

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
19th Legislative Day
Thursday, May 19, 2005

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

Prayer by Reverend James Herrick, Bailey Island (retired).

National Anthem by Emily Moore, Boothbay.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

SENATE PAPERS
Non-Concurrent Matter

Bill "An Act To Amend Maine's Shellfish Laws To Maintain Compliance with Federal Law and Protect Maine's Shellfish Industry"

(H.P. 1013) (L.D. 1449)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-351) in the House on May 17, 2005.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-351) AND SENATE AMENDMENT "A" (S-190)** in **NON-CONCURRENCE**.

Representative PERCY of Phippsburg moved that the House **RECEDE AND CONCUR**.

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

Non-Concurrent Matter

Bill "An Act Relating to the Northern New England Passenger Rail Authority"

(H.P. 380) (L.D. 505)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-362) in the House on May 16, 2005.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-362) AS AMENDED BY SENATE AMENDMENT "A" (S-192)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

Bill "An Act To Authorize the Public Advocate To Represent Consumers in Federal Regulation of Railroads"

(H.P. 169) (L.D. 230)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-182) in the House on May 3, 2005.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-182) AS AMENDED BY SENATE AMENDMENT "A" (S-188)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

COMMUNICATIONS

The Following Communication: (S.C. 317)

MAINE SENATE
122ND LEGISLATURE
OFFICE OF THE SECRETARY

May 18, 2005

Honorable Millicent M. MacFarland

Clerk of the House

State House Station 2

Augusta, ME 04333

Dear Clerk MacFarland:

Please be advised the Senate today adhered to its previous action whereby it committed Bill "An Act To Authorize the Assessment and Collection of Harbor Fees" (H.P. 1153 L.D. 1635))and accompanying papers to the Committee on Marine Resources in non-concurrence.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Bill "An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2006 and June 30, 2007" (EMERGENCY)

(H.P. 1186) (L.D. 1677)

Sponsored by Representative BRANNIGAN of Portland. (GOVERNOR'S BILL)

Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and ordered printed.

REFERRED to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed.

Sent for concurrence.

Resolve, Authorizing the President of the Maine Community College System To Sell 1.37 Acres of Real Property Owned by Southern Maine Community College in South Portland

(H.P. 1185) (L.D. 1676)

Sponsored by Representative BLISS of South Portland. (GOVERNOR'S BILL)

Cosponsored by Senator BROMLEY of Cumberland and Representatives: BOWLES of Sanford, CUMMINGS of Portland, EBERLE of South Portland, Speaker RICHARDSON of Brunswick, RINES of Wiscasset, Senators: BRENNAN of Cumberland, DAVIS of Piscataquis, President EDMONDS of Cumberland.

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

Under suspension of the rules, the Resolve was given its **FIRST READING WITHOUT REFERENCE** to a committee.

Under further suspension of the rules, the Resolve was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules, the Resolve was **PASSED TO BE ENGROSSED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

the Reverend James Herrick, of Bailey Island, on the occasion of his 100th birthday. The centenarian goes next door nearly every morning for coffee at Baker's Last Stand. Mr. Herrick built the building that houses the eatery as a post office when he was postmaster on the island. He is a guest preacher at area churches and says he is just waiting for an invitation for 2 sermons he has already prepared. We extend our warmest wishes on this momentous occasion;

(HLS 717)

Presented by Representative PERCY of Phippsburg.
Cosponsored by President EDMONDS of Cumberland.

On **OBJECTION** of Representative PERCY of Phippsburg, was **REMOVED** from the Special Sentiment Calendar.

READ and **PASSED** and sent for concurrence.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Bill "An Act To Repeal Tax and Match"

(S.P. 236) (L.D. 699)

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" (S-193)** 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.

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

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 Not to Pass** Report and later today assigned.

Majority Report of the Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought Not to Pass** on Bill "An Act To Allow a Person 18 Years of Age or Younger To Take an Antlerless Deer during Hunting Season without a Permit"

(S.P. 366) (L.D. 1049)

Signed:

Senator:

BRYANT of Oxford

Representatives:

WATSON of Bath
LUNDEEN of Mars Hill
WHEELER of Kittery
CEBRA of Naples
TRAHAN of Waldoboro
RICHARDSON of Greenville
JACKSON of Fort Kent
RICHARDSON of Carmel
BRYANT of Windham

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

Signed:

Senator:

WOODCOCK of Franklin

Representative:

MOODY of Manchester

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

READ.

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

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act To Provide an Exemption from Discrimination Laws to Fitness Centers"

(S.P. 92) (L.D. 272)

Signed:

Senators:

HOBBINS of York
BROMLEY of Cumberland

Representatives:

PELLETIER-SIMPSON of Auburn
FAIRCLOTH of Bangor
GERZOFKY of Brunswick
CANAVAN of Waterville
BRYANT of Windham
DUNN of Bangor
SHERMAN of Hodgdon
NASS of Acton

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-137)** on same Bill.

Signed:

Senator:

HASTINGS of Oxford

Representatives:

CARR of Lincoln
BRYANT-DESCHENES of Turner

Came from the Senate with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-137)**.

READ.

Representative PELLETIER-SIMPSON of Auburn moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Majority Report of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought Not to Pass** on Bill "An Act To Amend the Laws Regulating the Practice of Optometry"

(H.P. 591) (L.D. 832)

Signed:

Senators:

BROMLEY of Cumberland
HOBBINS of York

Representatives:

SMITH of Monmouth
O'BRIEN of Lewiston
AUSTIN of Gray
ROBINSON of Raymond
FARRINGTON of Gorham
BEAUDETTE of Biddeford
JACOBSEN of Waterboro

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

Signed:

Senator:

DOW of Lincoln

Representatives:

RECTOR of Thomaston
BERUBE of Lisbon
CROSBY of Topsham

READ.

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

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

Majority Report of the Committee on **LABOR** reporting **Ought Not to Pass** on Bill "An Act To Require Inspectors from the Department of Labor, Bureau of Labor Standards To Provide Advance Notice of Inspections"

(H.P. 832) (L.D. 1214)

Signed:

Senators:

STRIMLING of Cumberland
SNOWE-MELLO of Androscoggin
BARTLETT of Cumberland

Representatives:

SMITH of Van Buren
DRISCOLL of Westbrook
JACKSON of Fort Kent
HALL of Holden
HUTTON of Bowdoinham
DUPREY of Hampden
CRESSEY of Cornish
TUTTLE of Sanford
HAMPER of Oxford

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

Signed:

Representative:

CLARK of Millinocket

READ.

Representative SMITH of Van Buren, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

Representative **CLARK**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Sometimes you have got to do what you have got to do, thank you.

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

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act To Exempt Unemployment Benefits from State Income Tax" (EMERGENCY)

(H.P. 255) (L.D. 332)

Signed:

Senator:

COURTNEY of York

Representatives:

HANLEY of Paris
McCORMICK of West Gardiner
WOODBURY of Yarmouth
CLOUGH of Scarborough
BIERMAN of Sorrento
SEAVEY of Kennebunkport

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-404) on same Bill.

Signed:

Senators:

PERRY of Penobscot
STRIMLING of Cumberland

Representatives:

CLARK of Millinocket
PINEAU of Jay
HUTTON of Bowdoinham
WATSON of Bath

READ.

On motion of Representative WOODBURY of Yarmouth, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

Majority Report of the Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-403) on Bill "An Act To Encourage Long-term Holding of Maine Timberland and Sustainable Forest Management"

(H.P. 902) (L.D. 1305)

Signed:

Senators:

PERRY of Penobscot
COURTNEY of York
STRIMLING of Cumberland

Representatives:

HANLEY of Paris
CLARK of Millinocket
CLOUGH of Scarborough
PINEAU of Jay
BIERMAN of Sorrento
SEAVEY of Kennebunkport
WATSON of Bath
McCORMICK of West Gardiner

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

Signed:

Representatives:

WOODBURY of Yarmouth

HUTTON of Bowdoinham

READ.

On motion of Representative WOODBURY of Yarmouth, the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. Committee Amendment "A" (H-403) was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 20, 2005.

CONSENT CALENDAR

First Day

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

(S.P. 190) (L.D. 581) Bill "An Act Regarding Identity Theft Deterrence" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-187)**

(S.P. 229) (L.D. 692) Bill "An Act To Require That Hazardous Waste Be Removed from Junked Vehicles" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-186)**

(S.P. 456) (L.D. 1329) Bill "An Act To Require the Workers' Compensation Board To Use the 5th Edition 'Guides to the Evaluation of Permanent Impairment' in Assessing Workers' Compensation Injuries Involving the Spinal Column" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-189)**

(H.P. 165) (L.D. 214) Bill "An Act To Recognize the Federal Salary Level for Overtime When Higher than the State Level" Committee on **LABOR** reporting **Ought to Pass**

(H.P. 648) (L.D. 929) Bill "An Act To Create Freedom of Citizen Information Regarding Ballot Questions and Political Action Committees" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-412)**

(H.P. 699) (L.D. 1015) Resolve, To Increase Small Business Access to State Contracts Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-400)**

(H.P. 1051) (L.D. 1494) Bill "An Act To Increase Faculty in Maine Nursing Education Programs" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-401)**

(H.P. 1142) (L.D. 1619) Resolve, Regarding Legislative Review of Portions of Chapter 2: Aquaculture Lease Regulations - Lighting Standards and Noise Standards, a Major Substantive Rule of the Department of Marine Resources (EMERGENCY) Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-408)**

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

There being no objection, the Senate Papers were **PASSED TO BE ENGROSSED as Amended** in concurrence and the House Papers were **PASSED TO BE ENGROSSED or PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

(H.P. 535) (L.D. 758) Bill "An Act To Increase Retired Teachers' Health Insurance Benefits" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-410)**

On motion of Representative BOWLES of Sanford, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ**.

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

Representative **BOWLES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I appreciate the sentiment that has caused this legislation to be brought forward. Many of us have advocated for some time that retired teachers should not be treated differently than retired state workers in regards to their health insurance benefit costs and I continue to hold that belief, but quite frankly I think we are going in the wrong direction with this. Good intentions aside I don't believe that this is fiscally responsible. We are in a period where the world outside of public service is no longer in a position to offer fully paid health benefits to retired workers. Indeed we are seeing major corporations default on payments to workers. I would suggest that the responsible thing is that eventually we are going to have to come to grips with asking state employees to begin to cover a portion of their own retirement healthcare costs. Ultimately that is going to have to happen because we cannot sustain the level of benefits that we have today. For that reason, although well intentioned, I am opposed to this legislation. Mr. Speaker, I request a roll call.

The same Representative **REQUESTED** a roll call on the motion to **ACCEPT** the Unanimous **Ought to Pass as Amended Report**.

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

The **SPEAKER**: The Chair recognizes the Representative from Biddeford, Representative Twomey.

Representative **TWOMEY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I too will be opposing this legislation. Not because I don't think retired teachers don't deserve it, but because we are singling out one segment of our population. We all need healthcare. We all need good healthcare and when we pick out certain portions of our community like teachers or firefighters we all want to do the right thing by them. But, I don't like pitting one segment of the population against another. How about the mill worker, doesn't he deserve the same? That is the problem I have these kinds of bills that we single out a certain part of the population. Let's stick together everyone and let's get single payer healthcare so that we all can have healthcare. I am going to be leaving this body at the age of 60 years old. Had I been two years older - I have given my eight years of service - I would have healthcare for the rest of my life, but I didn't make the age. That's discrimination. There are all kinds of things that are not fair in our society so let's stick together and let's have everyone have healthcare. That is the problem that I have with this. Thank you.

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

Representative **BARSTOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today to speak in favor of this bill and this measure and in deference to the comments by the good Representative from Biddeford; the fact of the matter is that as I have spoken on this floor before, healthcare is a very large issue. It is a very large problem facing this Legislature and this state and there are millions of different ways that we can approach it. I believe that this is one way that is incremental and we can help to assist these retired teachers and give them benefits that they do deserve. I do understand that there are other segments of the population that are in need of healthcare beyond the retirement. Yes that is true, but I think that if we were to bring forward a package that is broader in

scope and to try to help other individuals then we will find, in time, that with the politics of this institution and with broader matters, we will have a tougher time trying to assist individuals who are in need.

I just want to bring people to the idea of tax relief and tax reform and point out the fact that for the last two and a half years that I have been involved we have not been able to have a large, comprehensive plan. Everything has been incremental and progressive and we are continuing to do that and I am proud of that and I think that this is taking the same kind of process and the same step, with regards to helping retired teachers. I will be supporting this measure and I hope that my colleagues do so as well. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative **SMITH**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This bill recognizes some of the realities in our state. One is that the teacher's play an important role in educating the children of today for the future of our state. One of the incentives for people to go into teaching is the retirement system. They are certainly not overpaid when they enter that profession and the health retirement benefit is another one. All this does is recognize what we have been doing over the last three Legislatures. We have raised in increments of 5% in subsequent Legislatures the state's contributions from 30 to 35, from 35 to 40 and now since just one month ago now from 40 to 45. This recognizes that kind of increased program so that eventually, after eleven years the teachers would receive a health insurance subsidy, which would be on par with other state employees. We submit to you that there is as much reason to treat our teachers on the same level as other state employees and certainly this is well deserved. We ask you to support the unanimous committee report of Ought to Pass.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Mazurek.

Representative **MAZUREK**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am a retired teacher and I will tell you that it is not easy living on a retired teachers salary for retirement.

Many of the people that I know who are retired who should be enjoying, after a long career in education, a little bit of relaxation, many have to go out and get jobs just to survive. I have talked to a number of teachers older than I and I don't know how they make it. Their retirement check is given to them and they have to pay 60% toward health benefits. That leaves them very little to live on for the rest of the month. Couple that with the famous offset program that teachers are also hit with, because many of us have to work in the summer to support our families. Many of us had to take second jobs to be able to feed our children and then when we get to the retirement years the offset takes two-thirds of our social security as well. It is a tough road so I support this. We are always talking about how important education is. Well, the backbone of education is the teachers. They are the ones that are in the front lines and they are the ones that are the least paid. I wish that I could do more for retired teachers, but I can cast this vote in the positive and let them know that we are thinking of them and we are not forgetting about them.

There is a sign when we cross over the Kittery bridge that says, "Maine, the way life should be" - only for everyone but retired teachers because it is a tough road. Thank you.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Twomey.

Representative **TWOMEY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I totally agree with my

colleagues and I totally understand what they are saying, but on the other hand I also understand that my mechanic who has worked hard all his life trying to keep his family going deserves the same thing, people who work in the supermarket, my seniors whose husbands worked in the mills deserve the same thing. They are living on little Social Security Pensions and that is the problem I have. It's not that teachers don't deserve it; everything you say is absolutely correct. They took care of our children, education is important. State employees and the Maine Teacher's Union have always supported me. But, seeing how we passed single payer health care and we don't even want to talk about it and talking about people that I have to represent that can't even go to the doctors I think it is time that we look at the whole picture and stop putting segments of our population ahead of others. It is a healthcare issue and everyone needs it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Fort Kent, Representative Jackson.

Representative **JACKSON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I don't believe that with this bill we are making any one segment more empowered than any other segment. I think what we are doing is raising up one segment to where a lot of other people are. I think we are hoping to rectify an inequity in the state retirement system. Teachers are the only part of the retirement system that doesn't receive the full funding. If there was a time that we were to ask the retirement people to pay part of their retirement I might be willing to sit down and do that, but until we get everyone up to the same level I don't think it is fair to not allow the teachers to have the same benefits that a lot of other state retirement workers have.

If you are a teacher in an unorganized territory you are considered a state employee and receive 100% benefit whereas if you are a teacher in an SAD or in city you are only going to receive 45%. That is a huge inequity; that is unfairness in the system and I think that this is a way to gradually get up to where everyone else in the state retirement system already receives their retirement and it is certainly for great group of people that I have a lot of respect for and I am certain that I wouldn't be standing here today without a lot of those people. So, please support this bill.

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

Representative **HARLOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am a retired teacher after 40 years and I don't get Maine retirement or Maine health insurance but I don't see that as a reason to deny it to other teachers. The people we all tell that we respect so much and to deny it because somebody else doesn't get it is beyond my comprehension. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from North Haven, Representative Pingree.

Representative **PINGREE**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I certainly don't mean to belabor this debate but I do want to just point out one thing that is different compared to your average supermarket worker or your average person who works as a mechanic. If a teacher had only been a teacher their entire life, they didn't have any other jobs, they never paid into Medicare so this is one very small classification of people who could be like state employees who don't qualify for Medicare. That's why they have a unique problem compared to any other people who work in any other industry. That's why they are the responsibility of the state and we have kind of helped create this problem for them and that is another reason why I urge people to support this bill.

The SPEAKER: The Chair recognizes the Representative from Hodgdon, Representative Sherman.

Representative **SHERMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to follow up on the good Representative who just spoke. There is another little issue that hasn't been mentioned and she sort of mentioned it. The fact is that this is really, in a sense, about the number of females in teaching. There are probably 65% at least; many of those ladies don't work under social security. Many of the male teachers that have worked under social security have part time jobs in the summer time to make ends meet. So some of us, at a certain age, are going to be able to get Medicare. I think many of the female teachers are not going to get Medicare as alluded to by the good Representative. I guess the other issue even though it has already been said, those of us that will eventually get Social Security, were not going to get Social Security. I had some legitimate jobs in my life where I actually get paid something from the state or school districts and we have an offset. At some point I will be getting 40% of that social security. There are only 13 states that have that and Maine happens to be one where we have an offset. So, there is a triple whammy for teachers and especially female teachers.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Twomey. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative **TWOMEY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I apologize. Thank you Representative Pingree for setting it straight. I did not realize that teachers did not get Medicare and I will be supporting this I apologize I made a mistake.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Edgecomb.

Representative **EDGECOMB**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of this legislation. Before coming to the legislature my wife and I had to pay more than 8,000 dollars for health insurance and we all can't come to the legislature to take advantage of the healthcare plan here but may I point out to you that the average teacher retirement pay in the state of Maine is less than \$17,000 a year and for some people, when they get done paying their health insurance they have very little left. Thank you.

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. This bill was a bill that I put into the legislature and I thought that maybe it might be helpful if I gave a few reasons behind why I brought forward this legislation. First of all the reason why I brought it forward is because of the severe inequity that we have in the system. It is absolutely unfair and it is wrong for the state of Maine to be treating our employees, with regard to retirement insurance, on these different levels. It is not correct that retired teachers are reimbursed at 45% but state employees are reimbursed at 100%. This inequity in fairness is really underscored by the fact that teachers are not treated the same as employees in the private sector who pay into social security and pay into the Medicare system. We have a safety net and a retirement program for us that teachers are not a part of and when we turn around and don't reimburse retired teachers at the same rate that we do state employees, whatever that benefit level turns out to be in the future, be it 100% or something a little bit less it should be the same. We create an inequity system where not only are we creating a real hardship for retired teachers, but we are creating a

major disincentive for local school districts to be able hire and retain educators. This is a serious issue of the ability to hire and retain qualified personnel and it should be something that is in the forefront of all of our minds as we look at and consider this piece of legislation.

Question one that was recently put before us talked about the fact of the state shirking its responsibilities to fund local school districts to the 55% of education commitment that we have. We haven't done the local municipalities and the local school districts justice. We have not met our obligations on school funding. Even yesterday we were considering passing a mandate that wasn't even going to be paid for, back down into the local school districts and now we have an opportunity to try and treat the employees at the local districts fairly. I hope that you all consider these things as you consider putting teachers on a scale to bring them up to 100%.

I would also like to point out to members that if you take a look at the amendment, this is not any solution that is just willy-nilly thrown out there to just throw a big pot of money at a problem. This puts teachers on a graduated scale so that they are phased in over a period of time, one that can be budgeted in our state budget so that we can meet our other obligations and at the same time fulfill a commitment and a promise to treat them like the other state employees. For those reasons and so many others I hope you join with me in support of this L.D.

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

Representative **BABBIDGE**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I have three stickers on the back of my automobile and that automobile is a 1994 automobile and although I don't plan to retire anytime soon I will not be able to, based on the bills that I have to pay over the next few years. That is relevant to this conversation because in my opinion this issue is bad for teachers and it is bad for kids. If a teacher is at the time in their career when they are considering retirement, for either mental health reasons or for physical health reasons and they fear the financial consequences of retirement because of the cost of health insurance and they make a decision to stay in the classroom based on those criteria then we are not being fair to those teachers and that's not good for our kids. However, this bill doesn't answer our needs. This falls way short of fairness I think that we all have people in our lives that are retired teachers today who are struggling with this issue and this incremental response does not meet their needs.

This is an important expression of support. Now, we can vote on this today, yet we know that it has fiscal implications immediately which means it may never get to see daylight. On the other hand, if it should fly, if the economy of the state should permit it and we are concerned about 100% health insurance, then because of its incremental implementation we have a lot of time to fix it to where it should be at the end of the ramp. I ask you to give this expression of support. This is about fairness. It is good policy and I implore you to support this piece of legislation. Thank you.

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

Representative **CLOUGH**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. We have heard a lot of talk today about equity and fairness. We could have equity by reducing the payment for all state paid health insurance to say 70%. We don't need to have equity at 100% I think that's unrealistic. IN the private sector I don't think that you will find anybody paying 100% of health insurance to retirees and I don't think it would be good policy to do so. They need to have an investment in their own health care.

We shouldn't be making a promise that we can't keep. We made a sudo-promise a number of years ago to fund education at 55% and I guess we all know how that haunted us for the next several years and I think that it would be foolhardy to make this promise today, knowing in our minds that we probably can't keep it.

Right now in the private sector we can look at Ford or General Motors, two great American companies that are floundering and having severe problems. I don't know what the outcome will be and it is all brought on by obligations that they have for healthcare and retirement benefits that are far beyond their ability to pay. I submit to you that what we really should be talking about is reducing the cost of health care, not shifting the cost of healthcare and we never seem to get to that real issue. Finding a way in the United States to reduce the cost of how we deliver healthcare to everybody. So with that I would ask you to vote against the pending motion and move on to other issues.

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

Representative **RICHARDSON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I don't really have any argument with the obligation that we owe teachers, but I have got to just inject a little bit of reality. I am retired, I get \$14,000 a year from Social Security and I pay 1,000 a year for health insurance. Nobody is taking care of my health insurance for me. I have to pay it all out of what I have. Fortunately, my wife also worked so between the two of us we do pretty well, but we still have to pay our own health insurance; nobody is looking out for us. It was only the fact that we both had jobs that we were able to do as well as we do so I don't have any arguments about this, but you also want all of us to pay 100% of teachers health insurance as well as our own. That is all I want to say.

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

Representative **BOWLES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. There has not been a single thing that has been said this morning about the plight of teachers with which I disagree. Teachers absolutely deserve health insurance coverage, as do all citizens. This is an equity issue, as has been mentioned any number of times now and I believe we started the debate by talking about fairness. I think the good Representative from Skowhegan, Representative Richardson has illustrated the problem quite nicely. I ask you to not lose sight of the issue here. The issue is not whether or not retired teachers need health insurance benefits. There is no issue there. There is complete unanimity of agreement on that. The question is, whether we as a state should adopt a policy that is going to provide a benefit that is not available to most of Maine's, citizens?

The majority of privately employed workers, when they retire, do not have this benefit and yet they are still going to be paying for this through their taxes. The majority of small businesses throughout this state and the good Representative, the gentlelady from Biddeford, are talking about people and their need for health insurance. The majority of small business people throughout this state are struggling just to retire, let alone to have health insurance benefits. Many of them don't even have health insurance plans and will literally work until the day that they die or become disabled. Please keep in mind that this is an issue of whether or not we can afford to adopt a policy like this as a state. That is the fairness issue involved.

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. Sometimes here

in the house we have to ask ourselves does the perfect become the enemy of the good? There is nobody that would deny what Representative Twomey and others have said. We think it would be ideal for everybody to have health insurance in this country. In fact we think that is a darn good starting point for discussion. But, the question that we have is – the teachers of Maine are asking this question – will you make progress on an inequity? Will you show us, because you haven't always shown us in the best salaries in the country, but will you show us that you are paying attention to what we as educators are doing for your kids and this state and that what this vote is about?

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Curley.

Representative **CURLEY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Timing is everything. This is a good bill at the wrong time. The idea is important, we want to value our teachers and they deserve that, but our state is broke. We are in the red and as you look forward there is no end in sight. So what is a good idea if you can't pay for it? Maybe we want to reduce the prescription drug benefits we give to our seniors? Maybe we will take that money and use it for this or maybe we will reduce mental health services to our children and pay for this?

I am wondering if anyone who supports this has any ideas on how we can pay for it because it is a really good idea and it is important? I hope it comes back when the financial situation of the United States is better and I think everyone would want to provide this for our teachers. It is not the time. We can't afford it and let's vote no on this today and bring it back when we can. Thank you.

The SPEAKER: The Chair recognizes the Representative from Newcastle, Representative McKane.

Representative **MCKANE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. We keep hearing about inequity in this system. I submit that it is inequitable that 130,000 plus people in the State of Maine have no health insurance, but that they are going to be asked through their taxes to pay for this additional health insurance premium.

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

Representative **LINDELL**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I was intrigued by an earlier question regarding teachers eligibility for Medicare so I have done a little research during the debate and I have here before me a document from the Social Security Administration that indicates that although public sector employees do not pay into the Social Security System, which normally qualifies one for Medicare since 1986 any public sector employees hired on or after that date have been required to pay the 1.45% Medicare payroll tax. Four quarterly payments of that tax does entitle you to Medicare Part A at age 65 and if you are 65 and don't qualify for Part A you can buy it for a fee. Compared with most of the health insurance options out there it is quite inexpensive. The premium is \$375 if you have fewer than thirty quarters. Mr. Speaker if there is any member that has other information that refutes this – this is coming from the Social Security Administration itself, I would be happy to listen to it.

The SPEAKER: The Chair recognizes the Representative from Frenchville, Representative Paradis.

Representative **PARADIS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will make a very short speech on a long problem of many years. Someone suggested to you Mr. Speaker that we could maybe advance a way of paying it. I have supported a bill and my good friend from Fort Kent, a similar bill to change our terms to four years and not

two years and that would save about \$3 million in every cycle. There is a way to pay for this and I think it is long overdue. Thank you.

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

ROLL CALL NO. 164

YEA - Adams, Annis, Ash, Austin, Babbidge, Barstow, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Brown R, Browne W, Bryant, Bryant-Deschenes, Burns, Cain, Campbell, Canavan, Carr, Churchill, Clark, Collins, Craven, Cressey, Crosby, Cummings, Daigle, Davis G, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Faircloth, Finch, Fischer, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hutton, Jackson, Jacobsen, Jennings, Joy, Kaelin, Koffman, Lansley, Lerman, Lewin, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McFadden, McLeod, Merrill, Miller, Millett, Moody, Moore G, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson E, Rines, Rosen, Sampson, Saviello, Schatz, Seavey, Sherman, Shields, Smith N, Smith W, Sykes, Thomas, Thompson, Trahan, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Bishop, Bowen, Bowles, Cebra, Clough, Crosthwaite, Curley, Curtis, Davis K, Lindell, McKane, McKenney, Richardson M, Richardson W, Robinson, Stedman, Tardy.

ABSENT - Beaudette, Berube, Bierman, Dugay, Emery, Farrington, Hotham, Jodrey, Mills, Ott, Vaughan.

Yes, 123; No, 17; Absent, 11; Excused, 0.

123 having voted in the affirmative and 17 voted in the negative, with 11 being absent, and accordingly the Unanimous Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-410)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 20, 2005.

(H.P. 798) (L.D. 1155) Bill "An Act To Prohibit the Sale and Use of Vaporized Alcohol and Alcohol Vaporizing Devices" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-413)**

On motion of Representative LINDELL of Frankfort, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ**.

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

Representative LINDELL: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. What we have before us today is LD 1155, which seeks to prohibit the consumption of a legal product, namely alcohol. What we are talking about today is something new on the scene, in fact something that we have seen no evidence of here in the State of Maine. It is called AWOL, Alcohol Without Liquid; a fad that is taking on popularity around the world and quite simply, what we are talking about is a device that allows people of legal age, in a licensed premise to consume alcohol via a nebulizing device, essentially an inhaler.

While it might sound scary and we might be horrified or appalled at the fact that this might exist further research into the matter suggests that it may not be nearly as dangerous as some are saying. First of all, it takes about twenty minutes to ingest

about half a shot versus using one of these machines. I have seen instances with my own eyes of ingesting alcohol at a much quicker rate and in much large quantities using traditional methods.

There is no proof that it is anymore harmful than the drinking of alcohol. Indeed Judith Hand, who is with Britain's Department of Health/Alcohol Policy team recently said in a press release, "We are not aware of any current evidence to suggest that the use of the AWOL machine, in accordance with the advice and instructions, poses particular risks to the user over and above the risks that may be posed by consuming an equivalent amount of alcohol in an equivalent time period in a more traditional way. In fact, the machine itself has safety mechanisms that prevent the excessive ingestion of alcohol."

Nobody came to oppose this bill at the hearing and that is because there is no interest group there to defend this. There aren't any merchants that are selling this right now, but of course, you know, Public Safety shows up to express their disdain, which they do with anything that has to do with alcohol and so do the wholesalers with their cartel over the distribution of alcohol in this state. Just because we find an idea disturbing or even repulsive doesn't mean that we should ban it. Just because there is no established interest group to show up at a public hearing to testify against banning illegal product doesn't mean that we just need to go ahead and ban it anyway. Should we ban inhaling tobacco? Well, maybe, at least there we have a proven health risk. There is no proven health risk here.

Mr. Speaker, I submit to you that what we are dealing with here is an overreaction. We have a solution here that is desperately seeking a problem. I would submit that further investigation of this matter, despite our initial objections, might suggest that the consumption of alcohol by the use of a machine that restricts the ingestion to half a shot over a 20-minute period of time and whose use is recommended to be only once every hour, and twice maximum over a 24-hour period, is in fact a device that promotes the responsible use of alcohol.

Once again I remind you, prohibition is over ladies and gentlemen. This is a legal product. We ought not to give in to our puritanical instincts and simply ban it because it is out there. Thank you Mr. Speaker.

The same Representative **REQUESTED** a roll call on the motion to **ACCEPT** the Unanimous **Ought to Pass as Amended** Report.

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

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Patrick.

Representative PATRICK: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Vaporized alcohol consumption is marketed as a way of getting drunk without the problems caused by drinking. Its advertising materials claim that it reduces hangovers and is a low-carb way of getting drunk. Wow, that sounds great to me. Most importantly, it is advertised as creating a mild euphoria and as a legal way to get high. If you ever questioned whether or not alcohol was a drug, this device, I believe, will dispel all doubts.

The only purpose this instrument has is intoxication. Marketing materials may explain that it works much like a Breathalyzer, only in reverse. Because the device has been available for only about a year it is too soon to know what effects inhaling alcohol may have on the lungs and that's in part why we have it Ought to Pass as Amended because we do have one exception. What is that exception, to allow medical research, which I think is good in this aspect because we don't have enough information while overall with alcohol we do.

The product has only been available in the United States since last August so no statistics are available on its effects on drinking and driving and other negative consequences related to intoxication. However, when a product is marketed with the sole purpose of intoxication the primary outcome will be intoxication. I do not need to list the affects of excessive drinking on individuals families and society and surely we do not need to add to the effects of a product whose own marketing materials profess that it is a legal way to get high.

Who testified on behalf of this bill? We only had a couple of sponsors, the good Representative from Windham and the good Senator from Dixfield, but then we get down to Ken Johnson from the Office of Substance Abuse, Ralph Piers from the Distilled Spirits Council, Lieutenant Patrick Fleming from Public Safety, Dick Groton from the Maine Restaurant Association, Becky Ireland from Maine Higher Education Alcohol Prevention Partnership, Cheryl Timberlake, Dan Riley a lobbyist from a Maine Beverage Company - all people who sell alcohol and profess to use it wisely, in moderation. This I feel is a deadly device. I think it will only add negative aspects to our society and promote, in my estimation, the chances of early death in our young adults who are our most valued resource. Thank you Mr. Speaker and I would ask you to support the Ought to Pass as Amended Report. Thank you.

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

Representative LINDELL: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Shock! Horror! An alcoholic beverage is marketed to get you high. Oh my goodness! Ladies and Gentlemen of the House, alcohol gets you high. It's legal, lets admit it, let's face it. At least this device controls its use and content, unlike shots and beers and margaritas. If we are going to ban one, ban the others. I suggest we ban neither and let people live their lives, as they want to live them and face the consequences if they misbehave and act irresponsibly instead. Prohibition is over Ladies and Gentlemen; let's vote this thing down.

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. This is one of the scariest things that has ever come across my desk as a legislator serving on Legal and Vets, to legalize pure alcohol to be inhaled into the lungs and into the brain without the medical research to back up that it will not, in fact, destroy your brain cells, which we know large consumption or binge drinking does.

The state police and the public safety department are just absolutely scared to death that this is going to be out there. Does it show up on a Breathalyzer test? Maybe not. What do we do about it? You know, it was only a couple of years ago that we never thought a thing in this world of going into any store that had any pharmaceutical products at all and buying a package of Sudafed or Actifed on the counter if our sinuses were bothering us. Guess what, it's a killer now. A lot of pharmacies and a lot of pharmaceutical companies are removing it from access on the shelf because somewhere along the line some smarty figured out a way to make meth out of this. Meth kills and it is readily available. It's explosive; it will not only take down the person using it, it can take down the neighborhood that it is in.

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

Representative LINDELL: Mr. Speaker, point of order. Representative may proceed.

Representative LINDELL: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I thought we were debating AWOL not methamphetamine?

On POINT OF ORDER, Representative LINDELL of Frankfort asked the Chair if the remarks of Representative BLANCHETTE of Bangor were germane to the pending question.

The Chair reminded Representative BLANCHETTE of Bangor to stay as close as possible to the pending question.

The SPEAKER: The Representative is making an analogy between AWOL and the Sudafed and methamphetamine problem that we currently have in the state so it is Germaine and relevant to the debate. The Representative may proceed.

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

Representative BLANCHETTE: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I don't wish to disagree with the good Representative nor do I want to get into an argumentative debate on this. I just want you to vote your conscience. This product is going to be available to the young people in this state. We do not know what the medical problems that are going to arise out of this would be. Let's put a legal ban on it, hold it and if it passes the test of time through the drug administration and they give it a clean bill of health as something that is acceptable to use than we can always amend our law. Please protect your young people now and vote with the Majority Ought to Pass as Amended bill and I thank you Mr. Speaker.

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

Representative BRYANT: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise because I was the sponsor of this bill and I think it is an important bill and I am appalled that you don't see it that way. It is a unanimous report; it has drastic implications to our youth. You can order this over the Internet right now for \$300 bucks and I think our kids have enough access to alcohol and enough ways to drink it. This is not the way.

According to news accounts that I have read, health implications in the use of this device are troubling. Heavy AWOL use may cause brain damage and cause mucous membrane and nasal passageway damage. Heavy alcohol use through these shots, which are absorbed directly into the brain, bypasses ingestion so you don't have the warning signs that you normally would have. It goes straight to the lungs and to the brain. I think that this is a good time to stand up and say that this is not acceptable for the youth of the State of Maine. Thank you.

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

ROLL CALL NO. 165

YEA - Adams, Annis, Ash, Babbidge, Barstow, Bishop, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, 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, Edgecomb, Faircloth, Finch, Fischer, Fisher, Fletcher, Flood, Glynn, Goldman, Greeley, Grose, Hanley B, Hanley S, Harlow, Hogan, Hutton, Jackson, Jacobsen, Jennings, Joy, Koffman, Lerman, Lewin, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Miller, Millett, Moody, Moore G, Moulton, Nass, Norton, Nutting, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson E,

Richardson M, Richardson W, Rines, Robinson, Rosen, Sampson, Saviello, Schatz, Seavey, Shields, Smith N, Smith W, Stedman, Sykes, Tardy, Thomas, Thompson, Trahan, Twomey, Valentino, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

(S.P. 554) (L.D. 1576)
(C. "A" S-185)

NAY - Austin, Bierman, Eder, Fitts, Hall, Hamper, Kaelin, Lindell, Muse, Sherman.

ABSENT - Beaudette, Berube, Bryant-Deschenes, Canavan, Emery, Farrington, Gerzofsky, Hotham, Jodrey, Lansley, Mills, Ott, Tuttle.

Yes, 128; No, 10; Absent, 13; Excused, 0.
128 having voted in the affirmative and 10 voted in the negative, with 13 being absent, and accordingly the Unanimous **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-413)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 20, 2005.

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

The House recessed until 6:00 p.m.

(After Recess)

The House was called to order by the Speaker.

CONSENT CALENDAR
First Day

(H.P. 913) (L.D. 1315) Bill "An Act To Permit Recording Proceedings of the Legislature" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended** by **Committee Amendment "A" (H-414)**

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 Unanimous Committee Report and later today assigned.

BILLS IN THE SECOND READING
House

Bill "An Act To Improve the Water Quality of Hall Pond in Paris"

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

House as Amended

Bill "An Act To Require Notice of Clinical Trials"

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

(C. "A" H-381)

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

ENACTORS

Emergency Measure

An Act To Amend the Motor Vehicle Laws Relating to the Assignment of Security Interests

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. 126 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

Resolve, To Alleviate the Negative Impact of Certain Taxes on Hospitals and Private Nonmedical Institutions

(S.P. 278) (L.D. 839)
(C. "A" S-180)

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

Representative **CUMMINGS** of Portland **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.

Representative **GLYNN** of South Portland **REQUESTED** that the Clerk **READ** the Committee Report.

The Clerk **READ** the Committee Report in its entirety.

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.

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

ROLL CALL NO. 166

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, Campbell, Canavan, Carr, Cebra, Churchill, Clark, Clough, Collins, Craven, Cressey, Crosthwaite, Cummings, Curley, Curtis, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dugay, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Emery, Faircloth, Farrington, Fischer, Fisher, Fitts, Flood, Gerzofsky, Glynn, Goldman, Grose, Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jennings, Joy, Kaelin, Koffman, Lansley, Lerman, Lewin, Lindell, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Rines, Robinson, Rosen, Sampson, Saviello, Schatz, Seavey, Sherman, Shields, Smith N, Smith W, Stedman, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Twomey, Valentino, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - NONE.

ABSENT - Barstow, Berube, Crosby, Dudley, Finch, Fletcher, Greeley, Jacobsen, Jodrey, Moore G, Piotti.

Yes, 140; No, 0; Absent, 11; Excused, 0.

140 having voted in the affirmative and 0 voted in the negative, with 11 being absent, and accordingly the Bill was **FINALLY PASSED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

Acts

An Act To Monitor and Maintain Maximum Levels of Assistance in the General Assistance Program

(S.P. 114) (L.D. 367)

An Act To Exempt Maine Agricultural Fairs from the Requirements of the Site Location of Development Laws

(S.P. 203) (L.D. 648)

(C. "A" S-151)

An Act To Designate the Department of Health and Human Services as the Official State Agency Responsible for Programs for Persons Affected by Brain Injury

(S.P. 239) (L.D. 741)

(C. "A" S-171)

An Act To Postpone the Repeal Date on Nonhospital Expenditures in the Capital Investment Fund

(S.P. 240) (L.D. 742)

(C. "A" S-179)

An Act To Amend the Laws Governing the Department of Labor's Construction Industry Wage and Hour Survey

(S.P. 318) (L.D. 943)

(C. "A" S-177)

An Act To Restore Municipal Authority To Review Development Using Flexible Standards

(S.P. 331) (L.D. 991)

(C. "A" S-174)

An Act To Authorize Exemptions for Montessori Schools from Certain Requirements

(S.P. 354) (L.D. 1037)

(C. "A" S-178)

An Act To Protect Incompetent Dependents

(H.P. 795) (L.D. 1152)

(C. "A" H-324)

An Act Regarding Shellfish Harvesting

(S.P. 429) (L.D. 1250)

(C. "A" S-170)

An Act To Amend the Lobster Fishing Laws of Maine

(S.P. 526) (L.D. 1510)

(C. "A" S-183)

An Act Concerning Storm Water Management

(S.P. 542) (L.D. 1558)

(C. "A" S-184)

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

Resolves

Resolve, Preventing the Upstream Migration of Exotic Species past the Fish River Falls and into the Fish River Watershed

(S.P. 502) (L.D. 1477)

(C. "A" S-169)

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

An Act To Amend the Law Regarding Resale Certificates

(H.P. 120) (L.D. 169)

(S. "B" S-122 to C. "A" H-78)

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

On motion of Representative DUPLESSIE of Westbrook, 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. 167

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, Campbell, Canavan, Carr, Cebra, Churchill, Clark, Clough, Collins, Craven, Cressey, Crosthwaite, Cummings, Curley, Curtis, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Emery, Faircloth, Farrington, Fischer, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Grose, Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jennings, Joy, Kaelin, Koffman, Lansley, Lerman, Lewin, Lindell, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Rines, Robinson, Rosen, Sampson, Saviello, Schatz, Seavey, Sherman, Shields, Smith N, Smith W, Stedman, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Twomey, Valentino, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - NONE.

ABSENT - Barstow, Berube, Crosby, Finch, Greeley, Jacobsen, Jodrey, Moore G, Piotti.

Yes, 142; No, 0; Absent, 9; Excused, 0.

142 having voted in the affirmative and 0 voted in the negative, with 9 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act To Support Animal Welfare

(H.P. 129) (L.D. 178)

(C. "A" H-329)

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

On motion of Representative DUPLESSIE of Westbrook, was **SET ASIDE**.

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

An Act To Establish the Homeland Security Relief Fund

(S.P. 387) (L.D. 1125)

(C. "A" S-140)

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

On motion of Representative DUPLESSIE of Westbrook, 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. 168

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, Campbell, Canavan, Carr, Cebra, Churchill, Clark, Clough, Collins, Craven, Cressey, Crosthwaite, Cummings, Curley, Curtis, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Emery, Faircloth, Farrington, Fischer, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Grose, Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jennings, Joy, Kaelin, Koffman, Lansley, Lerman, Lewin, Lindell, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Rines, Robinson, Rosen, Sampson, Saviello, Schatz, Seavey, Sherman, Shields, Smith N, Smith W, Stedman, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Valentino, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - NONE.

ABSENT - Barstow, Berube, Crosby, Finch, Greeley, Jacobsen, Jodrey, Moore G, Piotti, Twomey.

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

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

An Act Directing the State Planning Office To Study Municipal Capabilities To Become Providers of Internet Services

(S.P. 392) (L.D. 1128)

(C. "A" S-162)

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

On motion of Representative DUPLESSIE of Westbrook, 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. 169

YEA - Adams, Ash, Babbidge, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Cummings, Curley, Daigle, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Fischer, Fisher, Fletcher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, McLeod, Merrill, Miller, Millett, Mills, Moody, Muse, Nass, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Rector, Rines, Sampson, Saviello, Schatz, Smith N, Smith W, Sykes, Tardy, Thompson, Trahan, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Beaudette, Bierman, Bishop, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curtis, Davis G, Duprey, Edgecomb, Emery, Fitts, Flood, Glynn, Hall, Hamper, Hanley B,

Hotham, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, Moulton, Nutting, Ott, Plummer, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Stedman, Vaughan.

ABSENT - Barstow, Berube, Crosby, Finch, Greeley, Jacobsen, Jodrey, Moore G, Piotti, Thomas.

Yes, 88; No, 53; Absent, 10; Excused, 0.

88 having voted in the affirmative and 53 voted in the negative, with 10 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

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

UNFINISHED BUSINESS

The following 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.

An Act Regarding the Unused Pharmaceutical Disposal Program (EMERGENCY)

(S.P. 609) (L.D. 1644)

TABLED - May 16, 2005 (Till Later Today) by Representative PINGREE of North Haven.

PENDING - **PASSAGE TO BE ENACTED**.

On motion of Representative PINGREE of North Haven, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED**.

The same Representative **PRESENTED House Amendment "A" (H-426)** which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from North Haven, Representative Pingree.

Representative PINGREE: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I just wish to speak briefly to this motion. I just want to make sure people don't think that we are trying to get anything past them. The bill as drafted, which is a very minor bill to extend the deadline for when the unused pharmaceutical disposal program will begin, was drafted in such a way that it incurred a large fiscal note. It was not our intention. This program will only begin if federal funds are made available so we redrafted it so that it would go forward with no fiscal note. Thank you.

Subsequently, House Amendment "A" (H-426) was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-426)** in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH**.

SENATE PAPERS

Bill "An Act To Replace the Interagency Task Force on Homelessness and Housing Opportunities with the Statewide Homeless Council"

(S.P. 624) (L.D. 1678)

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

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

CONSENT CALENDAR

First Day

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

(S.P. 521) (L.D. 1505) Bill "An Act To Amend the Sentencing Laws" (EMERGENCY) Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass**

(S.P. 141) (L.D. 417) Bill "An Act To Improve the Role of Boards of Visitors for State Correctional Facilities" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-194)**

(S.P. 535) (L.D. 1540) Bill "An Act To Appropriate Funds for the School Breakfast Program" Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-195)**

(S.P. 603) (L.D. 1626) Bill "An Act To Authorize the Deorganization of the Town of Cooper" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-196)**

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

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

CONSENT CALENDAR

First Day

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

(H.P. 1143) (L.D. 1620) Resolve, Regarding Legislative Review of Portions of Chapter 101: MaineCare Benefits Manual, Chapter III, Section 97 - Private Non-Medical Institution Services, a Major Substantive Rule of the Department of Health and Human Services (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass**

(H.P. 1144) (L.D. 1621) Resolve, Regarding Legislative Review of Chapter 270: Uniform Reporting System for Quality Data Sets, a Major Substantive Rule of the Maine Health Data Organization (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass**

(H.P. 466) (L.D. 633) Bill "An Act To Relieve Small Payroll Companies from Excessive Regulation" (EMERGENCY) Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-417)**

(H.P. 799) (L.D. 1156) Bill "An Act To Protect Public Health by Clarifying the Laws Regarding Smoking in Public Places" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-421)**

(H.P. 942) (L.D. 1359) Bill "An Act To Amend the Maine Health Data Organization Statutes and To Extend the Operation of the Maine Health Data Processing Center" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-422)**

(H.P. 962) (L.D. 1385) Bill "An Act To Amend Dental Hygienist Licensing Requirements" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-418)**

(H.P. 969) (L.D. 1392) Resolve, Regarding Legislative Review of Portions of Chapter 301: Standard Offer Service, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY) Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-420)**

(H.P. 982) (L.D. 1418) Bill "An Act To Subject Prepaid Wireless Telephone Service to E-9-1-1 Funding Requirements" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-419)**

(H.P. 1049) (L.D. 1492) Bill "An Act To Permit the Department of Health and Human Services To Charge Fees to Homestead Facility Residents" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-423)**

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. **ORDERED SENT FORTHWITH.**

CONSENT CALENDAR

First Day

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

(H.P. 944) (L.D. 1361) Bill "An Act To Enhance Workplace Safety and Health through Substance Abuse Testing and Treatment" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-428)**

(H.P. 1009) (L.D. 1445) Bill "An Act To Protect the Integrity of Maine State Housing Authority Funds" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-429)**

(H.P. 1033) (L.D. 1470) Bill "An Act To Give Retirement Credits to Judges Who Have Served in the Legislature" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-427)**

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

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

SENATE PAPERS

The following Joint Order: (S.P. 626)

ORDERED, the House concurring, that Bill, "An Act To Allow Emergency Responders To Equip Their Vehicles with 2 Emergency Flashing Lights," H.P. 182, L.D. 243, and all its accompanying papers, be recalled from the Governor's desk to the Senate.

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

READ and **PASSED** in concurrence.

CONSENT CALENDAR

First Day

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

(H.P. 884) (L.D. 1287) Bill "An Act To Allow the Use of All Muzzle-loading Firearms during Muzzle-loading Deer Season" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-433)

(H.P. 1155) (L.D. 1637) Bill "An Act To Implement the Fund for the Efficient Delivery of Local and Regional Services" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-432)

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

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

Under suspension of the rules, members were allowed to remove their jackets.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Bill "An Act To Protect the Public from Secondhand Smoke"

(H.P. 1031) (L.D. 1468)

Signed:

Senators:

MAYO of Sagadahoc
MARTIN of Aroostook
ROSEN of Hancock

Representatives:

PINGREE of North Haven
GROSE of Woolwich
WEBSTER of Freeport
MILLER of Somerville
BURNS of Berwick
SHIELDS of Auburn
CAMPBELL of Newfield
LEWIN of Eliot
GLYNN of South Portland

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

Signed:

Representative:

WALCOTT of Lewiston

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

READ.

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

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act To Create an Academic Bill of Rights"

(H.P. 823) (L.D. 1194)

Signed:

Senators:

MITCHELL of Kennebec
SCHNEIDER of Penobscot
TURNER of Cumberland

Representatives:

NORTON of Bangor
DAVIS of Falmouth
FINCH of Fairfield
GOLDMAN of Cape Elizabeth
STEDMAN of Hartland
MAKAS of Lewiston
CAIN of Orono
MERRILL of Appleton

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-416) on same Bill.

Signed:

Representatives:

EDGECOMB of Caribou
LANSLEY of Sabattus

READ.

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

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

Representative BOWEN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will be very quick. This is my bill; it creates an academic bill of rights. It didn't get a lot of support from the committee so I won't take a lot of time to fight it tonight, but I want to just make you aware of what it is that we are trying to do here and the problem that we are trying to address here.

I have in front of me testimony that was given to the education committee from students at public and private universities and colleges across this state, who because of their political beliefs are subject to harassment, are taunted by professors, are denied funding to run their groups and who are given lower grades on assignments because they take certain positions in their papers and work that is perhaps unpopular on college campuses.

This is a problem. I have a fistful of testimony here that says that it is. The committee obviously didn't believe that this bill was the solution to this problem and I am fine to let that go tonight. But I do want the body to understand that there is an issue here. There is an issue here that probably will result in lawsuits someday. It has already resulted in some very public and embarrassing instances on different campuses around the state - lots of stuff in the last election on campuses around the state. It is an issue that I had hoped that this body would show a little bit of leadership on. Not controlling speech, but simply suggesting to universities that they revisit their policies on harassment and that they look carefully at the rules that they have about how professors treat students and those kinds of things. Nothing serious. That is what we were trying to do.

I don't suspect that we will get a lot of support for this. I am fine with that, but I just want the body to be aware that this is an issue. It is an issue that is very, very important to a large number of students who took a day off from classes to come down here and testify late into the night that they wanted somebody to listen to their concerns. 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 appreciate Representative Bowen's comments they were really well done and I want to just talk a little bit more about the process we went through on this bill. I was not a supporter of this bill. I am not a supporter of this bill and I won't become a supporter of this bill, but I do want to tell you about some of the things we did because I think you will find them interesting.

We heard from a lot of students. You could call it harassment. You could call it discrimination. You could call it bad teaching or you could call it bad administrative decisions and that's where the discussion happens. But as a result, I was invited to attend the statewide conference of the Maine College Republicans and I went and it was fun. I learned a lot and I spent some time talking with a lot of students, particularly from my district and from my campus about their experiences. I have reached out to them and we have started working together to talk about a more appropriate way – maybe a less legislative way – to address these problems. You know academia is cyclical. Opinions are cyclical, fashion is cyclical and I think this is an example of something that probably will come up again and probably has other relatives in the way of college campuses when people rebelled against institutions that were too conservative at other decades in the last century.

I want to say that I appreciate the process that we went through on this bill. I appreciate Representative Bowen's effort to work with the students and I want let you know that I am doing the same on the other end of the scale of the bill and I want to let you know that I appreciate your listening. Thank you very much Mister Speaker.

The Chair ordered a division on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

A vote of the House was taken. 73 voted in favor of the same and 56 against, 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 (10) Ought Not to Pass - Minority (3) Ought to Pass as Amended by Committee Amendment "A" (S-137) Committee on JUDICIARY on Bill "An Act To Provide an Exemption from Discrimination Laws to Fitness Centers"

(S.P. 92) (L.D. 272)

Which was **TABLED** by Representative PELLETIER-SIMPSON of Auburn pending **ACCEPTANCE** of the Majority **Ought Not to Pass** Report.

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. The title of this bill is "An Act to Provide an Exemption From Discrimination Laws to Fitness Centers." This was brought to the Committee on Judiciary at the behest of Curves Women's Fitness Center and we heard a lot of testimony about how important it

was for women to be able to go there and exercise by themselves, which I can understand. The problem I have is changing the law to allow for discrimination. There have been no problems at Curves. Understandably most women go there and men do not. It is a choice of the market.

Changing the law to allow for discrimination in fitness centers today for Curves could mean that women would be barred from the YMCA tomorrow. It is a dangerous direction and a dangerous precedent to start saying we can discriminate in law on people based on their gender. That is why I could not support the bill.

We do have testimony here. A letter that was distributed at the request of Representative Bryant-Deschenes, which I think basically, makes my point for me. In Maine women only fitness facilities account for 45% of the health and fitness centers statewide. There have been no problems. Men don't go there. Let's move on. We have a lot of important work and this is unnecessary. Thank you.

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

Representative BRYANT-DESCHENES: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Following our discussion of this bill in committee, I had gotten more information and so I decided I needed to speak against the Ought Not to Pass and ask the body to support the Ought to Pass as Amended.

I was reading the Sunday Paper and I happened to come across an article that said to find the gym that fits you. When it comes to today's fitness clubs, one size doesn't fit all, instead new gender and age specific gyms are popping up nationwide. In this article they talked about men only gyms, which are called Cuts for Men, women only gyms are called Curves International and kids only, ages three months to nine years, are called My Gym.

First of all, this bill mirrors a law that was passed in the State of Wisconsin in 2003 to allow Curves for women and offer to only persons of the same sex. This measure was instigated as a result of a person filing 173 discrimination lawsuits. Already, in Maine, men are threatening legal action if they are denied membership. We need to nip this in the bud and help our small business owners continue to thrive in what has become a fast growing industry.

At the time the Judiciary Committee had its public hearing and work session on the bill we were not aware that there were such facilities in other parts of the country that cater to men only. After learning this and searching the Internet I found out that there were men only facilities. They are just not visible yet in Maine. Two such examples are Cut's Fitness For Men and The Blitz. This trend follows the enormous success of Curves. These facilities target men who may be intimidated by the prospect of the typical coed gym. The typical over-thirty guy who is sedentary and has fallen out of shape over the years makes up 80% of the male population. The men's programs are designed specifically for men looking to tone muscle and add definition to their physique. Cuts first opened in may of 2003 and by June of 2004 there were 100 franchises. Another 700 are scheduled to open by 2006.

Members of Curves located at various locations in Maine have offered testimonials that they have finally found a place to work out where they feel comfortable, accepted and encouraged. The more than 320,000 Maine women are only seeking the rewards of a healthier lifestyle, without feeling inhibited by the presence of men. Many women would simply not exercise if not for Curves. There are women who are not at ease exercising in the company of males. Whether it is because of domestic abuse,

sexual abuse, health issues or religious beliefs that prohibit them from revealing clothing in co-ed setting.

You have on your desk three different papers that have been delivered to you. The first one, which was prepared by the Maine Women's Lobby, I disagree with and would like to tell you why. This bill is not about discrimination. It is about allowing the free market to thrive. It is about protecting the woman's right to privacy and recognizing her vulnerability.

In the middle part of this it says the bill aims to amend the Human Rights Act by excluding men from fitness centers and this is not true. What the bill aims to do is to allow men or women to have a choice to exercise in a comfortable setting and also in a setting where there has been success. People are continuing to work out in these settings. I delivered to you a letter from Professor Judy Potter from the Maine School of Law. Professor Potter was one of my professors when I was there from '97 – 2000 and I hope that you have read her letter and I would like to particularly direct you to the last paragraph. "It is somewhat strange for me to urge upon you a bill that creates same sex facilities, given my thirty some years of involvement in the woman's movement. However, in recent years we have learned from studies that sometimes same sex classes are better for the participants, whether they be all male or all female. Curves definitely falls into this category."

The other paper that I had distributed to your desk is from the International Health, Racquet and Sports Club Association and in reading this I found some very interesting information about the number of people using these facilities and the benefits from it. Obviously, Maine is a state that has a problem with obesity. We all know that and we are looking for ways to make that go away. One of the ways that we do that is to eat less and exercise more. I think Representative Bruno brought that up in my last session on the floor. I would ask you to defeat the Majority Ought Not to Pass Report and move on to accept the Ought to Pass as Amended, thank you. Mr. Speaker, I request a roll call.

Representative BRYANT-DESCHENES of Turner **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 Faircloth.

Representative **FAIRCLOTH**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. With the possible exception of the Social Security Act the most important piece of social legislation of the 20th Century was the Civil Rights Act of 1964, which prohibited discrimination based upon race as we know it and as to employment with regard to women. However, Men and Women of the House, on a day-to-day basis it is the Maine Human Rights Act that protects us from discrimination. Furthermore, Men and Women of the House, with regard to public accommodations it is only the Maine Human Rights Act that stands between you and the bad, old days.

I would just respectfully hope that we would consider that this would be the first time ever - if this legislation were to pass - that we would provide an exemption from discrimination laws. That's the title of the bill, "An Act to Provide an Exemption From Discrimination Laws to Fitness Centers." How does this proposal on one of the most important pieces of legislation from the past century come before us? It's because a good business – a multi-million dollar business according to their own testimony before our committee – came to us requesting this change. When I say they came before us, I know because I received some phone calls, as some of you did, in which women would talk to me about this issue and they would refer to Docket 272 and I would say

"Docket 272?" and I found out that they had pre-printed forms that were provided by the businesses to the folks to call their legislators about this. The businesses generated this issue.

Now, whenever we expand the zone of protection from discrimination we always ask if there is a problem. Even when we discussed the issue of civil rights for gay citizens I think most of us, using common sense, would know that there has been discrimination against gay citizens, but yet we were provided with oodles of data about the facts and that there has been discrimination on that basis. Where, where is the evidence to allow for an exemption from discrimination? Well, I would note to you that not only would men not use Curves, but also according to one of the owners, who testified in our committee, I asked him point blank, "Are men patronizing these facilities?" and his answer to me was, "No."

We have many, many Curves throughout the State of Maine and I tried and tried during our public hearings to ask if men were patronizing these facilities and what I got back was that there had been a true decrease in attendance for men. Of course what they found out is that the way the facilities are innately designed – they have a buzzer and you have to switch between stations – are not in ways that are going to build bulk and biceps or anything like that. They are meant for a specific type of training that is designed for women and works for women and guys simply don't use it. That is according to the owner of one of the Curves. So, we have a major proposal coming before us - to change for the first time ever - our discrimination laws and it is coming from a multi-billion dollar industry. Why, because it would be an excellent marketing tool. Then they could advertise that men are not allowed, but in fact, men don't use the place and they haven't. There are laws against Peeping Toms by the way if that gets raised. There are laws against loitering. So that's all covered if some guy were to try to do that. Not that they have, but if they were then there are statutes on the books to take care of it.

These laws – the Civil Rights Act and the Maine Human Rights Act – are not trivial laws. They are very important laws to our society and I think that health is very important and I am a strong advocate, I hope, on behalf of the public health and I very much respect that women would want to have a place where they could go work out and that is a wonderful thing and that is a good thing. Guess what? It's working great exactly as it is right now. I would suggest that for such an August and important law that it would be trivializing to that law to say that we would change this law, for the first time ever, to allow an exemption for discrimination where no problem has been shown - none whatsoever - so that we could have a marketing tool for an industry that seems to be doing rather well. Thank you Men and Women of the House.

The **SPEAKER**: The Chair recognizes the Representative from Pittsfield, Representative Fitts.

Representative **FITTS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in opposition to the Ought Not to Pass Report and ask for your support on the Ought to Pass.

I want to bring your attention to the fact that there is planned, and under construction in Waterville, a men's version of Curves. It is called Nitro Fitness for Men. It is a franchise and it is nationwide. The equipment, the training regiment, are all designed for the body structure of men, just as those in Curves are designed for the body structure of women. The atmosphere will not be a place where women will be comfortable.

With or without this law change I think that that business will be successful, but I also think that we or they deserve the consideration that their atmosphere is their own and their

business model is not designed to support women, just as Curves atmosphere and business model and design is not for men. So, I ask you to use that in your deliberation over this item and hopefully you will come to the conclusion, as I have and as my constituent has who now owns that franchise, that men have needs, women have needs and they deserve to have separate places where they can exercise and work out and not be accused of discrimination in either fashion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Mazurek.

Representative **MAZUREK**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would just like to mention that a series of laws were mentioned before and one was not and that is Title-9. Title-9 has been in existence for a number of years and has brought a great deal of equality to men and women and a law like we are talking about now could be the first chink in the armor of such a law as Title-9. I think it sets a very bad precedent. It has been a long struggle to bring this equality around. There has been a lot of hard feelings and we are now reaching a point where Title-9 is becoming very successful. Let's not turn the clock back to the 1960s and '70s again and lets vote not to support this particular law. Thank you.

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

Representative **DUNN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would agree with my colleague from Pittsfield, Representative Fitts. He said that, with regards to a new facility that may open, that with or without this law this place would do just fine. I would submit to you, just as my colleague from Bangor has said, that they are doing just fine and I would also refer to a handout that came from Representative Bryant-Deschenes where at one point in the communiqué from the International Health, Racquet and Sports Club Association they say, "However, without a legislative remedy, these facilities, an important part of the state's economy will be forced to cease operations." That is simply not true. They are doing just fine.

Another question that I had during the committee deliberations was to the point of employment discrimination laws. Specifically, if we were to enact this bill, would a fitness center be able to discriminate against, or not hire, a male employee? The answer of course is no. I would submit to my colleagues that if we pass this bill we could potentially see problems where men are being discriminated against, or may feel that they are being discriminated against, because they can't work there. I think this is the wrong road to go down. Thank you very much.

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

Representative **BRYANT-DESCHENES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to respond to some of the remarks that were made.

Yes, this is a marketing tool and it does bring women into these centers and these women are exercising and they are continuing to exercise and they are keeping these memberships going. Is this something that we want to discourage? A lot of the mail that we had and the letters and so forth said that the business has generated this mail. They generated this mail because they understand that if we do not keep these Curves facilities for women, then the women are going to stop going. This is what we have heard from all of them before the committee and they recognize that the reason their business is successful is because it has been for women only.

There is in Maine a Curves facility, which at this time is required to have one session for only one man who goes to this facility. Now, if this were your business would you want to set

aside your facility for as half hour for this man that insists upon going there? What we are looking to avoid is adding costs to these businesses because of lawsuits. We have a lot of entrepreneurs who have been successful and a lot of these are women who are running these businesses in remote parts of the state where they don't have much of an opportunity to run a business and I think that we should be encouraging them. Thank you.

The SPEAKER: The Chair recognizes the Representative from Hodgdon, Representative Sherman.

Representative **SHERMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I think we have nearly exhausted this item. My only comment is that I really believe that the Gentleman across the way put it correctly, that these things start with little cracks here and there and then we use the words "slippery slope", but I think that if this does not pass the Majority vote then you are going to have male clubs and there are going to be people smoking cigars and playing cards and sipping Irish whisky and telling tall tails without being corrected by the females of the species.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Canavan.

Representative **CANAVAN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. If my memory wasn't so good and if it didn't go back so far, too far in fact, I might be tempted to vote for this bill. But hearing the arguments of the proponents, I am reminded all too well of the objections that were raised some forty years ago when women sought to gain access to male-only clubs, establishments of higher education and other facilities. The arguments used then were that if barriers to women were removed and they were allowed into all-male establishments men would feel uncomfortable and they would have to be careful of their language. Their privacy would be diminished and even the culture of establishments would be negatively changed in some nebulous way and, in fact, many of those arguments are essentially the same ones that we used to deny access to Afro-Americans in all white clubs.

Thankfully most people didn't buy them and ultimately laws were passed removing barriers to women in all-male establishments and none of the dire predictions made by those seeking to deny access to women ever materialized. The culture of educational establishments actually improved, sports clubs continued to thrive, the earth continued to spin and the sky didn't fall in.

Let's not turn the clock back. Discrimination on the basis of gender wasn't good 40 years ago and it's not good today. I urge to accept the Ought Not to Pass Report.

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

Representative **LINDELL**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I stand before you today to speak on behalf of a constituent of mine, my wife Althea. Althea is a modest woman, she is a very lovely woman, but a modest woman. She dresses modestly and she behaves modestly. She craves a place to exercise in public where she can dress in her leotards and where she doesn't have to worry about being ogled by men. She goes to Curves, it's a place she discovered and she is very pleased to have that place to go exercise.

Mr. Speaker this is not a radical departure from our civil rights code. In fact it simply extends the existing exemption under the law for public restrooms and locker rooms to work out facilities. This bill is not about watering down our discrimination laws it's about modesty and permitting people to gather together where they can know that their modesty is secure. It's frankly about

freedom of association Mr. Speaker, so let's forget about all this rhetoric about throwing our discrimination laws out the window. Let's pass a common sense piece of legislation that will allow people to exercise in a place where they are comfortable and where they can continue to go and improve their health. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Webster.

Representative WEBSTER: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. It wasn't too many years ago when I worked in Portland that I used to use the YWCA to swim. They have hours and half hours, there are co-ed hours for lap swimming and then there is women only swimming. Seemed to work pretty well to me. We let the market take care of itself, they didn't need to make a law to change a human rights/civil rights law in order to accommodate my swimming at the Y and I think that we can probably let the market take care of itself in this case as well. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Fisher.

Representative FISHER: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. The good Gentleman from Frankfort spoke just a few minutes ago about his wife and her attendance at Curves. I just got off the phone with mine. My wife goes to Curves also and said essentially the same thing. His wife feels the same way my wife feels about that atmosphere. I called her up to ask her how she felt about the bill and she felt it was foolish. She felt that we should be doing more important things and suggested for me to vote against it.

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. 170

YEA - Adams, Annis, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Campbell, Canavan, Clark, Clough, Collins, Craven, Cummings, Curley, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Fischer, Fisher, Fletcher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lewin, Makas, Marean, Marley, Marraché, Mazurek, McKenney, Merrill, Miller, Mills, Moody, Muse, Nass, Norton, Nutting, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rector, Richardson D, Richardson E, Richardson W, Rines, Sampson, Saviello, Schatz, Sherman, Shields, Smith N, Smith W, Stedman, Sykes, Tardy, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Austin, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Carr, Cebra, Churchill, Cressey, Crosthwaite, Curtis, Daigle, Duprey, Edgecomb, Emery, Fitts, Flood, Glynn, Hall, Hamper, Hanley B, Hotham, Joy, Kaelin, Lansley, Lindell, Lundeen, McCormick, McFadden, McKane, McLeod, Millett, Moulton, Ott, Pinkham, Plummer, Richardson M, Robinson, Rosen, Seavey, Thomas, Trahan, Vaughan.

ABSENT - Berube, Crosby, Finch, Greeley, Jacobsen, Jodrey, Moore G.

Yes, 98; No, 46; Absent, 7; Excused, 0.

98 having voted in the affirmative and 46 voted in the negative, with 7 being absent, and accordingly the Majority Ought Not to Pass Report was **ACCEPTED** in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH.**

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

UNFINISHED BUSINESS

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

Bill "An Act To Remove the Sunset on Part-time Unemployment Insurance Benefits"

(H.P. 233) (L.D. 309)

(C. "A" H-33)

TABLED - March 24, 2005 (Till Later Today) by Representative CUMMINGS of Portland.

PENDING - **PASSAGE TO BE ENGROSSED.**

Representative SMITH of Van Buren **PRESENTED House Amendment "C" (H-402)**, which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative SMITH: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This amendment addresses the part time unemployment bill, L.D. 309. As you will recall this bill will provide for part-time workers who are only able to look for part time work. The amendment provides as follows. It directs the Department of Labor to develop a pilot program for an education and training program for unemployed part time workers that is designed to enhance the employability and economic security of the workers.

It is the department's directive to develop methods to facilitate the transition from receiving compensation under the unemployment system to obtaining new job placements and to minimize the impact on the trust fund from extending unemployment compensation to these unemployed part time workers.

I want to thank Representative Barstow for his work in putting this together. It does enhance this part-time worker bill and I thank you and urge your support for this amendment and the bill.

Subsequently, House Amendment "C" (H-402) was **ADOPTED.**

Representative DUPREY of Hampden **PRESENTED House Amendment "B" (H-373)** which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Duprey.

Representative DUPREY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. We just passed a new pilot program, which is a good start on part-time unemployment. We were happy to let it go and I am very happy to have supported that. Part-time unemployment is very new. It has been in existence for a little over a year. I haven't really had time to figure out how the impact has been. The financial impacts have been huge, but we haven't figured out yet how the impact has been to businesses. Last year we had a \$14 million tax increase to businesses and a large part of that is due to paying part time unemployment.

Philosophically I don't have a problem with part-time unemployment. What I have a problem with is paying for something by companies that are having a hard time making it in this state. I think we need a couple more years to examine how the part-time is having an impact on the unemployment insurance compensation trust fund. With that amendment that we just passed it says that we are going to study the part-time a little bit more to figure out how it affects the system and figure out how to get these part-timers back into the work force. We are going to get them trained. We are going to figure out how the impact is to the unemployment compensation system. What this amendment

does that I am presenting is that it extends the sunset out two more years for that pilot program to take effect and for us to look at it and reexamine it in two years. It was good enough to pass two years ago with a sunset. I believe it is good enough to pass now. I appreciate your support. Thank you Mr. Speaker.

Representative SMITH of Van Buren moved that **House Amendment "B" (H-373)** be **INDEFINITELY POSTPONED**.

The SPEAKER: The Chair recognizes the Representative from Holden, Representative Hall.

Representative HALL: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I strongly ask that you defeat this motion to indefinitely postpone and give this amendment an up and down vote as the good Representative from Appleton showed us the other night, it should be an up and down vote on this, not a vote to indefinitely postpone.

This amendment is a very, very good amendment. It is prudent. We had this in our committee. The Department of Labor originally said, "Well, we are going to estimate that the cost is going to be about 2.3%," somewhere in the neighborhood of a little over \$2 million. They came back after a year and said, "Well, that figure is more like \$3 million, but we are still really not sure because we need more time to determine what the actual impact of this is going to be." There are all kinds of factors going into this. There are people out there who still don't know that they can collect unemployment if they are only a part time worker. The department does not know what is going to happen as this continues to become a trend that people start to pick up on. Is this number going to increase to \$3 million? Is it going to go to \$4 million? We really don't know. We asked that question and they said that their best guess at this time is \$3 million. We will know a lot better two years from now what this number is going to be and what the impact is going to be. I submit to you that it is absolutely imprudent on this body's part to go ahead and put something into law when we have no idea what the impact is going to be. I absolutely support part-time unemployment. I think it is a good idea, but I don't think that it is a good idea if it is going to cripple businesses. I don't think it is a good idea if it is going to cause businesses to say, "You know what instead of having eight part-time people on we are going to cut back to seven part-time people because we just can't afford the additional costs that we are incurring."

There are an awful lot of negative impacts that could happen as a result of this bill so I ask you please, defeat this motion. Give this an up and down vote. Please defeat this motion and Mr. Speaker I do Request a roll call. Thank you.

Representative HALL of Holden **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "B" (H-373)**.

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 Van Buren, Representative Smith.

Representative SMITH: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. One of the problems with this proposed amendment is that it is essentially asking for the Department of Labor to have a different standard of work search for those part-time workers. Now keep in mind that we are looking at a very narrow segment of the part-time workers. We are looking at part-time workers who are limited only to part time work and who are honest enough to say that that is all that they can do because under our existing laws if this bill never passes the part-time worker who says they are looking for full time work will get their benefits. We are trying to protect that person, that homemaker who has that part-time job trying to make ends meet and provide the second income into the home.

I am not going to go through the fact sheet which we passed around to you, but if you have any questions about the health of our unemployment system and the fact that the State of Maine has one of the best in the nation. Read the fact sheet. There are 42 states whose unemployment systems are less favorable than ours. In other words, there are only seven better than us. Our unemployment tax rate is one of the lowest in the nation.

We have a healthy system, what we are looking to do is have equity brought to our part time workers. Part time employers are paying taxes on part time workers and we have this small segment, which have not been able to collect and we are looking to continue the benefit that started two years ago and with that benefit we still have got an even healthier system. I ask you to support the motion to indefinitely postpone so that we can bring together this part time benefit that is so richly deserved by our workers.

The SPEAKER: The Chair recognizes the Representative from Sabattus, Representative Lansley.

Representative LANSLEY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. When you speak about part time employees and part time workers it is a vital part of most corporations or private business.

When you look at corporations you are looking at these massive companies and you say they can afford it. A lot of these companies are still running on very small margins and I just want to give you an idea of some of the costs to some of these businesses. Right now, Hannaford Brothers pays \$478,000 dollars in unemployment per year. Five thousand three hundred and sixty three of the 10,000 employees are part time, which when you figure it out will cost them an addition \$306,150 a year. That is approximate. A company like Hannaford Brothers will not absorb that cost nor will any other corporation. The small businesses can while the corporations will cut back.

If you go into a Hannaford right now you will notice that five years ago they used to have a bagger on every stand, now they cut down to where you have probably three or four cashiers for each bagger. The reason for that is the increased cost and they have to cut it back. They have also increased their benefits that they offer for part time workers. The reason for that is because they could not fill full time positions so they hired a bunch of part time workers and offered more benefits to the part time workers.

Alot of the people that work for Hannaford Brothers do it because they are the only person in the family that can. That is the only affordable insurance that they can have. Hannaford is very, very generous with their benefits and I submit that they will not be if this passes. They will pass the cost on. They have to. They cannot stay profitable. They run on very small margins, as do most other companies.

When you are looking at turnover rates, right now turnover rate is at 32% for part time employees. They estimate that this will jump because people know that they can go from place to place and they are still going to have something to fall back on as unemployment insurance. It is costly. It is costly to companies and it is going to cost jobs I can guarantee it.

My wife does the budgets for Hannaford Brothers and these are true estimates and not any type of a scare tactic. These are true estimates and they will be put into a position where they have to cut back on it. They will have to cut back on people and positions and get more productivity out of people.

Like I said the reason why they have so many part time employees is because they couldn't fill full time positions, which had all of the benefits. They had a call and they answered the market by hiring more part timers instead of full time. They also answered the call to give the benefits to the ones that need it in order to help out the moms and families who need the extra

income and who need the insurance. Keep the sunset on it and study it for the next couple of years to see where it is at and take it from there. Thank you.

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 am a Hannaford employee. I have been employed at Hannaford Brothers for what will be 26 years on October 21st. Hannaford has not chosen by will not to hire full time people. They have chosen to go with part time people to meet their flexible schedules that they have in every store in this state and every other state that they are in.

We employ, and have for as long as I have been there, part time employees. We have put more kids in the State of Maine through college, both by their part time jobs and by the scholarships that Hannaford Brothers provides to Hannaford Brothers Employees. We have chosen to go part time and they are very generous with their benefits. In 26 years I have never had a decrease in any benefit. I am a part time employee that is blessed by a company that will put me on six-months leave of absence so that I can serve in the Maine State Legislature. You don't get many companies like this.

Are they poor? No they are not. They are owned by Dell-Hayes America, a Belgium company. They are one of the wealthiest food retailers in the country and they are not afraid to spread that wealth to their employees. They are very, very good to me. I haven't been to work since the last day in December and in May I will get a bonus check just because I am an employee there. So, they have chosen to go part time. Part time suits their work schedule and it is a very, very productive company.

They do pay part time benefits, for twenty-six years Hannaford Brother's has written a check for my unemployment compensation to the Maine State Worker's Comp and I have never been able to collect a dime, so the money has been paid out and it is not going to increase. Some of the money that we have been stockpiling in the Unemployment Compensation Fund is finally going to go to the single mother who is trying to work two jobs and balance a schedule with school, kids, daycare and everything else. It's going to go to the single dad who got laid off at the mill and can't find a full time job so that dad is working three part time jobs and can't get a full time job to equal the pay of the three part time jobs. I urge you to indefinitely postpone this amendment. Let's go on and remove the sunset on the unemployment for part time workers and keep our single moms and dads working. Thank you Mr. Speaker.

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

Representative **BARSTOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today to speak in favor of the pending motion that is before us and I would like to open a window, to give a visual of the work that was done in the last couple of months with regards to this bill and the amendment that we just passed as a compromise to this issue.

As we negotiated on this issue and we came up with the pilot project in the education-training program, it was a decision as part of the negotiation that we would drop extending the sunset issue in the last week or two that we would discuss this. You will notice on your desk in the pile of papers that we all have to sift through that there were a couple of amendments from myself to give that extension, but in good faith, and even being at opposite ends of the spectrum with regards to this issue we were able to find a compromise and we were able to put this pilot project in to help educate the work force that may have been laid off or may be unemployed and are part time, to try to give them a helping hand,

to try to increase the efficiency of them coming off of the rule and getting back and helping our economy.

There is a review mechanism in this. You do not need to put a sunset in this. If you look at the previous amendment you will notice in the pilot project that there is a mechanism for the Department of Labor to report back, less than a year from now in January, to give recommendation to the committee regarding the pilot project and it is my understanding in helping to craft this amendment and this pilot project that there can also be review, overall with regards to this issue. I think there is an opportunity there and I have talked to colleagues on the both sides of the aisle in the Labor Committee and have expressed this to them.

One final thing, and it is sort of a negative note, it's something we have heard about in the last couple of days with regards to the base closures. We are in a situation where I would imagine the majority of those who are employed at the bases are full time employees. Ladies and Gentlemen, we are in a situation where if they do close down it is going to have a trickle down effect on the businesses in the communities and to those part time workers and we are talking about thousands of jobs where individuals will be coming upon these rules and will need a helping hand and need support. Further, beyond the benefits that we give them through unemployment, we now will be able to, with the amended version, help to give them an educational opportunity and help to get them back into the workforce. I hope that my colleagues will follow me and support indefinite postponement of this amendment and support the bill with the compromise language. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Newcastle, Representative McKane.

Representative **MCKANE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is exactly what Maine doesn't need at this time and it's not just an anti-business bill, but it is also an anti-micro business bill. It was about one month ago that we celebrated micro businesses down in the Hall of Flags and we all talked to them and told them how much we loved them and what a great job they were doing and they all employed part time workers. They won't be employing as many and the big companies, the Hannaford's of the world and L.L. Bean's will be able to absorb this. They will be able to take this in, but there will be one less bagger, one less job and they will cut back just a little bit on the benefits.

I read in the paper the other day that there are going to be 12,000 jobs that will possibly be lost because of these base closings. Twelve thousand jobs, and we want to make it a little harder on business? That to me doesn't make any sense at all. Small contractors, such as myself – painters, carpenters, tile layers – we hire a lot of part time workers. That is the majority of who I have hired over the 25 years that I have been in business and the majority of part timers want to be part time. They know that part time work means part time employed/part time unemployed. One of them is retired and works a little bit and one of them is a musician. One of them has his own micro business. They want to work part time, but this will add to the cost for all of the contractors and for all of the micro businesses and it will add to the cost of housing. I ask you all to defeat this motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Holden, Representative Hall.

Representative **HALL**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise again to urge the defeat of this motion. A few points that I want to touch on, Maine does have one of the lowest unemployment rates in the country and the reason for that is that we have one of the largest wage bases in the country. Instead of paying

unemployment taxes on the first \$7,000 of wages as most states do, we pay on the first \$12,000, so I hope that all of you can do the math. One percent of \$12,000 is more than 1.5% of \$7,000. Please keep that in mind when you consider the fact that Maine has one of the lowest rates in the nation.

As the good Representative said, we are facing the possible loss of 7,000 jobs in this state and the last thing that we need as we try to replace those jobs is a giant neon sign at the border that says we don't like businesses in Maine, we are not business friendly in Maine, we don't want businesses to make profits in Maine. Please carefully consider your vote because there are going to be all kinds of people that are unemployed and we pass this legislation without this sunset there are going to be many, many more in addition to those 7,000 that become unemployed and we are making it more and more difficult. We see bill after bill, after bill that comes through our committee where we are trying to protect workers by forcing businesses to cut back, take less profit and ultimately decide that Maine is not the place to be.

I heard a joke that someone said that when the directors of big businesses are considering where we are going to put our new plant and somebody says, "Let's put it Maine." and then when they are all done laughing they say "No, seriously where are we going to go." There comes a time when we have to stop saying businesses can just take a little less profit and start looking at how we are going to pay for this. I'll say it again, I am in favor of giving part time unemployment benefits to people, but I am not in favor of heaping yet another tax on the backs of businesses that are already struggling to get by.

I proposed in committee, ways to pay for this and nobody wanted to listen. Businesses can pay. Businesses have the money. Businesses are leaving the State of Maine everyday and they are closing, packing up shop and leaving. I have got a book that we received from a labor organization that lists 50 businesses that have closed in the last five years, just packed up and left town, and it is because of legislation such as this where we just continually try to tax, tax, tax, tax, tax. There comes a time when we have to think about what we are doing so please defeat this motion.

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

Representative TUTTLE: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I'll be brief. You know five years ago I listened to the same arguments and we all had concerns with the business climate and everything, but we were strong back then and we implemented an unemployment system that I think is one of the best in the country and I make as a point of note that at the time, those opposing those changes also opposed a sunset on this issue. So I am asking that you support the motion before us to indefinitely postpone this amendment and allow the process to go forward. I think it will be a good thing. It was a good thing five years ago and let's give it a chance to work. If I am wrong I will admit it then, but I don't think so and I think this will work. The amendment offered by Representative Barstow and others on this issue is the right thing to do and I am a pretty fair person on both sides and I think most of you recognize that, but ask that we would defeat the pending motion and let this issue go forward.

The SPEAKER: The Chair recognizes the Representative from Van Buren, Representative Smith. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative SMITH: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. There are just a few things that I would like to address. First of all, with regard to

the Hannaford scenario, it was suggested that 30% of Hannaford's part time people would be leaving work and collecting benefits. Keep in mind that you don't get unemployment unless you are laid off. It is the employer's decision to lay an employee off that gives them a right to collect unemployment. So as far as employees going here and there and collecting unemployment that does not exist under our law and in this state.

The other suggestion made to this body was that somehow this would be a terrible load on our micro businesses. Well, the facts are that for those businesses of fewer than five employees, we have 41,356 such employees who work in the State of Maine; out of that pool of 41,000 people for the small businesses there are only 114 claims that came out of that for this part time unemployment benefit.

The other thing I suggest is to take a look at the handout, the facts are there. When you look at Maine's employer taxes as a percentage of the total wages, we are 43rd in the country. There are only 7 states better than us and 42 are worse than us. The facts are there. The gloom and doom scenarios that we heard two or three years ago when we first passed this never came to pass. It is time to make this a part of Maine law.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Duprey.

Representative DUPREY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I know that the hour is late and hopefully I will be the final word, but sometimes I fire people up and they like to follow me and that is okay.

I think we got off track a little bit and we started debating the bill itself and I think we started debating the need for part time unemployment and I didn't want to go there. The amendment has everything to do with keeping the sunset. Not one person will loose any benefit whatsoever if this amendment passes. Nobody is going to get dropped off the bed if it rolls. Everybody is going to keep collecting it for two more years and it's the same exact bill that passed two years ago. No different. It was fine then and it is fine now. We are just saying let's take the data from that pilot program and see how we can make part time better or see if there is a need for it at all.

I am a businessman. I have about fifty employees and they just happen to all be women. I don't discriminate it's just the way that it works. That is my line of work. I think a lot of women do need part time unemployment benefits. I'm not refuting that. I have never had anybody collect unemployment benefits. I have been in business for eight years and I have never had anybody collect on me, but I pay \$15,000 a year to the unemployment system and have never had anybody take a dime out of it in my name. It gets pretty frustrating to keep putting into a system and nobody is getting out. There are other companies that pull large amounts out of it, my company doesn't take any of it. That is \$15,000 I could be using to give more benefits to my part time employees. I offer part time benefits, but keep strangling me a little more and I am not going to be able to offer those. I don't want to get off on a tangent but I am saying let's keep it like it is. I am happy with what it is; let's try it two more years. If the pilot program comes back and the data looks good I'll be happy to keep it part time unemployment going into perpetuity.

The SPEAKER: The Chair recognizes the Representative from Bowdoinham, Representative Hutton.

Representative HUTTON: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. It might be a first, but I actually agree with Representative Duprey and while we talked in committee about a lot of different scenarios one of the things that we talked about was that it was a little unfair for the small businesses and we offered to talk about how to try and fix that. I

would love to try and fix that so that it is more equitable for the small businesses but we know going out from the numbers that have come from the department that this is not going to have a huge impact on the system. But, there are two separate issues. The impact on the system and the amount that the small businesses are paying are not going to be solved by this amendment or the bill, but this will help women and that to me is one of the more important things. Seventy-five percent of the people who file for these part time unemployment benefits are women. We need to help them and I would love to work on fixing the problem for the small businesses as a second part, maybe in the next session.

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

Representative LINDELL: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I just want to very quickly correct for the record a statement made by the Representative from Van Buren, Representative Smith. He stated that in order to collect unemployment benefits you must be laid off from your job. That is not entirely correct. You can quit your job as long as you claim that you have quit your job for a reason that can be attributed entirely to the employer. There are also various reasons you can quit your job that aren't attributable to the employer, but the bottom line is Mr. Speaker is that it is not just about being laid off and I just want to correct that for the record. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "B" (H-373). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 171

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

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

ABSENT - Beaudette, Berube, Crosby, Finch, Greeley, Jacobsen, Jodrey, Moore G.

Yes, 75; No, 68; Absent, 8; Excused, 0.

75 having voted in the affirmative and 68 voted in the negative, with 8 being absent, and accordingly **House Amendment "B" (H-373) was INDEFINITELY POSTPONED.**

Representative DUPREY of Hampden **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED.**

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 Engrossment. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 172

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

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

ABSENT - Berube, Crosby, Finch, Greeley, Jacobsen, Jodrey, Moore G.

Yes, 73; No, 71; Absent, 7; Excused, 0.

73 having voted in the affirmative and 71 voted in the negative, with 7 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-33) and House Amendment "C" (H-402)** and sent for concurrence. **ORDERED SENT FORTHWITH.**

HOUSE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (5) **Ought to Pass** - Committee on **LABOR** on Bill "An Act To Conform Maine Law to Federal Overtime Standards" (H.P. 320) (L.D. 435)

TABLED - April 26, 2005 (Till Later Today) by Representative JACKSON of Fort Kent.

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

The SPEAKER: The Chair recognizes the Representative from Newcastle, Representative McKane.

Representative **MCKANE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I think we might have sent a signal on that last vote and maybe we can do something about it. This bill would send a positive signal to businesses in the state and out of state that Maine is open for business and if ever we needed to send that signal it is now. All it would do would be to conform our overtime laws to the federal overtime laws, instead of being a little different.

As it stands now we are going to have two sets of overtime laws so that every business will have to weigh every employees overtime eligibility with two sets of books. It is unnecessary. The two laws are very, very close, but they are a little hazy and a little different in certain areas so that there are two sets of books and our own Department of Labor's Commissioner supports this. We will, in deed, have to have the two sets of books.

Since the federal laws have been in effect, not one worker has lost overtime eligibility. Not one and we don't even know if any are going to loose overtime eligibility, but according to the

AFL-CIO there might be one worker, sometime in the future, who might lose overtime eligibility and so because of that we are going to make every business in the state of Maine keep two sets of books from now on to weigh them up. It is a business unfriendly rule. Whether the stigma is fair or not that Maine is business unfriendly, we need to do something about it. This is an easy opportunity to do something about it. It sends a positive message.

We try to do these little things for businesses like "Maine is Working" month and we have these business initiatives and Governor King had "Maine is on the Move" but what seems to be happening is that Maine is moving out. The working people are moving out. Maybe we should have that month because that is what happens. The young working people are moving out. The businesses are moving out and this is a chance to do something and send a positive signal. It's not hurting anybody. Not one worker has lost overtime eligibility. Not one. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative SMITH: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I must disagree with the Representative who just spoke. What you have before you is the opportunity, if this bill is passed, for the state to adopt the Bush Administration's overtime standards. You're being asked in passing this bill, to follow the Bush Administration's Standards and if you can believe that these standards don't affect employees in Maine, then I guess there will be some other stories for you to try and latch onto also.

Who is going to be affected? The federal standards are going to affect people such as nurses. One of the opponents to this bill was the Maine State Nurses Association. They said that they urge us to vote Not to Pass on L.D. 435. The language in the federal standards could be interpreted that all direct care nurses are now going to be administrators and that means that they are not going to be able to have overtime and they will be asked to work even more.

Yes, there will be people affected. Not just the nurses though. Anybody who is designated as a manager, it could be the manager or the assistant manager at the Burger King, the MacDonald's, the Radio Shack. You are a manager so you don't get overtime under the federal standards. Any working supervisor doesn't get overtime under the federal standards. Haven't we heard this before? Isn't there some consistency over what is happening in Washington?

We are being asked to bring to the State of Maine that wonderful experiment that's going on now in Washington. There are many, many people Maine who will be affected adversely if this bill is passed. That is why the majority of the committee voted Ought Not to Pass.

With regard to the argument that somehow two books will be required, we have had a different standard from the federal system for some time and let me read to you what the Director of the Bureau of Labor Standards in Maine said. He said, "Besides Maine there are twenty states that have a state overtime law. In each of these states there are differences between state law and rules and the federal laws and regulations. In resolving these differences the employer need only look to whatever law provides more protection or benefit for the workers. This somewhat simplifies the employer's task in resolving any differences." They have worked with this before and they can continue to work with it. Let's keep the protections in the State of Maine that protected our workers with regard to overtime. Keep in mind the fundamental policy of overtime is to avoid overworking employees so that an employer is not going to try and get all of

the time out of one employee to where they have no time left for family or anything like that. Overtime is there for the benefit of employees and keeping a healthy workforce. I ask you to support the pending Ought Not to Pass motion and vote green.

The SPEAKER: The Chair recognizes the Representative from Holden, Representative Hall.

Representative HALL: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I have just a couple of points to make on this bill and I will be brief. As the good Representative from Van Buren told you there are 20 other states besides Maine that have their own overtime laws. Those are the other states that are unfriendly to businesses. There are 31 states out there that really want business. They want to make it easy for businesses to employ people. They want to make it easy for businesses to give people jobs. They want to make it easy to employ people. Those I will submit to you are states that have an awful lot of industry and an awful lot of people in good jobs. An awful lot of people earning overtime.

Our committee saw all kinds of testimony. All kinds of people testified in opposition to this bill and I understand that this has been the law in Maine since last August. We asked of all the people that testified in opposition to this bill if they could tell us one person that has lost their overtime as a result of this bill and every single person that was there to testify said no. From what we have seen there are lots of people that have gained overtime but nobody has lost any, but we are also afraid somebody might. Well it has been the law now for nine months. Nobody has lost any employment. Not one person.

I would ask the good Representative from Brunswick. He can stand up and testify better than I can if he knows of anyone that has lost overtime. It has not happened. All that is happening, if we pass this bill, is that every single employee is going to have to be looked at under two different standards. Every single employer is going to have the Federal Governments. The Department of Labor coming in and checking up on them to make sure that they follow the federal overtime standards. Every business is going to have the Maine Department of Labor coming in and making sure that they are following Maine's overtime standards.

You are going to have two different agencies with two different interpretations of their laws and it is going to be extremely difficult for businesses. It's one more reason to do business in a more business friendly state than Maine. It is one more reason not to come to Maine and employ people. At this point in time I do not see the wisdom in that. I will remind you again that not one person has lost overtime. If we accept the Majority Ought not to Pass Report we protect nobody and send the message, again, that we are business unfriendly in the State of Maine. No employees will benefit from this and it will hurt businesses. It is a loose, loose situation. So I urge you to please press your red button. Thank you.

The SPEAKER: The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative SMITH: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Just a very, very briefly in response. Nobody has lost overtime because this law has not passed. Thank you.

The SPEAKER: The Chair recognizes the Representative from Newcastle, Representative McKane.

Representative MCKANE: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The federal overtime law has been in effect since October of 2004. We have been running under those rules and not the Maine rules and since that time no worker has lost overtime eligibility and since

the federal laws went into effect 1.3 million are now eligible for overtime in the country that weren't eligible before.

These new Maine rules that are about to go into effect are very similar to the Maine rules, but with just enough difference so those two sets of books will be there and you can bet that there will be a lot of potential litigation because someone will be reading the wrong book at the wrong time and it will be a field day for attorneys. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Duplessie.

Representative **DUPLESSIE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I believe possibly – I was not in the hearing so I did not hear all of the material on this – that if my memory serves me right people have not lost the overtime yet possibly because Maine has had a law on the books for quite a few years that is superior to the state law and it would not require a double set of books. But if it did require a double set of books then I would think that the good Representative Hall would like that being a CPA. Thank you.

The SPEAKER: The Chair recognizes the Representative from Van Buren, Representative Smith. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative **SMITH**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. If I may clear up a misconception, the bill that you have before you is under consideration under an Ought Not to Pass Motion and is called An Act to Conform Maine Law to Federal Overtime Standards. Do not believe that the federal overtime standards are in effect in Maine. They are not and they will not be if the Ought Not to Pass motion is accepted by the House. Vote Green on that motion.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Duprey.

Representative **DUPREY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I have got to share something funny with you today. As I was praying in my room before I came over here tonight I said "Lord, let me have an angel with me tonight to help me with these debates" and he delivered my daughter Angel here tonight. Do you guys get it? Okay, I know it's late, you guys are a little slow, okay, now I have got the mood a little set. Alright Angel, forgive them.

Anyway, let me get back on track here, I will just be quick and I have an 0:1 record of being the last guy to debate on an issue so take that to heart. Under the Consent Calendar for today item 7-4 is an "Act to Recognize the Federal Salary Level When Overtime is Higher Than the State Level". This item, 7-4, is a piece of this bill that you have in front of you here today. People came in droves, labor unions came in supporting this saying the federal government did a great job in giving people an increase in their overtime benefits. Those federal standards are wonderful. They were bragging about them, but it was going to cost Maine businesses a lot of money and actually it is going to cost me some, a couple thousand dollars. It is going to cost a lot of rural Maine businesses a lot of money so Republicans probably ought to support it, but do you know what? We got a unanimous committee report and I would be a hypocrite not to support that because it is in this bill. This bill gives a lot of people – managers – pay raises. It raises the minimum wage for managers to \$455 a week. That is an increase in pay. Everybody should be supporting that. It also increases overtime for a lot of workers. It increases it to the federal standards.

It is hypocritical of us to brag about the federal level on one bill and curse the Bush Administration on the other hand. Let's be a little consistent in our testimony and debate. Again, I will

just reiterate what I said. Not one person – at least a dozen people testified – we asked if they could show us one worker in their organization, one worker in your company or any one of the companies that you represent that will lose overtime because we really wanted to make sure that didn't happen and not one person could be produced that will lose overtime and that helped us to solidify our support. Mr. Speaker I respectfully request a roll call.

Representative **DUPREY** of Hampden **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 Westbrook, Representative Driscoll.

Representative **DRISCOLL**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I do work in nursing. I have for 23 or 24 years. I work in an emergency room. My understanding of what has transpired through the change with the Bush Administration with respect to labor law is that it would actually reclassify many of my colleagues with respect to the positions that they hold in the hospital and those are transient positions. They are positions that don't happen on a weekly basis necessarily, but nurses take on a charge or a managerial responsibility on any given night or day or evening that they might be working in their required space.

Many nurses are single mothers or single fathers such as myself, I am not a single father, but a single parent relies on overtime and I feel that the Bush Administration's policy might negate the very people that I work with that need the overtime to pay for the \$400 fuel oil bill in the wintertime or the mortgage or food or clothing for their children. That is money that most nurses that I know count on during the overtime that they get each year

I don't think that we should conform Maine's law to the federal overtime standards because that would have a negative impact on the living standards that nurses currently enjoy and I would encourage everybody to vote against this measure.

The SPEAKER: The Chair recognizes the Representative from Fort Kent, Representative Jackson.

Representative **JACKSON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Some of the comments tonight I find myself thinking that there could be some truth to some of them and as of yet we haven't heard of anyone that did lose their overtime under these standards, but I think back to whenever I first started working in the logging industry. I was making \$8/hr and the man I was working for told me that he didn't have to pay overtime. I was working about 55 hours a week and I was of course young and I wasn't a whole lot smarter than I am now, but for a while I got to thinking that when you want me to go to work on Saturday that probably I should be getting overtime at least for that.

One Friday when I came to collect my pay check he asked me if I was going to go to work the next day, Saturday and I told him yes, but that I would like to start getting paid overtime. Then he decided that probably I shouldn't go to work that Saturday and after that he decided that I probably shouldn't work over 40 hours at all, even though I had been working 55 – 60 hours a week. Not long after that, when the job wasn't getting done because I wasn't working as many hours he decided that I shouldn't be working at all for him.

Another time I worked for a gentleman just the opposite. I had two children of my own, I enjoyed spending time with them, but I certainly understood that I had to work. I had to work as hard as I could for this man, but it seemed like 16 hours a day,

six days a week wasn't enough and I thought to myself that it can't be right that I have to work every hour of every day for this man, even though he is paying me overtime. I talked to someone at the Department of Labor about it and he said no, you do have to work as many hours as he asks you too. We are an at-will state and if you say, no that you don't want to work 90 - 100 hours a week, 20 hours a day then he can fire you with good cause.

Mr. Speaker the idea here is that we haven't heard anyone that has actually had a problem, but I know whole-heartedly that there are, by far, more good employers than bad. I also know that there are some bad ones and what could happen is that they could say well you are a supervisor two hours a week I don't have to pay you overtime anymore and you have to work 60 days a week because we are an at-will state. Mr. Speaker I do believe that will happen and that is why I am asking you to vote with this Majority Ought Not to Pass motion.

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

Representative HAMPER: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Mr. Speaker, one more member of the Labor Committee rises on this issue. Let's go over the points again. Overtime is good, nobody here is against overtime and 1.3 million U.S. workers are now eligible that weren't before the new regulations and the new federal standards were put in. According to the Maine Department of Labor's testimony nobody has lost overtime eligibility and I rise in opposition here.

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

Representative LINDELL: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I regret I have to rise again to correct an erroneous statement that was made on the floor. Unfortunately, I stand here as the person who has assigned myself the duty to distribute the truth. The issue of nurses has come up over and over again and once again Mr. Speaker I must insist that this is a red herring. I have looked it up and no; nurses are not exempt from overtime. What is being used here is a small provision in the new overtime laws that says that individuals of certain learned professions who earn salaries, not hourly wages. Salaries of over 455 dollars a week are exempt and the Department of Labor has looked into this matter and frankly this does not exempt nurses from overtime. Nurses are either paid an hourly wage or, in the case of licensed practical nurses they clearly do not fit into that designation and there is not a single nurse around the country who has lost overtime because of this. If there is produce them.

Remember, we are not talking just about the State of Maine here when we are talking about federal overtime standards. These have been applied around the country and if you can produce the nurse that lost overtime pay I will vote with you guys, otherwise I am voting red. Thank you.

The SPEAKER: The Chair recognizes the Representative from Van Buren, Representative Smith. Having spoken three times now requests unanimous consent to address the House a fourth time. Is there objection?

Representative DAVIS of Falmouth **OBJECTED** to Representative SMITH of Van Buren speaking a fourth time on the pending question.

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. 173

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Campbell, Canavan, Clark, Craven, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Schatz, Smith N, Smith W, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

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

ABSENT - Berube, Crosby, Finch, Greeley, Jacobsen, Jodrey, Moore G.

Yes, 77; No, 67; Excused, 0.

77 having voted in the affirmative and 67 voted in the negative, with 7 being absent, and accordingly the Majority **Ought Not To Pass Report was ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (H-372)** - Minority (5) **Ought Not to Pass** - Committee on **LABOR** on Bill "An Act To Require Proof of Equipment Ownership for Employers Using Foreign Laborers"

(H.P. 525) (L.D. 730)

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

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Duprey.

Representative DUPREY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This bill before us is an attempt to stop Canadian workers from coming across the border to help in our paper mills.

Nobody more than I dislikes Canadians coming over the border and taking jobs that Americans can fill. I believe this country should fill its own jobs with its own people. That being said, there are some jobs that Maine workers won't do or won't travel to do. What we are talking about here is prohibiting companies from hiring more than two Canadian workers for every one piece of equipment. Can you imagine if we told Cianbro that they could only hire one person for every excavator that they have, one person for every roller they have? It would be ludicrous. They could hire a hundred people for every excavator that they have. Who are we to tell them they can and can't do that?

I am passing around a Wall Street Journal article that tells you that if you pass this bill and bills like it, it will backfire and end up costing Maine workers their jobs because it brings the cost of pulp and wood up and it hurts our paper mills. You hurt our paper mills and you hurt mill workers, which will make jobs be

lost. How many more mills have to close before we take a stand against bills like these? Might as well just shut them all down now because they are all going to go pretty soon if we keep passing bills like this.

I am not going to prolong this and I am only going to speak once. I am going to make it quick and I am going to urge my fellow caucus members on my side to not prolong debate. I just urge you to read the handouts. We don't want to cost Maine jobs. Nobody, like I said, wants Canadians to come over. This isn't about that this is about protecting the mills and protecting the logging industry. Maine workers do not like spending the night in the woods when they are working. A Canadian has to travel only 50 miles while a Maine worker has to travel 200 miles to work in these woods. Some of them won't do it. These Canadian workers can go home for lunch while Maine workers can only go home on the weekends. Some people are just not willing to do that so they are forced to hire these Canadian workers to come across the border. That's all. This is just an attempt to block that and there are always unintended consequences to what happens down here. It might help MBNA, but it is not going to help the mill workers. Mr. Speaker, I request a roll call.

Representative DUPREY of Hampden **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought To Pass As Amended Report**.

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

The SPEAKER: The Chair recognizes the Representative from Fort Kent, Representative Jackson.

Representative JACKSON: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Before I get into the part that I had kind of prepared, I just wanted you to know that most guys I know that work in the logging industry will go anywhere. I have traveled to states like New Hampshire. I travel down to Augusta, which is almost 400 miles away and I stay here all week. I certainly traveled to place 200 miles into the woods and stayed there all week. I don't really care about going home to eat my dinner because a lot of times I ate it in the cab of my machine. So I just wanted to clear that up, but I know it is late and if I knew that you were all going to go with me I wouldn't torment you with going through this, but I don't know that.

I do know that the lobbies worked very hard on this bill like they did on similar bills since I have been here. They do an effective job and they tell you a lot of things, but what I am going to tell you right now is that – I don't want to call it lying – there is certainly some misinformation and you can decide when I am done and when others are done if it is me or if it's them, but someone is wrong on this issue. Now I'm not a lawyer or a teacher. I am a logger. I think I know a little bit about the industry. I won't say that I know the most about it, but I think I do have the right to make my opinion and say that I have seen different things.

The area that I come from, the family heritage that I come from is of logging. In 1974 because of some logging disputes in the Maine woods the USDOL established the prevailing wage rate for skidders and chainsaws and what that prevailing wage rate was for people that were bringing in their own equipment and that were not adversely affected by foreign labor coming in. That rate was a minimum wage that you had to pay before you could have any bonded workers. At that time they also started establishing minimum hourly rates for equipment and those have gone on right up until the current day.

On one of the handouts that I handed out, you will see that those minimum wages are on there and all there is for that is the hourly for the equipment and for the cable skidder and for the chainsaw. Those are the basic minimum rates that you have to

pay to have any bonded labor. Because the USDOL has failed to establish any prevailing wage rates for equipment, legally they are not supposed to bring in types of equipment like a delimeter, and a fellobuncher. They can hire someone to come and run one over here, but you are not supposed to bring one of your own in because the wage rate is not established and that is an adverse effect to any Maine businessman that has that type of equipment over here.

What happened after '74 in my mind is that because of Canada's exchange rate which at times was close to 60% on a dollar and because Canadian loggers get health insurance while most Maine loggers don't, wages were extremely depressed for a lot of us and you could see the decline in the amount of people that were willing to do the work for those wages.

I do not think that it is a lack of people that are willing to work. I do think that Maine people have some of the highest work ethics and I think if anything, logging has gotten physically easier over the years with the advent of mechanical harvesting, but I don't think the pay has kept up with it in a lot of areas and that is why you see people that are not willing to do those jobs for those rates and there is a decline. But, the forest products industry says that there is at least a need for 700 bonded workers in the State of Maine. Over the last five years Maine DOL has only seen 250 people coming in from Canada. Now I tell you, areas like Fort Kent and most recently, Millinocket that lost a lot of jobs I think could have found 250 people to fill positions.

Honestly, everything points to the fact that the wages are not good enough to attract people to go back into that industry and I have stood on this floor and told you that I have two sons. I went to work in the woods with my father when I was young and loved it, but I won't bring my kids in the woods because I don't want them to get the slightest thought that logging is a good occupation under today's logging standards.

There was something that happened in the summer of 2004, which was unprecedented in my lifetime. It was that Secretary Tom Ridge from Homeland Security decided that the cap on bonded labor had been reached and he wasn't going to allow any more in. Now that affected hotels and restaurants and logging on HBVs and by far the majority of them were hotels and restaurants and I really can't speak to those industries, but in the logging industry the fact that we didn't have any Canadian loggers to depress the wages was something that we had never seen in thirty years. What happened, being the Representative, I got a lot of calls from my area with a lot of people calling and asking if it was true that there were no bonds this year. When I told them that as far as I knew there wouldn't be any coming in, you had a lot of happy guys. A lot of people saying that they were interested in getting back into the industry and a lot of people that was willing to reinvest in equipment that they hadn't had for four or five years or whatever. But, people that had gotten out of the industry because they couldn't make a living felt that now, because they thought their wages wouldn't be depressed were willing to possibly give it a try and come back to the industry and that's what happened.

In October the USDOL decided that there was a change in the time when the caps were met and they allowed the bonds back in and then I started to get a bunch of calls about people that were getting laid off, contracts that were being cut back and people that were out of work. So, for the first time we had seen what the effects of no bonds were on the logging industry. It was good and what this bill hopes to establish is that today there is nothing illegal and there is nothing wrong and there is no way to stop any foreign worker coming in to run a piece of equipment, if it is owned by a Maine businessman, or in fact even a Canadian businessmen, but if you are coming to run the piece of equipment

then you're legal as can be, but if you are coming and an employer is asking for you to bring your own piece of equipment that hasn't had a prevailing wage rate established, we are saying no.

The law is very clear on it. It says tools and equipment will be provided for and if not then you use your own and reimbursement will be given. Reimbursement is the prevailing wage rate, which hasn't been established. There is a lot of men in the logging industry that want to continue to work. They want to continue to invest in the industry and if we don't do something to keep these business people – they are businessmen not workers – with millions of dollars of equipment from coming over and displacing Maine businessmen. Don't get to thinking that this is a labor/business bill, this is a small business/big business bill. These guys are all going to get swept under the rug because the Canadians can do it cheaper.

Now there is no doubt that there is going to be a money issue here, I won't argue with you that somewhere along the line it isn't, but I have been on these committee and one of the handouts that you received from Representative Duprey talks about the Forest Sustainability Committee. It says in there that Governor Baldacci's Council on Sustainability in the Forest Products Industry, which I was a member of, recommended that that was a mistake. If you happen to read or watch the news Jack Cashman said that he would have that taken out of the report because there were some people on the committee that felt that but the majority of us didn't.

Committees like that and landowners and mills that I have talked to about how much money they are paying for their wood product and I can't dispute that, but what I can tell you is how little money guys that are cutting it are getting. Somewhere in between somebody is making it. I'll guarantee you that. This bill is just one way to make it fair for Maine businessmen, guys that have millions of dollars invested. The way that we are going to show proof of ownership is that you have paid your personal property tax bill, which is another issue that we have an April 1st deadline on. Most of that equipment has to be declared and most of the Canadians have moved their equipment back into Canada by April 1st. Another advantage for them that Maine guys don't have is that Maine people have to pay that tax.

I encourage you to support this. It is certainly something that Maine loggers and businessmen need to stay competitive, to stay profitable and to stay working in Maine. I can't believe that anyone is going to support anything that is going to make it easier for Canadian workers to come in and take the jobs of Maine people, even if the Forest Products Council and a lot of lobbyists are out in the hall telling you that it is good for Maine because it isn't. It certainly is good for their pockets, but it is not good for the majority of us.

The SPEAKER: The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative **SMITH**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I feel very deeply about how committed Representative Jackson is to the issues involving employment of our loggers.

This bill addresses a rather narrow area. The premise of the bond program is that there is a worker shortage and because of the worker shortage an employer is therefore allowed to bring in bonded workers from Canada. What this bill does is that it says to an employer applying for bonds that if you need a machine operator you had better have a machine for him or her to operate. Don't just apply for a number of bonds without having the equipment. So what Representative Jackson's bill says and what the amendment that was prepared says, is that anybody applying for bonds is going to have to show proof of ownership of at least

one piece of logging equipment for every two workers that they are trying to bring across the border. Now, keep in mind that if you are faced today with an industry that has said they are going to bring in 300 jobs into the State of Maine we would all be bending over backwards to help that industry and bring in those 300 jobs. Well, you have 300 or more jobs in the State of Maine that we are allowing to trickle over the border into Canada.

Representative Jackson seeks here by this bill to try and at least make the bond program be true to its origin, which is that if you are going to be applying to bring Canadians over here at least have equipment that they can operate. So we want to kept he field open for Maine businessmen who own equipment to be able to work Maine people on their equipment without having to worry about Canadian workers and their equipment coming over and taking those jobs. We need jobs in Maine. We do not have the luxury of giving them away. Thank you.

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

ROLL CALL NO. 174

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

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

ABSENT - Berube, Crosby, Finch, Fisher, Greeley, Jacobsen, Jodrey, Moore G.

Yes, 77; No, 66; Absent, 8; Excused, 0.

77 having voted in the affirmative and 66 voted in the negative, with 8 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. Committee Amendment "A" (H-372) was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 20, 2005.

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

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Farrington who wishes to address the House on the record.

Representative **FARRINGTON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. In reference to Roll Call 164 on LD 758, had I been present I would have voted yea.

On motion of Representative JOY of Crystal, the House adjourned at 9:25 p.m., until 9:00 a.m., Friday, May 20, 2005.