

# 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  
18th Legislative Day  
Wednesday, May 18, 2005

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

Prayer by Pastor Richard Waller, Millinocket Church of the Nazarene.

National Anthem by Andrew Harlow, Pine Tree Academy, Freeport.

Pledge of Allegiance.

Doctor of the day, David Preston, M.D., China.

The Journal of yesterday was read and approved.

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**COMMUNICATIONS**

The Following Communication: (H.C. 234)

**STATE OF MAINE**

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

May 12, 2005

Honorable Beth Edmonds, President of the Senate

Honorable John Richardson, Speaker of the House

122nd Maine Legislature

State House

Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 1547 An Act To Ensure Appropriate Development in Lands under the Jurisdiction of the Maine Land Use Regulation Commission

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

Sincerely,

S/Sen. John M. Nutting

Senate Chair

S/Rep. John F. Piotti

House Chair

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (H.C. 235)

**STATE OF MAINE**

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

May 16, 2005

Honorable Beth Edmonds, President of the Senate

Honorable John Richardson, Speaker of the House

122nd Maine Legislature

State House

Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 1256 An Act To Ensure Public Awareness of Pesticide Applications

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

Sincerely,

S/Sen. John M. Nutting

Senate Chair

S/Rep. John F. Piotti

House Chair

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (H.C. 236)

**STATE OF MAINE**

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

May 12, 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. 368 An Act To Amend the Maine Clean Election Act

L.D. 1345 An Act To End the Influence of Special Interest Money in Campaign Financing

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.**

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The Following Communication: (H.C. 237)

**STATE OF MAINE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE  
COMMITTEE ON NATURAL RESOURCES**

May 16, 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 Natural Resources has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 818 An Act To Specify Phosphorus Limits for Gulf Island Pond

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

Sincerely,

S/Sen. Scott W. Cowger

Senate Chair

S/Rep. Theodore Koffman

House Chair

**READ and ORDERED PLACED ON FILE.**

The Following Communication: (H.C. 238)

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

May 16, 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 bill out "Ought Not to Pass":

L.D. 1520 An Act To Provide Reimbursement for Road Maintenance to Property Owners in the Unorganized Territory

We have also notified the sponsor and cosponsors 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.**

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The Following Communication: (H.C. 239)

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

May 12, 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 Transportation has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1623 An Act To Require the Inspection of All Commercial Trailers at Time of Sale

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

Sincerely,

S/Sen. Dennis S. Damon

Senate Chair

S/Rep. Boyd P. Marley

House Chair

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (H.C. 240)

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

May 12, 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. 1507 An Act To Control the Spread of Methamphetamines

L.D. 1554 Resolve, To Establish the Commission To Study the Delivery of Services to Maine Citizens with Brain Injuries

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.**

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The Following Communication: (H.C. 241)

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

May 16, 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 bill out "Ought Not to Pass":

L.D. 584 An Act To Encourage Long-term Care Insurance and Expand Eligibility for MaineCare

We have also notified the sponsor and cosponsors 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.**

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The Following Communication: (H.C. 242)

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

May 16, 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 bill out "Ought Not to Pass":

L.D. 1434 An Act To Reform the Renewable Electricity Portfolio Standard

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

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

(HLS 716)

Presented by Representative SYKES of Harrison.  
Cosponsored by Senator MITCHELL of Kennebec,  
Representative LERMAN of Augusta, Representative DAVIS of  
Augusta, Representative BROWNE of Vassalboro.

On **OBJECTION** of Representative SYKES of Harrison, was  
**REMOVED** from the Special Sentiment Calendar.

**READ and ORDERED PLACED ON FILE.**

**READ.**

The **SPEAKER**: The Chair recognizes the Representative  
from Harrison, Representative Sykes.

Representative **SYKES**: Thank you Mr. Speaker. Mr.  
Speaker, Ladies and Gentlemen of the House. Last month I lost  
a good friend and a long time professional colleague. Much more  
than my loss, the State of Maine and in particular every student  
from kindergarten to high school senior lost an exceptional  
education leader, a positive roll model and most importantly a  
very strong advocate for providing the best possible education for  
all students.

A United State's Army Veteran of Korea, Dick Tyler served as  
Principal of Morse High School in Bath for fourteen years, which  
is far longer than the average tenure of most high school  
administrators these days. In 1984 he became the executive  
director of the Maine Secondary School Principals' Association.  
With his leadership the association grew from a one room, one  
employee office on Western Avenue to the new MPA office and  
conference center on Industrial Drive.

Dick successfully engineered the merger of the secondary  
and elementary associations into the Maine Principals'  
Association, which today plays a major role in supporting a  
quality education for all students and emphasizing the critical  
importance of the principal as the educational leader at the  
building level. Professional development for school  
administrators and protecting the integrity of the Interscholastic  
Activities Program were two of Dick's major goals.

We have all heard of the state basketball tournaments. A  
number of fine young men and women were recognized as state  
champions in this Chamber. Programs that do not get the press  
and recognition are programs such as the science fair, student  
council, cheerleading, grammar, speech and debate tournament,  
music, one act play competition, honors banquet, national honors  
society and many, many others - all operated by the Maine  
Principals' Association. Dick Tyler supported every one of these  
activities as if it were the Class A State Basketball Championship.

I served on many MPA committees with Mr. Tyler including  
the executive committee and worked for a year beside Dick as  
President of the association. I can testify that in each and every  
decision Dick made his highest priority was what is best for the  
students of Maine. Issues involving the Maine Principals'  
Association have sometimes been brought before the body and  
usually it is a case of disagreement with the policies of that  
association. These policies were developed and improved by  
principals and assistant principals throughout the state and we  
have been very fortunate that Richard W. Tyler led that  
membership in only one direction - a direction that protected  
students from over zealous coaches and parents, a direction that  
ensured equal opportunities for all students, a direction that  
promoted a level playing field, a direction that allowed students to  
participate in a wide variety of activities, a direction governed by  
a strong code of ethics and a direction that never shied away  
from making very difficult, sometimes unpopular decisions;  
decisions that were always in the best interest of the students of  
Maine.

Dick retired a few years ago and was not able to enjoy a long  
retirement, he does however leave a wonderful lasting legacy of  
being responsible for the strong foundation of the Maine

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The Following Communication: (H.C. 243)  
**STATE OF MAINE**  
**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**  
**COMMITTEE ON BUSINESS RESEARCH AND ECONOMIC**  
**DEVELOPMENT**

May 12, 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. 1023 An Act Requiring Stores of 500 Square Feet To  
Make Existing Bathroom Facilities Available for  
Public Use
- L.D. 1139 An Act To Identify the Benefits and Costs of  
Adjustments to Building Codes
- L.D. 1167 An Act To Ensure the Health and Safety of All  
Maine Citizens by Licensing Drug Wholesalers
- L.D. 1215 Resolve, To Benefit the Creative Economy
- L.D. 1352 An Act To Establish the Office of the Small  
Business Ombudsman
- L.D. 1427 An Act Regarding the Scope of Practice of  
Registered Cardiovascular Invasive Specialists

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.**

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**SPECIAL SENTIMENT CALENDAR**

In accordance with House Rule 519 and Joint Rule 213, the  
following item:

**In Memory of:**

Richard W. Tyler, of Augusta, a longtime educator who  
helped to found the Maine Principals' Association. He began his  
career in 1961 as a teacher, coach, athletic director and  
administrative assistant in Concord, New Hampshire. Later, he  
was junior high school principal in Oyster River, New Hampshire,  
and then principal of Morse High School in Bath. In 1984, Mr.  
Tyler became executive director of the Maine Secondary School  
Principals' Association and helped orchestrate the unification of  
that association with the Maine Elementary Principals'  
Association into the Maine Principals' Association. The growth of  
this organization is a testament to his commitment and dedication  
to his profession. He will be greatly missed by his family,  
colleagues and many friends;

Principals Association, an association that exists for the students of Maine. We will miss you Dick. Godspeed. Thank you.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Cummings.

Representative CUMMINGS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I too would like to add my comments to the comments of Representative Sykes. During my four years in high school, Dick Tyler was our Principal and I got to know him, particularly after several of us decided that it would be good idea to sell Morse High School by putting all the real estate signs of the greater area out in front of the high school and we spent a number of hours together around that. I just want to say however, that regardless of whatever disagreements we might have had about the need to sell the school Mr. Tyler, I think for us, had at a time when it was not popular, the opinion that all of the students in high school ought to be going on to college. All of the students of that high school ought to be able to reach their full potential.

At a time when we often hear people say, "You are not college material, some people are and some people aren't" it never came out of Mr. Tyler's mouth. In fact, just the opposite came out and I just want to thank him and I want to thank his family for the work that he did in making the Maine Principals' Association the organization that it is today.

Subsequently, the sentiment was ADOPTED and sent for concurrence.

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#### REPORTS OF COMMITTEE

##### Divided Report

Majority Report of the Committee on LABOR reporting Ought to Pass as Amended by Committee Amendment "A" (S-112) on Bill "An Act to Promote Responsible Contracting Practices on State Projects"

(S.P. 172) (L.D. 546)

Signed:

Senators:

STRIMLING of Cumberland

BARTLETT of Cumberland

Representatives:

SMITH of Van Buren

DRISCOLL of Westbrook

JACKSON of Fort Kent

HUTTON of Bowdoinham

TUTTLE of Sanford

CLARK of Millinocket

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

Signed:

Senator:

SNOWE-MELLO of Androscoggin

Representatives:

HALL of Holden

DUPREY of Hampden

CRESSEY of Cornish

HAMPER of Oxford

Came from the Senate with the Minority OUGHT NOT TO PASS Report READ and ACCEPTED.

READ.

Representative SMITH of Van Buren 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.

Majority Report of the Committee on LABOR reporting Ought Not to Pass on Bill "An Act To Amend the Maine Workers' Compensation Act of 1992 To Facilitate Timely Independent Medical Examinations and Benefit Payments"

(S.P. 289) (L.D. 881)

Signed:

Senators:

STRIMLING of Cumberland

BARTLETT of Cumberland

Representatives:

SMITH of Van Buren

DRISCOLL of Westbrook

JACKSON of Fort Kent

HUTTON of Bowdoinham

TUTTLE of Sanford

CLARK of Millinocket

Minority Report of the same Committee reporting Ought to Pass as Amended by Committee Amendment "A" (S-81) on same Bill.

Signed:

Senator:

SNOWE-MELLO of Androscoggin

Representatives:

HALL of Holden

DUPREY of Hampden

CRESSEY of Cornish

HAMPER of Oxford

Came from the Senate with the Majority OUGHT NOT TO PASS Report READ and ACCEPTED.

READ.

Representative SMITH of Van Buren moved that the House ACCEPT the Majority Ought Not to Pass Report.

Representative BOWLES of Sanford 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.

On motion of Representative SMITH of Van Buren, TABLED pending his motion to ACCEPT the Majority Ought Not to Pass Report and later today assigned. (Roll Call Ordered)

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Majority Report of the Committee on CRIMINAL JUSTICE AND PUBLIC SAFETY reporting Ought Not to Pass on Bill "An Act To Impose Mandatory Minimum Sentences for Certain Sexual Offenses"

(H.P. 249) (L.D. 326)

Signed:

Senators:

DIAMOND of Cumberland

CLUKEY of Aroostook

Representatives:

BLANCHETTE of Bangor

PLUMMER of Windham

HANLEY of Gardiner

CHURCHILL of Washburn

GERZOFKY of Brunswick

SYKES of Harrison

GROSE of Woolwich

PARADIS of Frenchville

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-384)** on same Bill.

Signed:

Senator:

NUTTING of Androscoggin

Representative:

DAVIS of Augusta

**READ.**

Representative BLANCHETTE of Bangor moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The SPEAKER: The Chair recognizes the Representative from Durham, Representative Vaughan.

Representative VAUGHAN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This legislation was brought forward - as were quite a number of other pieces of legislation - from both sides of the isle. What motivated me in this case was that last spring the small town of Durham had discovered that they had living among them a serial rapist. He had been living there for several months. He had come from Massachusetts where he had been released from prison and where things are a little bit tougher on sexual predators than they are in the State of Maine.

When we discovered that he was living there it wasn't because he was a registered sex offender, it was because they had complaints against him. I went to a meeting where we had the county sheriff's department and number of citizens from the town of Durham who came forward and expressed their opinions, which varied from "do nothing" to the most extreme.

I believe that the people of the State of Maine deserve to be protected from this type of predator. If you are watching the news, and you should be, we are seeing an acceleration of the number of crimes against children - kidnapping, rape, and murder - happening in this country. We are also seeing states in this country enacting harsher sentencing guidelines and various methods of isolating these individuals from the general public, which is the government's job, to protect the public.

There were a great number of bills, like I said from both sides of the aisle; many of them were outright killed. I got a fiscal note on this bill and it said that the average sentence ranges from two and a half years to seven and a half years. Now, you hear people say that those individuals have paid their debt to society; we are talking about ruining somebody's life. If they have paid their debt to society by serving two and a half to seven and a half years and then they go out and statistics show that they reoffend again, Mr. Speaker I submit that those sentences are not long enough. Mr. Speaker I urge that we defeat this motion and move on. I also request a roll call.

Representative VAUGHAN of Durham **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 Bangor, Representative Blanchette.

Representative BLANCHETTE: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will not disagree with the good Representative from Durham, Representative Vaughan that this is, in fact, a very, very serious problem, not only in Maine, but also around the United States and every community within our reach is grappling with how to solve this problem.

This bill was presented before us. It came out of committee a 10 - 2 Ought Not to Pass Report and this was not decided on lightly or frivolously or just an automatic dismissal. Everybody

listened to what the good Representative from Durham had to say and his justification for bringing forth this bill and we respect that right and we always honor the right of any Representative to do so. But, the administrator of the courts came forth with what it would cost to add three additional judges, three additional clerks, three additional court appointed attorneys. Just to touch part of the financial and fiscal note on this, Denise Lord, our associate Commissioner of the Department of Corrections came out in opposition to this bill, representing the Department because of the increase in incarceration and the time served for sentences of sexual assault to minors.

We are continually and constantly, with every breath and fiber of our being as the Criminal Justice and Public Safety Committee, working at ways to make communities and children and people that are victims of these predators safe within our borders. This is not something that can be done lightly, fast or easy. We are working at it, but this is not the vehicle to accomplish what we want. I know that everybody finds it just horrifying to think that a sexual predator has rights, but under the Constitution of the United States and the Constitution of the State of Maine people that have paid their dues to society are released into the community and we cannot govern, nor can we dictate where they live. We do, to the point that we can legally require them to register as sex offenders, so that we know of their whereabouts. In the 121st Legislature the Sentencing Commission came out saying that gross sexual assaults have at least a mandatory sentence of 18 years with no parole and lifetime registration at their expense, so we are working at this and we are working at it very diligently, but let's take our time and do it right. It does not help anyone, except those in the legal profession - I do respect their profession - and they are the only ones who benefit from frivolous laws that are put on the books, because they fatten their bank account and other people have to pay the cost for all of this. So, I urge all of you to give us the time, as a Legislature, as a committee and as responsible people within this state and vote to accept the Majority Ought Not to Pass Report. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Lincoln, Representative Carr.

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

The SPEAKER: The Representative may pose his question.

Representative CARR: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. My question is in regards to the fiscal note and I may not have had a chance really to see exactly what the bill does but it seems that it increases the penalty and makes it a mandatory sentence, so my question is, in regards to the fiscal note for the courts. What would be the additional cost to the courts to impose a mandatory sentence rather than a regular sentence?

The SPEAKER: The Representative from Lincoln, Representative Carr has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bangor, Representative Blanchette.

Representative BLANCHETTE: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I can only report to you and to the good Representative from Lincoln, Representative Carr, that the L.D. proposed would require a minimum sentence of 10 years for a crime of gross sexual assault or sexual abuse of a minor and twenty years for a secondary or subsequent offense. It also prohibits the reduction of the minimum sentence through the plea-bargaining suspension. This adds a considerable cost for incarceration and it also has the tendencies to mandate and tie the hands of the judicial system. The committee looked at all of this and to the

good Representative from Lincoln, Representative Carr, I will make free to you, at any time that you ask, the file of the testimony that was presented to Criminal Justice and Public Safety at your pleasure. But, it is hard to stand up here and put into a synopsis of thirty words or less what was discussed in a matter of hours, days and weeks by the committee so I will make the file available for you to review before final enactment. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Mills.

Representative MILLS: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Mr. Speaker if I may also respond to the gentleman's question I would add to what the good woman from Bangor, Representative Blanchette has stated. In cases where there is a mandatory minimum sentence imposed by statute, including this proposed legislation, which purports to ban plea bargaining as it were, then there are many more trials of these cases and fewer plea bargains and pleas of guilty. It will force children to go to trial and testify against the person accused of a crime against them, including young children and preteens and teenagers. It will force the judges to reprioritize their dockets. It will force us to spend more money on cases because there will be more juries coming, more jury trials. That's what is often times wrong with mandatory minimum sentences, when we paint each classification of an offense with one brush. This proposed legislation encompasses sexual abuse of a minor, which is when a thirteen year old engages in a sexual act with someone who is nineteen and it has a minimum sentence of, I believe, ten years in that case. Those cases I guarantee will all go to trial unless the DA's office just chooses to dismiss it, which is their only other option under this bill. We will be putting children through trials when they ought not to be going through trials and I think that that is probably part of what went into the fiscal note on this bill.

I would like to point out that this legislature has not been callous about the problems of sexual abuse of children. In recent years this legislature has enacted very substantial legislation to address these issues. We enacted a sexual predator law a few years ago which is kicking in now and which does require a mandatory minimum sentence and does authorize lifetime probation when someone is alleged and proved to be, a so called sexual predator, so I suspect that many good members of the committee felt that this particular bill might be unnecessary and might be costly, not only to our pocket books but to the emotional well being of victims.

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. As you can see I was one of the lone Representatives who voted Ought to Pass, particularly because in my area of Kennebec County we have an incredibly high rate of sex offenders living in our community. The majority of their ages are within the ages of twenty and forty and so I have a real hard time thinking that many of them served, in my mind, the appropriate amount of time of their sentence. As a naive freshman I did not realize that a mandated sentence had loopholes that would actually reduce the sentence of some of these sex offenders, but I do feel there was merit and that there were good intentions for this bill and I would just like to make a point that regardless of the cost we are spending a lot of money for therapy, group homes and probation. I don't personally believe that the probation laws are working. Sex offenders are slipping through the cracks. We have a high rate of recidivism and I think that we can do a whole lot more, but I think this was a good attempt to try and do that. Thank you.

The SPEAKER: The Chair recognizes the Representative from Elliot, Representative Lewin.

Representative LEWIN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. It occurs to me as I listen to this debate when we are talking about the cost of incarcerating and the cost of trials that if we had these people incarcerated they wouldn't be committing the second third or fourth crime and it would save a whole lot of money on the cost of trials because they wouldn't exist. So we need to think about the whole problem. Thank you very much.

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

Representative GERZOFSKY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is one of the bills that came through my committee amongst many dealing with the same subject. I want to answer Representative Carr's inquiry on the cost and then I want to say what we are doing.

The cost increase for '05 through '06 is \$171,000, '07 through '08 would be \$184,000 and '08 through '09 would be \$189,000. That's simple we can always find the money to lock up bad people. But, let me tell you what the Department of Corrections testified to that we are already doing. Class A Sexual Assault right now has an average stay of seven years and one month right now. Class B has an average stay of two years and six months and Class C, two years, plus a lot of probation time and that is good because we need to put people on probation that can't behave themselves. The recidivism rate is high, but coming down. It has been shown over the last couple of years.

We had many bills that came in front of our committee that dealt with this issue. We looked at them all and we passed unanimously a few that will be coming in front of you soon. They are going to give you many more options to how to deal with this, options that are better than this. I understood the problems that we had with this when I lived in Durham. I live in Brunswick, which is next door. The Brunswick P.D. is actually the one that notifies Durham people who they have in their town. The person that this bill was brought in for came here from Massachusetts. Had committed a very serious rape in Massachusetts over twenty years ago and had not reoffended in the State of Maine. He had gone to our state police to register, just to find out that he could not register because our registration only went back so far. We are sending you a bill now that will handle exactly that problem. We are going back even further in time with the Attorney General's approval and we are not bothering with the Constitution so that we can get these people registered. So, that is going to handle that problem.

We, as a committee, looked at this bill and we debated it a lot and we realized that with all the bills in front of us that we were going to take the best means we could to help deal with this problem and we believe we have done that. This bill did not happen to be that bill. The parts of this bill that were the reason that it was brought to our committee we did deal with. We are going to be dealing with the whole issue of violent sexual predators living amongst us. The last session we were here we did a major study and out of that study we changed several of our laws to make them stricter; to make sentencing work better for us. We did the lifetime probation on a pedophile. First offense is 18 years of prison. If they are sick enough to do it a second time then we are going to put them on lifetime probation so that they are registered, they are taking treatment and they are paying for it. We have done many things over the last couple of sessions. This bill is not going to do what the sponsor had intended it to do, but other bills coming in front of this body this year will. So,



would you please follow our light and vote Ought Not to Pass. Thank you.

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

Representative FAIRCLOTH: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I want to commend the Representative from Durham for expressing concern about an important issue and I think that he has been diligent and thoughtful, but I have to respectfully disagree with him on this particular piece of legislation. I had the honor last biennium of serving as the House Chair of the Sex Crime Commission and simultaneously there was a Sentencing Commission. It was a positive experience with the Sex Crime Commission because it was bipartisan and it had multiple viewpoints, prosecutors and defense and we came out with a unanimous report and that unanimous report enhanced penalties and enhanced the penalty ranges for pedophile offenders. It retained tougher sentencing that was weakened in other areas of sentencing so that sex crime law was held out from the sentencing law changes which let people get good time more easily and reduce probation but that did not happen for the sex offenders

We retained a tough stance and a bipartisan stance on those proposals that was many months of study and that has just become effective only in recent months. That bipartisan support that we achieved, I think is one worth allowing the time to be effective and to see how that works and one thing that I can tell you is that, generally, and I would ask anyone who might answer this question after I am seated, but generally both the court system and prosecutors are very leary and indeed opposed to mandatory minimum sentences because it removes discretion and individualization of the cases. As for prohibition of plea bargaining I can tell you that plea bargaining is something of a law of legal physics and in Alaska, where I used to practice law as well, they got rid of plea bargaining and ended up with something called "charge bargaining" and the result was exactly the same. It didn't change a thing. So, in terms of practical reality we have done something to enhance those penalties and there is no one more committed in this house than I am to seeking out appropriate sanctions for those who harm children, criminally or any other way and we need to support the Sex Crime Commission Report and give it time to be effective.

As much as I admire the efforts of Representative Vaughan I think mandatory minimum sentences is not the way to go and not the way that prosecutors or judges would suggest that we go.

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. 156**

YEA - Adams, Ash, Babbidge, Beaudette, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Bryant-Deschenes, Burns, Cain, Campbell, Carr, Churchill, Clark, Craven, Crosby, Cummings, Daigle, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Eberle, Eder, Edgecomb, Faircloth, Finch, Fischer, Fisher, Fletcher, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Koffman, Lerman, Lindell, Lundeen, Makas, Marley, Mazurek, McCormick, McKane, McKenney, Miller, Mills, Moody, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pingree, Piotti, Plummer, Rector, Richardson D, Richardson M, Rines, Sampson, Saviello, Seavey, Sherman, Shields, Smith N, Smith W, Sykes, Tardy, Thompson, Trahan, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Bierman, Bishop, Cebra, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Davis G, Davis K, Duprey, Fitts, Flood, Hall, Joy, Lansley, Lewin, McFadden, McLeod, Merrill, Millett, Moore G, Pinkham, Richardson E, Richardson W, Robinson, Rosen, Stedman, Thomas, Vaughan.

ABSENT - Barstow, Berube, Canavan, Dugay, Emery, Farrington, Kaelin, Marean, Marraché, Pineau, Schatz, Tuttle, Twomey.

Yes, 105; No, 33; Absent, 13; Excused, 0.

105 having voted in the affirmative and 33 voted in the negative, with 13 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

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

HOUSE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (5) **Ought to Pass as Amended by Committee Amendment "A" (S-81)** Committee on **LABOR** on Bill "An Act To Amend the Maine Workers' Compensation Act of 1992 To Facilitate Timely Independent Medical Examinations and Benefit Payments"

(S.P. 289) (L.D. 881)

Which was **TABLED** by Representative SMITH of Van Buren pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned. (Roll Call Ordered).

Representative BOWLES of Sanford **WITHDREW** his **REQUEST** for a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

Subsequently, the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence. **ORDERED SENT FORTHWITH.**

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought Not to Pass** on Bill "An Act Regarding the Sale of Firearms at Gun Shows"

(H.P. 256) (L.D. 333)

Signed:

Senators:

DIAMOND of Cumberland

CLUKEY of Aroostook

Representatives:

PLUMMER of Windham

HANLEY of Gardiner

GREELEY of Levant

CHURCHILL of Washburn

SYKES of Harrison

DAVIS of Augusta

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-383)** on same Bill.

Signed:

Senator:

NUTTING of Androscoggin

Representatives:

BLANCHETTE of Bangor

GERZOFSKY of Brunswick

GROSE of Woolwich

PARADIS of Frenchville

**READ.**

On motion of Representative BLANCHETTE **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

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Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought Not to Pass** on Bill "An Act To Amend the Laws Governing Concealed Firearms Permits" (H.P. 624) (L.D. 874)

Signed:

Senators:

CLUKEY of Aroostook  
NUTTING of Androscoggin  
DIAMOND of Cumberland

Representatives:

GERZOFKY of Brunswick  
GROSE of Woolwich  
PARADIS of Frenchville  
BLANCHETTE of Bangor

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-385)** on same Bill.

Signed:

Representatives:

DAVIS of Augusta  
PLUMMER of Windham  
HANLEY of Gardiner  
GREELEY of Levant  
CHURCHILL of Washburn  
SYKES of Harrison

**READ.**

On motion of Representative BLANCHETTE **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

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Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought Not to Pass** on Bill "An Act To Decrease the Burden on Jails and Improve Treatment for People Living with Mental Illness by Fostering Jail Diversion" (H.P. 646) (L.D. 927)

Signed:

Senators:

DIAMOND of Cumberland  
CLUKEY of Aroostook

Representatives:

BLANCHETTE of Bangor  
PLUMMER of Windham  
HANLEY of Gardiner  
GREELEY of Levant  
CHURCHILL of Washburn  
GERZOFKY of Brunswick  
SYKES of Harrison  
GROSE of Woolwich  
DAVIS of Augusta  
PARADIS of Frenchville

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-386)** on same Bill.

Signed:

Senator:

NUTTING of Androscoggin

**READ.**

On motion of Representative BLANCHETTE of Bangor, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought Not to Pass** on Bill "An Act Regarding the Bureau of State Police, Licensing Division" (H.P. 807) (L.D. 1164)

Signed:

Senators:

DIAMOND of Cumberland  
CLUKEY of Aroostook  
NUTTING of Androscoggin

Representatives:

PLUMMER of Windham  
HANLEY of Gardiner  
CHURCHILL of Washburn  
SYKES of Harrison  
GROSE of Woolwich  
DAVIS of Augusta  
PARADIS of Frenchville

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-387)** on same Bill.

Signed:

Representatives:

BLANCHETTE of Bangor  
GERZOFKY of Brunswick

**READ.**

On motion of Representative BLANCHETTE of Bangor, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

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Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Bill "An Act To Establish a Statewide Residency Requirement for General Assistance" (H.P. 119) (L.D. 168)

Signed:

Senators:

MAYO of Sagadahoc  
MARTIN of Aroostook

Representatives:

PINGREE of North Haven  
WALCOTT of Lewiston  
GROSE of Woolwich  
WEBSTER of Freeport  
MILLER of Somerville  
BURNS of Berwick

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-379)** on same Bill.

Signed:

Senator:

ROSEN of Hancock

Representatives:

SHIELDS of Auburn  
CAMPBELL of Newfield  
LEWIN of Eliot  
GLYNN of South Portland

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.

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

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Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-381)** on Bill "An Act To Require Notice of Clinical Trials"

(H.P. 505) (L.D. 710)

Signed:

Senators:

MAYO of Sagadahoc

MARTIN of Aroostook

Representatives:

PINGREE of North Haven

WALCOTT of Lewiston

GROSE of Woolwich

WEBSTER of Freeport

MILLER of Somerville

BURNS of Berwick

CAMPBELL of Newfield

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

Signed:

Senator:

ROSEN of Hancock

Representatives:

SHIELDS of Auburn

LEWIN of Eliot

GLYNN of South Portland

Representative SOCKALEXIS of the Penobscot Nation - of the House - supports the Majority **Ought to Pass as Amended by Committee Amendment "A" (H-381)** Report.

**READ.**

On motion of Representative PINGREE of North Haven, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-381)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, May 19, 2005.

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Majority Report of the Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass** on Bill "An Act To Improve the Water Quality of Hall Pond in Paris"

(H.P. 306) (L.D. 421)

Signed:

Senator:

WOODCOCK of Franklin

Representatives:

WATSON of Bath

LUNDEEN of Mars Hill

WHEELER of Kittery

CEBRA of Naples

TRAHAN of Waldoboro

RICHARDSON of Greenville

RICHARDSON of Carmel

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

Signed:

Senator:

BRYANT of Oxford

Representatives:

MOODY of Manchester

BRYANT of Windham

JACKSON of Fort Kent

**READ.**

On motion of Representative WATSON of Bath, the Majority **Ought to Pass** Report was **ACCEPTED**.

The Bill was **READ ONCE** and was assigned for **SECOND READING** Thursday, May 19, 2005.

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Majority Report of the Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought Not to Pass** on Bill "An Act To Remove the Ethics Course Requirement for First Hunting and Fishing Violations and Require the Department of Inland Fisheries and Wildlife To Hold the Courses in a Location Within 100 Miles of All Citizens of the State"

(H.P. 388) (L.D. 512)

Signed:

Senators:

BRYANT of Oxford

WOODCOCK of Franklin

Representatives:

WATSON of Bath

LUNDEEN of Mars Hill

WHEELER of Kittery

CEBRA of Naples

MOODY of Manchester

TRAHAN of Waldoboro

RICHARDSON of Greenville

RICHARDSON of Carmel

BRYANT of Windham

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-388)** on same Bill.

Signed:

Representative:

JACKSON of Fort Kent

**READ.**

On motion of Representative WATSON of Bath, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

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## CONSENT CALENDAR

### First Day

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

(H.P. 939) (L.D. 1356) Bill "An Act To Amend the Maine Criminal Code Regarding Deferred Disposition and Administrative Release" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass**

(H.P. 1129) (L.D. 1593) Resolve, Regarding Legislative Review of Portions of Chapter 750: Standardized Health Plans, a Major Substantive Rule of the Department of Professional and Financial Regulation, Bureau of Insurance (EMERGENCY) Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass**

(H.P. 97) (L.D. 121) Bill "An Act To Improve Communication, Cooperation and Efficiencies in State Government" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-389)**

(H.P. 709) (L.D. 1024) Bill "An Act To Make Safer Schools" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-393)**

(H.P. 1008) (L.D. 1444) Resolve, Regarding Teacher Certification Requirements Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-394)**

(H.P. 1024) (L.D. 1462) Bill "An Act To Make Minor Substantive Changes to the Tax Laws" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-392)**

(H.P. 1056) (L.D. 1511) Bill "An Act Regarding the Budget Process for the Legislative Youth Advisory Council" Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-390)**

(H.P. 1087) (L.D. 1546) Bill "An Act Concerning Technical Changes to the Tax Laws" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-391)**

(H.P. 1099) (L.D. 1561) Bill "An Act To Create an Insurance Fraud Unit within the Bureau of Insurance" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-395)**

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.

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

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(H.P. 1082) (L.D. 1537) Bill "An Act To Repeal Certain Boards and Commissions" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-378)**

On motion of Representative DUPLESSIE of Westbrook, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ**.

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

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**BILLS IN THE SECOND READING**  
**Senate as Amended**

Bill "An Act To Require Fair and Timely MaineCare Payments to Hospitals"

(S.P. 214) (L.D. 678)  
(C. "A" S-181)

Bill "An Act To Discourage Further the Sale of Tobacco to Minors"

(S.P. 293) (L.D. 885)  
(C. "A" S-172)

**House as Amended**

Bill "An Act To Prohibit the Issuance of a Driver's License to an Undocumented Illegal Alien"

(H.P. 540) (L.D. 763)  
(C. "A" H-368)

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

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**ENACTORS**  
**Emergency Measure**

An Act To Make Changes to the Laws Governing the Maine Potato Board

(H.P. 378) (L.D. 503)  
(C. "A" H-330)

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

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**Emergency Measure**

An Act To Make an Exception to the Law Regarding Licensing of Fair Vendors Selling Tobacco Products

(H.P. 660) (L.D. 941)  
(C. "A" H-326)

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 Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

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**Emergency Measure**

An Act To Modify the Transition Provision for Renewal of Social Worker Licenses

(S.P. 350) (L.D. 1010)  
(C. "A" S-161)

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

---

**Emergency Measure**

An Act To Make Technical Amendments to the Maine Uniform Trust Code

(S.P. 538) (L.D. 1551)

Was 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. 105 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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**Emergency Measure**

Resolve, To Review the Housing Discrimination Laws

(S.P. 99) (L.D. 321)  
(C. "A" S-136)

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

Representative PELLETIER-SIMPSON of Auburn **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: The Chair recognizes the Representative from Auburn, Representative Pelletier-Simpson.

Representative **PELLETIER-SIMPSON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. There was a bill that came before the Judiciary Committee about moving language that is already in the current statute about housing discrimination based on the receipt of public assistance. There is confusion between the Human Rights Commission and apartment owners and landlords as to what the current law says and as the discussion went forward in the committee we decided that instead of moving forward with the law and changing where the language was in the law to instead have a study so that we could further understand the current law and how to make it clearer to landlords and tenants alike. This is only a study. I think it is important for landlords to know and for tenants to know - so that they don't end up in litigation - how the law applies to them and that will cause unnecessary lawsuits because of confusion. This study was to clarify the law so that there would be less litigation. I hope that people will move and vote for final passage on this Emergency. Thank you.

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. 157**

YEA - Adams, Annis, Ash, Babbidge, Beaudette, Blanchard, Blanchette, Bliss, Bowles, Brannigan, Brautigam, Brown R, Bryant, Burns, Cain, Campbell, Clark, Clough, Craven, Crosby, Cummings, Curley, Daigle, Davis K, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Eberle, Eder, Faircloth, Finch, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jennings, Koffman, Lerman, Makas, Marley, Marraché, McKenney, Merrill, Miller, Millett, Mills, Moore G, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pingree, Pinkham, Piotti, Rines, Rosen, Sampson, Smith N, Smith W, Tardy, Thompson, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Austin, Bierman, Bishop, Bowen, Browne W, Bryant-Deschenes, Carr, Cebra, Churchill, Collins, Cressey, Crosthwaite, Curtis, Davis G, Duprey, Edgecomb, Fitts, Fletcher, Hall, Hamper, Hanley B, Jacobsen, Joy, Lansley, Lewin, Lindell, Lundeen, Marean, McCormick, McFadden, McKane, McLeod, Moulton, Muse, Nass, Nutting, Ott, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Seavey, Sherman, Shields, Stedman, Sykes, Thomas, Trahan, Vaughan.

ABSENT - Barstow, Berube, Canavan, Dugay, Emery, Farrington, Fischer, Fisher, Jodrey, Kaelin, Mazurek, Moody, Norton, Pineau, Saviello, Schatz, Tuttle, Twomey.

Yes, 81; No, 52; Absent, 18; Excused, 0.

81 having voted in the affirmative and 52 voted in the negative, with 18 being absent, and accordingly the Resolve **FAILED FINAL PASSAGE** and sent for concurrence. **ORDERED SENT FORTHWITH.**

**Emergency Measure**

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

(H.P. 1075) (L.D. 1530)

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. 124 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.

**Mandate**

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

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

(C. "A" H-333)

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

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

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

The SPEAKER: The Chair recognizes the Representative from Woolwich, Representative Grose.

Representative **GROSE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just would like to take a moment and explain this bill. I want to explain the importance of the bill and thank the members of the Education Committee for their support and hard work in getting this bill this far. It came from the committee with a unanimous vote. We have focused so much energy on education this session by providing additional funding to our schools, but we also need to consider the quality of our school climates, not just how much money we can give to the schools. I believe this bill will make our schools better places for our students to learn and ask that our schools develop new policies on the issues of bullying, harassment and sexual harassment.

Since I have submitted this bill I have heard from many of you on both sides of the aisle about school violence, bullying, harassment and sexual harassment. You have told me about your kids or some incident that happened to you long ago and has had a lifelong impact. We have all been affected by these behaviors in our schools in some way and we all share a fear of what these situations could escalate too. This bill is important. Not just to make our school better but also to address a rising legal problem for our school districts. In 1999 the U.S. Supreme Court ruled that courts could be held financially liable for failing to act in cases of student-to-student harassment. It is easy to make a legal claim on this basis and through other common laws for bullying as well. This presents a problem for schools to have solid and enforceable policies on these behaviors.

I visited my five districts and went to the schools and just asked to see their policies and you would be amazed at what I found out. One just had the policies posted on the wall. Other ones had a pamphlet, which they hadn't looked at for a couple of years. The bottom line is that many of our students are afraid to go to school and when the situations escalate, our municipalities are forced to deal with a matter out of our tax dollar pockets instead of resources in the classroom. My bill asks that the Maine Children's Cabinet - a group of teachers, administrators, guidance counselors, parents and child advocates - develop model policies and training for our schools. This is accomplished without any fiscal note and I would like to repeat that there is no fiscal note attached to this. By September 2006 schools will be asked to update their policies based on the guidelines from the Children's Cabinet. None of us involved in this legislation expect that the problem will be fixed overnight, but doing something about this issue is long overdue and I know that the parents, the teachers and the children of Maine will thank you for supporting this bill.

Part of this bill works with parents. A lot of times parents don't know what to do when their children come home and they

are upset. They complain of being harassed or bullied in the school. I spoke to many parents who didn't understand what their legal rights were or what they could and couldn't do. This would help the parents to understand and to maybe go to the school, discuss it with the teachers and stop this harassment. This is all that this bill does. Thank you.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative Goldman.

Representative **GOLDMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would also like to speak to this bill because it did come before our committee, the Education Committee. The original bill did have a fiscal note because, in fact, it was requiring training, that always costs money, but it was such an important issue that every member of our committee was certainly willing to try and work with Representative Grose as well as others who are interested in the issue. We listened to some very moving testimony as you might imagine, but we also realize that there were advocates for the purposes behind the bill and we were determined to try and work it through to find something that could be supported without a fiscal note.

The Children's Cabinet and other people who testified about the problems and what they are going through in their own schools contributed and the committee worked the bill two or three times and finally came back with it's current wording. The current wording actually directs school districts to work on these policies. School statute already has a student code of conduct and what this does, in effect, is direct school boards to continue the policies they have to make sure that they are addressing bullying and furthermore, to make sure that those policies are understood at the school level and at the student level.

We were given a copy of a book by one of the people giving testimony which I thought personally was very practical and was a sample of the approaches that the Children's Cabinet was bringing together to try to give schools actual, practical advice in a cost efficient manner. For instance, they are talking about doing CDs, which can be sent to every school district. We already have in school procedure requirements to have training sessions that are part of our regular faculty days and this certainly could be added without any particular extra cost.

We were satisfied that the bill met the intention of the original bill and did not add a particular burden, which had been the principal reason for complaint in the original testimony. We are somewhat puzzled by the mandate but when the bill came back from the Revisor's they said that because it was directing policies, they had to put a mandate on it and that is why it is here in this form, otherwise it would have been a regular bill.

A couple members of the committee and I were still discussing whether we have some sense that there was a possibility that the mandate term would be taken off, but apparently not. But, that's what the mandate is. It is not asking school districts to go out and spend thousands of dollars on some whole new program.

In closing I have to say, both as a teacher, a parent, a grandparent and as a superintendent of schools I have had many, many times to be sorry for the behavior that is addressed in this bill. All of us will, I am sure, share that feeling. It is a very difficult issue to deal with because it goes underground. We have problems when you do immediately confront it. If you don't do it within a certain context you can make the whole problem worse. So, the intent behind this bill is to put a sufficient number of people who are experienced and who care about this together to get some sample policies; some sample language that teachers can use in the classroom and on the playground and

see if we can't do better than we are currently doing. That is what this bill is about. Thank you Ladies and Gentlemen.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Makas.

Representative **MAKAS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I too would like to stand and encourage your support of this legislation. Having been involved for many years on various task forces and work groups to prevent violence in our communities, I was delighted when the good Representative from Woolwich came forward with this bill. It can go a long way towards reducing bullying in our schools and it is a very comprehensive look at treating not just the students, in terms of the bullies and the ones being bullied, but also educating the adults who come in contact with those young people. It is a good bill and I encourage your support because children are our most precious commodity and the children of today are the adults of tomorrow. Please support the bill, thank you.

The SPEAKER: The Chair recognizes the Representative from Hartland, Representative Stedman.

Representative **STEDMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Having been on the Education Committee during the process of this bill I was surprised when I found that there was a mandate preamble on this bill. In the process of developing the amendment that replaces the bill, we have taken away all of the needs that would have cost money locally. We have made it the work of the Department of Education and the Children's Cabinet to develop materials that would be used to educate school boards, to develop and update their policies and to educate the teachers, once the policies were in place, through the visual materials that have been discussed here already. So, I was very surprised when I saw a mandate on this one because I thought we had taken care of all that, but it is there because it is an instruction for local systems to develop policy. That is the only reason that I can see. Thank you.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Cain.

Representative **CAIN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I am rising to ask you to vote in favor of this bill today and I would like to clarify what it is about and what it isn't about because it is easy to get confused and caught up when the issue is bullying.

This bill is not about labels. It is not about strong kids, versus weak kids, wimpy kids versus smart kids. This is about the school environment and, as a member of the subcommittee of the Children's Cabinet who looks at school climate, we have spent a lot of time looking at the factors, the many factors that play into kids ending up in the principal's office, ending up in the guidance office and even worse skipping school regularly and faking illnesses because of the environment they fear.

This bill is not about punishment. It is not about labels and it is not about restraining kids from being kids. What it is about is a healthy school environment. It is about looking at the role of the bully, looking at the role of the victim and saying what is really at heart here. What is the issue facing our school climate that we can help? All this does is say to our schools, please look at this issue in your policy book. Please take a minute, please take time and look at your policies to say are we supporting the full issue? Are we doing more than just sending kids home from school early and giving them detentions? Are we doing more than just suspending them or telling them to buck up and that it will be okay?

This bill asks them to say what is really going on here. Let's look at the whole problem and let's work together as an entire

school community from students to staff to teachers to administration to solve the problem as quickly as possible, as effectively as possible and to make learning happen every minute of the day. Thank you very much Mr. Speaker.

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

Representative **GLYNN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am opposed to the measure that is in front of us, not because of the merits of the proposal. The merits are fine. The issue is that we are being asked under § 21 of the Constitution to override our responsibilities and obligations as legislators to fund mandates that we hand down to the local level. The Constitution is clear. When we require costs and expenditures at the local level we are required to annually reimburse 90% of those costs. That is a requirement in the Constitution that was adopted by the public and I take that seriously. There is a provision that allows the legislature to stiff local municipalities and stiff local school boards and not pay our way if we override by a two-thirds vote. I am not in favor of not paying for what we require at the local level and, therefore, I am opposed to this amendment. If this bill is something that the Education Committee believes is in fact necessary and needed you have the ability to pay for it and if you vote to pay for it and you put in the budget then we don't need this mandate preamble. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **BROWNE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Don't most schools have policies addressing bullying and sexual harassment? The ones that I have been associated with do.

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

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

The SPEAKER: The Representative may proceed.

Representative **BOWLES**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Mr. Speaker I would ask if the motion for a roll call is properly before the body and I would question that under House rule 510?

The SPEAKER: The answer from the Chair to that is that House Rule 510 requires, as stated, "A call for the yeas and nays is in order at any time before a vote is made certain and declared." In the previous vote the vote was made certain and declared. The roll call motion was out of order. The vote that was taken and announced earlier under Rule 510 means a roll call can't be taken afterward. However, a roll call motion was made; the Chair was in error in taking that roll call. Then, procedurally, the body affirmed that roll call vote. In other words, members consented to the roll call even though the roll call was in error. So, the members weren't in error, the Chair was in error, but the members consented to the roll call. The consent of the members validates the current roll call we have before us. The objection should be taken and made at the time when the chair is in error or by some matter of parliamentary procedure it should be invalidated, but the body essentially, overruled that objection when the body consented to a roll call vote.

Representative **BOWLES** of Sanford asked the chair to rule if the roll call was properly before the body pursuant to Joint Rule 510.

Subsequently, the Chair **RULED** the roll call was properly before the body pursuant to Joint Rule 510.

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

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

The SPEAKER: The Representative may pose her question.

Representative **AUSTIN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. In view of the information that we now have in finding that we, in fact, were endorsing error, may we reconsider?

The SPEAKER: The time for Reconsideration has passed, the members of the body have consented to the roll call.

Representative **AUSTIN**: So that is not debatable?

The SPEAKER: The procedural motion is not debatable.

Representative **AUSTIN**: Thank you Mr. Speaker.

On motion of Representative **NORTON** of Bangor, the Bill and all accompanying papers were **COMMITTED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and sent for concurrence.

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**Acts**

An Act To Amend the Laws Governing Commercial Vehicle Length Limits

(S.P. 12) (L.D. 13)  
(C. "A" S-166)

An Act To Ensure Financial Solvency in Maine's Air and Wastewater Licensing Programs

(H.P. 218) (L.D. 293)  
(C. "A" H-243)

An Act To Mandate Payment of Licensed Sign Language Interpreters for Driver Education Students

(S.P. 144) (L.D. 446)  
(C. "A" S-168)

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

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

An Act To Provide for Independent Testing of Unpasteurized Milk Products

(S.P. 209) (L.D. 654)  
(C. "A" S-142)

An Act To Modernize the Innkeeping Statutes

(S.P. 313) (L.D. 905)  
(C. "A" S-160)

An Act To Fund Youth Mentoring Programs

(H.P. 689) (L.D. 979)  
(C. "A" H-332)

*[Need to table per Speaker's Legal Staff]*

An Act To Allow Municipalities To Acquire Title to Abandoned Cemeteries

(H.P. 714) (L.D. 1029)  
(C. "A" H-265)

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

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

An Act To Recognize and Protect the Native Eastern Brook Trout as Maine's Heritage Fish

(S.P. 395) (L.D. 1131)  
(C. "A" S-143)

An Act To Promote Responsible Advertising by Public Utilities

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

An Act To Clarify the Municipal Responsibility To Provide Assessing Information to Property Owners  
(H.P. 862) (L.D. 1244)  
(C. "A" H-302)

An Act To Amend the Law on Junkyards, Automobile Graveyards and Automobile Recycling Businesses  
(S.P. 448) (L.D. 1268)  
(C. "A" S-156; S. "A" S-163)

An Act To Allow Firefighters and Emergency Service Personnel To Direct Traffic  
(S.P. 464) (L.D. 1337)  
(C. "A" S-167)

An Act To Amend the Law Regarding Certification of Educational Personnel  
(H.P. 1010) (L.D. 1446)

An Act To Create a Graduate School of Biomedical Sciences at the University of Maine  
(S.P. 530) (L.D. 1528)  
(C. "A" S-165)

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

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**Resolves**

Resolve, To Study Initiatives To Increase Access to Dental Services for Children in the MaineCare Program  
(H.P. 10) (L.D. 5)  
(C. "A" H-328)

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

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An Act To Establish a Program for the Purchase of Prescription Drugs from out of the Country for the Elderly and Disabled  
(H.P. 369) (L.D. 494)  
(C. "A" H-327)

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

On motion of Representative CUMMINGS of Portland, 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: The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative **CAMPBELL**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is my bill and I worked very hard on it on both sides of the aisles and with the Chief Executive and I hope you will follow my light when you vote on this one.

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. 158**

YEA - Adams, Annis, Ash, Babbidge, Beaudette, Bishop, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Brown R, Bryant, Bryant-Deschenes, Burns, Cain, Campbell, Canavan, Carr, Churchill, Clark, Collins, Craven, Cressey, Crosby, Crosthwaite, Cummings, Daigle, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth,

Farrington, Finch, Fischer, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hanley B, Hanley S, Harlow, Hotham, Hutton, Jackson, Jacobsen, Jennings, Joy, Koffman, Lerman, Lewin, Lindell, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McFadden, McLeod, Merrill, Miller, Mills, Moody, Moore G, Moulton, Muse, Nass, Norton, O'Brien, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson M, Richardson W, Rines, Rosen, Sampson, Saviello, Seavey, Sherman, Shields, Smith N, Smith W, Sykes, Tardy, Thomas, Thompson, Trahan, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Austin, Bierman, Bowen, Bowles, Browne W, Cebra, Clough, Curley, Curtis, Davis G, Duprey, Edgecomb, Fitts, Fletcher, Hall, Hamper, Lansley, McKane, McKenney, Millett, Nutting, Richardson E, Robinson, Stedman, Vaughan.

ABSENT - Barstow, Berube, Emery, Fisher, Hogan, Jodrey, Kaelin, Pineau, Schatz, Tuttle.

Yes, 116; No, 25; Absent, 10; Excused, 0.

116 having voted in the affirmative and 25 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.

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An Act To Amend the Laws Relating to Changeable Signs  
(H.P. 373) (L.D. 498)  
(C. "A" H-291)

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. 159**

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

NAY - Collins, Marean, Stedman.

ABSENT - Barstow, Berube, Campbell, Crosby, Daigle, Eder, Emery, Fisher, Hogan, Jodrey, Kaelin, Pineau, Pinkham, Richardson M, Schatz, Tuttle.



Yes, 132; No, 3; Absent, 16; Excused, 0.

132 having voted in the affirmative and 3 voted in the negative, with 16 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act To Protect Children Using Maine's Athletic Fields and Parks from Drug Dealers

(H.P. 490) (L.D. 670)

(C. "A" H-258)

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

On motion of Representative CUMMINGS of Portland, was **SET ASIDE**.

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

An Act To Protect Young Drivers

(S.P. 393) (L.D. 1129)

(C. "A" S-144)

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

On motion of Representative COLLINS of Wells, 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.

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

An Act To Register Nonbank Loan Officers

(H.P. 900) (L.D. 1303)

(C. "A" H-311)

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

On motion of Representative CUMMINGS of Portland, 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. 160**

YEA - Adams, Annis, Ash, Babbidge, Beaudette, Bierman, Bishop, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Bryant-Deschenes, Burns, Cain, Campbell, Canavan, Churchill, Clark, Clough, Collins, Craven, Cressey, Crosby, Cummings, Curley, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Eberle, Eder, Edgecomb, Faircloth, Farrington, Finch, Fischer, Fitts, Fletcher, Glynn, Goldman, Greeley, Grose, Hanley B, Hanley S, Harlow, Hotham, Hutton, Jackson, Jacobsen, Jennings, Koffman, Lerman, Lindell, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, Merrill, Miller, Millett, Mills, Moody, Moore G, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pingree, Piotti, Rector, Richardson M, Richardson W, Rines, Rosen, Sampson, Saviello, Seavey,

Shields, Smith N, Smith W, Sykes, Tardy, Thompson, Trahan, Twomey, Valentino, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Austin, Carr, Cebra, Crosthwaite, Curtis, Duprey, Flood, Hall, Hamper, Joy, Lansley, Lewin, McKenney, McLeod, Pinkham, Plummer, Richardson D, Richardson E, Robinson, Sherman, Stedman, Thomas.

ABSENT - Barstow, Berube, Dugay, Emery, Fisher, Gerzofsky, Hogan, Jodrey, Kaelin, Lundeen, Pineau, Schatz, Tuttle.

Yes, 116; No, 22; Absent, 13; Excused, 0.

116 having voted in the affirmative and 22 voted in the negative, with 13 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act To Exempt Agricultural Guard Dogs and Herding Dogs from the Barking Dog Ordinances

(H.P. 907) (L.D. 1309)

(C. "A" H-331)

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

On motion of Representative CUMMINGS of Portland, 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. 161**

YEA - Adams, Annis, Ash, Austin, Babbidge, Beaudette, Bierman, Bishop, Blanchard, Blanchette, Bliss, Bowen, Brannigan, Brautigam, Brown R, Browne W, Bryant, Bryant-Deschenes, Burns, Cain, Campbell, Canavan, Carr, Cebra, Churchill, Clark, Clough, Collins, Craven, Cressey, Crosby, Crosthwaite, Cummings, Curley, Curtis, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dugay, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Faircloth, Farrington, Finch, Fischer, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jacobsen, Jennings, Joy, Koffman, Lansley, Lerman, Lewin, Lindell, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Moore G, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, 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, Stedman, Sykes, Tardy, Thomas, Thompson, Trahan, Valentino, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - NONE.

ABSENT - Barstow, Berube, Bowles, Dudley, Emery, Fisher, Jodrey, Kaelin, Pineau, Schatz, Tuttle, Twomey.

Yes, 139; No, 0; Absent, 12; Excused, 0.

139 having voted in the affirmative and 0 voted in the negative, with 12 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 matter, 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 DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (6) **Ought to Pass as Amended by Committee Amendment "A" (H-375)** - Committee on **LABOR** on Bill "An Act To Improve Prevailing Wage Standards in Maine"

(H.P. 135) (L.D. 184)

TABLED - May 17, 2005 (Till Later Today) by Representative SMITH of Van Buren.

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

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

**SENATE PAPERS**

The following Joint Resolution: (S.P. 623)

**JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE CONGRESS OF THE UNITED STATES TO CONTINUE STIPENDS AT CURRENT LEVELS FOR VETERANS IN VETERANS' NURSING HOMES**

WE, your Memorialists, the Members of the One Hundred and Twenty-second Legislature of the State of Maine now assembled in the First Special Session, most respectfully present and petition the President of the United States and the Congress of the United States as follows:

WHEREAS, the State of Maine recognizes the great service and sacrifice that our veterans have given to, protect and honorably serve our country and that state veterans' homes are the largest deliverer of long-term care to our nation's veterans; and

WHEREAS, state veterans' homes are the most cost-effective means to provide long-term care to veterans, with lower costs than contract nursing home placements and Veterans Administration medical center nursing home care; and

WHEREAS, the number of veterans is growing substantially each year, thereby creating an increasing demand for long-term care; and

WHEREAS, the Federal Government has provided support for the state veterans' homes through a partnership between the Veterans Administration and state veterans' homes for over 100 years, and the state veterans' homes were designed to be reliant on the per diem payments from the Veterans Administration in order to operate; and

WHEREAS, the proposed budget for 2006 would drastically reduce the number of veterans eligible for per diem payments, by 51% according to the President's estimates and at least 80% by the estimates of the state veterans' homes operators; and

WHEREAS, the state veterans' homes would be forced to significantly reduce their standard of care or close down, essentially placing the entire state veterans' home system at risk; and

WHEREAS, if the state veterans' homes were to close, then those veterans who would no longer qualify for per diem payments would have nowhere to go, and those veterans who do

qualify would be pushed into more costly care facilities, such as contract nursing home placements and Veterans Administration medical center nursing home care; now, therefore, be it

**RESOLVED:** That We, your Memorialists, respectfully urge the Congress of the United States to vote against that section of the proposed Veterans Administration's 2006 budget that drastically reduces the number of veterans eligible for stipends in state veterans' homes; and be it further

**RESOLVED:** That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and to each Member of the Maine Congressional Delegation.

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

**READ** and **ADOPTED** in concurrence.

**REPORTS OF COMMITTEE**

**Divided Report**

Majority Report of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought Not to Pass** on Bill "An Act Regarding the Licensing of Foresters"

(H.P. 960) (L.D. 1383)

Signed:

Senators:

BROMLEY of Cumberland

HOBBINS of York

DOW of Lincoln

Representatives:

SMITH of Monmouth

O'BRIEN of Lewiston

AUSTIN of Gray

ROBINSON of Raymond

RECTOR of Thomaston

FARRINGTON of Gorham

BERUBE of Lisbon

BEAUDETTE of Biddeford

CROSBY of Topsham

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

Signed:

Representative:

JACOBSEN of Waterboro

**READ**.

Representative SMITH of Monmouth moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The **SPEAKER**: The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative **CAMPBELL**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Mr. Speaker this was my bill that I put in for a forester and I would like to get a roll call vote on it. You only can take the test once a year and when these fellows graduate from school they have to wait until the test comes up and this fellow almost moved to New Hampshire on account of this. Thank you.

Representative **CAMPBELL** of Newfield **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 Monmouth, Representative Smith.

Representative **SMITH**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just want to speak briefly about the Ought Not to Pass Report. This bill would have done two things; one is to have the Board of Foresters have their exam monthly. The testimony we heard was that this was unnecessary and would be overly expensive thereby raising the cost of licenses for foresters and secondly it would have allowed reciprocity with New Hampshire and Vermont. We were told that New Hampshire does not allow reciprocity, meaning that a Maine license couldn't be used in New Hampshire so it would be a disadvantage for us to allow it when they do not. Vermont doesn't license foresters and so, therefore, it was not relevant.

I am a licensed forester and I have run this bill by the other two licensed foresters in the body the Representative from Wilton, Representative Saviello and the Representative from Winthrop, Representative Flood and they were both comfortable with the Ought Not to Pass. 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. 162**

YEA - Adams, Ash, Austin, Babbidge, Beaudette, Bierman, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Bryant-Deschenes, Burns, Cain, Canavan, Carr, Churchill, Clough, Collins, Craven, Cressey, Crosby, Crosthwaite, Cummings, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Faircloth, Farrington, Finch, Fischer, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hamper, Hanley B, Hanley S, Harlow, Hotham, Hutton, Jackson, Jennings, Joy, Koffman, Lerman, Lewin, Lundeen, Makas, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Moore G, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson W, Rines, Robinson, Rosen, Sampson, Saviello, Seavey, Shields, Smith N, Smith W, Stedman, Tardy, Thomas, Thompson, Trahan, Twomey, Valentino, Vaughan, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Bishop, Campbell, Cebra, Curley, Curtis, Fitts, Jacobsen, Lansley, Lindell, Marean, Richardson E, Richardson M, Sherman, Sykes.

ABSENT - Barstow, Berube, Clark, Emery, Fisher, Hall, Hogan, Jodrey, Kaelin, Pineau, Schatz, Tuttle, Walcott.

Yes, 123; No, 15; Absent, 13; Excused, 0.

123 having voted in the affirmative and 15 voted in the negative, with 13 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

**REPORTS OF COMMITTEE**  
**Divided Report**

Majority Report of the Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought Not to Pass** on Resolve, Directing the Maine State Retirement System To Develop a Proposal To Provide Relief for Retired State Employees

(H.P. 787) (L.D. 1144)

Signed:

Senators:

SULLIVAN of York  
MILLS of Somerset

MAYO of Sagadahoc  
Representatives:  
PERRY of Calais  
McKANE of Newcastle  
LINDELL of Frankfort  
PILON of Saco  
VAUGHAN of Durham  
GLYNN of South Portland  
RICHARDSON of Warren  
MARRACHÉ of Waterville

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-396)** on same Resolve.

Signed:

Representatives:

BRAUTIGAM of Falmouth  
HARLOW of Portland

**READ.**

Representative PERRY of Calais moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative GLYNN of South Portland **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**: 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. 163**

YEA - Ash, Austin, Babbidge, Beaudette, Bierman, Bishop, Blanchard, Blanchette, Bowen, Bowles, Brannigan, Brown R, Browne W, Bryant-Deschenes, Burns, Cain, Campbell, 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, Faircloth, Farrington, Finch, Fischer, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hall, Hamper, Hanley B, Hanley S, Hogan, Hotham, Jackson, Jacobsen, Jennings, Joy, Koffman, Lansley, Lewin, Lindell, Lundeen, Makas, Marean, Marley, Marraché, McCormick, McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moore G, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, 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, Stedman, Sykes, Tardy, Thomas, Thompson, Trahan, Valentino, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Adams, Annis, Bliss, Brautigam, Bryant, Canavan, Edgecomb, Harlow, Hutton, Lerman, Mazurek, McFadden, Moody.

ABSENT - Barstow, Berube, Emery, Fisher, Jodrey, Kaelin, Pineau, Schatz, Tuttle, Twomey.

Yes, 128; No, 13; Absent, 10; Excused, 0.

128 having voted in the affirmative and 13 voted in the negative, with 10 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

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

LEGISLATIVE RECORD - HOUSE, May 18, 2005

On motion of Representative SYKES of Harrison, the House adjourned at 12:20 p.m., until 9:00 a.m., Thursday, May 19, 2005 in honor and lasting tribute to Richard W. Tyler, of Augusta.