

MAINE STATE LEGISLATURE

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

Volume II

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May 26, 2005 – June 17, 2005

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Pages 737-1487

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
SECOND REGULAR SESSION
25th Legislative Day
Tuesday, March 21, 2006

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

Prayer by Reverend Lionel G. Chouinard, Holy Trinity Parish, Lisbon Falls.

National Anthem by Jefferson Village Hand Bell Choir, Jefferson Village School.

Pledge of Allegiance.

Doctor of the day, Barbara Crowley, M.D., Manchester.

The Journal of Thursday, March 16, 2006 was read and approved.

COMMUNICATIONS

The Following Communication: (H.C. 412)

STATE OF MAINE

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

March 15, 2006

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 bills out "Ought Not to Pass":

- L.D. 200 An Act To Improve Teaching and Learning
 Conditions in Maine Schools
- L.D. 1742 An Act To Amend the Law Governing Warrant
 Funding for Education Warrants
- L.D. 1818 An Act To Allow School Districts To Recover
 Certain Funds

We have also notified the sponsors and cosponsors of each bill listed 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. 413)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON INLAND FISHERIES AND WILDLIFE**

March 15, 2006

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 Inland Fisheries and Wildlife has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1725 An Act To Enhance the Integrity of the Moose
 Lottery

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

Sincerely,
S/Sen. Bruce Bryant
Senate Chair
S/Rep. Thomas R. Watson
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 414)

STATE OF MAINE

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

March 15, 2006

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 Judiciary has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 1817 An Act To Protect Access to Social Security
 Numbers
- L.D. 1920 An Act To Enhance the Laws Prohibiting
 Profiteering on Fuel

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

Sincerely,
S/Sen. Barry J. Hobbins
Senate Chair
S/Rep. Deborah Simpson
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 415)

STATE OF MAINE

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

March 15, 2006

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. 1607 An Act To Provide Incentives for Maine Film
 Production

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. 416)

STATE OF MAINE

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

March 15, 2006

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 bill out "Ought Not to Pass":

L.D. 430 An Act To Modify the Obligation To Bargain under the Municipal Public Employees Labor Relations Law

We have also notified the sponsor and cosponsors 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. 417)

STATE OF MAINE

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

March 15, 2006

Honorable Beth Edmonds, President of the Senate

Honorable John Richardson, Speaker of the House

122nd Maine Legislature

State House

Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 1793 An Act To Prevent Noise and Air Pollution in the Town of Oakland

L.D. 1998 An Act To Grandfather Owners of Property with Respect To Highway Cuts

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

Sincerely,

S/Sen. Dennis S. Damon

Senate Chair

S/Rep. Boyd P. Marley

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 408)

STATE OF MAINE

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

March 15, 2006

The Honorable Beth Edmonds

President of the Senate

The Honorable John Richardson

Speaker of the House of Representatives

122nd Legislature

State House

Augusta, ME 04333

Dear Madam President and Mr. Speaker,

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on Marine Resources from the review and evaluation of the Department of Marine Resources and the Atlantic States Marine Fisheries Commission under the State Government Evaluation Act. In its review, the Committee found that both entities are operating within their statutory authority.

Sincerely,

S/Senator Denis Damon

Chair

S/Representative Leila Percy

Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: (H.C. 409)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON BUSINESS RESEARCH AND ECONOMIC
DEVELOPMENT**

March 14, 2006

The Honorable Beth Edmonds

President of the Senate

The Honorable John Richardson

Speaker of the House of Representatives

122nd Legislature

State House

Augusta, ME 04333

Dear Madam President and Mr. Speaker,

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on Business, Research and Economic Development from the review and evaluation of the Department of Economic and Community Development under the State Government Evaluation Act. In its review, the Committee found that the Department is operating within its statutory authority.

Sincerely,

S/Senator Lynn Bromley

Chair

S/Representative Nancy Smith

Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: (H.C. 410)

STATE OF MAINE

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

March 16, 2006

The Honorable Beth Edmonds

President of the Senate

The Honorable John Richardson

Speaker of the House of Representatives

122nd Legislature

State House

Augusta, ME 04333

Dear Madam President and Mr. Speaker

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee

on Natural Resources from the review and evaluation of the Advisory Commission on Radioactive Waste and Decommissioning under the State Government Evaluation Act. In its review, the Committee found that the Commission has operated within its statutory authority.

Sincerely,
S/Senator Scott W. Cowger
Senate Chair
S/Representative Ted S. Koffman
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication: (H.C. 411)

STATE OF MAINE

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

March 16, 2006

The Honorable Beth Edmonds
President of the Senate
The Honorable John Richardson
Speaker of the House of Representatives
122nd Legislature
State House

Augusta, ME 04333

Dear Madam President and Mr. Speaker

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on Natural Resources from the review and evaluation of the Saco River Corridor Commission under the State Government Evaluation Act. In its review, the Committee found that the Commission is operating within its statutory authority.

Sincerely,
S/Senator Scott W. Cowger
Senate Chair
S/Representative Ted S. Koffman
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

**PETITIONS, BILLS AND RESOLVES REQUIRING
REFERENCE**

Bill "An Act To Establish the Island Falls Water District"

(H.P. 1470) (L.D. 2078)

Sponsored by Representative JOY of Crystal.

Cosponsored by Senator MARTIN of Aroostook and Representatives: ANNIS of Dover-Foxcroft, CARR of Lincoln, SHERMAN of Hodgdon, Senators: CLUKEY of Aroostook, DAVIS of Piscataquis.

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

Bill "An Act To Accelerate Private Investment in Maine's Wireless and Broadband Infrastructure"

(H.P. 1471) (L.D. 2080)

Sponsored by Representative PINGREE of North Haven. (GOVERNOR'S BILL)

Cosponsored by Senator BARTLETT of Cumberland and Representatives: ADAMS of Portland, BLISS of South Portland, FLETCHER of Winslow, HOTHAM of Dixfield, KOFFMAN of Bar Harbor, SIMPSON of Auburn, Senator: COWGER of Kennebec.

Committee on **UTILITIES AND ENERGY** suggested and ordered printed.

REFERRED to the Committee on **UTILITIES AND ENERGY** and ordered printed.

Sent for concurrence.

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

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Lee Ann McKay, of Randolph, on her retirement after 8 years of dedicated service to the Legislature. Ms. McKay served as clerk for the Joint Standing Committee on State and Local Government during the Second Regular Session of the 118th Legislature. She was hired in 1998 by the House Republican Office as the Executive Secretary and was promoted to Legislative Aide. She is well liked and well respected by all who work with her. She is best known for her sunny disposition, willingness to help with any task and kind heart. She has been a valued member of the House Republican Office staff, and her dedication and hard work will be missed. We extend to her our congratulations and wish her well in her future endeavors;

(HLS 1725)

Presented by Representative TRAHAN of Waldoboro.

Cosponsored by Senator COWGER of Kennebec, Representative HANLEY of Gardiner, Speaker RICHARDSON of Brunswick, Representative DUPLESSIE of Westbrook, Representative CUMMINGS of Portland, Representative BOWLES of Sanford, Representative TARDY of Newport, Senator WESTON of Waldo, Senator DAVIS of Piscataquis, Senator GAGNON of Kennebec, Senator BRENNAN of Cumberland, President EDMONDS of Cumberland.

On **OBJECTION** of Representative TRAHAN of Waldoboro, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Recognizing:

the members of Alpha Beta Gamma, students at Northern Maine Community College in Presque Isle, and their advisor Pam Crawford, on their community service work in the Perkinston, Mississippi area. These students forewent a planned trip to Quebec to provide support to people whose homes were severely damaged by Hurricane Katrina. We commend Alpha Beta Gamma and Pam Crawford for their dedicated service to people in need;

(HLS 1746)

Presented by Representative FISCHER of Presque Isle.

Cosponsored by Representative CHURCHILL of Washburn, Representative EDGECOMB of Caribou, Representative JACKSON of Allagash, Representative JOY of Crystal, Representative LUNDEEN of Mars Hill, Representative PARADIS of Frenchville, Representative SHERMAN of Hodgdon, Representative SMITH of Van Buren, Senator CLUKEY of Aroostook, Senator MARTIN of Aroostook.

On **OBJECTION** of Representative FISCHER of Presque Isle, was **REMOVED** from the Special Sentiment Calendar.

READ.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Fischer.

Representative FISCHER: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I am very proud to rise today to say a brief word about some young people and some not so young people who are members of the community college and they drove down this morning, all the way from Presque Isle, to be here and to be with you so that we could talk about their accomplishments. I say that there are some young people and some not so young people because some of these people have families and jobs and they go to school and that is something to be really proud of. On top of that they forewent their winter break to go to Mississippi and to do disaster relief for the people who were affected by Hurricane Katrina and we couldn't be more proud to have them from our area. They go to school there, they live there, their families are there and we certainly want to commend them for the work that they have done there. I just wanted to bring that to your attention and I believe that they are in the gallery, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Mars Hill, Representative Lundeen.

Representative LUNDEEN: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I too would like to thank these students and their advisor, Pam Crawford from Northern Maine Community College, who went to Mississippi. One of them, Nikki Hallot, has been a friend and neighbor of mine all of my life. It took strength and courage to do what they did and again I would like to thank them all.

The SPEAKER: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative JOY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I too wish to give my congratulations to the students from Northern Maine Community College. I think that this represents the sharing feeling that is taught as part of their lessons at Northern Maine Community College and I certainly extend my appreciation along with the rest of the delegation to these students. Thank you.

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

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Resolve

Representative BLISS for the **Joint Standing Committee on Utilities and Energy** on Resolve, Concerning the Collection of the Statewide E-9-1-1 Surcharge from Prepaid Wireless Telephone Service

(H.P. 1476) (L.D. 2088)

Reporting **Ought to Pass** pursuant to Resolve 2005, chapter 62, section 3.

Report was **READ** and **ACCEPTED**. The Resolve **READ ONCE** and assigned for **SECOND READING** Wednesday, March 22, 2006.

Ought to Pass Pursuant to Statute

Representative PIOTTI for the **Joint Standing Committee on Agriculture, Conservation and Forestry** on Bill "An Act To Implement the Recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry Relating to Review of the Department of Conservation" (EMERGENCY)

(H.P. 1474) (L.D. 2083)

Reporting **Ought to Pass** pursuant to the Maine Revised Statutes, Title 3, section 955, subsection 4.

Report was **READ** and **ACCEPTED**. The Bill **READ ONCE** and assigned for **SECOND READING** Wednesday, March 22, 2006.

Ought to Pass Pursuant to Joint Order

Representative BARSTOW for the **Joint Standing Committee on State and Local Government** on Resolve, Directing the Secretary of State To Establish a Task Force To Develop a Plan for the Maine State Cultural Building in Augusta (EMERGENCY)

(H.P. 1473) (L.D. 2082)

Reporting **Ought to Pass** pursuant to Joint Order 2005, H.P. 494.

Report was **READ** and **ACCEPTED**. The Resolve **READ ONCE** and assigned for **SECOND READING** Wednesday, March 22, 2006.

Refer to the Committee on Appropriations and Financial Affairs

Pursuant to Statute

Representative PIOTTI for the **Joint Standing Committee on Agriculture, Conservation and Forestry** on Bill "An Act To Implement the Recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry Relating to the Seed Potato Board"

(H.P. 1472) (L.D. 2081)

Reporting that it be **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** pursuant to the Maine Revised Statutes, Title 3, section 955, subsection 4.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

Sent for concurrence.

Refer to the Committee on Judiciary Pursuant to Resolve

Representative SIMPSON for the **Joint Standing Committee on Judiciary** on Bill "An Act To Implement Recommendations Concerning Temporary Guardian and Conservator Laws"

(H.P. 1475) (L.D. 2087)

Reporting that it be **REFERRED** to the Committee on **JUDICIARY** pursuant to Resolve 2005, chapter 91.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **JUDICIARY**.

Sent for concurrence.

CONSENT CALENDAR

First Day

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

(H.P. 1187) (L.D. 1679) Bill "An Act To Amend Procedures Used in Criminal Proceedings in Which the Victim Is Mentally Disabled" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-845)**

(H.P. 1236) (L.D. 1728) Resolve, Directing the Cumberland County Commissioners To Establish a Task Force To Establish New County Commissioner Districts Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-840)**

(H.P. 1300) (L.D. 1860) Bill "An Act Concerning Certain Provisions Regarding Protection of Natural Resources Related to Activities in Coastal Areas" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-842)**

(H.P. 1313) (L.D. 1873) Bill "An Act Regarding Sexual Assault Forensic Examinations" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-846)**

(H.P. 1323) (L.D. 1883) Bill "An Act To Clarify the Liquor Laws" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "B" (H-856)**

(H.P. 1385) (L.D. 1977) Resolve, Regarding Legislative Review of Portions of Chapter 355: Coastal Sand Dune Rules, a Major Substantive Rule of the Department of Environmental Protection (EMERGENCY) Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-855)**

(H.P. 1420) (L.D. 2019) Bill "An Act To Amend the Charter of the Kennebunk Light and Power District" (EMERGENCY) Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-835)**

(H.P. 1438) (L.D. 2040) Resolve, Directing the Department of Transportation To Amend Its Rules Regarding Noise Abatement and Abatement Costs Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-857)**

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

(H.P. 1306) (L.D. 1866) Bill "An Act To Amend the Motor Vehicle Laws" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-849)**

On motion of Representative COLLINS of Wells, was **REMOVED** from the First Day Consent Calendar.

The Unanimous Committee Report was **READ**.

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

CONSENT CALENDAR

Second Day

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

(S.P. 142) (L.D. 444) Bill "An Act Providing Procedures To Protect Members upon Redesign of the MaineCare Program" (C. "A" S-486)

(S.P. 665) (L.D. 1748) Bill "An Act To Make Technical Changes to the Gambling Laws" (C. "A" S-488)

(H.P. 1404) (L.D. 2002) Bill "An Act To Give Superior Court Clerks and Deputy Clerks the Authority To Issue Process for the Arrest of Persons Charged with Crimes" (EMERGENCY)

(H.P. 1206) (L.D. 1699) Bill "An Act To Improve Workplace Safety" (C. "A" H-828)

(H.P. 1314) (L.D. 1874) Bill "An Act To Amend the Laws Relating to Corporations, Limited Partnerships, Limited Liability Companies and Limited Liability Partnerships" (C. "A" H-831)

(H.P. 1340) (L.D. 1899) Bill "An Act To Allow the Display of POW-MIA Flags at Courthouses" (C. "A" H-827)

No objections having been noted at the end of the Second Legislative Day, 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.

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

BILLS IN THE SECOND READING

Senate as Amended

Bill "An Act To Improve the Water Quality and Safety of Phillips Lake"

(S.P. 691) (L.D. 1774)

(C. "A" S-484)

House

Bill "An Act Regarding Energy Efficiency Standards for Residential Rental Properties"

(H.P. 1468) (L.D. 2074)

House as Amended

Bill "An Act To Amend the Law Regarding Smoking in Private Clubs" (EMERGENCY)

(H.P. 1342) (L.D. 1901)

(C. "A" H-830)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the Senate Paper was **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. **ORDERED SENT FORTHWITH**.

Bill "An Act Making Improvements to the Laws Regarding Local Land Use Ordinances"

(H.P. 1080) (L.D. 1535)

(C. "A" H-832)

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

On motion of Representative MOULTON of York, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended**.

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 York, Representative Moulton.

Representative **MOULTON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to LD 1535 and wish to speak briefly as to this piece of legislation.

Unfortunately, for at least one of the four towns that I represent this bill constitutes an intrusion in a process that has been ongoing within the Town of York for a number of years and continues not only through the annual town meeting, which has yet to take place this spring, but also in the future. The Town of York, like many in York County and along the coast, has suffered from the rapid onslaught of growth over the years and has tried to act responsibly with respect to that growth and the imposition of a threshold number of permits as stated in this piece of legislation would have an adverse effect upon my home community. Having said that, I do want to take a couple of minutes and speak to the merits of the legislation itself. As a piece of legislation, this arose through the work of the C-PAC Commission, called the

Community Preservation Advisory Commission and was presented to them by the State Planning Office. I objected to the specific piece of legislation over a year ago when it was first presented and felt that it needed a major reworking.

There are a number of factors that govern rate-of-growth ordinances. We have got communities that are trying to grapple with the need to keep up with municipal services to deal with the populations. It ranges from things like transfer stations, sewer treatment, supply of public water, school growth and construction, and law enforcement. You name it. The towns are having difficulty dealing with those provisions. The rate-of-growth ordinances are meant to address it. But this piece of legislation gives communities no roadmap on how they are to go about adopting rate of growth ordinances. For instance, a rate of growth ordinance should apply only so long as it takes a community to figure out what they need to do to expand a transfer station or to revamp a sewer treatment plant or to construct storm water drainage plants and implement them. Some of these ordinances go on and on and on – like some of us that get up to speak in this chamber – without a deadline and without a measurable way of determining when they have met their goal. On the other hand, some communities desperately need a pause or a measured rate of development so that they can keep up with the community as it grows and expands. The one thing that we don't need is to have a cookie cutter approach that is mandated by somebody in Augusta because, I hate to say it, but the factors influencing the way things are down in Cape Neddick are different from the ones up in Machias or Cutler or Millinocket. And, to impose a fiat from Augusta without giving specific criteria, which the communities are to follow, begs the question and that is what we have got in this bill. For one thing the bill does not require the communities to set out specific municipal service impacts. Most developers going in front of a planning board are asked for and supply the planning boards with those very projections. It is not like it's rocket science, but we are not asking or requiring the communities to do the same when they impose these ordinances. I can tell you that in the Town of York, right now to hold a building permit for a single-family house you have to wait five years. Now how many people trying to establish a family home can wait five years to build? I can tell you that there are a lot of people who are retired and are coming up from other states that can afford to wait, but the cost of finding a piece of land with a growth permit is prohibitive down in my neck of the woods. And, Ladies and Gentlemen of the House, this is something where the State Planning Office has failed to address the state/municipal partnership that is supposed to take place.

I know that I may seem to be belaboring the question, but I am very concerned about the process that has been involved here. I see a set of standards that are just set out for us to adopt. I have not seen the studies that are supposed to give support to those very measures. After all,, it was the State Planning Office, just last August 31st, that sponsored a speaker by the name of Stewart Mack who addressed the need for communities to do a fact-based solution to their growth problems and here we are asked to act upon a piece of legislation that, at least from my viewpoint, lacks that very fact-based approach. We do need a clear set of standards. This bill does not have them and therefore I respectfully dissent from the majority report in this case and ask that you vote against this piece of legislation. It is half-worked. We need to do a better job and certainly from the standpoint of one of the four towns that I represent, it is a very bad piece of legislation. Please vote no as to LD 1535. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Bar Harbor, Representative Koffman.

Representative **KOFFMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The Representative from York, Representative Moulton, makes many good points. There is no question that this piece of legislation could be improved perhaps, but I suspect it would not have the 11-2 Majority Report that it has been able to win as a consequence of much discussion, numerous work sessions and very constructive interactions with the Maine Municipal Association who supports the bill as amended.

There are those on the committee and those perhaps in the House who believe that there should be no rate-of-growth ordinances in Maine. There are others that think they should be limited to three years in a ten-year period. The Majority Report attempted to improve on the current circumstances to allow communities to continue to use rate-of-growth ordinances to prepare for the development that they expect to occur. All of the elements of this bill have had the support of the Maine Municipal Association who would prefer that we improve on current statute rather than undoing it entirely. So, I ask the men and women of the House to not let the perfect be the enemy of the good in this instance and support the 11-2 report and all of the House members who are on it. Thank you Mr. Speaker.

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. Just briefly, I encourage you to also add your support to the committee's strong Majority Report on this bill. This is what they call a "draw bridge" problem. Everybody gets into their town and immediately want to pull up the drawbridge to keep anybody else from moving in. It is terrible public policy especially if you live in the surrounding town because you just push that development around. What this bill seeks to do is to say to communities that you can limit your growth but it has to be in proportion to what the growth has been. You cannot just pull up the drawbridge. Now there is nothing in this bill requiring a town to enforce somebody to build on an unbuildable lot. So if you don't have the sewer capacity, no one is saying that you have to put houses there anyways. Or, if the water tests don't work, you don't have to put houses there anyway. But, to the extent that your community has buildable lots, you cannot tell people that no more permits will be issued just because you don't want them there. You have to do that at a rate of growth consistent with what it would have been in the past so that things don't get crazy and that you have a chance to react to it. It is a compromise and it is better than just allowing town after town to put up a drawbridge, because as one town does it you basically forced all the surrounding towns to do the same thing and that is where you get housing chaos. Thank you.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Collins.

Representative **COLLINS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. After looking at the language to LD 1535 and coming up with an opinion, also based upon comments made by this body, I get the distinct impression that this legislation is an attempt to erode away home rule. We have planning boards, town councils and boards of selectmen in cities and towns across this state who make these ordinances based upon local input from their citizens, their constituents in that town. This is a broad step to change that, to take it out of their hands and we will be dictating policy from Augusta to our cities and towns. Now, we do a lot of that up here in Augusta. My constituents back home have a problem with

taking away home rule. I do too. I urge the members of this body to vote against this legislation.

The SPEAKER: The Chair recognizes the Representative from Bar Harbor, Representative Koffman.

Representative **KOFFMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. If there is anything that this bill doesn't want to do it is to take away home rule. Quite the contrary, the whole point of the bill is to strengthen the local community's ability to manage their growth. The provision of this bill, which were supported by Maine Municipal Association representing the communities, simply sets a limit on the number of permits to be issued to 105 percent of the average number of permits over a 10 year period. It is a very generous limitation. In fact, there are no communities that have gone over their limit in the last ten years. It is really a tool to preserve the rate of growth legislation that we now have working for Maine and to actually improve on it. So, to the contrary, this isn't about taking away home rule. It is improving the tool; it is sharpening the tool for local use and that is why Maine Municipal Association supported it. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Kaelin.

Representative **KAELIN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This isn't the first time and I don't think that it will be the last time that I have risen in opposition to the Maine Municipal Association. I urge you to vote no on this motion that is before us. We don't even have a zoning ordinance in the Town of Winterport. Winterport is my largest town. Down where I live sprawl is actually a good thing. We are not anywhere near having concerns about sprawl down there. We want more growth down there and the last thing that anybody wants me to do when I am over here in Augusta is to be so narrow, as this bill is, to dictate how our planning board ought to develop growth in those rural communities of Waldo County that I represent. So I am going to be pushing my red light and I encourage you to do the same thing. Thank you Mr. Speaker.

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 will be brief on this one. I have received a few calls from constituents on this bill. I am all for conservation and I am all for planning, but I think that if we continue to pass bills like this for the average citizen then the average working person isn't going to be able to afford to buy a home, particularly in my area. I hate to stand up and oppose the good gentleman from Bar Harbor, he is a good chair and he is a good friend of mine, but I think that he is wrong on this bill and I would encourage you to press your red light.

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

Representative **MOULTON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Just so that everybody is clear on this the Town of York currently has a rate of growth ordinance that requires the issuance of no more than 84 permits per year and under this bill in its present form, the Town of York would be required to issue somewhere in the neighborhood of 120 permits or more per year, based upon that ten year running average. That is the change to which officials in the Town of York have objected. Now, I want this body to be very clear on the point that I am very critical of rate of growth ordinances. I think that they should be rigorous. They should be precisely designed to meet the need that arises in terms of municipal services because we need to grow and we need to provide land for people to raise their families. So, I would like to see a better piece of legislation that does not use a cookie cutter approach

and that is why I am opposed to this bill and would encourage the membership here in the House to vote against it. Thank you Mr. Speaker.

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. Before I end up becoming president of my own support group for this matter, I will just add one more thing and that is that people need to understand that the strong 11-2 committee report, if you look at the people on the committee, the sensitivity to state control is a very strong emotion in the committee. This requires whatever a town does to be consistent with its comprehensive plan. So, if you are living in a small town like Winterport and you want a lot of growth then God bless you. Unless your comprehensive plan is going to call for it than nothing here is going to hold back on that. If you want to worry about affordable housing and pull up the drawbridge, that is where your affordable housing goes because it is supply and demand. When there is no more in supply, the demand skyrockets and this is why this proposal is a balanced approach and I encourage you to support our strong committee majority. Thank you.

The SPEAKER: The Chair recognizes the Representative from Hudson, Representative Duchesne.

Representative **DUCHESNE**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I will be very brief. It is always amusing to me to be able to sit here and watch about 20 minutes worth of debate unravel about four or five years worth of work. I need to point out to the rest of the body that the Community Preservation Advisory Committee has been working on this very issue trying to craft some compromises between communities and their neighboring communities in terms of managing sprawl and also working out compromises with the Maine Municipal Association. Well, after many, many years we did it. We came up with something that the vast majority of the committee could support and all of the arguments that have been brought up here have already been beat to death in a number of committee meetings already until we could get to a compromise that virtually everybody could live with. So, if you turn this down what you are basically doing is rolling back years worth of effort and many, many meetings to come up with compromise language that all of us could agree on. Thank you Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Passage to be Engrossed as Amended. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 382

YEA - Adams, Annis, Babbidge, Barstow, Beaudette, Bierman, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Cummings, Daigle, Davis G, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fisher, Gerzofsky, Glynn, Goldman, Grose, Hanley S, Harlow, Hutton, Joy, Koffman, Lundeen, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rector, Richardson D, Rines, Rosen, Sampson, Saviello, Simpson, Smith N, Smith W, Thompson, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Ash, Austin, Berube, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curtis, Davis K, Duprey, Edgecomb, Fitts, Fletcher, Flood, Greeley, Hall, Hamper, Hanley B, Hogan, Jackson, Jacobsen, Jodrey, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McKane, McKenney,

McLeod, Moore G, Moulton, Muse, Nass, Nutting, Pinkham, Plummer, Richardson E, Richardson M, Richardson W, Robinson, Schatz, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Tuttle, Vaughan.

ABSENT - Craven, Crosby, Curley, Emery, Fischer, Hotham, Jennings, Lerman, McFadden, Millett, Ott.

Yes, 77; No, 63; Absent, 11; Excused, 0.

77 having voted in the affirmative and 63 voted in the negative, with 11 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended** and sent for concurrence. **ORDERED SENT FORTHWITH.**

Bill "An Act To Allow Small Businesses To Participate in Liquor Sales"

(H.P. 1260) (L.D. 1820)
(C. "A" H-821)

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

On motion of Representative PATRICK of Rumford, was **SET ASIDE.**

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

ENACTORS

Emergency Measure

An Act To Amend the Laws Governing Licensure of Workers in the Field of Radiologic Technology

(S.P. 687) (L.D. 1770)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act To Improve the Prisoner Telephone System

(H.P. 1324) (L.D. 1884)
(C. "A" H-793)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 124 voted in favor of the same and 9 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Representative DAIGLE of Arundel assumed the Chair.
The House was called to order by the Speaker Pro Tem.

Emergency Measure

An Act To Create a Tiered Wholesale Seafood Dealer's License

(H.P. 1373) (L.D. 1961)
(C. "A" H-802)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 117 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE**

ENACTED, signed by the Speaker Pro Tem and sent to the Senate.

Emergency Measure

An Act To Ensure the Ability of Municipalities To Provide Assistance to Their Citizens

(S.P. 755) (L.D. 1965)
(C. "A" S-481)

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

Emergency Measure

An Act To Amend the Charter of the Lisbon Water Department

(H.P. 1380) (L.D. 1970)
(C. "A" H-779)

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

Emergency Measure

Resolve, To Give the Town of Pownal Additional Time To Comply with the Subdivision Laws

(S.P. 719) (L.D. 1802)
(S. "A" S-474 to C. "A" S-470)

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 Pro Tem and sent to the Senate.

Acts

An Act To Provide for the Issuance of a Bench Warrant upon Failure To Appear for a Hearing on Nonpayment of a County Jail Reimbursement Fee

(H.P. 1216) (L.D. 1709)
(C. "A" H-792)

An Act To Make Revisions to the Maine Revised Statutes Relating to Agriculture

(H.P. 1227) (L.D. 1720)
(C. "A" H-805)

An Act To Permit Supplemental Environmental Projects for Forest Practices Violations

(H.P. 1303) (L.D. 1863)
(C. "A" H-804)

An Act To Eliminate Administrative Preliminary Hearings for Probationers

(H.P. 1308) (L.D. 1868)
(C. "A" H-796)

An Act To Provide Forest Certification Cost-share Incentives to Forest Landowners and Licensed Foresters

(H.P. 1312) (L.D. 1872)
(C. "A" H-798)

An Act Concerning Energy Conservation in Schools

(H.P. 1343) (L.D. 1902)
(C. "A" H-791)

An Act To Require That the Costs Associated with Enacting a Direct Initiative Appear on the Ballot

(H.P. 1357) (L.D. 1916)
(C. "A" H-797)

An Act To Authorize State Participation in the Unified Carrier Registration System

(H.P. 1367) (L.D. 1950)
(C. "A" H-770)

An Act To Raise the Debt Limit of the City of Brewer High School District

(H.P. 1393) (L.D. 1988)

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

Resolves

Resolve, To Address the Telecommunications Needs of Federally Qualified Health Centers

(H.P. 470) (L.D. 637)
(C. "A" H-740)

Resolve, To Require the Reporting of Mercury Amalgam Supplied to Dentists

(S.P. 465) (L.D. 1338)
(C. "A" S-477)

Resolve, To Study the Recycling of Cellular Telephones

(H.P. 1280) (L.D. 1840)
(C. "A" H-800)

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

An Act To Regulate the Use of Batteries Containing Mercury

(S.P. 375) (L.D. 1058)
(C. "A" S-483)

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 PRO TEM: 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. 383

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

Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Koffman, Lansley, Lerman, Lewin, Lindell, Lundeen, Makas, Marean, Mazurek, McCormick, McKane, McKenney, McLeod, Merrill, Miller, Mills, Moody, Moore G, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Paradis, Patrick, Percy, Pineau, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Rines, Robinson, Rosen, Sampson, Saviello, Schatz, Seavey, Sherman, Shields, Simpson, Smith N, Smith W, Stedman, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Twomey, Valentino, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury.

NAY - NONE.

ABSENT - Bryant, Canavan, Craven, Curley, Emery, Gerzofsky, Hotham, Marley, Marraché, McFadden, Millett, Ott, Perry, Pilon, Mr. Speaker.

Yes, 136; No, 0; Absent, 15; Excused, 0.

136 having voted in the affirmative and 0 voted in the negative, with 15 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

An Act To Amend Certain Laws Administered by the Department of Environmental Protection

(H.P. 1328) (L.D. 1888)
(C. "A" H-801)

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

On motion of Representative KOFFMAN of Bar Harbor, was **SET ASIDE**.

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

An Act Amending the Animal Welfare Laws

(H.P. 1321) (L.D. 1881)
(C. "A" H-774)

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

On motion of Representative TWOMEY of Biddeford, was **SET ASIDE**.

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

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 Thursday, March 16, 2006, 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 "B" (H-732)** - Minority (5) **Ought Not to Pass** - Committee on **LABOR** on Bill "An Act Regarding Occupational Safety and Health Training for Workers on State-funded Construction Projects"

(H.P. 1146) (L.D. 1628)

TABLED - January 17, 2006 (Till Later Today) by Representative SMITH of Van Buren.

PENDING - **ACCEPTANCE** of the Majority **OUGHT TO PASS AS AMENDED** Report.

Representative SMITH of Van Buren **WITHDREW** his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

The same Representative moved to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report.

On motion of Representative TUTTLE of Sanford the Bill and all accompanying papers were **INDEFINITELY POSTPONED** and sent for concurrence.

The Speaker resumed the Chair.
The House was called to order by the Speaker.

HOUSE DIVIDED REPORT - Report "A" (7) **Ought Not to Pass** - Report "B" (3) **Ought to Pass as Amended by Committee Amendment "A" (H-794)** - Report "C" (2) **Ought to Pass as Amended by Committee Amendment "B" (H-795)** - Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Create Mandatory Minimum Sentences for Persons Convicted of Certain Sex Offenses against Victims under 12 Years of Age"

(H.P. 1224) (L.D. 1717)

TABLED - March 9, 2006 (Till Later Today) by Representative BLANCHETTE of Bangor.

PENDING - **ACCEPTANCE OF ANY REPORT.**

Representative CUMMINGS of Portland moved that the Bill be **TABLED UNASSIGNED.**

The SPEAKER: The Chair recognizes the Representative from Newport, Representative Tardy.

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

The SPEAKER: The Representative may pose his question.

Representative TARDY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Since a motion to table unassigned is not debatable are we not functionally destroying the ability of this body to have a fair and open debate on this very important issue?

The SPEAKER: The question, which you have risen for, is out of order since it is a matter of debate with respect to what is a non-debatable issue.

Representative TARDY of Newport **REQUESTED** a roll call on the motion to **TABLE UNASSIGNED.**

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 to Table Unassigned. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 384

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Brown R, Burns, Cain, Canavan, Churchill, Clark, Crosby, Cummings, Driscoll, Duchesne, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jennings, Koffman, Lerman, Lundeen, Makas, Mazurek, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Percy, Pineau, Pingree, Piotti, Richardson M, Sampson, Schatz, Simpson, Smith N, Smith W, Sykes, Thompson, Tuttle, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Clough, Collins, Cressey, Crosthwaite, Curtis, Daigle, Davis G, Davis K, Duprey, Edgecomb, Fischer, Fitts, Fletcher, Flood, Glynn, Hall, Hamper, Hanley B, Jackson, Jacobsen, Jodrey, Joy,

Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McKane, McKenney, McLeod, Moore G, Moulton, Muse, Nass, Nutting, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson W, Robinson, Rosen, Saviello, Seavey, Sherman, Shields, Stedman, Tardy, Thomas, Trahan, Twomey, Vaughan.

ABSENT - Bryant, Craven, Curley, Dudley, Dugay, Emery, Greeley, Hotham, Marley, Marraché, McFadden, Merrill, Millett, Ott, Perry, Pilon, Rines.

Yes, 68; No, 66; Absent, 17; Excused, 0.

68 having voted in the affirmative and 66 voted in the negative, with 17 being absent, and accordingly the Bill was **TABLED UNASSIGNED.**

Bill "An Act To Establish Harbor Master Training Requirements"

(H.P. 1448) (L.D. 2054)

TABLED - March 14, 2006 (Till Later Today) by Representative KAELIN of Winterport.

PENDING - **PASSAGE TO BE ENGROSSED.**

Representative MCKANE of Newcastle **PRESENTED House Amendment "A" (H-834)** which was **READ** by the Clerk.

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

Representative MCKANE: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is the harbor master training bill that has come up again and has come up many times. I was surprised when this bill came up again this year. It would require a 3-day harbor master training course in Castine for all harbor masters, new and existing. I asked one of the committee members about why this came through this time after failing so many times in committee and his answer was that they were frankly tired of the bill coming up year after year and we wanted to get rid of it once and for all. I talked to another committee member and told her that some of my harbor masters were upset and also that some of my selectman were upset and her answer was, "That's life".

This bill went under the radar this time because it is technically not a mandate. In the past these harbor master training bills had been mandates. Technically it is not anymore. It is going to require the harbor master himself to pay for this training course. I understand the reasons for this training course, especially in the larger harbors like Portland Harbor. We are in a rapidly changing world and these guys are out, in some sense, on the front lines, but in the smaller harbors it is a different story and we are still attached to the old world and I think that we need to make this change more slowly. This amendment would allow for the slow change and it would grandfather existing harbor masters and they would be required to take this course or new harbor masters would be required to take this course by attrition.

My district has a lot of harbors in it, probably as many or more than any in the House except for the Representative from Boothbay possibly. It includes Muscongus Bay, John's Bay, Pemaquid Harbor, the Damariscotta River, Sheepscot River and countless inlets, coves, passages and channels that are all overseen by a harbor master. I won't read off all of the different harbors, there are at least 16 and at least 11 harbor masters. They are all used by commercial fisherman and they all have a mix of commercial and pleasure boaters, vacationers and summer cruisers and even houseboats. These harbor masters have to choreograph kind of a dance between the boats in the harbor and there are often competing forces for these desired mooring spots and they also have to negotiate the waiting list. They have to know the conditions of their own harbors, how the winds and the tides effect the certain spots, where the mud is,

where the rocks are, and the different bottom conditions. And they do, because they all work and live in this harbor that they have jurisdiction over. Again, we are not talking about Portland Harbor or some of the largest harbors. We are talking about Round Pond Harbor and Pemaquid Harbor, South Bristol "The Gut", South Bristol "The River", Christmas Cove, Edgecomb Harbor – small harbors with, in some cases, only a dozen permanent moorings.

Most of these harbor masters are volunteers and they make virtually no money. They are called on in the middle of the night, in storms and at any time of year. I asked Paul Bryant from Newcastle how long he has been harbor master and he said at least 30 years. By my calculations it's closer to 40 years that he has been doing this. He gets paid nothing by the town. He does it because he is the guy who knows the river. He knows this harbor, he knows everybody's mooring in there and he works on the harbor at a boatyard, Bryant's Boatyard everyday. So he is the guy to have there. I asked him if he could take this course and he said, "You know, my time is stretched pretty thin as it is." Basically, no, he is not going to and we would lose Mr. Bryant if we passed this. Robert Ball from Round Pond, he is a fisherman. He gets paid \$800 per year, but he has to use his own boat. He told me he simply wouldn't have the time. Chris Givert from New Harbor, a full time fisherman, uses his own boat. He also gets \$800 a year, basically volunteering to do the harbor master job just to help fisherman keep the moorings because of the competition that is constantly there. John Stilecky in Pemaquid said that he understands the need, but also believes in grandfathering.

These guys are on the water all the time. They are basically volunteers. I talked to seven different selectmen from three different towns and all of them are against this mandate, and make no mistake it is a mandate, even though it doesn't require the towns to pay, it is a mandate. If this requirement is enacted without the grandfather clause I predict that we will lose some of these experienced public servants and I ask you to support this amendment, Mr. Speaker, that will allow these current harbor masters to keep their positions and not require them to take the harbor master certification course until either they or their towns are ready. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Phippsburg, Representative Percy.

Representative PERCY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The Marine Resources Committee has been working on this issue for two terms now and the Harbor Master's Association along with the Coast Guard, the Maine Municipal Association, the Department of Marine Resources, IF & W, and the Army Corp of Engineers have all been trying to work out a compromise and we came to one. It was a Unanimous Committee Report.

In our testimony the most striking testimony was when the Coast Guard representative stated that currently not all harbor masters have the same level of training and it would be good to have a basic level of training and the training should include federal laws pertaining to security matters, especially the matters involving the incident command system. There are significant security issues in Maine waters, especially surrounding shipping, which happens all over the coast. I have asked Representative Kaelin if he would talk to you about the actual requirements for the training and I hope that you will follow my light and defeat this amendment. The groups have worked very, very hard on this compromise and I would appreciate your support. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Kaelin.

Representative KAELIN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am rising in opposition to this amendment. It is true that this bill has been before the Marine Resources Committee for two sessions of this Legislature and this year a month long study committee proceeded to investigate the issue. The Harbor Masters' Association in Maine has brought this bill to our committee and has asked us to support the idea of harbor master training because the job is very complicated. I am going to spend a few minutes getting into this here this morning. I certainly didn't want to do that, but I feel it is important for you to understand what is going on here.

First of all, there was another harbor master bill that we have already approved in this body and that one affects all of the inland towns. Any towns that don't have coastal jurisdiction are unaffected by this bill. In that bill we clarified that even though on the coast if one citizen asks for a public mooring to be placed, the town must appoint a harbor master. For the inland communities, we clarified that that is, in fact, not the case, but on the coast it is the case and it has been required in statute for many years.

There are 142 coastal communities statewide. There are 110 harbor masters that have already been appointed statewide. Of those harbor masters who have already been appointed in 2005, 95 out of 110 attended the three day course at Castine. In other words there are only 15 harbor masters across the state who have not done that. I understand the argument that you have been in the business a long time and maybe you don't have to go to training. I have been in the commercial fishing industry for 30 years myself and I think that there is always something that you can learn about a job as technical and difficult as that of being a harbor master.

The harbor master is responsible for the carrying out of rules, ordinance and regulations affecting state, local and federal jurisdictions. He maintains daily logs, records and files. He maintains a mooring plan for all areas within the town's jurisdiction. To oversee the mooring and anchoring of watercraft within that jurisdiction and ensure the adequacy of such he maintains a list of all moorings to include locations, descriptions, boat names, registrations, owner's names, phone numbers, etc. He oversees town floats, piers, and launching rafts for safe and proper use. He supervises assistants and deputies as necessary. He patrols the jurisdiction and assists other agencies when called upon. In other words, he works with the Coast Guard. He has the authority to detain individuals, not make arrests. Current statute already requires that if you want a harbor master to make arrests, and we all know how rowdy people can get on the coast some days, there is occasionally a need to do that and if you want your harbor master to carry a firearm he is required to attend the Criminal Justice Academy. So, we already require harbor masters that carry firearms to have training in this state and many of them do that.

The harbor master maintains patrol boats and equipment and he attends meetings and so forth. I know you don't have to go to school to do that. We all do plenty of that, but he carries out other duties assigned by municipal offices. He provides essential and customary courtesy services to local and visiting public. This course, the 20th annual meeting, will begin April 15th, 16th and 17th at Castine, Maine has instructors teaching harbor master authority, harbor master liability and ethics, homeland security taught by the U.S. Coast Guard Marine Safety Office in Portland and Belfast, Maine, hypothermia and first aid, introductory law, Maine boat law and accidents, marine animal lifeline, mooring plotting, mooring regulations local, NOAA weather service, rules of the road, state federal mooring regulations, federal U.S. Corp. of Engineers jurisdiction, Maine Bureau of Public Lands

jurisdiction, Department of Transportation jurisdiction, U.S. Coast Guard aids to navigation, U.S. Customs and VHF radio procedure.

The cost of this course is 75 dollars. You have to take it once in your entire career as a harbor master and as I have already explained to you 95 out of 110 harbor masters in this state has done this. This bill has come before us for the last four years. The Harbor Masters' Association feels that all the harbor masters up and down the coast should have this same basic course at Castine and it is the unanimous decision of our committee that due to the complexities of being a harbor master, particularly when you add a layer of complexity that has come to us through the Homeland Security requirements of the federal government that it is not asking much of these individuals to perform their duty in the manner that this course would make sure that they do. Again, 95 out of 110 people have already taken this course so I ask you to please support the committee's Unanimous Report and follow my light and approve this bill by defeating the amendment in front of us. Thank you very much.

Representative MCKANE of Newcastle **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-834)**.

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 Boothbay, Representative Bishop.

Representative **BISHOP**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I respect, admire and understand all of the good work that has gone into this bill. This is a more complex society than it has been in the past and to demand more from those people who we authorize to regulate this society is, unfortunately, the way that life is going. But in this particular case I think that it has been brought out that while 95 of 110 have already taken this course there are a few that haven't and most of them, obviously, are elderly and certainly the harbor master in Boothbay Harbor is just a shade this side of 80. In this case, and these are a very few specific instances, we may be losing more than we are gaining by forcing them to take a course in something that they basically, probably don't want to do. But it is not going to be too long before they are going to be replaced by younger people who are more knowledgeable of the rules that we wish them to be knowledgeable of as individuals.

In this particular case I am not arguing against the legislation, but rather what I am arguing for is for a recognition of the work that these individuals have put in and a recognition of the fact also that this is a mandate in a way because we are forcing them to pay for this course and in many cases they are volunteers. Thank you Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Winterport, Representative Kaelin.

Representative **KAELIN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This bill does not force these individuals to pay for this. It in fact clarifies that the municipalities may reimburse those individuals for the cost of these courses and I also wanted to just remind the body, in fact I won't remind you because I didn't say it in the first place, but it is, in fact, the case that we didn't have any opposition from one harbor master on the coast of Maine to moving this bill out of that committee. In fact, we had the unanimous support of the Maine Harbor masters' Association that represents 75 of those 110 people. I think that it is very important that we keep in mind how this Harbor masters' Association, the professional harbor masters on the coast of Maine, feel that now is the time to go forward and make sure that this training is provided to every harbor master up and down the coast. I don't know that the people that are being singled out are elderly that is a new twist on this debate. I hadn't

heard that one before, but I don't believe it and I look forward to defeating this amendment. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Phippsburg, Representative Percy.

Representative **PERCY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to give a correction. The groups that got together to do this work I had listed off. I had gotten a note from someone about the Maine Municipal Association. They took neither for nor against stand on this. We took away the required mandate for the financial part of the training so they were neither for nor against so I do not want people to be confused by that. Thank you.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Adoption of House Amendment "A" (H-834). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 385

YEA - Austin, Berube, Bierman, Bishop, Browne W, Bryant-Deschenes, Carr, Clough, Collins, Davis G, Fletcher, Hall, Hamper, Jacobsen, Joy, Lansley, Lewin, Lindell, Marean, Mazurek, McCormick, McKane, McKenney, Pinkham, Richardson W, Rines, Saviello, Stedman, Tardy, Thomas, Trahan, Vaughan.

NAY - Adams, Annis, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brown R, Burns, Cain, Campbell, Canavan, Cebra, Churchill, Clark, Cressey, Crosby, Crosthwaite, Cummings, Curtis, Daigle, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Duprey, Eberle, Edgecomb, Faircloth, Farrington, Finch, Fischer, Fisher, Fitts, Flood, Gerzofsky, Glynn, Goldman, Grose, Hanley B, Hanley S, Harlow, Hogan, Hutton, Jennings, Jodrey, Kaelin, Koffman, Lerman, Lundeen, Makas, Marley, McLeod, Merrill, Miller, Mills, Moody, Moore G, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Paradis, Percy, Pilon, Pineau, Pingree, Piotti, Plummer, Rector, Richardson D, Richardson E, Robinson, Rosen, Sampson, Schatz, Seavey, Sherman, Shields, Simpson, Smith N, Sykes, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

ABSENT - Brautigam, Bryant, Craven, Curley, Eder, Emery, Greeley, Hotham, Jackson, Marraché, McFadden, Millett, Ott, Patrick, Perry, Richardson M, Smith W.

Yes, 32; No, 102; Absent, 17; Excused, 0.

32 having voted in the affirmative and 102 voted in the negative, with 17 being absent, and accordingly **House Amendment "A" (H-834) FAILED ADOPTION.**

Subsequently, the Bill was **PASSED TO BE ENGROSSED** and sent for concurrence.

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

SENATE PAPERS

Bill "An Act To Facilitate the Regionalization of Emergency Communications Dispatching Services"

(S.P. 818) (L.D. 2086)

Came from the Senate, **REFERRED** to the Committee on **LABOR** and ordered printed.

On motion of Representative **BLISS** of South Portland, **TABLED** pending **REFERENCE** and later today assigned.

Bill "An Act To Encourage the Preservation of Historic Structures"

(S.P. 812) (L.D. 2079)

Bill "An Act To Clarify the Taxable Status of Parts Provided under a Service Contract"

(S.P. 815) (L.D. 2084)

Came from the Senate, **REFERRED** to the Committee on **TAXATION** and ordered printed.

REFERRED to the Committee on **TAXATION** in concurrence.

The following Joint Order: (S.P. 817)
ORDERED, the House concurring, that the Joint Standing Committee on Agriculture, Conservation and Forestry shall report out, to the Senate, a bill authorizing certain land transactions.

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

READ and **PASSED** in concurrence.

CONSENT CALENDAR

First Day

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

(S.P. 664) (L.D. 1747) Bill "An Act To Assist Maine Military Families" (EMERGENCY) Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A"** (S-492)

(H.P. 1403) (L.D. 2001) Bill "An Act To Implement Recommendations of the Criminal Law Advisory Commission" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-858)

(H.P. 1416) (L.D. 2016) Bill "An Act To Extend the Corrections Alternatives Advisory Committee" (EMERGENCY) Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-859)

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-843) on Bill "An Act To Ensure Adequate Funding for Cleanup of Hazardous Waste, Biomedical Waste and Waste Oil"

(H.P. 1383) (L.D. 1975)

Signed:

Senators:

COWGER of Kennebec

MARTIN of Aroostook

Representatives:

WHEELER of Kittery

DAIGLE of Arundel

DUCHESNE of Hudson

EBERLE of South Portland

KOFFMAN of Bar Harbor

TWOMEY of Biddeford

ROSEN of Bucksport

THOMPSON of China

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B"** (H-844) on same Bill.

Signed:

Senator:

SNOWE-MELLO of Androscoggin

Representatives:

JOY of Crystal

ANNIS of Dover-Foxcroft

READ.

On motion of Representative KOFFMAN of Bar Harbor, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A"** (H-843) was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Wednesday, March 22, 2006.

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass** on Resolve, Regarding Legislative Review of Portions of Chapter 130: Implementing the State Purchasing Code of Conduct, a Major Substantive Rule of the Department of Administrative and Financial Services (EMERGENCY)

(H.P. 1401) (L.D. 1999)

Signed:

Senators:

SCHNEIDER of Penobscot

ROTUNDO of Androscoggin

ANDREWS of York

Representatives:

CROSTHWAITE of Ellsworth

McFADDEN of Dennysville

MOULTON of York

HARLOW of Portland

BISHOP of Boothbay

BARSTOW of Gorham

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-841) on same Resolve.

Signed:

Representative:

BROWNE of Vassalboro

READ.

On motion of Representative BARSTOW of Gorham, the Majority **Ought to Pass** Report was **ACCEPTED**.

The Resolve was **READ ONCE** and was assigned for **SECOND READING** Wednesday, March 22, 2006.

Ten Members of the Committee on **INLAND FISHERIES AND WILDLIFE** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (H-850)** on Bill "An Act To Improve Recreational Watercraft Safety"

(H.P. 231) (L.D. 307)

Signed:

Senators:

PERRY of Penobscot
WOODCOCK of Franklin

Representatives:

WATSON of Bath
LUNDEEN of Mars Hill
SAVIELLO of Wilton
CEBRA of Naples
MOODY of Manchester
TRAHAN of Waldoboro
RICHARDSON of Greenville
RICHARDSON of Carmel

Two Members of the same Committee report in Report "B" **Ought to Pass as Amended by Committee Amendment "B" (H-851)** on same Bill.

Signed:

Senator:

BRYANT of Oxford

Representative:

JACKSON of Allagash

One Member of the same Committee reports in Report "C" **Ought to Pass as Amended by Committee Amendment "C" (H-852)** on same Bill.

Signed:

Representative:

SYKES of Harrison

READ.

On motion of Representative WATSON of Bath, Report "A" **Ought to Pass as Amended was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-850)** was **READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Wednesday, March 22, 2006.

Nine Members of the Committee on **MARINE RESOURCES** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (H-847)** on Bill "An Act Relating to Elver Fishing" (EMERGENCY)

(H.P. 1421) (L.D. 2020)

Signed:

Senators:

DAMON of Hancock
SULLIVAN of York
ANDREWS of York

Representatives:

FLETCHER of Winslow
EMERY of Cutler
ASH of Belfast
EDER of Portland
KAELIN of Winterport
ADAMS of Portland

Two Members of the same Committee report in Report "B" **Ought Not to Pass** on same Bill.

Signed:

Representatives:

DUGAY of Cherryfield
CRESSEY of Cornish

One Member of the same Committee reports in Report "C" **Ought to Pass as Amended by Committee Amendment "B" (H-848)** on same Bill.

Signed:

Representative:

PERCY of Phippsburg

READ.

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

The Bill was **READ ONCE. Committee Amendment "A" (H-847)** was **READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Wednesday, March 22, 2006.

**Refer to the Committee on Taxation
Pursuant to Joint Order**

Report of the **Joint Standing Committee on Taxation** on Bill "An Act To Clarify the Sales Tax Exemption for Air Ambulance Services"

(S.P. 816) (L.D. 2085)

Reporting that it be **REFERRED** to the Committee on **TAXATION** pursuant to Joint Order 2006, S.P. 808.

Came from the Senate with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **TAXATION.**

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **TAXATION** in concurrence.

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

On motion of Representative HANLEY of Gardiner, the House adjourned at 12:56 p.m., until 9:00 a.m., Wednesday, March 22, 2006 in honor and lasting tribute to Ronald N. Goggin, of Randolph.