

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
20th Legislative Day
Friday, May 20, 2005

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

Prayer by Reverend Paul D. Basham, Penney Memorial United Baptist Church, Augusta.

National Anthem by McFravis Family Fiddlers, Waldoboro.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

SENATE PAPERS

Non-Concurrent Matter

Resolve, To Establish the Study Commission Regarding Liveable Wages (EMERGENCY)

(H.P. 854) (L.D. 1236)

(C. "A" H-232)

FAILED of FINAL PASSAGE in the House on May 16, 2005.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-232) AS AMENDED BY SENATE AMENDMENT "A" (S-213)** thereto in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Facilitate the Repeal of the Taxation of Personal Property Valued at \$1,000 or More

(H.P. 52) (L.D. 56)

Majority (10) **OUGHT NOT TO PASS** Report of the Committee on **TAXATION READ** and **ACCEPTED** in the House on May 10, 2005.

Came from the Senate with the RESOLUTION and accompanying papers **COMMITTED** to the Committee on **TAXATION** in **NON-CONCURRENCE**.

The House voted to **INSIST**.

Non-Concurrent Matter

Bill "An Act To Provide Tax Incentives to Small Businesses That Employ At Least One Person"

(H.P. 446) (L.D. 613)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-109) in the House on April 12, 2005.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-109) AND SENATE AMENDMENT "B" (S-191)** in **NON-CONCURRENCE**.

Representative RICHARDSON of Brunswick moved that the House **RECEDE AND CONCUR**.

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

COMMUNICATIONS

The Following Communication: (H.C. 244)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

May 17, 2005

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House

Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 1661 An Act To Streamline Higher Education in Maine

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

Sincerely,

S/Sen. Elizabeth H. Mitchell

Senate Chair

S/Rep. Jacqueline Norton

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 245)

STATE OF MAINE

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

May 17, 2005

Honorable Beth Edmonds, President of the Senate

Honorable John Richardson, Speaker of the House

122nd Maine Legislature

State House

Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Health and Human Services has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 655 An Act Allowing for a Contracted Case Manager in Certain Child Welfare Cases

L.D. 1307 An Act Requiring Public Disclosure of Health Care Prices

L.D. 1417 An Act To Amend the Law Banning Smoking in Buildings Where Bingo or Beano Is Played

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

Sincerely,

S/Sen. Arthur F. Mayo, III

Senate Chair

S/Rep. Hannah Pingree

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 246)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON LABOR**

May 16, 2005

Honorable Beth Edmonds, President of the Senate

Honorable John Richardson, Speaker of the House

122nd Maine Legislature

State House

Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Labor has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 485 An Act To Prohibit Permanent Replacement Workers
- L.D. 996 Resolve, Establishing the Commission To Study Medical Expenses Under the Maine Workers' Compensation Act of 1992
- L.D. 1486 An Act To Amend the Law Allowing Legislative Staff To Unionize
- L.D. 1570 An Act To Require Random Drug Testing for Emergency Vehicle Operators

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

Sincerely,
S/Sen. Ethan Strimling
Senate Chair
S/Rep. William J. Smith
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 247)
STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON LABOR

May 17, 2005
Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Labor has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 215 An Act To Clarify National Labor Relations Board Certification under the Overtime Provisions
- L.D. 583 An Act To Amend the Law Regarding the Use of "Hearing Dogs" by Deaf and Hard-of-hearing Persons
- L.D. 1269 An Act To Change the Retirement Eligibility Requirements for Investigators in the Office of the Attorney General and the Department of the Secretary of State

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

Sincerely,
S/Sen. Ethan Strimling
Senate Chair
S/Rep. William J. Smith
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 248)
STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS AFFAIRS

May 17, 2005
Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House

Augusta, Maine 04333
Dear President Edmonds and Speaker Richardson:
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Legal and Veterans Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 383 An Act To Ban Government Conflict of Interest in Elections
- L.D. 765 An Act Requiring That Contributions for a Clean Election Candidate Be from the Candidate's Political Party
- L.D. 822 An Act Regarding Fundraising for Clean Election and Traditional Candidates in Leadership Races
- L.D. 882 An Act To Ensure Fair Distribution of Matching Funds under the Maine Clean Election Act
- L.D. 1257 Resolve, Authorizing Dominic LaJoie To Sue the Department of Agriculture, Food and Rural Resources
- L.D. 1274 An Act To Allow Indian Tribes To Operate Slot Machines
- L.D. 1292 Resolve, To Study the Citizen Initiative Process
- L.D. 1388 An Act To Amend Maine Election Law by Instituting a Statewide Vote-by-mail System
- L.D. 1399 An Act To Increase College Scholarships
- L.D. 1436 An Act To Encourage a Vote-by-Mail System in Maine
- L.D. 1514 An Act To Enhance the Transparency of Maine's Elections
- L.D. 1562 An Act To Create Optional Public Financing of Legislative Leadership Elections

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

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

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 249)
STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT

May 16, 2005
Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on State and Local Government has voted unanimously to report the following bill out "Ought Not to Pass":

- L.D. 1624 An Act To Require State-owned and State-leased Property To Be Cleaned with Products That Are Not Harmful to the Environment or People

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

Sincerely,
S/Sen. Elizabeth M. Schneider
Senate Chair
S/Rep. Christopher R. Barstow
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 250)

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

May 19, 2005

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House

Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Taxation has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 328 An Act To Enhance the Maine Earned Income Tax Credit

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

Sincerely,

S/Sen. Joseph C. Perry

Senate Chair

S/Rep. Richard G. Woodbury

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 251)

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON INSURANCE AND FINANCIAL SERVICES**

May 19, 2005

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House

Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Insurance and Financial Services has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1108 An Act To Protect Maine Foster and Adoptive Parents

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

Sincerely,

S/Sen. Nancy B. Sullivan

Senate Chair

S/Rep. Anne C. Perry

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.C. 323)

**MAINE SENATE
122ND LEGISLATURE
OFFICE OF THE SECRETARY**

May 19, 2005

Honorable John Richardson
Speaker of the House
2 State House Station
Augusta, ME 04333-0002

Dear Speaker Richardson:

In accordance with Joint Rule 506 of the 122nd Maine Legislature, please be advised that the Senate today confirmed the following nominations:

Upon the recommendation of the Committee on Judiciary: the nomination of Thomas D. Warren of Portland and Thomas E. Humphrey of Portland for reappointment as a Superior Court Justice.

the nomination of Jessie B. Gunther of Bangor for reappointment as a District Court Judge.

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 Amend Procedures Used in Criminal Proceedings in Which the Victim Is Mentally Disabled"

(H.P. 1187) (L.D. 1679)

Sponsored by Representative TUTTLE of Sanford.

Cosponsored by Senator HOBBS of York and Representatives: BRYANT of Windham, CANAVAN of Waterville, CARR of Lincoln, FAIRCLOTH of Bangor, GERZOFKY of Brunswick, NASS of Acton, PELLETIER-SIMPSON of Auburn, SHERMAN of Hodgdon.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Committee on **JUDICIARY** suggested and ordered printed.

REFERRED to the Committee on **JUDICIARY** and ordered printed.

Sent for concurrence.

ORDERS

On motion of Representative WHEELER of Kittery, the following House Order: (H.O. 36)

ORDERED, that Representative Christopher R. Barstow of Gorham be excused Monday, May 16, Tuesday, May 17th and Wednesday, May 18th for legislative business.

AND BE IT FURTHER ORDERED, that Representative Richard D. Blanchard of Old Town be excused Thursday, April 14th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Lawrence Bliss of South Portland be excused Tuesday, May 3rd and Thursday, May 5th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Joan Bryant-Deschenes of Turner be excused Tuesday, May 3rd for health reasons.

AND BE IT FURTHER ORDERED, that Representative Deborah J. Hutton of Bowdoinham be excused Thursday, April 14th for legislative business.

AND BE IT FURTHER ORDERED, that Representative Jeff Kaelin of Winterport be excused Monday, May 9th, Tuesday, May 10th, Wednesday, May 11th, Tuesday, May 17th and Wednesday, May 18th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Elizabeth S. Miller of Somerville be excused Thursday, May 5th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Janet T. Mills of Farmington be excused Tuesday, May 3rd for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Lillian LaFontaine O'Brien of Lewiston be excused Wednesday, May 11th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Deborah L. Pelletier-Simpson of Auburn be excused Wednesday, April 6th and Thursday, April 7th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Anne C. Perry of Calais be excused Monday, May 9th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Gary E. Plummer of Windham be excused Monday, May 16th for health reasons.

AND BE IT FURTHER ORDERED, that Representative Judd D. Thompson of China be excused Thursday, May 12th for personal reasons.

READ and PASSED.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-197)** on Bill "An Act To Provide Access to Maine's Resources to Veterans of the Iraq War" (EMERGENCY)

(S.P. 204) (L.D. 649)

Signed:

Senators:

NUTTING of Androscoggin

BRYANT of Oxford

RAYE of Washington

Representatives:

PIOTTI of Unity

CARR of Lincoln

JODREY of Bethel

JENNINGS of Leeds

MAREAN of Hollis

FLOOD of Winthrop

SHERMAN of Hodgdon

PINEAU of Jay

LUNDEEN of Mars Hill

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

Signed:

Representative:

TWOMEY of Biddeford

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report READ and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-197)**.

READ.

Representative PIOTTI of Unity moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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 want to go on record saying why I opposed it. It is not because I don't appreciate the veterans and all that they do. When we heard it it was that it doesn't include all veterans of all wars number one. Secondly, I fight for my veterans so hard that I have to call Togus and I don't get a real person and they need medication and they can't get it. I think it is unconscionable that you send people to war, they come back broken and we can't fix them. I think that if we want

to help veterans we have to do more than a park pass. Thank you.

The Chair ordered a division on the motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

A vote of the House was taken. 118 voted in favor of the same and 1 against, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-197)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Monday, May 23, 2005.

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Bill "An Act To Repeal the Tax on Private Nonmedical Institutions" (EMERGENCY)

(S.P. 52) (L.D. 146)

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-173)** 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.

On motion of Representative PINGREE of North Haven, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

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

(S.P. 224) (L.D. 687)

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-164)** 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.

On motion of Representative PINGREE of North Haven, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought Not to Pass** on Bill "An Act To Amend the Laws Governing Dogs at Large"

(H.P. 677) (L.D. 967)

Signed:

Senator:

RAYE of Washington

Representatives:

CARR of Lincoln

JODREY of Bethel

JENNINGS of Leeds

MAREAN of Hollis

FLOOD of Winthrop

SHERMAN of Hodgdon

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-430)** on same Bill.

Signed:

Senators:

NUTTING of Androscoggin

BRYANT of Oxford

Representatives:

PIOTTI of Unity

LUNDEEN of Mars Hill

TWOMEY of Biddeford

PINEAU of Jay

READ.

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

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act To Give Parents Control over the Sex Education of Their Children"

(H.P. 1045) (L.D. 1488)

Signed:

Senators:

MITCHELL of Kennebec

SCHNEIDER of Penobscot

TURNER of Cumberland

Representatives:

NORTON of Bangor

FINCH of Fairfield

GOLDMAN of Cape Elizabeth

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-415)** on same Bill.

Signed:

Representatives:

DAVIS of Falmouth

EDGECOMB of Caribou

STEDMAN of Hartland

LANSLEY of Sabattus

READ.

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

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

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Bill "An Act To Require the Department of Health and Human Services To Analyze Costs before the Legislature Imposes Mandates"

(H.P. 84) (L.D. 108)

Signed:

Senators:

MAYO of Sagadahoc

MARTIN of Aroostook

Representatives:

PINGREE of North Haven

WALCOTT of Lewiston

GROSE of Woolwich

WEBSTER of Freeport

MILLER of Somerville

BURNS of Berwick

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-424)** on same Bill.

Signed:

Senator:

ROSEN of Hancock

Representatives:

SHIELDS of Auburn

CAMPBELL of Newfield

LEWIN of Eliot

GLYNN of South Portland

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

READ.

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

On further motion of the same Representative, **TABLED** pending her motion to **ACCEPT** the Majority **Ought 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 Modify Labor Laws with Regard to Minor Workers"

(H.P. 865) (L.D. 1247)

Signed:

Senators:

STRIMLING of Cumberland
BARTLETT of Cumberland

Representatives:

SMITH of Van Buren
DRISCOLL of Westbrook
JACKSON of Fort Kent
HUTTON of Bowdoinham
TUTTLE of Sanford
CLARK of Millinocket

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-409)** on same Bill.

Signed:

Senator:

SNOWE-MELLO of Androscoggin

Representatives:

HALL of Holden
DUPREY of Hampden
CRESSEY of Cornish
HAMPER of Oxford

READ.

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

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

Majority Report of the Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-406)** on Bill "An Act To Amend Laws Governing the Setting of the Sea Urchin Harvesting Season" (H.P. 354) (L.D. 479)

Signed:

Senators:

DAMON of Hancock
SULLIVAN of York
ANDREWS of York

Representatives:

FLETCHER of Winslow
EMERY of Cutler
KAELIN of Winterport
DUGAY of Cherryfield
CRESSEY of Cornish
ASH of Belfast
EDER of Portland
SEAVEY of Kennebunkport

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-407)** on same Bill.

Signed:

Representatives:

PERCY of Phippsburg
ADAMS of Portland

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-406)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Monday, May 23, 2005.

Majority Report of the Committee on **MARINE RESOURCES** reporting **Ought Not to Pass** on Bill "An Act To Require Noncommercial Lobster Fishing License Holders To Participate in the Conservation Efforts of the Commercial Lobster Industry" (H.P. 849) (L.D. 1231)

Signed:

Senators:

DAMON of Hancock
SULLIVAN of York
ANDREWS of York

Representatives:

FLETCHER of Winslow
KAELIN of Winterport
DUGAY of Cherryfield
CRESSEY of Cornish
ASH of Belfast
EDER of Portland
ADAMS of Portland
SEAVEY of Kennebunkport

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-405)** on same Bill.

Signed:

Representatives:

EMERY of Cutler
PERCY of Phippsburg

READ.

On motion of Representative PERCY of Phippsburg, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on Bill "An Act To Adopt the Municipal Secession and Annexation Procedure for the Town of Islesboro"

(H.P. 995) (L.D. 1431)

Signed:

Senators:

SCHNEIDER of Penobscot
ROTUNDO of Androscoggin
ANDREWS of York

Representatives:

BARSTOW of Gorham
HARLOW of Portland
CROSTHWAITE of Ellsworth
SAMPSON of Auburn
BLANCHARD of Old Town
MUSE of Fryeburg

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-431)** on same Bill.

Signed:

Representatives:

McFADDEN of Dennysville
MOULTON of York
BISHOP of Boothbay
SCHATZ of Blue Hill

READ.

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

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

Bill "An Act To Require Proof of Equipment Ownership for Employers Using Foreign Laborers"

(H.P. 525) (L.D. 730)
(C. "A" H-372)

Bill "An Act To Encourage Long-term Holding of Maine Timberland and Sustainable Forest Management"

(H.P. 902) (L.D. 1305)
(C. "A" H-403)

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

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

Bill "An Act To Increase Retired Teachers' Health Insurance Benefits"

(H.P. 535) (L.D. 758)
(C. "A" H-410)

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

On motion of Representative BOWLES of Sanford, was **SET ASIDE.**

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

Bill "An Act To Prohibit the Sale and Use of Vaporized Alcohol and Alcohol Vaporizing Devices"

(H.P. 798) (L.D. 1155)
(C. "A" H-413)

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

On motion of Representative LINDELL of Frankfort, was **SET ASIDE.**

The same Representative **PRESENTED House Amendment "A" (H-434)** which was **READ** by the Clerk.

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 present this amendment as I think a sober alternative to a bill that seeks to ban a product that is safely used in other jurisdictions in other countries and is just simply an unconventional means of delivering a legal product. The amendment is very simple. It doesn't strike anything it simply delays enactment of this legislation until January 1, 2008 and in the meantime it asks the Department of Health and Human Services to study whether in fact the use of these devices is more dangerous than traditional alcohol use and to report back to the Committee on Legal and Veteran's Affairs. If the committee chooses to do nothing with the report once they receive it then the law will become enacted. I think this is reasonable given the fact that nobody has demonstrated that anybody is actually using these devices in the State of Maine currently, so there doesn't seem to be a problem

to fix here. Frankly, there is some question as to whether the proper use of these devices is really dangerous since they are used in legal means in other jurisdictions and other countries. I hope that this will serve as a more sober alternative to the bill before us. Thank you.

Representative **PATRICK** of Rumford moved that **House Amendment "A" (H-434)** be **INDEFINITELY POSTPONED**

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. I don't think anything has changed since the last debate that we had on this issue. I thank the Representative for bringing this forward. If I supported this motion I think the only thing that it would do is help my Scary Mary rating, but I don't know if it's on the list so that's not one of the issues for me. The committee itself with a 13 - 0 Majority Report did not concur that the use of these was totally safe. I think we really believe that we would err on the side of conservatism and not let this device be sold. I met my good friend Al coming in and he told me with booze you loose, with dope there is no hope and selling vaporized alcohol machines to our youth is pie in the sky. I would ask that you vote with me and that you vote to indefinitely postpone House Amendment-A.

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

Representative **LINDELL**: I only brought this amendment to the floor after I received a note from several committee members saying they were interested and that they supported this amendment so it is my contention that this is no longer a unanimous committee. Issue and that I brought forward enough issues and enough concerns that this ought to be properly debated. I urge the members to vote no on the motion to indefinitely postpone - the nuclear option. Thank you. Mr. Speaker, I request a roll call.

Representative **LINDELL** of Frankfort **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-434).**

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

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

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

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

Representative **SHIELDS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Does anyone have knowledge of a long-term study on this? I'm neutral on it and I don't know much about it, but is there a long-term study that shows that it does or does not harm the tissues of the respiratory tract - the bronchial tree and the lung tissues? Is there anyone that has that knowledge?

The **SPEAKER**: The Representative from Auburn, Representative Shields has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Frankfort, Representative Lindell.

Representative **LINDELL**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I am not aware of any such study. I think the study time would give the Department of Health and Human Services the ability to research the matter and research the study. What I am aware of is that the British Department of Health has approved these devices and has taken the position that the proper use of these devices is no more dangerous than the consumption of alcohol in a traditional manner.

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 have a little bit of medical experience and I know that some other members do and based upon the information that was given to us at the public hearing I think that in all honesty there would be some damage. Based on my experience of seeing it presented by the public safety people that testified against it, as well as the Nursing Association and others, I really think that there would be a problem with this amendment and I am supporting the motion to indefinitely postpone and hope you would to.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-434). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 175

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

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

ABSENT - Berube, Bowen, Dudley, Hotham, Jacobsen, Marraché, Pilon, Plummer, Sherman.

Yes, 78; No, 64; Absent, 9; Excused, 0.

78 having voted in the affirmative and 64 voted in the negative, with 9 being absent, and accordingly House Amendment "A" (H-434) was INDEFINITELY POSTPONED.

Subsequently, the House Paper was PASSED TO BE ENGROSSED AS AMENDED and sent for concurrence.

ENACTORS

Emergency Measure

Resolve, Establishing the Commission on Maximum Hospital Charges for Workers' Compensation

(H.P. 635) (L.D. 916)
(C. "A" H-338)

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. 130 voted in favor of the same and 1 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 100: Enforcement Procedures, a Major Substantive Rule of the Maine Health Data Organization

(H.P. 966) (L.D. 1389)

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. 118 voted in favor of the same and 3 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Portions of Chapter 127: New Motor Vehicle Emission Standards, a Major Substantive Rule of the Bureau of Air Quality

(H.P. 1028) (L.D. 1465)
(C. "A" H-361)

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. 103 voted in favor of the same and 31 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Portions of Chapter 306: Uniform Information Disclosure and Informational Filing Requirements, a Major Substantive Rule of the Public Utilities Commission

(H.P. 1137) (L.D. 1610)

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

Acts

An Act To Require That Licensed Pastoral Counselors Be Recognized as Licensed Professionals for Purposes of Insurance Reimbursement

(H.P. 30) (L.D. 27)

An Act To Require That Mental Health Workers with Family Therapist Licenses Be Recognized as Licensed Professionals for Purposes of Insurance Reimbursement

(H.P. 31) (L.D. 28)

An Act To Amend the Laws Governing the Funding of State Special Elections

(H.P. 66) (L.D. 70)
(C. "A" H-354)

An Act To Promote the Uniform Implementation of the Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas

(H.P. 139) (L.D. 188)
(C. "A" H-371)

An Act To Change the Child Care Facility Licensing Laws

(H.P. 272) (L.D. 359)
(C. "A" H-346)

- An Act To Reduce Costs Caused by New Procedure Changes for Health Care Providers (H.P. 355) (L.D. 480) (C. "A" H-341) (H.P. 408) (L.D. 553) (C. "A" H-343)
- An Act To Assist Municipal Implementation and Enforcement of Storm Water Management Programs (H.P. 441) (L.D. 608) (H.P. 487) (L.D. 667) (C. "A" H-360)
- An Act Regarding New Motor Vehicle Emission Standards (H.P. 448) (L.D. 615) (C. "A" H-337) (H.P. 546) (L.D. 769) (C. "A" H-345)
- An Act Regarding Possession of Prescription Drugs (H.P. 463) (L.D. 630) (C. "A" H-358) (H.P. 972) (L.D. 1408) (C. "A" H-374)
- An Act To Require Fair and Timely MaineCare Payments to Hospitals (S.P. 214) (L.D. 678) (C. "A" S-181) (H.P. 1017) (L.D. 1452) (C. "A" H-340)
- An Act To Amend Laws Pertaining to Commercial Fishing and Baitfish (H.P. 518) (L.D. 723) (C. "A" H-352) (H.P. 1017) (L.D. 1452) (C. "A" H-340)
- An Act To Require the Disclosure of Certain Financial Information from Hospitals and Their Affiliates (H.P. 520) (L.D. 725) (C. "A" H-339)
- An Act To Discourage Further the Sale of Tobacco to Minors (S.P. 293) (L.D. 885) (C. "A" S-172)
- An Act To Amend the Law Regarding State Milk Payments (H.P. 723) (L.D. 1070)
- An Act To Authorize the Department of Professional and Financial Regulation To Develop a Model for Registration of Home Building and Improvement Contractors (H.P. 903) (L.D. 1306) (C. "A" H-257)
- An Act To Conform the Remedies under the Maine Family Medical Leave Requirements with Those Available under Federal Law (H.P. 977) (L.D. 1413) (C. "A" H-348)
- An Act To Update the Membership of Certain Professional Licensing Boards (H.P. 1034) (L.D. 1471) (C. "A" H-356)
- 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.

- Resolve, Regarding Nonnative Invasive Marine Species (H.P. 487) (L.D. 667) (C. "A" H-360)
- Resolve, To Examine Smoking Cessation Programs for Maine's Youth (H.P. 546) (L.D. 769) (C. "A" H-345)
- Resolve, Directing the Air Toxics Advisory Committee To Review the Status of Toxic Emissions from Waste-to-energy Facilities in the State and Recommend Actions Aimed at Reducing and Monitoring These Emissions (H.P. 972) (L.D. 1408) (C. "A" H-374)
- Resolve, Promoting the Consumption of Maine Farm Products at the State House (H.P. 1017) (L.D. 1452) (C. "A" H-340)
- 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 Plan for a Pilot Program for Distributing Unopened Medicines and Medical Supplies (H.P. 105) (L.D. 129) (C. "A" H-347)

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. 176

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Bishop, Blanchard, Blanchette, Bliss, Bowles, Brannigan, Brautigam, Brown R, Bryant, Burns, Cain, Campbell, Canavan, Clark, Craven, Crosby, Cummings, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Eberle, Eder, Emery, Faircloth, Farrington, Finch, Fischer, Fisher, Flood, Gerzofsky, Glynn, Greeley, Grose, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jennings, Kaelin, Koffman, Lerman, Lundeen, Makas, Marean, Marley, McFadden, McKenney, Merrill, Miller, Millett, Mills, Moody, Moulton, Nass, Norton, O'Brien, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pineau, Pingree, Pinkham, Piotti, Rector, Richardson W, Rines, Sampson, Saviello, Schatz, Seavey, Smith N, Smith W, Sykes, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Bierman, Browne W, Bryant-Deschenes, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Duprey, Edgecomb, Fitts, Fletcher, Hall, Hamper, Hanley B, Jodrey, Joy, Lansley, Lewin, Lindell, McCormick, McKane, McLeod, Moore G, Muse, Nutting, Richardson D, Richardson E, Richardson M, Robinson, Rosen, Sherman, Stedman, Tardy, Thomas, Trahan, Vaughan.

ABSENT - Berube, Bowen, Dugay, Goldman, Jacobsen, Marraché, Mazurek, Pilon, Plummer, Shields.
Yes, 98; No, 43; Absent, 10; Excused, 0.

Resolves

- Resolve, Regarding the Certificate of Need Process (H.P. 19) (L.D. 16) (C. "A" H-344)
- Resolve, To Require the Department of Health and Human Services To Adopt Rules Regarding Accrual of Cost Savings (H.P. 56) (L.D. 60) (C. "A" H-357)
- Resolve, To Require the Department of Health and Human Services To Amend Rules Regarding Licensing of Intermediate Care Facilities for Mental Retardation (H.P. 284) (L.D. 382) (C. "A" H-342)
- Resolve, Regarding Responsible Management of Point-of-sale Marketing Materials for Tobacco Products

98 having voted in the affirmative and 43 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.

Resolve, To Raise a Monument for Women Veterans of Maine

(H.P. 588) (L.D. 829)
(C. "A" H-353)

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 **FINAL PASSAGE**.

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

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

ROLL CALL NO. 177

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

Yes, 144; No, 0; Absent, 7; Excused, 0.

144 having voted in the affirmative and 0 voted in the negative, with 7 being absent, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

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

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (7) **Ought to Pass as Amended by Committee Amendment "A" (H-334)** - Minority (6) **Ought Not to Pass** - Committee on **STATE AND LOCAL GOVERNMENT** on RESOLUTION, Proposing an Amendment to

the Constitution of Maine To Provide for the Popular Election of the Constitutional Officers and the State Auditor

(H.P. 940) (L.D. 1357)

TABLED - May 16, 2005 (Till Later Today) by Representative CUMMINGS of Portland.

PENDING - Motion of Speaker RICHARDSON of Brunswick to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

Representative TARDY of Newport **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**: 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. 178

YEA - Annis, Austin, Bierman, Bishop, 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, Greeley, Hall, Hamper, Hanley B, Hotham, Jodrey, Joy, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Millett, Moore G, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Sampson, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Vaughan.

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

ABSENT - Berube, Bowen, Eder, Fisher, Jacobsen, Marraché, Perry, Pilon, Plummer.

Yes, 69; No, 73; Absent, 9; Excused, 0.

69 having voted in the affirmative and 73 voted in the negative, with 9 being absent, and accordingly the Majority **Ought to Pass As Amended** Report was **NOT ACCEPTED**.

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought Not to Pass** on Bill "An Act To Provide Property Tax Relief by Requiring the State To Maintain and Repair All Bridges in Maine"

(H.P. 1164) (L.D. 1650)

Signed:

Senators:

DAMON of Hancock
DIAMOND of Cumberland
SAVAGE of Knox

Representatives:

MARLEY of Portland
FISHER of Brewer
SAMPSON of Auburn

HOGAN of Old Orchard Beach
MAZUREK of Rockland
McKENNEY of Cumberland
BROWNE of Vassalboro
PARADIS of Frenchville
COLLINS of Wells

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

Signed:
Representative:
THOMAS of Ripley

READ.

On motion of Representative MARLEY of Portland, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on Bill "An Act To Amend the Laws Governing the State Planning Office"
(H.P. 864) (L.D. 1246)

Signed:
Senators:
SCHNEIDER of Penobscot
ROTUNDO of Androscoggin

Representatives:
BARSTOW of Gorham
McFADDEN of Dennysville
MOULTON of York
HARLOW of Portland
BISHOP of Boothbay
CROSTHWAITE of Ellsworth
SAMPSON of Auburn
BLANCHARD of Old Town
MUSE of Fryeburg
SCHATZ of Blue Hill

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-438)** on same Bill.

Signed:
Senator:
ANDREWS of York

READ.

On motion of Representative BARSTOW of Gorham, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

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

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

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

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

TABLED - May 19, 2005 (Till Later Today) by Representative PERCY of Phippsburg.

PENDING - Motion of same Representative to **RECEDE and CONCUR.**

On motion of Representative PERCY of Phippsburg, the House voted to **RECEDE.**

The same Representative **PRESENTED House Amendment "A" (H-436)** which was **READ** by the Clerk and **ADOPTED.**

Senate Amendment "A" (S-190) was **READ** by the Clerk and **ADOPTED.**

Subsequently, the Bill was **PASSED TO BE ENGROSSED, as Amended by Committee Amendment "A" (H-351), House Amendment "A" (H-436) and Senate Amendment "A" (S-190)** was **ADOPTED** in **NON-CONCURRENCE** and sent for concurrence.

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

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

(C. "A" H-258)

TABLED - May 18, 2005 (Till Later Today) by Representative CUMMINGS of Portland.

PENDING - PASSAGE TO BE ENACTED.

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

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

Bill "An Act To Provide Tax Incentives to Small Businesses That Employ At Least One Person"

(H.P. 446) (L.D. 613)

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

Subsequently, the House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH.**

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

CONSENT CALENDAR

First Day

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

(S.P. 171) (L.D. 545) Resolve, To Improve Medical Eligibility Assessments for Long-term Care Consumers Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-209)**

(S.P. 212) (L.D. 676) Resolve, Regarding the No Child Left Behind Act of 2001 Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-200)**

(S.P. 463) (L.D. 1336) Bill "An Act To Promote Economic Development in Commercial and Downtown Areas of the State" (EMERGENCY) Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-204)**

(S.P. 505) (L.D. 1480) Bill "An Act Regarding Licensing Boards" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-208)**

(S.P. 509) (L.D. 1483) Bill "An Act To Amend the Laws Governing Reimbursement of Nursing Facilities and Nursing Home Admission Contracts" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-211)**

(S.P. 534) (L.D. 1539) Bill "An Act Pertaining to Reporting of Prescription Drug Advertising Costs" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-210)**

(S.P. 574) (L.D. 1600) Resolve, To Establish a Commission To Evaluate Criteria for Siting Agency Liquor Stores Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-206)**

(S.P. 584) (L.D. 1603) Bill "An Act To Establish Harbor Master Standards and Training Requirements" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-207)**

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.

(S.P. 573) (L.D. 1599) Bill "An Act Regarding the Commission on Governmental Ethics and Election Practices" (EMERGENCY) Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-205)**

On motion of Representative CARR of Lincoln, 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.

The House recessed until 11:15 a.m.

(After Recess)

The House was called to order by the Speaker.

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

Bill "An Act To Increase Retired Teachers' Health Insurance Benefits"

(H.P. 535) (L.D. 758)
(C. "A" H-410)

Which was **TABLED** by Representative BOWLES of Sanford pending **PASSAGE TO BE ENGROSSED as Amended**.

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended** and sent for concurrence. **ORDERED SENT FORTHWITH**.

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-212)** on Bill "An Act Regarding National Forests"

(S.P. 484) (L.D. 1395)

Signed:

Senators:

NUTTING of Androscoggin
RAYE of Washington
BRYANT of Oxford

Representatives:

PIOTTI of Unity
CARR of Lincoln
JODREY of Bethel
JENNINGS of Leeds
MAREAN of Hollis
LUNDEEN of Mars Hill
FLOOD of Winthrop
SHERMAN of Hodgdon
PINEAU of Jay

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

Signed:

Representative:

TWOMEY of Biddeford

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-212)**.

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-212)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Monday, May 23, 2005.

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-202)** on Bill "An Act To Protect Use of Municipal Seals"

(S.P. 479) (L.D. 1380)

Signed:

Senators:

SCHNEIDER of Penobscot
ROTUNDO of Androscoggin
ANDREWS of York

Representatives:

BARSTOW of Gorham
McFADDEN of Dennysville
MOULTON of York
HARLOW of Portland
BISHOP of Boothbay
CROSTHWAITE of Ellsworth
SAMPSON of Auburn
BLANCHARD of Old Town
MUSE of Fryeburg

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-203)** on same Bill.

Signed:

Representative:

SCHATZ of Blue Hill

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-202)**.

READ.

On motion of Representative BLANCHARD of Old Town, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-202)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Monday, May 23, 2005.

Majority Report of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-198)** on Bill "An Act To Amend the Maine Consumer Credit Code - Credit Services Organizations"

(S.P. 222) (L.D. 686)

Signed:

Senators:

BROMLEY of Cumberland

DOW of Lincoln

Representatives:

SMITH of Monmouth

O'BRIEN of Lewiston

AUSTIN of Gray

ROBINSON of Raymond

RECTOR of Thomaston

FARRINGTON of Gorham

BERUBE of Lisbon

BEAUDETTE of Biddeford

JACOBSEN of Waterboro

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-199)** on same Bill.

Signed:

Representative:

CROSBY of Topsham

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-198)**.

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-198)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Monday, May 23, 2005.

Majority Report of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought Not to Pass** on Bill "An Act To Increase Access to Dental Care by Accepting All Regional Board Examinations for Initial Licensure of Dentists"

(S.P. 334) (L.D. 994)

Signed:

Senators:

BROMLEY of Cumberland

HOBBS of York

Representatives:

SMITH of Monmouth

O'BRIEN of Lewiston

AUSTIN of Gray

ROBINSON of Raymond

RECTOR of Thomaston

FARRINGTON of Gorham

BEAUDETTE of Biddeford

JACOBSEN of Waterboro

CROSBY of Topsham

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-215)** on same Bill.

Signed:

Senator:

DOW of Lincoln

Representative:

BERUBE of Lisbon

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

READ.

On motion of Representative SMITH of Monmouth, the Majority **Ought Not to Pass** Report was **ACCEPTED** 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. 202) (L.D. 277) Bill "An Act To Ensure That Sears Island Will Be Used for Industrial and Commercial Purposes" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-439)**

(H.P. 1120) (L.D. 1584) Resolve, Directing the State Tax Assessor To Adjust the State Valuation for the Town of Wiscasset (EMERGENCY) Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-441)**

(H.P. 1121) (L.D. 1585) Bill "An Act To Provide a Temporary Sales Tax Exemption for Prescription Drugs for Animals" (EMERGENCY) Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-440)**

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.

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

HOUSE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (5) **Ought to Pass as Amended by Committee Amendment "A" (H-424)** - Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Require the Department of Health and Human Services To Analyze Costs before the Legislature Imposes Mandates"

(H.P. 84) (L.D. 108)

Which was **TABLED** by Representative PINGREE of North Haven pending **ACCEPTANCE** of the Majority **Ought Not to Pass** Report.

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

Representative GLYNN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the Ought Not to Pass Report and ask the House to consider moving on to defeating this motion and then moving on to the Minority Ought to Pass as Amended Report.

This bill is a bill that I had put in at the request of several providers in my district and providers that have contacted me from all over the state regarding the use of mandates by the legislature. All of us in this chamber have had tremendous experience dealing with mandates and the public has really spoken quite loudly on this. A mandate is when the State of Maine decides to enact something and then pass that cost for the action on to someone else. We see it with municipal mandates where we will consider passing a law that is something that doesn't need to be paid for out of the state budget, but what we find out is local municipal budgets are going to increase and property taxes will go up or local school districts costs will go up.

Additionally, in the healthcare arena, over in Insurance and Financial Services - one of the committees I serve on - it was recognized a long time ago that one of the drivers of healthcare costs are mandates or things that are required by state government. In Insurance and Financial Services the Legislature enacted a statute, which required a mandate study. What that was all about was that anytime the Legislature was poised to move forward, or the committee of jurisdiction was poised to move forward, and enact a mandate then they would first do an analysis of the efficacy of that mandate and truly find out what kind of cost implications it was going to have.

Was this a requirement that was going to raise the cost of health insurance 2%? Is this something that was actually going to save money? But, in any event, the Legislature realized and recognizes that we have to do that analysis on mandates in healthcare, specifically health and insurance, and do this type of analysis before we enact it. After you get that information, if because the efficacy of it is so important that we need to do it, then the Legislature is still free to go ahead and enact that mandate, But at least you go forward with that mandate in hand. Health and Human Services has those same issues and those same mandates. There are laws that we looked at and considered in Health and Human Services Committee that costs money. They cost big money to providers. I don't know if you've talked to the providers in your district, but they sure have talked to me and they talk about the reporting requirements that the Legislature enacts to start accounting for things in different ways - the cost in computer time, the cost in administrative time. The time that is being taken away from direct care service to their clients.

I hear from community health centers, I here from doctor's offices, I hear from hospitals. I hear from a lot of folks and I know that you hear from them too. They really want us to be aware that when we enact a law that requires them to do something that there is a cost associated with that. This has really complicated this issue by the actions of the Department of Health and Human Services in the medical department by not paying any of the bills. Our providers aren't being paid. Healthcare providers, specifically doctor's offices and anybody receiving MaineCare reimbursement are not getting their money because of all of the computer problems that have been caused. They are not getting the grant payments. The hospitals are hopelessly behind in their payments from the state. The state is not paying our bills. Combine this with the legislative mandates that we enact and it's a recipe for disaster and a recipe that causes the funds that are spent not be spent on direct care client services and that is really

what we all want to know. We want to know that the most of every dollar we spend does, in fact, go to direct client care. Those are the reasons behind this legislative study requirement.

What it would do, if enacted, is that it would require that before Health and Human Services passes on a mandate that is going to raise those costs that we do a legislative analysis on it, have that information and then armed with that information, I have got to believe that Health and Human Services will always do the right thing. Mr. Speaker, when the vote is taken I request the yeas and nays.

Representative GLYNN of South Portland REQUESTED a roll call on the motion to ACCEPT the Majority Ought Not to Pass Report.

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

The SPEAKER: 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 appreciate the effort and the comments of the good Representative from South Portland and I think he raised some serious points that the Health and Human Services Committee has been considering, especially with regard to payments to providers. I am sure there is not a member of this body who hasn't received some frustrated comment from a provider who has not been paid.

In addition the issue of the hospitals that we discussed is a long-standing issue that I know a lot of us in this room are frustrated with. I share his concern and, as a member of the Health and Human Services Committee, I know that he knows that we have been discussing these issues and trying to find better solutions to these issues.

In regard to the specific bill I think that the good Representative was driven by a very positive concept, the idea that we need to be paying attention to the requirements of providers. One of the major deciding factors for us I think was that this bill was very much modeled around the insurance mandate study, which I know that members of the Insurance and Financial Affairs Committee have found very valuable. When an insurance mandate adding a specific service that needs to be provided under commercial service is added there needs to be a study of what kinds of costs this will mean for those people paying for insurance. When you start talking about mandates in regards to health and safety - public safety requirements on providers - it is much, much more vague.

We received testimony from the Department of Health and Human Services and they weren't quite sure how they would undertake these mandate studies properly. We do know from Bureau of Insurance that these are about \$12,000 - \$15,000 per study. I would attest that in a bipartisan manner our Health and Human Services Committee has sought to listen to both sides on every issue that we have considered. We have rejected a number of bills this year that will put owner's requirements on providers that we believe would be excessive or expensive. But, there are other considerations, we passed a good bill that the Representative from Rockland sponsored requiring methadone clinics to provide public notice when they are going to open a new clinic. We created a process for that and that is an example of where we put a requirement on a provider that made sense for the community, that made sense for the provider and that we all agreed to. It is an example of where a mandate study would have made no sense. I think that this is a bill that has good intentions behind it, but I just don't believe that it would add to the process of the Health and Human Services Committee.

I think we as a committee believe that it is our responsibility to always keep this in mind and with regard to providers we actually

have a requirement in the last budget that asks the Department of Health and Human Services to streamline requirements of providers. Providers are saying that they have too much paperwork and that there are too many requirements, mostly promulgated by rules from DHHS. We have asked the department to go back and find ways to make the process of providing services to Maine people easier for these providers. I think a lot of the issues that the good Representative brought up, we have covered and I just don't believe that this new mandate study for the bills we consider makes sense. I urge you to accept the Majority Ought Not to Pass motion. Thank you Mr. Speaker.

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

Representative **SHIELDS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This bill opens its paragraph by saying that before enacting legislation with requirements for mandatory action that will impose costs on physicians and healthcare providers the department shall require a mandate review. Well, my comment is to put it in plain language. In other words, would you folks please take a careful look at what you are doing before you do it.

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

Representative **WALCOTT**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. As a member of the Health and Human Services Committee for the past three years I also work for a healthcare provider agency in my job that pays the bills. I have seen requirements of the department that are troublesome to me and they are there for a reason and the reason is that unlike mandates from the Insurance and Financial Affairs Committee, which are reviewed because of the costs they will put on healthcare insurance, we do things for the health, the welfare and the safety of the citizens of Maine.

To hamstring, or to hand tie the what the Legislature can do by slowing down the process, let's think about what the Legislature did when we had the Logan Marr case. Would we have wanted the Legislature to act slower in reviewing what the department should do when we are considering the welfare of children? We are not talking about whether we are going to cover hearing aids. We are talking about people's lives in nursing homes, people's lives in hospitals, the lives of children and almost every single bill that the Health and Human Services Committee would pass would be subject to this at \$12,000 – \$15,000 a piece. To me that would put pretty large fiscal note on this bill and it would also really tie the hands of our committee to do the work that we do - nothing that we require of any other committee, except for the insurance committee, and only on a very narrow focus.

As for someone that works for a provider agency that does have concerns from time to time with some of the requirements the department has, I would ask you still to support this bill, because those requirements are there for the health, the welfare and the safety of the citizens of Maine.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Glynn.

Representative **GLYNN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I appreciate greatly the comments by all of the legislators. I was handed a couple of notes by legislators asking a couple of questions based on the remarks of other legislators and I just want to respond to those. The first question that I was asked was does this in fact tie the hands of the Health and Human Services Committee to require mandate studies and the answer is absolutely not. No.

If you read the Minority Report what it does is create an optional process and what it says is that if, in fact, the Legislature

is poised to enact a legislative mandate and it provides a report or format so that the questions get answered of what the cost impacts are then the Health and Human Services Committee would have to vote to have that mandate review. In other words, it's not going to happen unless the Health and Human services Committee wants it to happen. Secondly, I wanted to talk just very briefly again about these mandates. We are talking about real cost drivers in healthcare and if we are serious about lowering the cost of health insurance and we are really serious about increasing access to affordable and quality healthcare, then the legislature needs to take a look at the requirements that we are passing on that increase the cost of services. If they are warranted then so be it. If the report comes back and it says that this is going to pass \$10 million in costs on to providers that doesn't mean that the Health and Human Services Committee can't recommend to the Legislature that we enact it, but what it does mean is that we all go forward with eyes open. We know the costs that we are in fact increasing on the healthcare system that, in turn, increases rates when we go in to see a doctor or provider and increases MaineCare costs and increases the health insurance costs. It just provides more information so that we may make good decisions. Lastly, I have found in the past that when armed with information we find a better way. We find a better way to get at what we want to do knowing that we are passing major costs onto the system. Thank you.

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

Representative **WALCOTT**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would just like to remind everyone of something that the good Representative from North Haven Representative Pingree mentioned. We do know this information. We have providers that come before us on every bill. Often they sit in our committee, as I am sure they do in your committees, even when we aren't hearing a bill that concerns them. We hear from the providers, we hear how much things are going to cost and we make a decision, again based on the health, welfare and safety of the citizens of Maine. Thank you Mr. Speaker.

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

Representative **DAVIS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. You never know when you come in in the morning what issue is going to prompt you to speak and this one is a personal issue for me and I would like to just indulge a moment.

My husband is a medical doctor and he was in private practice for many years. He is an incredibly talented diagnostician. He loved what he did. He saw no more than twelve to fifteen patients a day and several years ago, because of the mandates that this state has imposed and that the federal government has imposed, he left private practice.

I would contest that the mandates have actually reduced the quality of medical care, not just in the private medical fields, but in a whole host of ancillary medical care. We no longer have physicians that run small private practices and that are allowed to take the time they need to get to know a patient, to get to care for a patient and to know the patient's family. Private physicians have been forced into large groups, they have been forced to work for hospitals who have a very eager, aggressive way that they feel physicians should practice medicine in order to make the biggest profit. I know physicians that work for hospitals who are told that you get seven minutes with a patient regardless. You book another appointment for them and they will come back. So they are under tremendous pressure not to practice good medicine, but to practice in a way that the forms are filled out

correctly or in a way that they will get reimbursed correctly and I do believe that it is a complicated issue.

I think the biggest issue or problem is the mandates that we impose. No longer can you be a physician or a medical professional and do what you went to school to do - do what you love to do. I would propose to defeat the Ought Not to Pass. Thank you.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Perry.

Representative PERRY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I think I have three points if I can remember them as I go through, but first of all a lot of the mandates that the private practices are dealing with are not state mandates. A lot of this came out early on with the HMO process that started up and was carried through as a way to save money. This was done through insurance companies. It was done through businesses and that drove a lot of it. A lot of the mandates come from reimbursement issues that go with their own sets of rules. Not all of this is a state mandate. The other thing that I would really question because we are already having problems figuring this out is that any mandate that you have is going to ask for state-wide public information. We are having trouble getting it anyway. With insurance we actually have a formula that is set up, we know exactly how to study it, what we are studying and what the process is that we have to do, but when you get into health and human services, when you get into public health issues of illness, what do we talk about with cost? It's not just about providers. It is also what the cost of society is if a certain thing goes on.

There is no easy defined way to measure this. We are already having trouble figuring out how to measure it when we are doing a statewide health plan. If there were some formula that would be great, but there isn't and we would spend more time arguing over what the measurement is than what it is we are measuring. I am going to ask that you defeat this. It's fraught with more problems and I am asking that you go with the Majority Ought Not to Pass Report.

The committee always has the opportunity to ask for a study. As a matter of fact, being on that committee and also having bills that I have brought forth, asking for a study is always an option and it is always there for the Health and Human Services Committee as with any other committee that asks, and so that option is there whether you have this or not. I ask you to vote with the Majority Ought Not to Pass Report.

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Daigle.

Representative DAIGLE: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Earlier this week I told everybody about my support group for compulsive talkers, the On and On Anonymous Club and I want to say that I am really glad to know that so many of you now qualify for membership.

Mr. Speaker, using my training from On and On I once again try to boil this bill down to its essence and there are those who think that we can wait to learn the cost of medical studies. Basically, they are saying that the time to procrastinate is right now. Therefore, I think it is also time to vote and I encourage you to oppose the current motion

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. 179

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant,

Burns, Cain, Canavan, Clark, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, 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, 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, Bowles, Brown R, Browne W, Bryant-Deschenes, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Dugay, Duprey, Edgecomb, Emery, Fitts, Fletcher, Glynn, Hall, Hamper, Hanley B, Hotham, Jodrey, Joy, Kaelin, Lansley, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Millett, Moore G, 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 - Berube, Bowen, Campbell, Flood, Greeley, Jacobsen, Lewin, Pilon.

Yes, 76; No, 67; Absent, 8; Excused, 0.

76 having voted in the affirmative and 67 voted in the negative, with 8 being absent, and accordingly the Majority Ought Not to Pass Report was ACCEPTED and sent for concurrence. ORDERED SENT FORTHWITH.

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

HOUSE REPORT - Ought to Pass as Amended by Committee Amendment "A" (S-205) - Committee on LEGAL AND VETERANS AFFAIRS on Bill "An Act Regarding the Commission on Governmental Ethics and Election Practices" (EMERGENCY)

(H.P. 256) (L.D. 300)

Which was TABLED by Representative CARR of Lincoln pending ACCEPTANCE of the Unanimous Committee Report.

Subsequently, the Committee Report was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (S-205) was READ by the Clerk and ADOPTED. The Bill was assigned for SECOND READING Monday, May 23, 2005.

The following item was taken up out of order by unanimous consent:

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (9) Ought Not to Pass - Minority (4) Ought to Pass - Committee on BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT on Bill "An Act To Amend the Laws Regulating the Practice of Optometry"

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

TABLED - May 19, 2005 (Till Later Today) by Representative SMITH of Monmouth.

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

Representative TARDY of Newport 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 Thomaston, Representative Rector.

Representative **RECTOR**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. You know it is very interesting when a bill is divided between Ought to Pass and Ought Not to Pass with no amendment and making some move to middle ground on an issue. This is just such a report however. I believe that what separates the legislators on this fundamental difference of opinion on the role of government in the lives of Maine People is what is existing here. Is it our role to expand the marketplace whenever possible or is it our role to limit it?

I believe in the strength of the free market to allow Maine people to make their own choices when it comes to consumer issue and I also believe in their wisdom when they are empowered to make choices about their healthcare. While their choices and mine may not be the same, I do not believe that I have the right as a legislator to say that I know better and they must do it my way.

Given a choice I love to do my own shopping locally, from smaller stores often run by friends and acquaintances. I am seldom doing my shopping at big box stores and seldom do any Internet buying. While my choices may not be as extensive as some larger retailers, I know that I can get practically anything I want through special ordering from those small shopkeepers. I also know of the quality and assurances that purchases through my local retailers guarantee. However, many of my friends and neighbors like to make purchase at large retailers, big boxes where they believe they are getting better prices or perhaps a larger selection of choices of products. That is their choice. That is the essence of this bill.

Currently Maine is one of six states to offer protection against the open practice of optometry in any setting that the optometrist may choose. We prohibit optometric practice from being offered in a setting where space is leased from a large retailer. This limits the ability of Maine citizens from deciding where they want their service provided. This protection is a throwback because of the strong support that optometrists have elicited from the Legislature. It is a longstanding gift from the State of Maine to protect one group of providers of this service through limiting their competition and location. It's not unlike another gift that we used to provide optometrists. It used to be that though you paid for your eye exam you didn't get to walk out with your prescription. It took action by the legislature to change that and I would contend that that has opened the field to more choices and better choices for all consumers. Did it hurt the optometrists? I don't think so, when you still have to wait months and months for an appointment there seems to be business enough for all.

How about concerns about the aspects of healthcare that optometry represents? We are very fortunate here in Maine to have licensing of a host of professions that works very, very well. Optometrists like dentists, doctors, dental hygienists, nurses and many, many more professions are licensed. There are around forty licensed professions in all. They must meet rigorous educational and professional standards. They must be trained and tested and they must continue their education and pledge that they will live up to the standards of good practice that are laid out for them.

Failure to practice in a safe and appropriate way leads to sanctions or loss of license to practice. We are very, very careful to be certain that we protect the health and safety of Maine citizens because that is our job. We take that responsibility very seriously. If there is any indication that the health and safety of citizens is being compromised, then we should immediately and

firmly take corrective action. That is what the BRED Committee oversees and I can assure you that action would be swift if any health or safety issues are demonstrated. That is our role as legislators. But, to limit choices because we choose to make our purchases in one setting and someone else may choose another is not our role. We are not here to protect a profession from the competition of the marketplace. In fact, the marketplace will lead to better service and choice for all. It is the fair competition that makes service providers sharp, innovative and responsive to the needs and wants of their clients. For these reasons I believe that we do not know better than those who sent us here. I believe that we protect health and safety at all costs and that we do that by licensing. I believe that we do not stand in the way of market choices that our citizens may make just because we can, or just because we think we know better. I urge you to defeat the pending motion and move to the Ought to Pass Report. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Monmouth, Representative Smith.

Representative **SMITH**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Just a few points in response.

I am looking at the bill summary – this is LD 832 and we are talking on a Majority Ought Not to Pass motion – there are five sections. I will read you the two that disturbed me the most. Section two; it eliminates the existing prohibition on mercantile employment of optometrists by clarifying related provisions. Number five, it authorizes contracts for the practice of optometry in or on the presence of an optical shop or commercial or mercantile establishment and permits the joint marketing of the optometrist and the mercantile or retail establishment. My concern is the mixing of the medical and retail worlds in a highly inappropriate way.

The issues that were raised and really not resolved were related to who controls hours of operation? Who hires, manages and fires employees that would work in the optometrists' shop? Who determines the quality of the equipment and the updating of equipment? There are very real issue related to health and safety that far outweigh other concerns related to the business aspects. Secondly, at the public hearing there was no out cry from the public for this product. The AARP and other citizen alliances were not there asking for this service. In addition, we did not have requests from optometrists or students studying to be optometrists, that they needed this in order to enter the market.

Let me answer a question that was raised and I didn't get a chance to address earlier. Someone made the remark, that grocery stores have pharmacies and why is that ok and this isn't? That is because the best comparison to a pharmacist would be an optician. Their jobs are to fill the prescriptions. They do not do the prescribing themselves and they do not screen for diseases. One of the concerns that we heard was the limited appointments and if there would be an allowance, not just for prescribing of eyeglasses, but for screening for eye disease or using the eye as a barometer for the health of the body. These issues were not resolved at all to my satisfaction.

Let me wrap up by addressing the issue of a licensing board. There is a licensing board for optometrists. They are opposed to this bill. The purpose of the board is to protect human safety. Their job is supposed to respond to complaints after they happen, after there is possible abuse. I don't want to wait until that happens. I see this bill as incredibly inappropriate and ask for your support of the Majority Ought Not to Pass. 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. L.D. 832 is my bill and I submitted it because I believe, and I always have believed - and will probably die believing - that fairness and a level playing field for everyone is the greatest way to encourage business of any kind to come in to the State of Maine. I know that there are many, many people sitting in this body and probably listening anywhere in this building that absolutely despise and will not shop at, the big box stores. But, I dare anyone of you to go by the big box stores, whether it's Sunday Morning or it's at 9:00 on Saturday night or 11:00 on Tuesday night and not find those parking lots full, almost to capacity.

There is a need for the big box retailer. The need is that the prices are very, very affordable with limited income in the State of Maine. There are many people in this state - I want you to picture this and think about it - that are buying their eyeglasses at the Family Dollar Store because they know that they have a vision problem and know it everyday when they try to read the newspaper and the print gets smaller and smaller and smaller. So they go to the dollar store one week and they buy their vision x2 and then two or three weeks later they have to go vision x3 because the eye is deteriorating and they cannot see.

I have gone to a private optometrist for the last 30 - 35 years and she is good and I love her right to pieces and I probably won't change as long as she is in practice. Her father was my optometrist and I went to him until he retired. I have insurance and I can afford to do that. Many of my neighbors do not. Those are the ones that are buying their glasses at the Family Dollar Store. This is not right. My eye doctor has a very nice, expensive line of designer frames. Now it is not the glasses themselves that set people back all this money, it is the designer frames that all optometrists and ophthalmologists want to sell, because like any piece of retail merchandise that is not under a prescription, the markup on cosmetic, and that is what designer frames are and there is no way you can get around it.

A designer frame is a cosmetic enhancement to your appearance and the markup is about 150% above what it cost, that person to buy that frame, so this is what is happening. Many people, if they can scrape up the \$150 - \$200 to go for an eye exam at a private optometrist's just can't get by the designer frames with a very, very effective sales person saying, "These would look wonderful on you. These would enhance your face. They bring out the color of your eyes. They look good with this particular hair style." Competition is the name of the game. The optometrists in the State of Maine don't want the competition of a big box opening up and offering eye care so they came out in droves and opposed this. Well, I am asking you to put your prejudice against the big box stores to bed and vote for the constituents that are shopping at the Family Dollar Store. They are the ones that sent you down here to represent them. That is what you need to do to give them the freedom of choice and that is what this bill will do.

It seems very peculiar to me that Maine is one of only six states remaining that have the restrictions on these things. I am going to ask you to defeat the Majority Ought Not to Pass Report and go with the Minority Report. Thank you Mr. Speaker.

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

Representative BEAUDETTE: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This bill has a potential serious affect on small businesses that we have become very accustomed to when taking care of our eye care. I am talking about your community optometrist.

There is a potential risk here, from the viewpoint of having an optometrist in a large retail establishment, due to the convenience aspect your community optometrist will suffer a loss of business and it is true what the Representative from Bangor has said that glasses are or could be considered a fashion item. But, in your community optometrist's office you have your optometrist and the office staff. I would not consider them to be necessarily marketing personnel.

The possible environment should the bill itself pass that you would have associates of a retail establishment who would be hired by the optometrist in the office that obviously would have a marketing aspect to them and I would dare say that they would be more likely to advocate for the types of glasses that would be available as opposed to what might be available in your optometrist's office.

In every optometrist's office there is certainly a wide variety of eyeglasses to choose from and if it's for a customer that has a lesser means then certainly the optometrist is not going to try and sell a fashion pair of sunglasses, whether they be Diane Von Thorsenburg or whatever they may be, but would certainly recommend glasses that would be more affordable.

There is also an issue with the hours of operation. In the example certificates of agreement that we observed in the committee, these certificates included an agreement as to what the hours of the optometrist would be and that obviously a restriction imposed upon that optometrist by the retailer and is certainly pre agreed to, but with very little flexibility after the fact as opposed to an optometrist who has an office in a mall and who, for the sake of location, location, location has set up his office next to another optical retailer, but is entirely independent from that retail organization. For example, I know of one optometrist who is from Biddeford who has an office in the Maine Mall and if he needs to go to his office after hours to do some work for one of his customers or clients, that he can call mall security, they will get him into his office and he has free range and opportunity to get into his office at off hour times of the day.

We also have to take into consideration that not all retail businesses operate in the same fashion when they contract with subcontractors, or in this case, potential optometrists. Some might be more benevolent and strictly have a lease that is based on the square footage of the area that the optometrist is leasing or they may have a lease that is based on the number of appointments or visits that would be generated by the optometrist. Now, we have had assurances from the representative of one major retailer that they would do everything on a square footage basis, but we certainly had no commitment from any other potential retailer that would do the same. If we have a situation where optometrists remuneration is related to the amount of clients that they can see than I would certainly hope that most professionals would not bend to that. But certainly there is the potential, the possibility that due to the obligation of the retail they might try to see as many people as possible. I would urge everyone to please vote to support the Ought Not to Pass motion on the floor.

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. 180

YEA - Adams, Annis, Ash, Austin, Babbidge, Beaudette, Bierman, Blanchard, Bliss, Brannigan, Brautigam, Brown R, Browne W, Bryant, Bryant-Deschenes, Burns, Cain, Canavan, Carr, Clark, Clough, Craven, Cressey, Cummings, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Emery, Faircloth, Farrington,

Finch, Fischer, Fisher, Gerzofsky, Glynn, Goldman, Grose, Hanley B, Hogan, Hotham, Hutton, Jackson, Jennings, Jodrey, Kaelin, Koffman, Lerman, Lewin, Lundeen, Makas, Marley, Marraché, Mazurek, McCormick, McFadden, Merrill, Miller, Mills, Moody, Moore G, Moulton, Muse, Norton, Nutting, O'Brien, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pineau, Pingree, Piotti, Richardson D, Richardson E, Richardson W, Robinson, Rosen, Schatz, Seavey, Sherman, Shields, Smith N, Smith W, Thomas, Thompson, Trahan, Tuttle, Twomey, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Bishop, Blanchette, Bowles, Cebra, Churchill, Collins, Crosby, Curley, Curtis, Daigle, Fitts, Fletcher, Hall, Hamper, Harlow, Joy, Lansley, Lindell, Marean, McKane, McKenney, McLeod, Millett, Nass, Pinkham, Plummer, Rector, Rines, Sampson, Saviello, Stedman, Sykes, Tardy, Valentino.

ABSENT - Barstow, Berube, Bowen, Campbell, Crosthwaite, Flood, Greeley, Hanley S, Jacobsen, Pilon, Richardson M.

Yes, 106; No, 34; Absent, 11; Excused, 0.

106 having voted in the affirmative and 34 voted in the negative, with 11 being absent, and accordingly the Majority Ought Not to Pass Report was ACCEPTED and sent for concurrence. ORDERED SENT FORTHWITH.

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

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

Representative MARRACHÉ: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Had I been here this morning - there were four roll calls I would like to tell you how I would have voted - on LD 175 it would have been yea. On LD 76 it would have been yea. On LD 77 it would have been yea. On LD 78 it would have been nay.

On motion of Representative GLYNN of South Portland, the House adjourned at 12:55 p.m., until 9:00 a.m., Monday, May 23, 2005.