

# MAINE STATE LEGISLATURE

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

**Volume II**

**First Special Session**

May 26, 2005 – June 17, 2005

**Second Special Session**

July 29, 2005

**Second Regular Session**

January 4, 2006 - April 6, 2006

Pages 737-1487

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE  
FIRST SPECIAL SESSION  
24th Legislative Day  
Thursday, May 26, 2005

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

Prayer by Father Merv Lanctot, St. Matthews Episcopal Church, Lisbon Falls.

National Anthem by Students from the Governor Baxter School for the Deaf, Falmouth.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

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**COMMUNICATIONS**

The Following Communication: (S.C. 354)

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

May 25, 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 Warren M. Silver of Bangor for appointment as a Supreme Judicial Court Justice.

Upon the recommendation of the Committee on Judiciary, the nomination of Joyce A. Wheeler of Kittery for appointment as a Superior Court Justice.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

**READ and ORDERED PLACED ON FILE.**

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Doctor of the day, Lisa Letourneau, M.D., Scarborough.

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**ORDERS**

On motion of Representative WHEELER of Kittery, the following House Order: (H.O. 37)

ORDERED, that Representative Robert A. Berube of Lisbon be excused Monday, May 16th, Tuesday, May 17th, Wednesday, May 18th, Thursday, May 19th, Friday, May 20th, Monday, May 23rd, Tuesday, May 24th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Harold Ian Emery of Cutler be excused Wednesday, May 18th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Sarah O. Lewin of Eliot be excused Wednesday, May 11th for legislative business.

AND BE IT FURTHER ORDERED, that Representative Elaine Makas of Lewiston be excused Monday, May 23rd for personal reasons.

AND BE IT FURTHER ORDERED, that Representative David C. Webster of Freeport be excused Tuesday, May 24th for health reasons.

**READ and PASSED.**

**SPECIAL SENTIMENT CALENDAR**

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

**Recognizing:**

Phyllis Deschambeault, a native and lifelong resident of Saco, upon the honored occasion of her 95th Birthday, May 19, 2005. Mrs. Deschambeault is part of the first generation of women in America guaranteed the right to vote. As candidate, activist and citizen, she has proudly exercised that right for over 70 years. She attended local schools and worked at a sawmill for 10 years. In 1958, she was elected Register of Deeds for York County and for 25 years was continuously re-elected to that post. She currently serves as a Director of the Kimball Health Center, a Trustee of Lucia Kimball Deering Trust and a member of the Saco Historical Society. We salute her for being a busy grandmother, great-grandmother and an independent woman who symbolizes the independence and perseverance that is the spirit of Maine, the "Pine Tree State";

(HLS 740)

Presented by Representative VALENTINO of Saco.

Cosponsored by Senator HOBBS of York, Representative PILON of Saco.

On **OBJECTION** of Representative VALENTINO of Saco, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

The **SPEAKER**: The Chair recognizes the Representative from Saco, Representative Valentino.

Representative **VALENTINO**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Today we are here honoring Phyllis Deschambeault on her 95th birthday. It was actually last Thursday, but Phyllis was too busy to be here last Thursday between here activities with the Red Hat Society, her bowling league twice a week, her Saco Historical Society, her directorships on the board of directors for two different organizations in Saco, her hair appointments and visiting elderly shut-ins, this was the first time we could arrange in her busy, busy schedule at 95 years old to have Mrs. Deschambeault here today.

Phyllis was a wife, a mother of two children and working woman long before it was fashionable. She had worked at a local lumber yard for years when the owner of the business was once heard over-saying that Phyllis has sawdust in her vein and if she were a man she might be running this place. Well, luckily for York County she wasn't because she ran for the Registrar of Deeds. She won that first election and she won every election after that for over 25 years.

Phyllis has been a fixture in politics for over 70 years in York County. When I was running for election last year she put up signs, called voters, collected absentee ballots, wrote letters to the editor and attended every campaign meeting and party that she was invited to. I am almost embarrassed to say that not realizing she was 95, I actually dropped signs off at her house and had her put them up for me.

She lives alone in her home, she drives the car, she opens her summer camp on Ossipee Lake every year. Her past accomplishments, including clubs and committees she has belonged to, would fill a book. Phyllis has done it all with grace and style. She is truly a remarkable mother, grandmother and a very independent woman. Thank you Phyllis.

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

Representative **TWOMEY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I too want to

congratulate Phyllis on her birthday and I should have read my calendar. I didn't know that she was coming in today and this is great. Phyllis not only helps the people in Saco, she also helped me in my campaign. She was my secret weapon because for many years I was an activist in my local town and people said, "Well how did she get elected?" They will never know that I had Phyllis Deschambeault do my absentee ballots and no one can do absentee ballots like Phyllis Deschambeault.

Phyllis had befriended my little neighbor across the street. I have gone to Phyllis' camp. This woman cannot be stopped. Age just doesn't matter with Phyllis. She has more energy than all of us put together and I am not surprised that she is with the Red Hat Club. She is great; she is terrific. Happy birthday Phyllis, I am so glad to see you.

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

Representative TUTTLE: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I remember when I was a young man many years ago running for office, she always told me not to take myself too serious and Phyllis I think that because of your help I have tried to live up to that over the years.

It is hard to put into words the work that Phyllis has done, not just for people like me, but I think for the people of York County. She has spent many extra hours when she wasn't actually working to go out and communicate with people and she does it in the old fashioned way and it is something that I wish would continue today.

As has been mentioned she was the Register of Deeds for 25 years and if Phyllis had wanted to run for 50 years she still would have been elected. I salute her for her work and it's a pleasure to have her here today. God bless you Phyllis, and happy birthday.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Pilon.

Representative PILON: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I too would like to congratulate Phyllis on her 95th birthday. Although I haven't known her that long I have known her to be an example to people in politics and people in the Saco Democratic Party and she has been an inspiration to me and to people in the party that have come along. I hope that she will continue to encourage, and to keep going with getting people into the party. Thank you.

The SPEAKER: The Chair recognizes the Representative from York, Representative Moulton.

Representative MOULTON: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to congratulate Phyllis on her recent birthday. It was a little less than 25 years ago, when newly admitted to the bar that I became acquainted with the hard work of an organization which was then still processing many of those deeds down at York County by hand. I remember Phyllis and one of her staff members, Holly and the others who were patient enough with the regulars and us new ones that they helped us to do our jobs better. In fact, even years before, she even had extra time on her hands to do some of the abstracting which is now taken care of by the so called independents. Again, Mr. Speaker, I wish to congratulate her on many years of productive work. Thank you.

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

Representative BABBIDGE: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. For those that actually don't know Phyllis Deschambeault I would like to share that in 1981 when I moved south to York County and became politically active in that area local leaders, statewide leaders who I respected very much, and even dignitaries visiting from the national scene would as a first agenda item at any meeting,

honor or recognize Phyllis Deschambeault and to myself I would say, "Who is this person, this person that is so revered?" I soon came to know who Phyllis Deschambeault was. She exemplifies good humor and dedicated public service and I congratulate her very much on her accomplishment.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Hogan.

Representative HOGAN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Actually, I don't know Phyllis Deschambeault, but being so closely associated with Saco and Biddeford I feel that she must have had something to do with my election so, Happy Birthday Phyllis.

Subsequently, the sentiment was **PASSED** and sent for concurrence.

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## REPORTS OF COMMITTEE

### Ought to Pass Pursuant to Public Law

Representative NORTON for the **Joint Standing Committee on Education and Cultural Affairs** on Bill "An Act Regarding Transition Provisions for the Sharing of Costs in Certain School Districts" (EMERGENCY)

(H.P. 1189) (L.D. 1684)

Reporting **Ought to Pass** pursuant to Public Law 2005, chapter 2, Part D, section 68.

Report was **READ** and **ACCEPTED**. The Bill **READ ONCE** and **TOMORROW ASSIGNED FOR SECOND READING**.

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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.

Expression of Legislative Sentiment Recognizing Deer Isle-Stonington Elementary School Chess Teams

(HLS 772)

TABLED - May 25, 2005 (Till Later Today) by Representative PINGREE of North Haven.

PENDING - **PASSAGE**.

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

Representative PINGREE: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Like the woman that we just recognized, Phyllis Deschambeault the Deer Isle-Stonington Chess Team does not give up and I was proud and happy to rub it in last year and will do it again this year. This elementary chess team is now in its seventh year of being the State Elementary Chess Champions and they have been here the past three years and I am very proud to have them back. They traveled just a little over a month ago to Nashville, Tennessee to compete in the chess championships.

In a couple of minutes we are also going to meet with the Chief Executive and one of the chess team players said to me, "Do you think I can challenge the Chief Executive, Governor Baldacci to a chess game?" My advice to him was no because we don't want to make the governor feel bad.

These guys are experts. I am not sure what is going on on the islands of Deer Isle and Stonington, but they are chess crazy. If you go the school, the cafeteria tables are painted with chessboards. These kids play chess all the time and they are incredibly intelligent. They do as well in school as they do in chess and I am very proud to have them here today to

congratulate them again. I especially would like to also congratulate their coach, Richard Powell, who has led this team and for several years has helped make them the success that they are. He is very well regarded in the community and I am really proud of him as well.

I was trying to listen in. I don't know if the manager, Eliza Kane was also mentioned, but we would like to also add her to the sentiment because I know that she helped manage this very able team.

The last thing I will say is that in the state chess championships it was sort of close, this team normally runs away with it, but the All Saints School of Bangor had the chess team from Deer Isle-Stonington a little bit worried, Garcia pulled out a game and helped them take the lead and, once again, these kids are the chess champions. I am proud to have them here today and I thank you Mr. Speaker.

Subsequently, the Sentiment was **PASSED** and sent for concurrence.

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**Divided Report**

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act To Allow Limited Partnerships between Brewers and Wholesalers"

(S.P. 259) (L.D. 792)

Signed:

Senators:

MITCHELL of Kennebec  
PLOWMAN of Penobscot

Representatives:

FISHER of Brewer  
OTT of York  
PINKHAM of Lexington Township  
PATRICK of Rumford  
TUTTLE of Sanford  
HOTHAM of Dixfield  
MOORE of Standish  
BLANCHETTE of Bangor  
BROWN of South Berwick

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-252)** on same Bill.

Signed:

Senator:

GAGNON of Kennebec

Representative:

VALENTINO of Saco

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

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

**READ.**

On motion of Representative PATRICK of Rumford, the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence. **ORDERED SENT FORTHWITH.**

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Majority Report of the Committee on **NATURAL RESOURCES** reporting **Ought Not to Pass** on Bill "An Act To Create a 5-year Statute of Limitations for Environmental Violations"

(S.P. 218) (L.D. 682)

Signed:

Senators:

COWGER of Kennebec  
MARTIN of Aroostook

Representatives:

KOFFMAN of Bar Harbor  
THOMPSON of China  
EBERLE of South Portland  
DUCHESNE of Hudson  
TWOMEY of Biddeford

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-220)** on same Bill.

Signed:

Senator:

SNOWE-MELLO of Androscoggin

Representatives:

JOY of Crystal  
ANNIS of Dover-Foxcroft  
DAIGLE of Arundel  
SAVIELLO of Wilton  
ROSEN of Bucksport

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

**READ.**

Representative EBERLE of South Portland 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.

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Majority Report of the Committee on **TRANSPORTATION** reporting **Ought to Pass** on Bill "An Act To Amend the Law Governing Use of Seat Belts"

(S.P. 25) (L.D. 80)

Signed:

Senators:

DAMON of Hancock  
SAVAGE of Knox  
DIAMOND of Cumberland

Representatives:

MARLEY of Portland  
PARADIS of Frenchville  
SAMPSON of Auburn  
HOGAN of Old Orchard Beach  
BROWNE of Vassalboro

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

Signed:

Representatives:

MAZUREK of Rockland  
McKENNEY of Cumberland  
COLLINS of Wells  
THOMAS of Ripley

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

**READ.**

On motion of Representative MARLEY of Portland, the Minority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-491)** on Bill "An Act Regarding Occupational Safety and Health Training for Workers on State-funded Construction Projects" (H.P. 1146) (L.D. 1628)

Signed:

Senators:

STRIMLING of Cumberland  
BARTLETT of Cumberland

Representatives:

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

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

Signed:

Senator:

SNOWE-MELLO of Androscoggin

Representatives:

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

**READ.**

Representative SMITH of Van Buren moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

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Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-494)** on Bill "An Act To Reform County Government" (H.P. 40) (L.D. 44)

Signed:

Senator:

SCHNEIDER of Penobscot

Representatives:

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

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

Signed:

Senators:

ROTUNDO of Androscoggin  
ANDREWS of York

Representatives:

MOULTON of York  
CROSTHWAITE of Ellsworth  
SCHATZ of Blue Hill

**READ.**

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

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

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Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought Not to Pass** on Resolve, Directing the Department of Conservation, Bureau of Parks and Lands To Restore the Taylor Camps (H.P. 1148) (L.D. 1630)

Signed:

Senators:

NUTTING of Androscoggin  
BRYANT of Oxford  
RAYE of Washington

Representatives:

PIOTTI of Unity  
PINEAU of Jay  
JODREY of Bethel  
JENNINGS of Leeds  
MAREAN of Hollis  
LUNDEEN of Mars Hill  
FLOOD of Winthrop  
TWOMEY of Biddeford

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

Signed:

Representative:

CARR of Lincoln

**READ.**

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

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

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Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought Not to Pass** on Resolve, To Transfer Ownership of Certain Public Reserved Lands to the Town of Allagash (H.P. 653) (L.D. 934)

Signed:

Representatives:

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

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-504)** on same Resolve.

Signed:

Senators:

NUTTING of Androscoggin  
BRYANT of Oxford  
RAYE of Washington

**READ.**

Representative PIOTTI of Unity 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.

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Majority Report of the Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-513)** on Resolve, To Reestablish the Health Care System and Health Security Board (EMERGENCY)

(H.P. 35) (L.D. 32)

Signed:

Senators:

SULLIVAN of York  
MILLS of Somerset  
MAYO of Sagadahoc

Representatives:

PERRY of Calais  
BRAUTIGAM of Falmouth  
PILON of Saco  
GLYNN of South Portland  
RICHARDSON of Warren  
MARRACHÉ of Waterville  
HARLOW of Portland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-514)** on same Resolve.

Signed:

Representatives:

McKANE of Newcastle  
LINDELL of Frankfort  
VAUGHAN of Durham

**READ.**

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

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

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Majority Report of the Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought Not to Pass** on Bill "An Act Concerning the Regulation of Certain Information to Protect Privacy"

(H.P. 1156) (L.D. 1638)

Signed:

Senators:

SULLIVAN of York  
MAYO of Sagadahoc

Representatives:

PERRY of Calais  
McKANE of Newcastle  
PILON of Saco  
VAUGHAN of Durham  
GLYNN of South Portland  
RICHARDSON of Warren  
MARRACHÉ of Waterville

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-516)** on same Bill.

Signed:

Senator:

MILLS of Somerset

Representatives:

BRAUTIGAM of Falmouth

LINDELL of Frankfort

HARLOW of Portland

**READ.**

Representative PILON of Saco 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.

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## CONSENT CALENDAR

### First Day

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

(H.P. 70) (L.D. 74) Bill "An Act To Increase the Property Tax Exemption for Veterans" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-529)**

(H.P. 98) (L.D. 122) Bill "An Act To Allow Insurers To Limit Their Uninsured Motorist Coverage to Persons Listed on the Policy" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-512)**

(H.P. 175) (L.D. 236) Bill "An Act To Change Nonresident Income Tax Filing Requirements" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-530)**

(H.P. 594) (L.D. 835) Resolve, To Establish the Blue Ribbon Commission on the Future of MaineCare Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-523)**

(H.P. 806) (L.D. 1163) Bill "An Act To Amend the Laws Regulating Street Rods and Custom Vehicles" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-517)**

(H.P. 819) (L.D. 1190) Bill "An Act To Create State Drug Schedules and Place Additional Restrictions on Prescribing Benzodiazepines" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-521)**

(H.P. 1071) (L.D. 1524) Bill "An Act To Update Professional and Occupational Licensing Laws" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-522)**

(H.P. 1167) (L.D. 1656) Bill "An Act To Retain Maine's Theater Teachers" (EMERGENCY) Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-520)**

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.

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

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**BILLS IN THE SECOND READING**

**Senate as Amended**

Bill "An Act To Limit the Political Activity of the Members of the Commission on Governmental Ethics and Election Practices" (S.P. 247) (L.D. 749) (C. "A" S-223)

Bill "An Act To Strengthen the Penalties for Sales to Minors or Purchases by Minors of Alcoholic Beverages" (S.P. 311) (L.D. 903) (C. "A" S-237)

Resolve, Directing the Plumbers' Examining Board To Adopt the International Plumbing Code (S.P. 373) (L.D. 1056) (C. "B" S-132)

**House**

Resolve, Directing the Department of Professional and Financial Regulation and the Maine Community College System To Develop a Proposal To Certify Home Repair Tradespersons To Perform Limited Plumbing and Electrical Work (H.P. 987) (L.D. 1423)

**House as Amended**

Bill "An Act To Amend the Electronic Insurance Cancellation Notification Law" (EMERGENCY) (H.P. 467) (L.D. 634) (C. "A" H-518)

Bill "An Act To Amend the Laws Governing Concealed Firearms Permits" (H.P. 624) (L.D. 874) (C. "A" H-385)

Bill "An Act To Promote Stability in Labor Relations" (H.P. 776) (L.D. 1123) (C. "A" H-492)

Bill "An Act To Protect Children from Toxic Chemicals in Schools" (H.P. 800) (L.D. 1157) (C. "A" H-489)

Resolve, Regarding Legislative Review of Chapter 920: Maine Model Building Energy Code, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY) (H.P. 1127) (L.D. 1591) (C. "A" H-510)

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

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

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

**UNFINISHED BUSINESS**

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

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (H-443)** - Minority (5) **Ought Not to Pass** - Committee on **LABOR** on Bill "An Act To Ensure Compliance with Safety Regulations" (H.P. 856) (L.D. 1238)

TABLED - May 23, 2005 (Till Later Today) by Representative TUTTLE of Sanford.

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

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

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

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

Representative DUPREY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. This is a bill that is basically a strikebreaker bill in a different disguise. It has to do with hazardous materials. We are going to say to companies that deal with hazardous materials, that if you bring replacement workers in and if you are going to start a company than you have to have your people hazardous materials trained. There are already laws to protect that, but what we are going to tell you here is that if you were to go on strike and bring replacement workers into your company then they have to have a certain qualification. The Department of Labor is going to come in and check them out.

The Department of Labor wasn't too hot on this idea and what they also testified to was that when they do come in, according to the bill they are going to be able to shut down that operation if even one person is not trained in these hazardous materials. Now, this also includes a Wal-Mart distribution center that is being built. Any new operations being built that have 250 more employees are going to be covered under this bill.

You know what, a forklift is considered to have hazardous materials in it. So, the Department of Labor can shut them down if they can find one person in there that might not be trained. The bill has very serious ramifications. I know what the intent was trying to do and I applaud the strikebreaker people from the mill in Jay. They have been very persistent on this, but I really don't think this is the right way to go. This includes more than just mills. It includes any business that is going to employ over 250 people. That is a lot of people. That is a big employer.

For us to send this message to any other states or to businesses that want to move to Maine that we are going to be that unfriendly then you know what, when you open your operations we are going to watch you and the Department of Labor can shut you down and have you cease operations if even one person might not be trained. I urge you to vote against the pending motion.

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

Representative SMITH: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. First point, this is not a strikebreaker bill. This is a safety bill. This provides that when a mill employing more than 250 people has shut down and then resumes operation that there will be a safety inspection by the Bureau of Labor Standards to see that it is in compliance with the safety regulations. This is what ensures safety for employees and for people living near the mills.

Keep in mind that the original bill provided for a shutdown of the operation until after the inspection. This bill's amendment does not do that. The amendment provides that the mill is in operation but if something shows up in the course of inspection that requires it can't be fixed without shutdown then it will be shut down to fix the problem. We are talking safety and we are talking human lives. We are talking keeping the people of Maine able to work in a safe environment. We ask you to support the Ought to Pass as Amended Report. Thank you.



The SPEAKER: The Chair recognizes the Representative from Cornish, Representative Cressey.

Representative **CRESSEY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In Labor Committee, William Peabody, Director of the Bureau of Labor Standards for the Maine Department of Labor stated and just to preface, Representative Smith is correct, the business will be shut down, but I would like to fill in the gap of what he left out, which is how long the business will be shut down. Quoting from Mr. Peabody's testimony to the Labor Committee given the notice requirements such a determination is unlikely to occur in less than a month - a costly, non-productive month for the employer. Do you really want employees in the State of Maine to permanently lose their jobs? No business, not one single business in the State of Maine can afford to be shut down for one month and not be receiving or generating any revenue." Vote against this bill.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Pineau.

Representative **PINEAU**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is my bill.

This bill came forward from a lesson we learned in Jay when an entire workforce was replaced in a manufacturing plant. February 5, 1988, when the replacement workers were working at the plant, a piece of equipment was broken that released a huge amount of chlorine dioxide gas. Fortunately, for the Town of Jay at the time the temperature was five degrees above zero. The plant is across the Androscoggin River from our entire school system - high school, middle school and grammar school. Had the temperature been warmer that gas would have drifted across with the prevailing westerly wind right toward our school.

The fact is that these people who replaced the workers in that plant were not qualified or trained to deal with the materials that they were dealing with. What this bill would allow is for the department to come in and verify that if you have a new workforce or a workforce that you have changed be qualified to handle it. Had that happened in this case the department would have stepped in, shut the plant down and allowed the company time to train these people to properly handle that material. Since 1988 not only have we learned from that experience, we have all kinds of hazardous materials being handled now by workers who in some instances don't even speak English.

The Department of Labor needs to get a better handle, especially in our communities, on who is doing what. This bill would allow the department to come in and do that. Thank you Mr. Speaker.

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

Representative **SMITH**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just want to respond very briefly to Representative Cressey's remarks.

The statement that Representative Cressey read to you from William Peabody was his statement at the hearing on the initial bill. We have corrected the provision in that bill which provided for inspection before commencement of operations. The amendment specifically provides that operations commence and the inspection comes in while the operation is going on. There is no shut down from the initial operation.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Trahan.

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

The SPEAKER: The Representative may pose his question.

Representative **TRAHAN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. To anyone who might

answer, in the case of very controversial strikes, it has been my experience that both sides on a strike can do things that they probably shouldn't do. In my personal experience, equipment was destroyed by angry workers and then when the strike was over people had to go back to work. How would this bill affect that sort of situation, where actual strikers destroyed equipment and then when they went back to work it is very well likely that the plant could be shut down, not because of the fault of the employer, but because of the fault of the workers who destroyed the equipment? Could someone answer that question please.

The SPEAKER: The Representative from Waldoboro, Representative Trahan has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative **SMITH**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Certainly any criminal acts for damaging equipment are something that none of us in this House would want to see and any such evidence of such should be criminally prosecuted. However, we would expect that any reasonable employer, before commencing work would have inspected their own facilities anyway and would have tested their equipment to determine its ability to function. So, I would assume that that particular problem is something that would be considered in the course of resuming operation.

One other thing that I would like to mention at this time however is that mill employers recognize the need for safety and training and it is exemplified at the Lincoln Pulp and Paper mill when last year it resumed employment. It came to the State of Maine and secured over \$400,000 in VTI funds for training of its employees, so I believe that everybody in the industry, employer and employees, recognize the need for safety and training and this bill exemplifies that. Thank you.

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

Representative **HALL**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. It is great to have my voice back this morning. A couple of things about this bill. The first thing that we heard about Jay in 1988 - that was 17 years ago folks - we had one incidence and it is my understanding that that incident in Jay there were some subcontractors who were brought in who were not even employees at the mill and who, because of the fact that it was so cold out and because Mars was aligned with Jupiter just right, a freak accident happened. Had it not been so cold the valve that broke releasing the chlorine gas would not have broken. So, there were an awful lot of ifs - if this, if that - then this wouldn't have happened. The bottom line is this law that we have and this bill that we have in front of us today would have done nothing to prevent that accident that occurred in Jay. Furthermore, you may all be aware that we have an organization called OSHA, the Occupational Safety and Health Administration that has jurisdiction in this matter. They are out inspecting all the time if there is something going on. If there is a strike and all the workers are replaced with replacement workers and there are unsafe situations then anybody can pick up the phone and call OSHA and say, hey there is stuff going on here, OSHA will come and do the inspection.

This bill, if passed has a fiscal note on it. It is going to cost between \$50,000 to \$70,000 per year, every year to do inspections that OSHA will willingly come do if they need to be done in order to prevent all of the accidents that have happened in the last 17 years. They can't come up with anything other than this one incident that happened in Jay, which this bill wouldn't have even corrected. So, you are being asked bottom line to spend between \$50,000 to \$70,000 a year. Let's not play games. Let's not call it something it isn't. This bill is designed to transfer

a little bit of balance from business owners to employees that want to go on strike. It has nothing to do with safety. It is a wolf in sheep's clothing is what it is. It is cleverly designed to look like a bill that is about safety and I will tell you the same thing that I asked the folks that came in to testify.

I said, "If this is such a huge public safety issue and lots of lives are at risk than why don't we just do the same thing that we do with our public safety officials? Why don't we do the same thing that we do with air traffic controllers? You can't go on strike because your job is so important and it is so vital to public safety that you can't leave and go on strike or you are going to create a huge, huge public safety issue." The answer was, "We couldn't possibly do that." Why? Because it would shift the power in labor negotiations toward the business owners and that is not what we are trying to accomplish. So, I am going to urge you to not accept the Majority Ought to Pass. Do one more thing that is guaranteed in addition to the \$50,000 to \$70,000 that is going to be spent by the department of labor every year.

There is going to be substantial litigation costs. If you look at the history of strikebreaker bills that we have tried and tried and tried, year after year to pass. This body has passed several of them and millions of dollars have been spent litigating these and we have lost. The laws have been held to be unconstitutional time and time and time again. This is a very clever, very unique attempt to pass a strikebreaker law and call it something different. I urge you to vote against the pending motion. Do not accept the Majority Ought to Pass. Leave the status quo as it is. There is not a safety issue here. Thank you men and women of the house.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Pineau.

Representative PINEAU: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. OSHA was in effect in 1988 and OSHA did come to the plant on many occasions in 1988 to address all kinds of items in the plant including the death of some employees, some of the new employees; that weren't qualified to handle the jobs.

This bill is not a strike bill. It is a bill to change of work force. At a certain time it probably would have been a good strikebreaker bill, but that is not what it is. If you have a new work force or if you change a work force it will allow the department to come in and verify that these people are qualified to handle the materials that they did. Had the temperature on that morning in February been warmer 1,000 of our children would have probably died and a number of citizens along the riverbanks of the Androscoggin River. Again, this is a change of workforce bill. If the change happens to be because of a strike or you are building a huge facility or if you are changing part of a work force, this will allow the department to come in, take a look and make sure that these people are qualified to handle the material that is there. If not, your community is at risk and I will tell you that. Your community is at risk. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Dixfield, Representative Hotham.

Representative HOTHAM: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Having lived the experience of a work stoppage or a strike in 1988 I can tell you that I was concerned, as someone standing on the outside, about who was doing what on the inside. Safety experts will tell you that when there is an issue. When people are at danger the most is when they are doing something that they are not accustomed to and that is a dangerous situation. I can also tell you that OSHA is not very quick to respond to complaints during a work stoppage, because they feel a little bit like they are a pawn in all that. The point made just a few minutes ago by the good

Representative from Jay, Representative Pineau is right on the money. We have communities that live around these mills. These mills are chemical plants. We need to know that safety is first and foremost under these very strenuous situations when there is a work stoppage in place and the owners and managers of that mill are trying to meet orders and obligations. The community needs to know that it is safe and I believe that this bill will help assure that. Thank you Mr. Speaker.

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 think I heard that it was really not a safety or training issue. I beg to differ with that. I work in one of these companies that make me take hundreds of hours of training in order to perform my job and my job is a basic mechanic in the paper industry.

I have to go into areas in pulp mills, recovery boilers, chemical plants and those people have to have four times the amount of training. As a matter of fact these companies will not allow an employee to go from one job to the other without having weeks upon weeks of training to make sure that won't blow up the plant and blow up the communities around them.

I think that this is more like an OSHA safety bill where, after the fact that something catastrophic happens then they will come over, but most of the time you will probably have a better chance of seeing Bigfoot than getting OSHA there. Just because you call them doesn't mean that they are going to come. You have got to have some compelling reason for them to come, but every job in that paper industry, even the sweeper, has to have a minimal amount of training. Then you get the chemical unloaders that unload 8,000 gallons of chlorine-dioxide, sodium hypochlorite, sulfuric acid, hydrochloric acid and many other things.

If you look at the MSDS sheets in the paper industry it is probably eight, ten or twelve inches thick. I cannot imagine that if a coworker comes to work for me right off the street I would want to work with that guy because one, I don't know what he has got for skills and two, I want to see his training. I can punch the computer in my plant and hit print on training and I will get page upon page upon page of mandatory trainings that I have. Not voluntary trainings, mandatory trainings by these companies. This is a training issue. To me, if we don't pass this bill we have done an injustice to the workers of the State of Maine and to businesses in the State of Maine. Why is it that an industry and businesses themselves require this training until they decide to get rid of their whole work force and will then take every Tom, Dick and Harry. Please follow my light and support the Ought to Pass as Amended Report. Thank you.

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

Representative HALL: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise again just to reiterate points that I made earlier. There was one incident that happened 17 years ago. It was a freak accident. It happened because the weather was so cold on that day. Had the weather not been so cold the accident wouldn't have happened. You keep hearing that if it had been warmer than this chlorine gas cloud would have floated across the river. If it had been warmer the valve would not have broke. Please remember that. There has been no other incident in 17 years since then involving replacement workers. This issue at this mill did not involve replacement workers. This was an outside business that came in and was doing work and they caused this accident to happen. Again, it was a freak accident. Accidents happen.

If the regular crew that was out on strike had been there working at the Jay mill when this accident happened it still would

have happened. Don't let anybody convince you that this bill is anything other than what it is. This bill is going to cost the state of Maine \$50,000 to \$70,000 per year and it is going to cause substantial difficulty as we are trying to replace all of these jobs that have been lost to military base closings. Ultimately, when we are done spending who knows how much money fighting this out in court it is going to be struck down again as unconstitutional and workers who have gone out on strike thinking they were protected by this bill are not going to have a job. Everybody loses when we pass this bill. Please, I urge you follow my light and vote to reject the pending motion.

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

Representative GROSE: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Having worked at Bath Iron Works for eight years and during the strike of 1985 we had people coming in to replace us. We had more accidents during that time with people who did not have the qualifications to do the job that they should have had the training for. Needless to say, we ended up with a ship that was built with a crooked bow. Thank you.

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

**ROLL CALL NO. 210**

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

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

ABSENT - Canavan, Daigle, Driscoll, Glynn, McLeod, Moore G, Perry, Schatz.

Yes, 72; No, 71; Absent, 8; Excused, 0.

72 having voted in the affirmative and 71 voted in the negative, with 8 being absent, and accordingly the Majority Ought to Pass as Amended Report was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (H-443) was READ by the Clerk and ADOPTED. The Bill was assigned for SECOND READING Tuesday, May 31, 2005.

An Act To Amend the Maine Criminal Code Regarding Deferred Disposition and Administrative Release

(H.P. 939) (L.D. 1356)

TABLED - May 23, 2005 (Till Later Today) by Representative CUMMINGS of Portland.

PENDING - PASSAGE TO BE ENACTED.

On motion of Representative BLANCHETTE of Bangor, the rules were SUSPENDED for the purpose of RECONSIDERATION.

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

The same Representative PRESENTED House Amendment "A" (H-536) which was READ by the Clerk.

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. House amendment A to L.D. 1356 makes the language in this permissive rather than mandatory for the courts to impose a mandatory supervision fee of not more than \$50 per month. This was run by the chief sponsor Representative Sykes, from Harrison, and he was perfectly agreeable with it. The language is a little easier for the courts to administer and payment will be going through the District Attorney's Office. Thank you Mr. Speaker.

Subsequently, House Amendment "A" (H-536) was ADOPTED.

The Bill was PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-536) in NON-CONCURRENCE and sent for concurrence. ORDERED SENT FORTHWITH.

HOUSE DIVIDED REPORT - Majority (12) Ought to Pass as Amended by Committee Amendment "A" (H-453) - Minority (1) Ought to Pass as Amended by Committee Amendment "B" (H-454) - Committee on LEGAL AND VETERANS AFFAIRS on Bill "An Act To Provide Uniform Voter Verification and Recount Requirements for Voting Machines"

(H.P. 711) (L.D. 1026)

TABLED - May 23, 2005 (Till Later Today) by Representative PATRICK of Rumford.

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

Subsequently, the Majority Ought to Pass as Amended Report was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (H-453) was READ by the Clerk.

Representative PATRICK of Rumford PRESENTED House Amendment "A" (H-508) to Committee Amendment "A" (H-453), which was READ by the Clerk.

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. This amendment comes to us from a former member of the Legal and Veteran's Affairs Committee who brought to my attention an issue that needed a little bit of clarity. This amendment clarifies that except for accessible voting equipment that must be provided by 2006 in compliance with the Federal Help America Vote Act of 2002, voting machines must include a paper audit trail function. I thank the good Representative from South Portland for bringing that to my attention in order to add clarity to this bill. Thank you.

Subsequently, House Amendment "A" (H-508) to Committee Amendment "A" (H-453) was ADOPTED.

Committee Amendment "A" (H-453) as Amended by House Amendment "A" (H-508) thereto was ADOPTED. The Bill was assigned for SECOND READING Tuesday, May 31, 2005.

The House recessed until 11:30 a.m.

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(After Recess)

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The House was called to order by the Speaker.

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

**SENATE PAPERS**

The following Joint Order: (S.P. 629)

ORDERED, the House concurring, that when the House stands adjourn it does so until Tuesday, May 31, 2005, at 9:00 in the morning and the Senate does so until Tuesday, May 31, 2005, at 10:00 in the morning.

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

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**CONSENT CALENDAR**

**First Day**

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

(S.P. 63) (L.D. 157) Bill "An Act Concerning the Disclosure of Juror Information" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-244)**

(S.P. 163) (L.D. 537) Bill "An Act Relating to Animals in Food Stores and Restaurants" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-245)**

(S.P. 300) (L.D. 892) Bill "An Act To Ensure an Adequate Supply of a Skilled Health Care Workforce" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-241)**

(S.P. 370) (L.D. 1053) Bill "An Act To Protect Maine Harness Racing from Illegal Wagering" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-246)**

(S.P. 388) (L.D. 1126) Bill "An Act To Encourage the Purchase of Meat Produced without Nontherapeutic Antibiotics" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-250)**

(S.P. 407) (L.D. 1179) Bill "An Act To Establish Duties for Persons Who Hold Durable Powers of Attorney or Act as Responsible Parties for Residents of Long-term Care Facilities" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-248)**

(S.P. 424) (L.D. 1210) Bill "An Act To Amend the Laws Relating to Corporations, Limited Partnerships, Limited Liability Companies and Limited Liability Partnerships" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-247)**

(S.P. 482) (L.D. 1393) Resolve, To Authorize the Department of Conservation To Place Priority on Access to Certain Prominent Water Bodies under the Land for Maine's Future Program Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-240)**

(S.P. 571) (L.D. 1597) Bill "An Act To Compensate the Gambling Control Board" (EMERGENCY) Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-253)**

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. **ORDERED SENT FORTHWITH.**

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**REPORTS OF COMMITTEE**

**Divided Report**

\* Majority Report of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-525)** on Bill "An Act To Amend the Definition of 'Funeral Establishment'"

(H.P. 736) (L.D. 1083)

Signed:

Senators:

BROMLEY of Cumberland  
HOBBINS 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

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

Signed:

Senator:

DOW of Lincoln

Representatives:

BERUBE of Lisbon  
CROSBY of Topsham

**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" (H-525)** was **READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Tuesday, May 31, 2005.

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Majority Report of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought Not to Pass** on Resolve, To Improve Maine's Economic Competitiveness

(H.P. 213) (L.D. 288)

Signed:

Senators:

BROMLEY of Cumberland  
HOBBINS of York

DOW of Lincoln

Representatives:

SMITH of Monmouth  
O'BRIEN of Lewiston  
FARRINGTON of Gorham  
BERUBE of Lisbon  
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" (H-526)** on same Resolve.

Signed:

Representatives:

RECTOR of Thomaston  
AUSTIN of Gray  
ROBINSON of Raymond

**READ.**

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

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Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-531)** on Bill "An Act To Require That a Person Arrested on a Domestic Violence Charge Be Held for at Least 4 Hours before Being Released on Bail" (H.P. 712) (L.D. 1027)

Signed:

Senators:

DIAMOND of Cumberland  
CLUKEY of Aroostook

Representatives:

BLANCHETTE of Bangor  
PLUMMER of Windham  
HANLEY of Gardiner  
GREELEY of Levant  
PARADIS of Frenchville  
GERZOFSKY of Brunswick  
GROSE of Woolwich

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

Signed:

Representatives:

CHURCHILL of Washburn  
SYKES of Harrison

**READ.**

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

The Bill was **READ ONCE. Committee Amendment "A" (H-531)** was **READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Tuesday, May 31, 2005.

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Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act To Permit Interstate Wine and Malt Liquor Sales and Delivery to Homes" (H.P. 415) (L.D. 560)

Signed:

Senators:

MITCHELL of Kennebec  
GAGNON of Kennebec

Representatives:

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

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-527)** on same Bill.

Signed:

Senator:

PLOWMAN of Penobscot

Representative:

OTT of York

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

**READ.**

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

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

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Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-534)** on Resolve, Directing the Secretary of State To Request That the United States Secretary of Transportation Place Maine in the Atlantic Standard Time Zone (H.P. 1050) (L.D. 1493)

Signed:

Senators:

SCHNEIDER of Penobscot  
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  
SCHATZ of Blue Hill

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

Signed:

Senator:

ROTUNDO of Androscoggin

**READ.**

Representative BARSTOW of Gorham moved that the House **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:** The Chair recognizes the Representative from Gorham, Representative Barstow.

Representative **BARSTOW:** Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I do want to specify and make sure that the house knows before we vote on this matter that this is to send this issue out to referendum, not to make the actual change. I would encourage you to look at that and make your decision as you may. Thank you Mr. Speaker.

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. 211**

YEA - Annis, Barstow, Berube, Bierman, Bishop, Blanchard, Bliss, Bowen, Brannigan, Bryant-Deschenes, Cain, Campbell, Canavan, Cebra, Churchill, Clark, Craven, Crosthwaite, Cummings, Curtis, Davis K, Duchesne, Dugay, Duplessie, Duprey, Edgecomb, Finch, Fitts, Fletcher, Hall, Hamper, Hanley B, Hanley S, Hogan, Hotham, Jacobsen, Joy, Lansley, Lindell, Marean, Marraché, McCormick, McKane, Miller, Moulton, Muse, Paradis, Pilon, Plummer, Richardson E, Richardson M, Rosen, Sampson, Saviello, Sherman, Shields, Smith N, Smith W, Stedman, Sykes, Thompson, Tuttle, Twomey, Vaughan, Walcott, Webster.

NAY - Adams, Ash, Austin, Babbidge, Beaudette, Blanchette, Bowles, Brautigam, Brown R, Browne W, Bryant, Burns, Carr, Clough, Collins, Cressey, Crosby, Curley, Davis G, Dudley, Dunn, Eberle, Eder, Faircloth, Farrington, Fischer, Fisher, Flood, Gerzofsky, Goldman, Greeley, Grose, Harlow, Hutton, Jackson, Jennings, Jodrey, Kaelin, Koffman, Lerman, Lundeen, Makas, Marley, Mazurek, McFadden, McKenney, Merrill, Millett, Mills, Moody, Nass, Nutting, O'Brien, Ott, Patrick, Pelletier-Simpson, Percy, Pineau, Pingree, Piotti, Rector, Richardson D, Richardson W, Rines, Robinson, Seavey, Tardy, Thomas, Trahan, Valentino, Watson, Wheeler, Woodbury.

ABSENT - Daigle, Driscoll, Emery, Glynn, Lewin, McLeod, Moore G, Norton, Perry, Pinkham, Schatz, Mr. Speaker.

Yes, 66; No, 73; Absent, 12; Excused, 0.

66 having voted in the affirmative and 73 voted in the negative, with 12 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.

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Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-249)** on Bill "An Act To Require that Division Heads within the Department of Agriculture, Food and Rural Resources Be Unclassified" (S.P. 270) (L.D. 815)

Signed:

Senators:

NUTTING of Androscoggin

BRYANT of Oxford

RAYE of Washington

Representatives:

PIOTTI of Unity

JENNINGS of Leeds

MAREAN of Hollis

LUNDEEN of Mars Hill

SHERMAN of Hodgdon

PINEAU of Jay

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

Signed:

Representatives:

CARR of Lincoln

JODREY of Bethel

FLOOD of Winthrop

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-249).**  
**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 Unity, Representative Piotti.

Representative PIOTTI: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Allow me to take a moment to explain this bill. At present in the Department of Agriculture only the Commissioner and the Deputy Commissioner are political appointments. In most, if not all other departments the next tier of management is also politically appointed. This bill would make the five division directors political appointments as well, beginning in January 2007, after the next gubernatorial election. This would make the Department of Agriculture similar to other departments and it would also return the Department of Agriculture to what it was until six to eight years ago when the Legislature took this action.

Now, the Committee on Agriculture, Conservation and Forestry has worked very hard and very successfully this year on developing consensus on issues, which is why you will not see too many of our bills before you for debate. But, this is one where, despite our tendency for consensus, we fell short. That is because it is really something that you can easily argue both ways. So, ladies and gentlemen we leave it in the wiser hands of this body to decide. Thank you.

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

Representative TWOMEY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Yes indeed. I am on the other side on this one as other members of our committee are and I would like to tell you why I chose to vote against this. I believe that we have some very good people working in the Ag Department. There are some ugly rumors about a certain member that has done wrong things and I don't think that is for me to judge. I think that this is a vehicle to do that. I think we have just cause in the State of Maine. We have free will. This is an at-will state rather, and if you have just cause someone can be fired.

I think that this targets good people and we have many. I think that is made them nervous and I am not going to be judge and jury. I think that if someone has done something wrong then they should be fired for that and I think that we shouldn't take this vehicle. I feel that I should take the responsibility for pushing that button and making good people be declassified. So, I could not support that. It was an instinct. It was something that I felt was being targeted for the wrong reasons and I am truly convinced that this is not the right thing to do. Thank you.

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

Representative CARR: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just want to take a short time to explain my concerns with allowing this to go forward. Number one, I think that it sets a bad precedent. The precedent being that if there is somebody in a department that you don't wish to be there then it would be very easy to put a bill in and to move those to a classified position so that the hierarchy of the administration could remove those people. It has only been six or seven years, as I remember, that these people had been changed to become classified people and there was a reason for that at the time. That was to keep some continuity of the work force that you have in the department and that is why we have those people in a lot of the other departments.

If these people were moved then we would be allowing them to be dismissed. Effective after the next election, whoever comes in would be able to replace these people. Some of those people have been there for many years, more than 20 years. I think that

it is a bad precedent to start and I think that if it works here then we can do it in other departments. That is the reason I vote against it and I would urge you to vote against it as well. Thank you.

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

Representative SHERMAN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As the good Chair of the committee said, this can be argued either way. I would rather not argue with the individuals involved because that then personalizes it. I think the commissioner really needs the power to run his department. As already said, this was a case up until six years ago and I think that that individual comes in to run the department needs to be able, if you will, to put his imprint on that department. Maybe, without going into some detail, maybe more aggressive about some of the programs that they run. So, I think that to me this is not about personalities. Anytime that you put a bill in like this it tends to go that way, but it is the idea of whether a commissioner who goes into any of these departments can run that department as he sees fit or as a new governor would like to see that department run. So for that reason, I voted to declassify these positions as they had been six years ago.

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

Representative CARR: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I do want to just make it clear, and I don't think that it has been cleared up, this bill did not come from the department. This was not a department request. This came from a member of our committee actually and I think that is important.

Representative CARR of Lincoln 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. 212

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Bierman, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Bryant-Deschenes, Burns, Cain, Canavan, Cebra, Churchill, Clark, Clough, Craven, Cressey, Crosby, Crosthwaite, Cummings, Curley, Curtis, Davis K, Duchesne, Dudley, Dugay, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Faircloth, Farrington, Finch, Fischer, Fisher, Fitts, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hall, Hanley S, Harlow, Hotham, Hutton, Jacobsen, Jennings, Joy, Koffman, Lerman, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McFadden, McKane, McKenney, Merrill, Millett, Moody, Nass, Nutting, O'Brien, Ott, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Saviello, Seavey, Sherman, Smith N, Smith W, Stedman, Sykes, Tardy, Thomas, Thompson, Tuttle, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bishop, Campbell, Carr, Collins, Davis G, Fletcher, Flood, Hamper, Hanley B, Hogan, Jackson, Jodrey, Kaelin, Lansley, Lindell, McCormick, Miller, Moulton, Muse, Paradis, Plummer, Rines, Shields, Twomey, Valentino, Vaughan.

ABSENT - Daigle, Driscoll, Emery, Lewin, McLeod, Mills, Moore G, Norton, Sampson, Schatz, Trahan.

Yes, 111; No, 29; Absent, 11; Excused, 0.

111 having voted in the affirmative and 29 voted in the negative, with 11 being absent, and accordingly the Majority Ought to Pass as Amended Report was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (S-249) was READ by the Clerk and ADOPTED. The Bill was assigned for SECOND READING Tuesday, May 31, 2005.

#### 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.

SENATE DIVIDED REPORT - Majority (12) Ought Not to Pass - Minority (1) Ought to Pass as Amended by Committee Amendment "A" (S-251) - Committee on LEGAL AND VETERANS AFFAIRS on Resolve, Authorizing Karen Davis To Sue the State

(S.P. 397) (L.D. 1133)

- In Senate, Majority OUGHT NOT TO PASS Report READ and ACCEPTED.

TABLED - May 25, 2005 (Till Later Today) by Representative TUTTLE of Sanford.

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

Subsequently, the Majority Ought Not to Pass Report was ACCEPTED in concurrence.

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

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

HOUSE DIVIDED REPORT - Majority (8) Ought to Pass as Amended by Committee Amendment "A" (H-494) Minority (5) Ought Not to Pass - Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act To Reform County Government" (H.P. 40) (L.D. 44)

Which was TABLED by Representative BARSTOW of Gorham pending his motion to ACCEPT the Majority Ought to Pass as Amended Report.

The same Representative WITHDREW his motion to ACCEPT the Majority Ought to Pass as Amended Report.

On motion of the same Representative the Minority Ought Not to Pass Report was ACCEPTED and sent for concurrence. 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:

(H.P. 81) (L.D. 105) Bill "An Act To Amend the Laws Pertaining to Temporary Guardianship" Committee on JUDICIARY reporting Ought to Pass as Amended by Committee Amendment "A" (H-541)

(H.P. 199) (L.D. 260) Bill "An Act To Amend the Laws Governing Mechanics Liens" Committee on JUDICIARY reporting Ought to Pass as Amended by Committee Amendment "A" (H-540)



(H.P. 287) (L.D. 385) Bill "An Act To Limit the Liability of Ambulance Services in Maine" Committee on JUDICIARY reporting **Ought to Pass as Amended by Committee Amendment "A" (H-543)**

(H.P. 557) (L.D. 780) Bill "An Act To Allow a Landlord To Discover Whether Sewer and Water Bills Have Been Paid" Committee on JUDICIARY reporting **Ought to Pass as Amended by Committee Amendment "A" (H-539)**

(H.P. 610) (L.D. 859) Bill "An Act To Provide Greater Civil Relief Protection for Members of the Military" Committee on JUDICIARY reporting **Ought to Pass as Amended by Committee Amendment "A" (H-538)**

(H.P. 985) (L.D. 1421) Bill "An Act To Address the Constitutionality of Maine's Resident-only Lobster License" Committee on JUDICIARY reporting **Ought to Pass as Amended by Committee Amendment "A" (H-544)**

(H.P. 1077) (L.D. 1532) Bill "An Act To Modify Liability To Protect Maine Citizens from Lead Hazards That Harm Maine Children and Families" Committee on JUDICIARY reporting **Ought to Pass as Amended by Committee Amendment "A" (H-542)**

(H.P. 1176) (L.D. 1667) Bill "An Act To Allow Lincoln and Sagadahoc Counties an Exemption from the Limitation on County Assessments" (EMERGENCY) Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-537)**

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.

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

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On motion of Representative PERCY of Phippsburg, the House adjourned at 12:42 p.m., until 9:00 a.m., Tuesday, May 31, 2005 pursuant to the Joint Order (S.P. 629).