at the same time. This is not a wild and crazy list of appliances. This is not some magic list that is going to put us in the forefront of anybody.

There are, as you can see on your desk, already a variety of states that have this same list in their law. Small states like California – the fifth largest economy in the world. Arizona, Washington, Connecticut, New Jersey, Massachusetts, Vermont, New York and Rhode Island have already passed this bill in one of their houses this year and there is no reason to believe that they won't pass them into law this year as well. In addition, even the first of these appliances doesn't take effect until 2007, but what we have here is an opportunity for people in Maine to spend a little bit more now to get a whole lot back in reduced energy costs. One of these items, an item that we have listed as an example on one of the sheets in front of you, is called a pre-rinse spray valve. It is that thing that the dishwasher in a restaurant uses to spray the garbage off of dishes before they get put into the dishwasher. The extra cost of the energy efficient version is five dollars. The return on that investment is \$380 a year in saved energy costs for that small business. That is 151 times their initial investment after two years.

There are similar returns on investment for every item on this list. It doesn't make sense not to do it. It's not as if these are hard to find items. You also have a list on your desk that shows the number of models, or the number of manufacturers that

already make these very models of these very items right now. What we are saying is that this is an opportunity for Maine citizens to save money today. To get back a whole lot more for the small increase in efficient models that they might have to pay, that they might have to pay.

The good Representative from Winslow is exactly right. We have a program now that spends money, Efficiency Maine spends rate payer money, to inform people about programs and we certainly expect that Efficiency Maine, which is a program of the Public Utilities Commission will move forward and help us educate citizens about this program. This same bill came to the same committee last session. We weren't quite sure how to get our arms around it and frankly there weren't as many other states that had already passed the bill, but instead of passing the bill we said to the Public Utilities Commission, "You are the experts. You go off and take a look at this list of appliances and you tell us what you think. The public utilities commission did exactly what we asked them to do. They came back to us in January with a report that every member of this committee has received, and that any of you are free to look at on the PUC website and one by one the PUC went down this list of appliances and said, "Yes, include it. Yes, include it. Yes, include it. Yes, include it. Yes, include it." With one exception: the one exception that the PUC said was probably not a good deal for Maine citizens was set top boxes, those things that you have to buy if you have an analog television set to put on top of your TV in order to receive HD TV signals.

You have on your desks and amendment. This committee passed this bill as amended. The amendment removes set top boxes from the bill. We agreed with the PUC, in their best judgment all of the appliances made sense to include except one, so the one that they said didn't make sense we took out.

This is a great opportunity to reduce pollution and to save Maine citizens money at the outset. It's a no-brainer for Maine citizens. It helps every single consumer in Maine. I urge you to go with the Majority Ought to Pass. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Richardson.

Representative **RICHARDSON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Statistics can be used to prove anything. We have the statistics of how much money all of this is going to save. The fact of the matter is that it is only going to save money on that which is purchased from this point forward and not going back. Can you imagine how little this is going to amount to over a period of years until everybody in this state will have to have bought new equipment? That is perhaps the least important part of this whole thing.

The most important part of this whole thing is: do we really want government, whether it is the State of Maine or federal government or anything else, telling our people that you may not buy something that's available in the free market? You may not buy it and you as the merchant that has it for sale, if we find you offering it, we are going to fine you \$250. This is a given. This means that the State of Maine, sitting in the hearing in Augusta or wherever, is getting itself into the management of every company in this state, either is or can. You can't start this type of a process. This is government intervention. It is centralizing the government and it leads on from there. If you want to become a socialist government than go ahead and do it, but don't ask me to go along with that type of thing and I don't think many of you want to either. Thank you.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Plummer.

Representative **PLUMMER**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. This bill was described

as an opportunity for the people of the State of Maine. It seems to me that since these appliances are already available the opportunity is already there. It appears what we are trying to do is mandate to the people of the State of Maine. Thank you Mr. Speaker.

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

Representative **EBERLE**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. This is such an incredible opportunity for us to provide the consumers in this state a wide range of choices of appliances that will save them money and pollute less. It will save energy, pollute less and save money. I don't think we are going to have a lot of consumers going into a store and clamoring to buy that old appliance that was inefficient, will cost them more in the end and pollute more. They are not going to be looking for those products they are going to be looking for them and we'll be ready.

This is such a good opportunity for consumers. It is not banning products that people want. This is phasing in products that people want. Products that are bettered, more helpful, will save money and make it easy for the consumer to do this. When you go to the store and you haven't gone to the consumer guide and read the list of products and what's good and what's not good the products will be there and the consumer who is in a hurry, doesn't have time to read all the literature and make all the choices, the options that will be available to them will be good products. They will be plentiful products. There is no way that you can look at something like this without appreciating the fact that Maine again is going to lead the way in energy efficiency, they are going to lead the way for their consumers who will be able to buy products that are helpful to them and will pollute less and this is just one of the best opportunities as Representative Bliss said and is just a no-brainer and I thank you for your support of this bill.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Rines.

Representative **RINES**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I am not going to repeat all of the good things that the Chair said. He laid them out quite well, but utilities issues are a little bit different and a little bit unique because of the number of individuals outside this body that oversee them and judge them for what they are. The PUC did, in fact, take last years legislation and come back with a report that the committee was looking for. Along with that, the Public Advocate is also a watchdog for the citizens of Maine and the rates that are being paid on electric bills. They work not only at the state level, but at the national level and the public advocates office did their own study and they came out with their own report and their own findings and agreed whole-heartedly with the report that the PUC had created for the committee to take under consideration. So, I offer that up as information to you that the Public Advocates office also stands behind this piece of information. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Frankfort, Representative Lindell.

Representative **LINDELL**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I stand in opposition to the motion and in favor of consumer choice and in favor of a free market economy.

Mr. Speaker, Ladies and Gentlemen of the House, the fact of the matter is that what we are proposing here is to give the PUC the power to regulate almost everything sold in the State of Maine. Now, while it is true that the list is fairly limited now this has the potential to expand to almost every electrical product that we buy in this state. Right now the list includes, single voltage

AC/DC power supplies, illuminated exit signs, low voltage dry-type transformers, ceiling fans, and lamp fixtures. In Fact, this bill includes high technology products, which no other state has included in their similar regulations.

While I would assume that just the simple fact that we are talking about restricting consumer choice and driving up the price of products that are available and reducing the number of products that are available in the marketplace should be enough reason to defeat this motion I would remind you of a few other facts.

First of all, the Energy Star program already exists. This is a federal program and is standardized nation-wide. The EPA's Energy Star program identifies those products that are efficient and that reduce the consumption of energy. As consumers we have a choice. Either we can buy the Energy Star product which is sometimes more expensive or we can buy a less efficient product. If we buy a less efficient product we know we are going to pay more for the energy and we are paying for the energy, not somebody else.

An Energy Star ceiling fan will cost about \$100, while the non-Energy Star model will cost about \$40, which do we choose? Is it us, in our infinite wisdom here in this chamber that are going to decide which product you choose or should the consumer be able to choose to buy the \$40 product and pay more for their energy or buy the \$100 product and pay less for the energy? Now, it may well be that buying the \$100 product is the better choice in the long term but it is supremely arrogant of us here to impose that choice upon those consumers - education Ladies and Gentlemen, not regulation.

Maryland is rethinking their law. They are reconsidering similar regulations that they imposed because of such problems because they find consumers going to other states to buy products that are unavailable in the State of Maryland.

Laundromats are going to have to buy more expensive laundry machines. Who uses laundromats? Mostly low income people. Do you think the cost to do laundry is going to go up because of this, of course it is. Top loading commercial washers, they are going to be going out.

Ladies and Gentlemen, it is time to defeat this and recognize that we do not have the ultimate wisdom here in this House or in this chamber, or any other chamber. We must defer to consumers. We must give them the information to make the choice. The Energy Star program does that. Let's defeat this motion and let's let the consumers choose.

On motion of Representative CUMMINGS of Portland, **TABLED** pending the motion of Representative BLISS of South Portland to **ACCEPT the Majority Ought to Pass as Amended Report** and later today assigned. (Roll Call Ordered)

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

Bill "An Act To Require a 10-day Waiting Period for the Purchase of Firearms by a Person under 22 Years of Age"

(H.P. 234) (L.D. 310)

(C. "A" H-264)

Which was **TABLED** by Representative CUMMINGS of Portland pending **PASSAGE TO BE ENGROSSED as Amended**.

Subsequently, on motion of Representative BLANCHETTE of Bangor, the Bill and all accompanying papers were **COMMITTED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and sent for concurrence.

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

SENATE PAPERS

Bill "An Act To Exempt Internet Sales from the Definition of 'Auction'" (EMERGENCY)

(S.P. 618) (L.D. 1670)

Came from the Senate, **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed.

REFERRED to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** in concurrence.

CONSENT CALENDAR

First Day

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

(S.P. 49) (L.D. 143) Bill "An Act To Improve Access to Public Lands" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-146)**

(S.P. 121) (L.D. 374) Bill "An Act To Create a Protected Zone around the Voting Place" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-150)**

(S.P. 139) (L.D. 415) Bill "An Act To Ensure Compliance with the Federal Indian Child Welfare Act" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-138)**

(S.P. 153) (L.D. 527) Bill "An Act To Authorize the Commissioner of Marine Resources To Regulate the Use of Alternative Bait in Marine Fisheries" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-148)**

(S.P. 303) (L.D. 895) Bill "An Act To Expand the Authority of Maine's Lobster Management Policy Councils" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-153)**

(S.P. 355) (L.D. 1038) Bill "An Act To Improve Landowners' Access to Their Land" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-145)**

(S.P. 412) (L.D. 1184) Bill "An Act To Adopt Recommendations of the Soft-shell Clam Advisory Council" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-147)**

(S.P. 418) (L.D. 1204) Bill "An Act To Amend the Charter of the Farmington Village Corporation" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-158)**

(S.P. 445) (L.D. 1265) Bill "An Act To Protect Aquifers" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-157)**

(S.P. 515) (L.D. 1497) Bill "An Act To Amend the Laws Governing Water Quality Standards for Ragged and Seboomook Lakes" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-154)**

(S.P. 522) (L.D. 1506) Bill "An Act To Update the Laws Governing Borrow Pits and Quarries" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-155)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the Senate Papers were or **PASSED TO BE ENGROSSED as Amended** in concurrence. **ORDERED SENT FORTHWITH.**

(S.P. 173) (L.D. 547) Bill "An Act To Extend the Number of Days Nonprofit Organizations Are Allowed To Operate Games of Chance" (EMERGENCY) Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass**

On motion of Representative CLOUGH of Scarborough, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ**.

The same Representative **REQUESTED** a roll call on **ACCEPTANCE** of the **Unanimous Ought 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 Sanford, Representative Tuttle.

Representative **TUTTLE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Just a point of information - all this bill does is extend the normal days of a fair in the Sebago Lake Region that had a problem a few years ago and they presented the bill before the committee.

I haven't got the jacket in front of me but it is a simple change in the law. I forget what they call the event, but it's in the Sebago Lake area and it just clarifies under the law to extend that to allow the event to go on. So, we are really not doing anything major here and I would hope that we would support the bill.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Acceptance of the Unanimous Ought to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 126

YEA - Annis, Ash, Austin, Babbidge, Barstow, Beaudette, Berube, Bierman, Bishop, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Burns, Cain, Campbell, Canavan, Carr, Cebra, Churchill, Clark, Collins, Craven, Crosby, Crosthwaite, Cummings, Curley, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Duprey, Eberle, Edgecomb, Emery, Faircloth, Farrington, Finch, Fischer, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hotham, Hutton, Jacobsen, Jodrey, Joy, Koffman, Lansley, Lerman, Lindell, Lundeen, Makas, Marean, Marraché, Mazurek, McCormick, McFadden, McLeod, Merrill, Miller, Millett, Mills, Moody, Moore G, Moulton, Muse, Nass, Norton, Nutting, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Rines, Robinson, Rosen, Sampson, Saviello, Seavey, Sherman, Shields, Smith N, Smith W, Sykes, Tardy, Thompson, Trahan, Tuttle, Twomey, Valentino, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury.

NAY - Adams, Bryant-Deschenes, Clough, Cressey, Curtis, Eder, McKane, McKenney, Thomas.

ABSENT - Jackson, Jennings, Kaelin, Lewin, Marley, O'Brien, Schatz, Stedman, Mr. Speaker.

Yes, 133; No, 9; Absent, 9; Excused, 0.

133 having voted in the affirmative and 9 voted in the negative, with 9 being absent, and accordingly the **Unanimous Ought to Pass** Report was **ACCEPTED**.

The Bill was **READ ONCE** and was assigned for **SECOND READING** Thursday, May 12, 2005.

(S.P. 145) (L.D. 447) Bill "An Act To Require Health Insurers To Cover the Costs of Hearing Aids" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-149)**

On motion of Representative CLOUGH of Scarborough, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ**.

The **SPEAKER**: The Chair recognizes the Representative from Scarborough, Representative Clough.

Representative **CLOUGH**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just want to call your attention to the fact that this is a mandate, another insurance coverage item that we are adding to the long list of mandates that we have on our health insurance costs and I would ask you to vote against the pending motion.

The same Representative **REQUESTED** a roll call on **ACCEPTANCE** of the **Unanimous Ought to Pass** Report.

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 Acceptance of the Unanimous Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 127

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Bishop, Blanchard, Blanchette, Bliss, Bowles, Brannigan, Brautigam, Bryant, Burns, Cain, Campbell, Canavan, Clark, Craven, Crosby, Cummings, Curley, Daigle, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Edgecomb, Emery, Faircloth, Farrington, Finch, Fisher, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hanley S, Harlow, Hogan, Hutton, Koffman, Lerman, Lindell, Lundeen, Makas, Marley, Marraché, Mazurek, McFadden, McKane, Merrill, Miller, Mills, Norton, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Richardson W, Rines, Rosen, Sampson, Seavey, Smith N, Smith W, Tardy, Thompson, Trahan, Tuttle, Twomey, Valentino, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury.

NAY - Annis, Austin, Berube, Bierman, Bowen, Brown R, Browne W, Bryant-Deschenes, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curtis, Davis G, Duprey, Fischer, Fitts, Fletcher, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Lansley, Marean, McCormick, McKenney, McLeod, Millett, Moody, Moore G, Moulton, Muse, Nass, Nutting, Ott, Plummer, Rector, Richardson D, Richardson E, Richardson M, Robinson, Saviello, Sherman, Shields, Sykes, Thomas.

ABSENT - Jackson, Jennings, Kaelin, Lewin, O'Brien, Schatz, Stedman, Mr. Speaker.

Yes, 91; No, 52; Absent, 8; Excused, 0.

91 having voted in the affirmative and 52 voted in the negative, with 8 being absent, and accordingly the **Unanimous Ought to Pass as Amended** Report was **ACCEPTED**

The Bill was **READ ONCE**. **Committee Amendment "A" (S-149)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, May 12, 2005.

CONSENT CALENDAR

First Day

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

(H.P. 1010) (L.D. 1446) Bill "An Act To Amend the Law Regarding Certification of Educational Personnel" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass**

(H.P. 1075) (L.D. 1530) Resolve, Regarding Legislative Review of Portions of Chapter 115: Certification, Authorization and Approval of Educational Personnel, Part I and Part II, a Major Substantive Rule of the Department of Education (EMERGENCY) Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass**

(H.P. 10) (L.D. 5) Bill "An Act To Promote Provision of Dental Services to Indigent Children" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-328)

(H.P. 129) (L.D. 178) Bill "An Act To Support Animal Welfare" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-329)

(H.P. 369) (L.D. 494) Bill "An Act To Establish a Program for the Purchase of Prescription Drugs from out of the State and out of the Country for the Elderly and Disabled" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-327)

(H.P. 378) (L.D. 503) Bill "An Act To Make Changes to the Laws Governing the Maine Potato Board" (EMERGENCY) Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-330)

(H.P. 660) (L.D. 941) Bill "An Act To Make an Exception to the Law Regarding Licensing of Fair Vendors Selling Tobacco Products" (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-326)

(H.P. 907) (L.D. 1309) Bill "An Act To Exempt Agricultural Guard Dogs and Herding Dogs from the Barking Dog Ordinances" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-331)

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the House Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED as Amended** and 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 **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act Requiring Release of Aggregate Information from the Department of Education To Measure the Effectiveness of the Law Requiring Fingerprinting and Background Checks of Educational Personnel"

(H.P. 1103) (L.D. 1565)

Signed:

Senators:

MITCHELL of Kennebec

TURNER of Cumberland

Representatives:

NORTON of Bangor

EDGEComb of Caribou

GOLDMAN of Cape Elizabeth

STEDMAN of Hartland

MAKAS of Lewiston

LANSLEY of Sabattus

CAIN of Orono
MERRILL of Appleton
Minority Report of the same Committee reporting **Ought to Pass** on same Bill.

Signed:

Senator:

SCHNEIDER of Penobscot

Representatives:

DAVIS of Falmouth

FINCH of Fairfield

READ.

Representative NORTON of Bangor 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 **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Bill "An Act To Make Fairs and Festivals Safer for Children"

(H.P. 664) (L.D. 954)

Signed:

Senators:

MAYO of Sagadahoc

MARTIN of Aroostook

ROSEN of Hancock

Representatives:

PINGREE of North Haven

GROSE of Woolwich

MILLER of Somerville

BURNS of Berwick

SHIELDS of Auburn

CAMPBELL of Newfield

LEWIN of Eliot

GLYNN of South Portland

Minority Report of the same Committee reporting **Ought to Pass** on same Bill.

Signed:

Representatives:

WALCOTT of Lewiston

WEBSTER of Freeport

Representative SOCKALEXIS of the Penobscot Nation - of the House - supports the Majority **Ought Not to Pass** Report.

READ.

Representative PINGREE of North Haven moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The SPEAKER: The Chair recognizes the Representative from Rockport, Representative Bowen.

Representative **BOWEN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I will be very quick. I realize I have three strikes against me - this is my bill by the way - I have an 11-2 report, I'm between all of you and your lunch, and I am at risk to loosing the Carnie vote with this bill.

This bill is a very simple bill. It came out of an experience which I had with my daughters, who are two and five, this summer at one of the Maine fairs that we all go to of having the ride operator operating the ride for these kids, smoking on the job and picking up little kids with a cigarette between his fingers and putting the kids in and out of the spinning tea cups with a cigarette dangling out of his mouth. I felt as though we don't really allow that kind of thing around children in almost any other arena I can think of, indoors or out, not on playgrounds or anything like that. So, I felt that we could make a very easy, simple change to the law to prohibit people who are operating

rides from smoking on the job. It doesn't ban smoking around the rides, it doesn't ban people near the rides from smoking, it doesn't ban people on fairgrounds from smoking. It was narrowly targeted so that the people who are operating rides and picking up little kids and putting them in and out of the spinning boats couldn't be smoking while they were doing that. That is all I was trying to do here.

I realize I have the committee against me, they seem to think I was bringing down the heavy hand of government by doing this and I will let the Representative from North Haven speak to that but I would appreciate your support. This is a very simple thing we can do that would make one little tiny corner of this state a little bit better for children. Thank you and I request a roll call.

The same Representative **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 North Haven, Representative Pingree.

Representative **PINGREE**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I agree with the Representative from Rockport that it is almost lunchtime, so I will make this very brief and is not normal that I am on the side of less government and he is on the side of more government, but in this we felt that the situation that he brought for us is one that is certainly not ideal. Thinking of people around kids with cigarettes dangling out of their mouths is very unappealing, but we felt that this bill was almost too narrow. To start limiting smoking in outdoor workplaces is quite a complicated arena to enter into.

I am sure you will all look forward to a number of smoking bills that will come out of our committee this year and this is one of the few that we didn't support. I think we heard from the Bureau of Health and other places that this would require a lot of work. The difference between rides for kids and rides not for kids, outdoor smoking in work places, it is all very complicated.

I appreciate the Representative's effort on this and I certainly sympathize with him but at this time we just didn't feel that this was an appropriate action. Thank you.

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. 128

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Bierman, Blanchard, Blanchette, Bliss, Bowles, Brannigan, Brautigam, Browne W, Bryant, Burns, Cain, Canavan, Clark, Collins, Craven, Cressey, Crosby, Cummings, Daigle, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Faircloth, Farrington, Finch, Fisher, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Lerman, Lindell, Lundeen, Makas, Marean, Marley, Marraché, McKane, McKenney, Miller, Mills, Moody, Moore G, Muse, Nass, Norton, Nutting, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Richardson D, Richardson E, Richardson W, Rines, Sampson, Saviello, Seavey, Shields, Smith N, Smith W, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Twomey, Valentino, Watson, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Bishop, Bowen, Brown R, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Crosthwaite, Curley, Curtis, Davis G, Davis K, Duprey, Eder, Edgcomb, Emery, Fitts, Fletcher, Flood, Hall, Hotham, Jacobsen, Jodrey, Joy, Lansley, Mazurek, McCormick, McFadden, McLeod, Merrill, Millett, Moulton, Pinkham, Plummer,

Rector, Richardson M, Robinson, Rosen, Sherman, Vaughan, Walcott, Webster.

ABSENT - Berube, Fischer, Kaelin, Koffman, Lewin, O'Brien, Schatz, Stedman.

Yes, 97; No, 46; Absent, 8; Excused, 0.

97 having voted in the affirmative and 46 voted in the negative, with 8 being absent, and accordingly Majority Ought Not to Pass Report was **ACCEPTED** and sent for concurrence.

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

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

HOUSE DIVIDED REPORT - Majority (7) **Ought to Pass as Amended** - Minority (6) **Ought Not to Pass** - Committee on **UTILITIES AND ENERGY** on Bill "An Act Establishing Minimum Energy Efficiency Standards for Certain Products Sold or Installed in the State

(H.P. 999) (L.D. 1435)

Which was **TABLED** by Representative **CUMMINGS** of Portland pending the Motion of Representative **BLISS** of South Portland to **ACCEPT** the Majority Ought to Pass as Amended Report. (Roll Call Ordered)

The **SPEAKER**: The Chair recognizes the Representative from Turner, Representative Bryant-Deschesne.

Representative **BRYANT-DESCHESNE**: Mr. Speaker, may I pose a question through the Chair?

The **SPEAKER**: The Representative may pose her question.

Representative **BRYANT-DESCHESNE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I had a few questions on this that I was going to ask before the debate ended and I would like to take just a quick moment to do that. First of all, I am wondering why we are doing this when the standards have not been developed and won't be until January 6th according to the fiscal note? Secondly, I am wondering what happens to a military family who is living in another state and moves to the State of Maine and would like to bring their appliances and have them installed in their home?

According to my reading of the bill - and someone can correct me - if they are paying to have someone install these in their home that cannot be done. I think another thing that, as Mainers, we often do is take our old appliances and put them in our summer camps or other places where we only use them for short periods of the year. It sounds to me like this bill would also prevent us from doing that. So, I would ask if anyone has an answer to that?

The **SPEAKER**: The Representative from Turner, Representative Bryant-Deschesnes has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from South Portland, Representative Bliss.

Representative **BLISS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I want to thank the Representative for the three questions, which I will do my best to answer.

The answer to the first question, why are we doing this when the standards aren't going to be created until 2007, the answer is that the standards are created, but there is a trigger mechanism in the bill that says among other things that none of these standards go into affect until at least three other states have passed the standard for that same appliance and the first of those cannot be implemented until 2007. The standards exist,

but the actual requirement to purchase doesn't go into effect until that point.

The second question was what about a military family who brings in their old appliances; can they actually hook them up? The answer is, of course, yes. This is just about the purchase of new appliances.

To the third question, which was: When I buy this new energy efficient appliance and therefore save a lot of money over the life of the appliance in my regular home, can I take that old appliance and put it in my camp? The answer is, of course, yes, because this is just about the purchase of new appliances. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Frankfort, Representative Lindell.

Representative LINDELL: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have the bill here before me. Yes, many of us do not read these bills before we vote on them, but I think it is important to point this out. It says here in §3604, paragraph 1, "Products sold on or after January 1, 2007; products installed on or after January 1, 2008" and says, "The following covered products may not be sold or offered for sale in the state on or after January 1, 2007 or installed for compensation on or after." So, if you want to install it by yourself go right ahead, but if you want to hire a contractor, a licensed plumber or anyone else in this state that has a license from the state to install that product for you forget about it. Think of the retired couple who wants to move their old appliances up to their camp and have it installed by a local contractor, it can't happen. These are the sorts of unintended consequences that come from this sort of legislation. It's top down. It's command and control. We have to vote against this and we have to vote it down for the sake of the people of Maine. Thank you.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Babbidge.

Representative BABBIDGE: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This legislation was brought forward with bipartisan support.

I noted the comments of the Gentleman from the other body and the other side of the aisle, Senator Turner. He called this forward thinking legislation and he said the market standards are set by the dominant player. He mentioned Microsoft and IBM. I know that one of the items in this legislation is ceiling fans, as referred to earlier in testimony. I happened to go to the largest retailer that distributes these ceiling fans, or at least they claim to sell 50% of the country's ceiling fans, and so I went to look and they had an area of display from here I would say to the wall on both sides, two aisles and of the 20 or so models that were displayed, two had the Energy Star designation and they were ceiling fans that were fans only, none with lights, as you know most people like to get a ceiling fan with a light and many of those are included.

On the Energy Star models they did have designations for fan speed, airflow, power use in watts, air flow efficiency in cubic-feet-per-minute compared to wattage and it was done by a solid state method that was generally accepted and there was some information for consumers to look at, but there was absolutely nothing for the consumer to compare that with. All of the other 18-20 models had absolutely no information at all.

The suppliers of these appliances have not kept up with our need to know about the consumption of electricity and so I will say that in the testimony that we did hear in committee, we did hear about the fact that we do have government standards for the safety of our automobiles that I doubt anyone in this room regrets. We will all be safer. Our children, our wives, our husbands are all safer as a result of that legislation.

What is the economics of this bill? Is the investment worth the return? The cost effect of payback and the savings happens in six, twelve, eighteen months for the majority of these items. I guess the longest is three years, a very short payback.

What about the environmental impacts of this bill? There are multiple advantages but we know that less electricity means less combustion of fuel, which means higher air quality.

At the New England Governor's Conference the nine options that were chosen to deal with are very insecure energy supply over the next five years in New England were lead by priority number one, energy efficiency. Environmental and economic benefits are meaningful in this legislation individually, but they are very significant collectively.

Dirigo means "I lead," and I think perhaps I am not the first one to mention that on this floor, however we don't have to lead in this case. We don't need to demonstrate the courage to lead. What we need to do is have the wisdom to know when to follow good legislation. Should we in government take the affirmative step to set energy efficiency standards for this abbreviated list? I say yes. The state has an interest in protecting our environment, conserving energy and, in the process; aid the consumers of this great state. I urge your support for this bill.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Davis.

Representative DAVIS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would have a concern about the expense of incorporating these standards in appliances, especially for those who on multi-family unit rental property. As a lot of us who have rental property know, those appliances get trashed a lot. They are used heavily and so forth, so replacing them is frequent and it would be a huge additional expense for those landlords and those property owners that have to replace them for their tenants. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Fletcher.

Representative FLETCHER: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will try to make this real quick.

We talked about the PUC report. I just want to read to you, or very quickly state what the PUC concluded. "There are reasons why Maine should not go it alone. First, standards enacted in Maine alone will not change manufacturer behavior and could limit choice and increase product price. Second, It is more difficult to enforce a standard in just one state. If a group of geographically proximate states enacted exactly the same standard they could create a distinct market for manufacturers to target." The consumption in the state of Maine is not going to change manufacturers behavior. New England consumption may, and the danger in this bill is that if California, Alaska and Arizona are the three states that adopt them there are Maine consumers that will be left out in the cold. The intent of the bill is good, but the method to achieve the result is putting Maine consumers at risk. We do not have to do this.

Just one more clarification, the PUC report looked at 9 items and they concluded in their analysis that it was going to cost Maine consumers, the first year if you purchase all of those items, \$4.5 million dollars. It was going to save .2% of the electrical consumption in the State of Maine. I suggest and request that we look at positive incentives and not product bans to change peoples behavior. I appreciate your time and I appreciate the excellent comments that everybody has been making. We have got the same goal but we just do not agree on whether government should force it or whether government should enforce it. Thank you Ladies and Gentlemen.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Brautigam.

Representative **BRAUTIGUM**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to take a moment to respond to a few of the things that have been said here recently. In particular, starting with the Representative from Winslow's comment that Maine would be going it alone. In fact, Connecticut, a fellow New England state, has enacted standards for appliances such as these. New Jersey and Arizona and a number of states have already enacted and implemented standards for many of these products and the law in fact requires other states to have standards in place before they take effect in Maine. California has enacted standards for many of these products and I mention that not because Maine does what California does, or doesn't do what California does, but only to point out that with the size of the economy in California the products are going to be available here in Maine if they are going to be produced for the California economy.

A couple of other comments that were made, one that the \$40 ceiling fan will no longer be available and only \$100 ceiling fans and up will be available is contrary to the information the committee received which was that this would increase the price of a ceiling fan by about six dollars and that would be returned. The payback on that ceiling fan would be less than a year and I think, in fact, less than half a year.

The comment that this would send business to New Hampshire on this very limited list of products that somebody who is purchasing all the equipment for a building, including for example an exit sign, would buy all that equipment at a Maine retailer and then go to New Hampshire to save a couple of bucks on an exit sign doesn't sound likely to me considering there are 472 different varieties of exit signs available. I don't think that cost conscious people who want to save a couple of bucks would ignore the increased cost of going to New Hampshire to purchase a less efficient product.

I would just conclude by saying that this is money in your constituents pockets it represents \$16 million a year five years from now, \$16 million a year without a tax or any kind of new government bureaucracy. It's reduced demand on our power infrastructure. It has great benefit to the air we breath and absolutely no cost to tax payers. I would appeal to the frugal Mainer in all of you to support this bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Turner, Representative Bryant-Deschenes.

Representative **BRYANT-DESCHENES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'll try not to keep you here too much longer but I did have one other comment that I would like to make. The last Representative was talking about frugal Mainers. I think probably we trust them to be more frugal than we felt that the government has to explain to them how to do that and mandate that. I think here in Maine we have grown up with wear it out, use it up and make do and we understand what that means. My biggest concern that has not been addressed, and this would go back to the speakers prior to me who talked about the environmental impact; I'm just wondering whose landfills we are going to put all of these appliances in that we are not going to allow someone to have reinstalled. I warn the good Representative from Lincoln he might be keeping an eye on his woodlot.

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

Representative **BOWLES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to thank the good Representative from Turner, Representative Bryant-Deschenes for alerting us to the problem regarding the

installation of these products after a certain date and keeping that in mind.

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

Representative **BOWLES**: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **BOWLES**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. My question is that we have just learned that the installation of these products is going to be prohibited beyond a certain date it calls into question the liability. After that point, if there is a professional installation will the carpenters and other licensed people in the State of Maine be at risk for their professional licenses if they were in fact to be involved in the installation of one of these products and how are they to know at that point whether or not these products actually are on the list of approved appliances and who is going to be responsible? Is it going to be the homeowner? Is it going to be the installer? Those are the questions I would like to have addressed, Mr. Speaker.

The SPEAKER: The Representative from Sanford, Representative Bowles has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Falmouth, Representative Brautigam.

Representative **BRAUTIGAM**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm not sure that I can answer the question about licensing in particular but I would like to point out that I think the hypothetical scenario we are talking about is used appliances that are installed in one place, removed and then reinstalled in another location.

There are really only two consumer products on here that would possibly come under that category. There are ceiling fans and furnaces. I just don't know that it is a real common practice to remove a furnace, take the used furnace, move it to your summer camp and reinstall it. Maybe that happens frequently, I just don't know and the same thing about ceiling fans. I am not sure that this is really a substantial issue but I don't know that I can speak to the question of whether or not that would jeopardize somebody's license.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Jacobson.

Representative **JACOBSON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would like to go to lunch but I would like to add one thing quickly. Commercial refrigeration units, often the higher efficiency ones, have a slower recovery time, which equals spoiled food, which is dangerous to the health of the people.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 129

YEA - Adams, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Cummings, Davis G, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Gerzofsky, Goldman, Grose, Harlow, Hogan, Hutton, Jackson, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Mills, Muse, Norton, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Rosen, Sampson, Saviello, Smith N, Smith W, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell,

Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis K, Duprey, Edgecomb, Emery, Fisher, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Lansley, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Millett, Moody, Moore G, Moulton, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Seavey, Sherman, Shields, Sykes, Tardy, Thomas, Trahan, Vaughan.

ABSENT - Ash, Crosby, Fischer, Hanley S, Jennings, Kaelin, Lewin, O'Brien, Schatz, Stedman.

Yes, 72; No, 69; Absent, 10; Excused, 0.

72 having voted in the affirmative and 69 voted in the negative, with 10 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-307)** was **READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Thursday, May 12, 2005.

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

On motion of Representative MAKAS of Lewiston, the House adjourned at 1:35 p.m., until 9:00 a.m., Thursday, May 12, 2005 in honor and lasting tribute to F. Henry (Hank) Sabourin, Sr., of Lewiston, Herman J. Morrow, Sr., of Medway and Roger David Pelletier, of Millinocket.