

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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ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
SECOND REGULAR SESSION
31st Legislative Day
Thursday, March 30, 2006

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

Prayer by Doctor Kevin O'Brien, Augusta First Church of the Nazarene.

National Anthem by St. John's Elementary/Middle School Band, Brunswick.

Pledge of Allegiance.

Doctor of the day, Buell Miller, M.D., Cumberland.

The Journal of yesterday was read and approved.

SENATE PAPERS

The following Joint Order: (S.P. 839)

ORDERED, the House concurring, that the Joint Standing Committee on State and Local Government shall report out, to the Senate, a bill to change the date for agency submission of provisionally adopted major substantive rules.

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

READ and **PASSED** in concurrence.

COMMUNICATIONS

The Following Communication: (S.P. 832)

STATE OF MAINE

122ND MAINE LEGISLATURE

March 27, 2006

Sen. Elizabeth H. Mitchell

Senate Chair, Joint Standing Committee on Education and Cultural Affairs

Rep. Jacqueline R. Norton

House Chair, Joint Standing Committee on Education and Cultural Affairs

122nd Legislature

Augusta, ME 04333

Dear Senator Mitchell and Representative Norton:

Please be advised that Governor John E. Baldacci has nominated John Mooney of Harborside for appointment and Paul Rich of Edgcomb for reappointment to the Maine Maritime Academy Board of Trustees.

Pursuant to Public Law 1975, Chapter 771, Section 428, these nominations will require review by the Joint Standing Committee on Education and Cultural Affairs and confirmation by the Senate.

Sincerely,

S/Beth Edmonds

President of the Senate

S/John Richardson

Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

READ and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** in concurrence.

The Following Communication: (S.P. 833)

STATE OF MAINE

122ND MAINE LEGISLATURE

March 27, 2006

Sen. John M. Nutting

Senate Chair, Joint Standing Committee on Agriculture, Conservation and Forestry

Rep. John F. Piotti

House Chair, Joint Standing Committee on Agriculture, Conservation and Forestry

122nd Legislature

Augusta, ME 04333

Dear Senator Nutting and Representative Piotti:

Please be advised that Governor John E. Baldacci has nominated Thomas Qualey of Sherman for appointment to the Board of Pesticides Control.

Pursuant to Title 22 M.R.S.A. §1471-B, this nomination will require review by the Joint Standing Committee on Agriculture, Conservation and Forestry and confirmation by the Senate.

Sincerely,

S/Beth Edmonds

President of the Senate

S/John Richardson

Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**.

READ and **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** in concurrence.

The Following Communication: (S.P. 834)

STATE OF MAINE

122ND MAINE LEGISLATURE

March 27, 2006

Sen. Kenneth T. Gagnon

Senate Chair, Joint Standing Committee on Legal and Veterans Affairs

Rep. John L. Patrick

House Chair, Joint Standing Committee on Legal and Veterans Affairs

122nd Legislature

Augusta, ME 04333

Dear Senator Gagnon and Representative Patrick:

Please be advised that Governor John E. Baldacci has nominated Cushing Samp of Saco, for appointment to the Gambling Control Board.

Pursuant to Title 8 M.R.S.A. Chapter 31 §1002, this nomination will require review by the Joint Standing Committee on Legal and Veterans Affairs and confirmation by the Senate.

Sincerely,

S/Beth Edmonds

President of the Senate

S/John Richardson

Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS**.

READ and **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** in concurrence.

The Following Communication: (S.P. 835)

STATE OF MAINE

122ND MAINE LEGISLATURE

March 27, 2006

Sen. Scott W. Cowger

Senate Chair, Joint Standing Committee on Natural Resources

Rep. Theodore S. Koffman

House Chair, Joint Standing Committee on Natural Resources

122nd Legislature

Augusta, ME 04333

Dear Senator Cowger and Representative Koffman:
Please be advised that Governor John E. Baldacci has nominated Edith Cronk of Wiscasset for appointment to the Maine Outdoor Heritage Fund Board.

Pursuant to Title 12 M.R.S.A. § 10308, this nomination will require review by the Joint Standing Committee on Natural Resources and confirmation by the Senate.

Sincerely,
S/Beth Edmonds
President of the Senate
S/John Richardson
Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **NATURAL RESOURCES**.

READ and **REFERRED** to the Committee on **NATURAL RESOURCES** in concurrence.

The Following Communication: (S.P. 836)

**STATE OF MAINE
122ND MAINE LEGISLATURE**

March 27, 2006

Sen. John M. Nutting
Senate Chair, Joint Standing Committee on Agriculture,
Conservation and Forestry
Rep. John F. Piotti
House Chair, Joint Standing Committee on Agriculture,
Conservation and Forestry
122nd Legislature
Augusta, ME 04333

Dear Senator Nutting and Representative Piotti:

Please be advised that Governor John E. Baldacci has nominated Steve Schaefer of Grand Lake Stream for appointment to the Land Use Regulation Commission.

Pursuant to Title 12 M.R.S.A. §683, this nomination will require review by the Joint Standing Committee on Agriculture, Conservation and Forestry and confirmation by the Senate.

Sincerely,
S/Beth Edmonds
President of the Senate
S/John Richardson
Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**.

READ and **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** in concurrence.

The Following Communication: (S.P. 837)

**STATE OF MAINE
122ND MAINE LEGISLATURE**

March 27, 2006

Sen. Elizabeth H. Mitchell
Senate Chair, Joint Standing Committee on Education and Cultural Affairs
Rep. Jacqueline R. Norton
House Chair, Joint Standing Committee on Education and Cultural Affairs
122nd Legislature
Augusta, ME 04333

Dear Senator Mitchell and Representative Norton:

Please be advised that Governor John E. Baldacci has nominated Kris Chabre of Caribou for appointment and Robert Clark of Fort Fairfield for appointment to the Maine Community College System Board of Trustees.

Pursuant to Title 20-A M.R.S.A. §12705, these nominations will require review by the Joint Standing Committee on Education and Cultural Affairs and confirmation by the Senate.

Sincerely,
S/Beth Edmonds
President of the Senate
S/John Richardson
Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

READ and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** in concurrence.

The Following Communication: (S.C. 571)

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

March 29, 2006

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:

Upon the recommendation of the Committee on Education and Cultural Affairs, the nominations to the Maine School of Science and Mathematics Board of Trustees:

Jeremy M. Usher of Dresden for appointment;
David C. Haines of Auburn for appointment.

Sincerely,
S/Joy J. O'Brien
Secretary of the Senate

READ and **ORDERED PLACED ON FILE**.

The Following Communication: (S.C. 572)

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

March 29, 2006

The Honorable Millicent M. MacFarland
Clerk of the House
2 State House Station
Augusta, Maine 04333-0002

Dear Clerk MacFarland:

With reference to the Senate's action whereby it insisted and joined in a Committee of Conference on the disagreeing action between the two branches of the Legislature on the Bill, "An Act Making Improvements to the Laws Regarding Local Land Use Ordinances" (H.P. 1080) (L.D. 1535).

The President has appointed as conferees on the part of the Senate the following:

Senator Cowger of Kennebec County
Senator Martin of Aroostook County
Senator Snowe-Mello of Androscoggin County

Sincerely,
S/Joy J. O'Brien
Secretary of the Senate

READ and ORDERED PLACED ON FILE.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

the following members of the Lewiston High School Boys Hockey Team, on their winning the 2006 Eastern Class A Hockey Championship: players Brian Nason, Zack Blauvelt, Ian Doucette, Danny Cloutier, Brandon Girardin, Tim Gilbert, Toby Poirier, Matt Letourneau, Jake Brown, Travis Lebrun, Jon Roy, Jordan Bourgoin, Kevin LeBlanc, Nathan Parker, Casey Poussard, Andrew Joy, Robbie Leeman and Zack Plourd; head coach Norm Gagne; assistant coaches Jay Dufour, Jeff Ross, Joe Mynahan and Richard Boulet; trainer Mary Brit; and athletic director Jason Fuller. We extend our congratulations to the team on this accomplishment;

(HLS 1789)

Presented by Representative MAKAS of Lewiston.

Cosponsored by Senator ROTUNDO of Androscoggin, Representative SAMPSON of Auburn, Representative WALCOTT of Lewiston, Representative O'BRIEN of Lewiston, Representative CRAVEN of Lewiston.

On **OBJECTION** of Representative WALCOTT of Lewiston, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-913)** on Bill "An Act To Support the Efficient Implementation of Maine's Learning Results" (EMERGENCY)

(H.P. 989) (L.D. 1425)

Signed:

Senators:

MITCHELL of Kennebec
SCHNEIDER of Penobscot
TURNER of Cumberland

Representatives:

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

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

Signed:

Representatives:

EDGECOMB of Caribou
STEDMAN of Hartland
LANSLEY of Sabattus

READ.

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

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

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act To Amend the Laws Governing the Excise Tax on New Automobiles"

(H.P. 1284) (L.D. 1844)

Signed:

Senators:

STRIMLING of Cumberland
COURTNEY of York
PERRY of Penobscot

Representatives:

HANLEY of Paris
McCORMICK of West Gardiner
WOODBURY of Yarmouth
CLOUGH of Scarborough
HUTTON of Bowdoinham
SEAVEY of Kennebunkport
WATSON of Bath

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-912)** on same Bill.

Signed:

Representatives:

CLARK of Millinocket
BIERMAN of Sorrento

READ.

Representative WOODBURY of Yarmouth moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The **SPEAKER**: The Chair recognizes the Representative from Yarmouth, Representative Woodbury.

Representative **WOODBURY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. This bill relates to the excise tax on new automobiles. One of the bothersome things that we face when we go and buy an automobile is that we negotiate a discount off of the list price, the sticker price. We then go down to register our car at our municipal office and find that we pay an excise tax based on the full sticker price instead of the price that we actually paid. All of us experience this and all of us are irked by this. The proposal as it came before us would have enabled the excise tax on a brand new car to be based on what you actually paid rather than on the sticker price.

The majority of the committee had some concerns about fairness. Some people are good negotiators off of the sticker price and some aren't and some people are just able to get better deals and in other deals some people just go and pay the sticker price. There is a sense of unfairness in applying a different excise tax to those different circumstances. That lead the minority to say, "Well, let's just lower the excise tax rate on new cars to partially compensate for this. So, the Majority is an Ought Not to Pass Report. The Minority is an Ought to Pass with a reduction in the rate from 24 mils on new cars to 21.5 mils. That all sounds well and good till you look at the loss to municipalities associated with this, which is estimated at \$4.4 million. The majority of the committee was not comfortable with a \$4.4 million loss to municipalities and that is why we are recommending the Majority Ought Not to Pass Report. Thank you Mr. Speaker.

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

Representative CLARK: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I applaud my good chairman for giving a good report on the bill and where we are with the bill, but I differ somewhat with his stance on the bill. As you notice on the report I am one of two that signed the bill out Ought to Pass as Amended and please take some time and read the amendment. When I was going door to door for my election to come back down here again, time and time again I heard from people saying that we needed to do something with the excise tax and that we needed to change it because it is unfair. I put a bill in last session and I think that a total of nine legislators had similar bills in so there is a major concern and a major problem out there with the public. Yes it is going to be a loss with municipalities, but we really don't know how much of a loss as far as I can figure. The amendment only deals with 24 down to 21.5 mils for each dollar of the value price on that sticker price. You may gain money. More people might want to buy a car that wouldn't buy a car before knowing that they had to pay the 24 mils per dollar. I have a hard time accepting the fact that the towns are going to loose money. Yeah, some of them might loose a little bit of money, but it could be an enhancer to municipalities that gain more money so I question that. Please take time to look at the amendment. I know that all of you had questions and concerns for your constituents when you were going door to door or are out campaigning or going to the grocery store. So don't roll this under the rug. Take some time to look at it and when you vote I hope that you vote with the Minority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Blue Hill, Representative Schatz.

Representative SCHATZ: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise because I crafted this bill and felt that it was a matter of consumer fairness. I am going into my twelfth year as a selectman and there is not a week that goes by in our town office that a constituent isn't expressing some concern about the unfairness of this property tax. This is not a property tax; it is not a sales tax. When we assess property, in our municipalities it is based on comparable sales prices and to base a sales tax or property tax on a marketing ploy, which is really, what a sticker price tends to be nowadays, is not fair to the consumer. If there were to be some loss to municipalities it is my experience that other selectman and other elected officials would rather loose this if it were a reflection of fairness, rather than gain to an unfair tax. Thank you, Mr. Speaker.

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

Representative CLOUGH: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. A major concern that I have with this bill even in the amended form is that the revenue laws at the municipality can only be made up in one way and that is through an increase in the property tax. That is the only way that they have of getting revenue rather than the excise tax. So I would ask you to follow my light and vote Ought Not to Pass. Thank you.

Representative CLOUGH of Scarborough REQUESTED a roll call on the motion to ACCEPT the Majority Ought Not to Pass Report.

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

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

Representative CLARK: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Don't be afraid to get a vote against the Majority Report ladies and gentlemen because I think that one thing that was mentioned earlier was the fairness. Vote for the fairness of the people that you represent. Thank you, Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 419

YEA - Austin, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Burns, Cain, Canavan, Carr, Cebra, Clough, Collins, Craven, Crosby, Cummings, Daigle, Davis G, Duchesne, Dudley, Duplessie, Duprey, Eberle, Eder, Emery, Faircloth, Fisher, Gerzofsky, Grose, Hamper, Hanley B, Hanley S, Harlow, Hutton, Jodrey, Koffman, Lansley, Lerman, Lundeen, Makas, Mazurek, McCormick, McKenney, Merrill, Miller, Millett, Moody, Muse, Nass, Norton, Nutting, O'Brien, Pineau, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson M, Richardson W, Robinson, Sampson, Seavey, Shields, Simpson, Smith N, Sykes, Thompson, Tuttle, Twomey, Walcott, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Ash, Babbidge, Berube, Bierman, Bishop, Bryant-Deschenes, Campbell, Churchill, Clark, Cressey, Crosthwaite, Curley, Curtis, Davis K, Driscoll, Edgecomb, Farrington, Finch, Fitts, Fletcher, Flood, Glynn, Hall, Hogan, Jackson, Jacobsen, Jennings, Joy, Kaelin, Lewin, Lindell, Marean, Marraché, McKane, McLeod, Moore G, Moulton, Paradis, Patrick, Percy, Perry, Pilon, Richardson D, Richardson E, Rines, Rosen, Saviello, Schatz, Sherman, Tardy, Thomas, Trahan, Valentino, Vaughan, Webster.

ABSENT - Adams, Dugay, Dunn, Fischer, Goldman, Greeley, Hotham, Marley, McFadden, Mills, Ott, Smith W, Stedman, Watson.

Yes, 81; No, 56; Absent, 14; Excused, 0.

81 having voted in the affirmative and 56 voted in the negative, with 14 being absent, and accordingly the Majority Ought Not to Pass Report was ACCEPTED and sent for concurrence. ORDERED SENT FORTHWITH.

Majority Report of the Committee on TAXATION reporting Ought Not to Pass on Bill "An Act To Implement Recommendations of the Study Commission Regarding Liveable Wages Concerning the Circuit Breaker Program"

(H.P. 1426) (L.D. 2025)

Signed:

Senator:

COURTNEY of York

Representatives:

HANLEY of Paris

McCORMICK of West Gardiner

WOODBURY of Yarmouth

CLOUGH of Scarborough

BIERMAN of Sorrento

SEAVEY of Kennebunkport

Minority Report of the same Committee reporting Ought to Pass as Amended by Committee Amendment "A" (H-910) on same Bill.

Signed:

Senators:

STRIMLING of Cumberland
PERRY of Penobscot

Representatives:

CLARK of Millinocket
HUTTON of Bowdoinham
WATSON of Bath

READ.

Representative CLARK of Millinocket moved that the House **ACCEPT the Minority Ought to Pass as Amended Report.**

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

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

The SPEAKER: The Representative may pose his question.

Representative **SHIELDS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Would somebody please answer as to what the fiscal note is on this bill?

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

Representative **WOODBURY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This fiscal note is about \$20 million and I further move that this item be tabled until later in today's session.

On motion of Representative **WOODBURY** of Yarmouth, **TABLED** pending the motion of Representative CLARK of Millinocket to **ACCEPT the Minority Ought to Pass as Amended Report** and later today assigned.

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act To Implement Recommendations of the Study Commission Regarding Liveable Wages Concerning Conformity with Federal Tax Laws"

(H.P. 1427) (L.D. 2026)

Signed:

Senator:

COURTNEY of York

Representatives:

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

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-911)** on same Bill.

Signed:

Senators:

STRIMLING of Cumberland
PERRY of Penobscot

Representatives:

CLARK of Millinocket
HUTTON of Bowdoinham
WATSON of Bath

READ.

Representative CLARK of Millinocket moved that the House **ACCEPT the Minority Ought to Pass as Amended Report.**

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

CONSENT CALENDAR

First Day

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

(H.P. 1470) (L.D. 2078) Bill "An Act To Establish the Island Falls Water District" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass**

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

CONSENT CALENDAR

Second Day

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

(S.P. 570) (L.D. 1596) Bill "An Act Limiting Clean Election Candidates' Campaign Soliciting" (C. "A" S-521)

(S.P. 680) (L.D. 1763) Bill "An Act To Ensure the Authority of 'Do Not Resuscitate' Orders in Advance Health-care Directives" (EMERGENCY) (C. "A" S-522)

(H.P. 1461) (L.D. 2066) Resolve, Regarding Legislative Review of Portions of Chapter 1.03: Waters of Special Significance, a Major Substantive Rule of the Department of Inland Fisheries and Wildlife (EMERGENCY)

(H.P. 1464) (L.D. 2069) Resolve, Regarding Legislative Review of the Final Repeal of Portions of Chapter 130: Rules for Equivalent Instruction Programs, a Major Substantive Rule That Has Been Provisionally Repealed by the Department of Education (EMERGENCY)

(H.P. 468) (L.D. 635) Bill "An Act To Amend the Maine Sanitary District Enabling Act" (C. "A" H-908)

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. **ORDERED SENT FORTHWITH.**

BILLS IN THE SECOND READING

Senate

Resolve, Authorizing the Department of Conservation, Bureau of Parks and Lands To Convey Certain Lands

(S.P. 827) (L.D. 2095)

Senate as Amended

Bill "An Act To Provide State Funding for the Fingerprinting of School Personnel"

(S.P. 662) (L.D. 1745)

(C. "A" S-520)

Bill "An Act To Strengthen the State Purchasing Code of Conduct Laws"

(S.P. 686) (L.D. 1769)

(C. "A" S-499)

House as Amended

Resolve, To Transfer Ownership of Certain Public Reserved Lands to the Town of Allagash

(H.P. 653) (L.D. 934)
(H. "A" H-907 to C. "B" H-750)

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

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

Expression of Legislative Sentiment recognizing the Lewiston High School Boys Hockey Team.

(HLS 1789)

Which was **TABLED** by Representative WALCOTT of Lewiston pending **PASSAGE**.

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

Representative **MAKAS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I want to add my personal congratulations to the Lewiston High School Hockey Team on being the Eastern Class A State Champions. They accomplished this by magnificent play throughout the year, including a quarterfinal game with Bangor that they won in overtime against a very good team. They won 2-1. They played an incredible semi-final against Brunswick, which set a high school hockey record for being the longest hockey game on record going into five overtimes and 83 minutes total. They won that one 2-1 and then they lost, although they played great, against another great team, which was Cheverus with a final score of 3-1. We are very, very proud of our hockey time and both their accomplishments on the ice and their accomplishments in the classroom. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Lewiston, Representative O'Brien.

Representative **O'BRIEN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I am one of those very proud Representatives from Lewiston. I will tell you that I am a graduate of Lewiston High School even though I forget the year. But we had a great football and hockey team while I was there also and I always will remember how proud we were to say we are from Lewiston High School. My sport was basketball and I will tell you that the outfits that they wear now to play basketball are a lot different than what we had then and, again, I am very, very proud of this hockey team.

Subsequently, this Expression of Legislative Sentiment was **PASSED** and sent for concurrence.

Representative O'BRIEN of Lewiston assumed the Chair. The House was called to order by the Speaker Pro Tem.

ENACTORS

Emergency Measure

An Act Concerning Certain Provisions Regarding Protection of Natural Resources Related to Activities in Coastal Areas

(H.P. 1300) (L.D. 1860)
(C. "A" H-842)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 126 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

Emergency Measure

An Act To Extend the Corrections Alternatives Advisory Committee

(H.P. 1416) (L.D. 2016)
(C. "A" H-859)

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. 115 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 Kennebunk Light and Power District

(H.P. 1420) (L.D. 2019)
(C. "A" H-835)

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. 108 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. **ORDERED SENT FORTHWITH.**

Emergency Measure

An Act Relating to Elver Fishing

(H.P. 1421) (L.D. 2020)
(C. "A" H-847)

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. 109 voted in favor of the same and 4 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 Authorize Certain County Jail Employees To Perform Certain Ministerial and Notary Functions for Inmates

(H.P. 1429) (L.D. 2031)
(C. "A" H-863)

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. 111 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. **ORDERED SENT FORTHWITH.**

Emergency Measure

An Act Relating to Mergers and Consolidations of Corporations without Capital Stock

(H.P. 1431) (L.D. 2034)

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

Representative BRANNIGAN of Portland **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.

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

ROLL CALL NO. 420

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

NAY - Hall, Joy, Thomas, Vaughan.

ABSENT - Burns, Craven, Daigle, Davis G, Dudley, Emery, Fischer, Flood, Goldman, Greeley, Hotham, Jennings, Moody, Moore G, Smith W, Stedman, Watson.

Yes, 130; No, 4; Absent, 17; Excused, 0.

130 having voted in the affirmative and 4 voted in the negative, with 17 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate. **ORDERED SENT FORTHWITH**.

Emergency Measure

An Act To Provide for the 2006 and 2007 Allocations of the State Ceiling on Private Activity Bonds

(S.P. 791) (L.D. 2047)
(C. "A" S-510)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 126 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate. **ORDERED SENT FORTHWITH**.

Emergency Measure

An Act To Implement the Recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry Relating to Review of the Department of Conservation

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

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. **ORDERED SENT FORTHWITH**.

Emergency Measure

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

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

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

Representative CUMMINGS of Portland **REQUESTED** a roll call on **FINAL PASSAGE**.

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

On further motion of the same Representative, **TABLED** pending **FINAL PASSAGE** and later today assigned. (Roll Call Ordered)

Emergency Mandate

Resolve, Establishing an Apportionment Commission To Develop New Cumberland County Commissioner Districts

(H.P. 1236) (L.D. 1728)
(C. "A" H-840)

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

On motion of Representative BARSTOW of Gorham, **TABLED** pending **FINAL PASSAGE** and later today assigned.

Acts

An Act To Improve Recreational Watercraft Safety

(H.P. 231) (L.D. 307)
(C. "A" H-850)

An Act To Amend the Procedures Used in Criminal Proceedings Involving Victims with Developmental Disabilities

(H.P. 1187) (L.D. 1679)
(C. "A" H-845)

An Act Regarding Sexual Assault Forensic Examinations

(H.P. 1313) (L.D. 1873)
(C. "A" H-846)

An Act To Clarify the Liquor Laws

(H.P. 1323) (L.D. 1883)
(C. "B" H-856)

An Act To Update Licensing and Certification Requirements for Child Care Facilities and Family Child Care Providers

(H.P. 1327) (L.D. 1887)
(H. "A" H-884 to C. "A" H-813)

An Act To Implement Recommendations of the Criminal Law Advisory Commission

(H.P. 1403) (L.D. 2001)
(C. "A" H-858; H. "A" H-868)

An Act Protecting Youth from Losing Health Insurance Coverage

(S.P. 777) (L.D. 2014)
(C. "A" S-512)

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, Directing the Department of Transportation To Review Its Highway Traffic Noise Policy

(H.P. 1438) (L.D. 2040)
(C. "A" H-857)

Resolve, To Name the New Bridge in Augusta Spanning the Kennebec River "Cushnoc Crossing"

(H.P. 1445) (L.D. 2051)

Resolve, Concerning the Collection of the Statewide E-9-1-1 Surcharge from Prepaid Wireless Telephone Service

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

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 Establish the Uniform Partnership Act and the Uniform Limited Partnership Act

(S.P. 591) (L.D. 1609)
(C. "A" S-506)

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

The Bill was **PASSED TO BE ENACTED** and signed by the Speaker Pro Tem.

On motion of Representative DUPLESSIE of Westbrook, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENACTED**.

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

An Act To Ensure Adequate Funding for Cleanup of Hazardous Waste, Biomedical Waste and Waste Oil

(H.P. 1383) (L.D. 1975)
(C. "A" H-843)

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

The Bill was **PASSED TO BE ENACTED** signed by the Speaker Pro Tem.

On motion of Representative DUPLESSIE of Westbrook, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENACTED**.

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. 421

YEA - Adams, Annis, Ash, Austin, Babbidge, Barstow, Beaudette, Berube, Bierman, Bishop, Blanchard, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Bryant-Deschenes, Burns, Cain, Campbell, Canavan, Carr, Cebra, Churchill, Clark, Clough, Collins, Craven, Cressey,

Crosby, Crosthwaite, Cummings, Curley, Curtis, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Emery, Faircloth, Farrington, Finch, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Grose, Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Kaelin, Koffman, Lerman, Lewin, Lindell, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, McLeod, Merrill, Miller, Millett, Mills, Moody, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Ott, Paradis, Patrick, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Rines, Robinson, Rosen, Sampson, Saviello, Schatz, Seavey, Sherman, Shields, Simpson, Sykes, Tardy, Trahan, Tuttle, Twomey, Valentino, Vaughan, Walcott, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Joy, Lansley, Thomas.

ABSENT - Blanchette, Fischer, Goldman, Greeley, Hotham, Lundeen, McKenney, Moore G, Smith N, Smith W, Stedman, Thompson, Watson.

Yes, 135; No, 3; Absent, 13; Excused, 0.

135 having voted in the affirmative and 3 voted in the negative, with 13 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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:

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

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

Which was **TABLED** by Representative CUMMINGS of Portland pending **FINAL PASSAGE**. (Roll Call Ordered)

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

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

ROLL CALL NO. 422

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

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Cebra, Churchill, Clough, Collins, Cressey, Crosby, Crosthwaite, Curtis, Daigle, Davis G, Davis K, Duprey, Edgecomb, Emery,

Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Jacobsen, Jodrey, Joy, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Millett, Moore G, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Sykes, Tardy, Thomas, Vaughan.

ABSENT - Burns, Fischer, Fisher, Goldman, Hotham, Moulton, Patrick, Smith W, Stedman, Watson.

Yes, 75; No, 66; Absent, 10; Excused, 0.

75 having voted in the affirmative and 66 voted in the negative, with 10 being absent, and accordingly the Resolve **FAILED FINAL PASSAGE**. Sent for concurrence.

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

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

Representative **LINDELL**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. On the roll call for LD 1975, item 10-17 on the calendar, I voted yea. That was in error. I would like to say on the record that I do not vote for fee increases so I should have voted nay.

The House recessed until 11:30 a.m.

(After Recess)

The House was called to order by the Speaker.

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

UNFINISHED BUSINESS

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

Bill "An Act Requiring Equal Retirement Benefits for Corrections Officers and Mental Health Workers with 25 Years of State Service "

(S.P. 246) (L.D. 748)

- In House, Report "B" (6) **OUGHT NOT TO PASS** of the Committee on **LABOR READ** and **ACCEPTED** on March 2, 2006.

- In Senate, Senate **INSISTED** on its former action whereby the Report "A" (6) **OUGHT TO PASS AS AMENDED** of the Committee on **LABOR** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-432)** in **NON-CONCURRENCE**.

TABLED - March 9, 2006 (Till Later Today) by Representative **TUTTLE** of Sanford.

PENDING - Motion of Speaker **RICHARDSON** of Brunswick to **RECEDE** and **CONCUR**. (Roll Call Ordered)

Representative **TUTTLE** of Sanford **REQUESTED** that the Clerk **READ** the Committee Report.

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

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

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

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

Representative **TUTTLE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. My understanding is that the motion is to Recede and Concur, which would be in favor of the other body's motion to pass the bill, is that correct?

The **SPEAKER**: That is correct.

The Chair recognizes the Representative from Westbrook, Representative **DUPLESSIE**.

Representative **DUPLESSIE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise to speak on this because the title that you are looking at is not correct because it is a resolve. It is a resolve to create a study commission. That is all it does is create a study commission to see if this is comparable for some of the jobs of corrections officers and mental health workers that people deal with day in and day out and to what extent does it relate to the hazards and the working conditions that other law enforcement workers deal with. It would also include some of the crime investigators in the Attorney General's Office that deal with violent subjects at times like the mental health workers do. But what this study would do is that, with a 9 member study group, it would look at these issues and report back for the next Legislature to look at so I encourage everyone to follow my light and vote green so that we can send this down to the Appropriations table and let it be decided there and then we will get the final vote on it from Appropriations to create the study. Thank you.

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

ROLL CALL NO. 423

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

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

ABSENT - Emery, Fischer, Goldman, Hotham, Makas, Merrill, Smith W, Stedman, Watson.

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

73 having voted in the affirmative and 69 voted in the negative, with 9 being absent, and accordingly the House voted to **RECEDE AND CONCUR**.

HOUSE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (H-822)** - Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Require the Commission on Governmental Ethics and Election Practices To Produce a Register of All Registered Lobbyists"

(H.P. 1262) (L.D. 1822)

TABLED - March 16, 2006 (Till Later Today) by Representative PATRICK of Rumford.

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

Representative TARDY of Newport **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought to Pass as Amended** Report.

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

Representative BOWLES of Sanford **REQUESTED** that the Clerk **READ** the Committee Report.

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

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

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

ROLL CALL NO. 424

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

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

ABSENT - Emery, Fischer, Goldman, Hotham, Merrill, Smith W, Stedman, Watson, Wheeler.

Yes, 66; No, 76; Absent, 9; Excused, 0.

66 having voted in the affirmative and 76 voted in the negative, with 9 being absent, and accordingly the Minority **Ought to Pass as Amended** Report was **NOT ACCEPTED**.

Representative TWOMEY of Biddeford moved that the House **RECONSIDER** whereby the Minority **Ought to Pass as Amended** Report was **NOT ACCEPTED**.

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

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

The SPEAKER: The Representative may proceed.

Representative **GLYNN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. My inquiry is that I would like to have a roll call on the motion to reconsider. How would I be able to properly put that before the body?

The SPEAKER: The answer is that when we move it off of the table with reconsideration then that would be the proper time to request a roll call. So, typically what we do here is that when somebody moves to reconsideration we don't have to agree, but we generally agree, it comes off the table for purposes of reconsideration and that is when the proper time would be for a roll call on the reconsideration.

On further motion of the same Representative, **TABLED** pending her motion to **RECONSIDER** its action whereby the Minority **Ought to Pass as Amended** Report was **NOT ACCEPTED** and later today assigned. (Roll Call Requested)

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

(H.P. 1328) (L.D. 1888)

(C. "A" H-801)

TABLED - March 21, 2006 (Till Later Today) by Representative KOFFMAN of Bar Harbor.

PENDING - **PASSAGE TO BE ENACTED**.

On motion of Representative KOFFMAN of Bar Harbor, 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**.

On further motion of the same Representative, the rules were **SUSPENDED** for the purpose of **FURTHER RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-801)** was **ADOPTED**.

The same Representative **PRESENTED** House Amendment **"B" (H-920)** to **Committee Amendment "A" (H-801)** which was **READ** by the Clerk and **ADOPTED**.

Committee Amendment "A" (H-801) as Amended by House Amendment **"B" (H-920)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (H-801)** as Amended by House Amendment **"B" (H-920)** thereto in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH**.

HOUSE DIVIDED REPORT - Majority (11) **Ought to Pass as Amended by Committee Amendment "A" (H-869)** - Minority (2) **Ought Not to Pass** - Committee on **JUDICIARY** on Bill "An Act To Correct Deficiencies in the Divorce Laws"

(H.P. 1252) (L.D. 1812)

TABLED - March 23, 2006 (Till Later Today) by Representative SIMPSON of Auburn.

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

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. You will notice that this was a divided report and I was on the Ought Not to Pass and I wanted to take just a moment to explain the reasons that I voted

against this in committee and I will be voting against this also when we get to that point.

LD 1812 adds another category to the divorce laws and what it does under Title 18-A § 5-101 is that it adds physical disability. It is my understanding of this law that if your spouse was injured in an automobile accident or had a heart attack or had a stroke or became physically disabled that that would be a reason to divorce your spouse. I don't know whatever happened to "Till death do us part." Those vows mean something to me. I hope that they mean something to you. There are also plenty of reasons to get divorced in the State of Maine under irreconcilable differences and, Mr. Speaker, when the vote is taken I would ask for the Yeas and Nays.

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

Representative **MILLS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Just a few words of explanation about this bill, which I sponsored and, which did receive an 11-2 report from the Judiciary Committee. As you perhaps know, several dozen years ago now this Legislature did away with so called fault divorce on the grounds of cruel and abusive treatment and what not and we instituted something called irreconcilable differences. That is a very broad allegation that is generally relied upon in the family law courts of Maine everyday and it is pretty simple to prove irreconcilable differences and it is, whether we agree with that action or not, something that has been in the laws for a number of years now and it has forced the parties in divorces to put aside their differences, put aside their hostilities and anger and focus instead on the needs of children, the needs for continuing support for a needy spouse, continuing support for a child, financial and property division issues and that kind of thing. Situations have arisen more commonly in recent years where one party to a divorce may be permanently incapacitated and incompetent. Typically in a case involving Alzheimer's for instance, people have come to me and said that they still love their wife or husband, but they have been ill for five or six years now and I know that they would want me to divorce her and carry on with my life because she told me this. Judges across the state are not uniform in how to deal with that situation. It isn't too difficult to come in and say that there are irreconcilable differences because of the situation, but my bill simply clarifies that in the case where one party is permanently incapacitated, to the extent that they are under guardianship as ordered by the probate court certain protections will come into play. By singling out that ground what this bill does, as it has evolved, is that it requires the court to appoint a guardian ad litem to look into all the circumstances of the incapacitated individual and report back to the court just as if you were dealing with a minor child in a sense and to flesh out all of the facts surrounding the persons incapacitation and what that person might or might not want or say if he or she were competent to testify and give evidence to a court. So, in my view, and in the view of the majority of the committee this bill gives extra protections to incapacitated persons rather than diminishing the value of marriage itself, it may, in fact, help enhance that commitment between a man and a woman under current law.

The bill also does a few minor things, but it also deletes the rather ancient and obsolete grounds for divorce that one party has been institutionalized in a mental hospital for seven years, which is, I hope, archaic now and not necessary to evoke and a

bit offensive to our current culture. That is what this bill does. I certainly respect the good intentions and sincerity of the good Representative from Lincoln. I always respect his views, but my views are different and I hope that you understand what the purpose of the bill is and vote for the passage. 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. 425

YEA - Adams, Babbidge, Barstow, Blanchard, Blanchette, Bowles, Brannigan, Brautigam, Brown R, Bryant, Bryant-Deschenes, Burns, Cain, Campbell, Canavan, Clark, Craven, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Duprey, Eberle, Eder, Faircloth, Farrington, Finch, Gerzofsky, Greeley, Grose, Hanley B, Hanley S, Harlow, Hogan, Hutton, Jackson, Jacobsen, Koffman, Lerman, Lindell, Makas, Marley, Marraché, Mazurek, McKane, Miller, Mills, Muse, Nass, Norton, O'Brien, Ott, Patrick, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Richardson D, Richardson E, Rines, Robinson, Saviello, Schatz, Simpson, Smith N, Tardy, Thompson, Twomey, Valentino, Walcott, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Ash, Austin, Beaudette, Berube, Bierman, Bishop, Bowen, Browne W, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosby, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Edgcomb, Fitts, Fletcher, Flood, Glynn, Hall, Hamper, Jennings, Jodrey, Joy, Kaelin, Lansley, Lewin, Lundeen, Marean, McCormick, McFadden, McKenney, McLeod, Millett, Moody, Moore G, Moulton, Nutting, Pinkham, Plummer, Rector, Richardson M, Richardson W, Rosen, Sampson, Seavey, Sherman, Shields, Sykes, Thomas, Trahan, Tuttle, Vaughan.

ABSENT - Bliss, Emery, Fischer, Fisher, Goldman, Hotham, Merrill, Paradis, Smith W, Stedman, Watson.

Yes, 79; No, 61; Absent, 11; Excused, 0.

79 having voted in the affirmative and 61 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" (H-869)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, March 31, 2006.

SENATE DIVIDED REPORT - Majority (8) Ought to Pass as Amended by Committee Amendment "A" (S-504) - Minority (5) Ought Not to Pass - Committee on CRIMINAL JUSTICE AND PUBLIC SAFETY on Bill "An Act To Deter Environmental Terrorism in the State"

(S.P. 706) (L.D. 1789)

- In Senate, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-504).**

TABLED - March 27, 2006 (Till Later Today) by Representative **BLANCHETTE** of Bangor.

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

Representative **BOWLES** of Sanford **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought Not to Pass** Report.

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

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

Representative **BLANCHETTE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The request of the roll call has caused me to speak very briefly on this LD that is before you, 1789. This LD was presented by the good Senator from Leeds, Senator Nutting, to our committee and our committee held a public hearing on it. This came about as the result of acts of extreme vandalism to properties that are in his district, mainly Plum Creek. Although the terror that these people felt is understandable, the bill originally called it an Act of Environmental Terrorism. The amendment has stripped that title off, but that is still what you are looking at on your calendar.

Terrifying, nasty to deal with, upsetting to the people that it happened to, granted I will not take any of that away, but it does not, under any circumstances, require legislation to deal with this because, one, it is not environmental terrorism. It is aggravated criminal mischief and if any of you have access to your Maine criminal statutes book you will find it on page 109 and if you will read down through the statutes and the penalties that are already in Maine law the laws are there. So there is no need to duplicate something that is already in the statutes.

You find yourself as a committee member when you are sitting and listening to all of this very, very emotional testimony from people that you have a tendency to want to lead with your heart and not with your head. I have been guilty of it and I can almost guarantee that every Representative in this house today and yesterday and twenty years ago has been guilty of leading with your heart instead of your head. Emotional decisions do not good law make and what you are doing is that you are hindering the enforcement of the laws that are already on the books when you muddy the waters with additional laws that are not necessary.

If there was any aspect of aggravated criminal mischief that was not covered in the Maine statutes I would want to be the first one that would want to vote for this because I believe that it is a terrifying thing for anybody to have their property defaced with paint, with animal feces thrown on your porch, with carcasses of rodents or the like deposited on your steps and left to decay, but it's already covered in Maine statute. Please look at this and say what adding this new word in here is going to do that the statutes do not already cover. It was a divided report out of my committee and I understand, as I mentioned before and I will never question because, having been guilty of it myself, emotions do not good law make and this is exactly what we are dealing with. These are emotions where you want to give somebody the sense of false security that they will, in fact, with the passage of this LD, if enacted, be safer, but I have to ask you people to look back through the criminal records of the vandalism that has taken place within this state. It is aggravated criminal mischief, it is not environmental terrorism. We have not, to date, convicted or arrested or apprehended any of the people that did the defacing and the aggravated criminal mischief in the Plum Creek instance.

In the 120th Legislature I served on Criminal Justice. It has been my curse to be there ever since I have been in the Legislature and we passed a law that would make it a crime – it's added into your criminal statute book – to spike trees. Why? People could die. If someone puts a spike in a tree and a logger goes to cut it down and that saw kicks back it could, in fact, kill the person that is operating the saw. That needed to be addressed. The Legislature in the Maine State House and Senate approved it and it is part of the *Maine Criminal Statutes*. We address problems, as they need to be addressed. This is a bill looking for a home that it hasn't even paid the first mortgage

payment on. I urge you to vote with the Minority Ought Not to Pass and be rest assured that we have, in fact, the laws on the books to enforce criminal aggravated mischief. Thank you, Mr. Speaker.

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

Representative **TRAHAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I ask you today to take your head out of the sand ladies and gentlemen. This is not an act just of punks running our streets painting items of graffiti on walls; it is a much more organized effort. I would like to read to you from the Earth Liberation Front communiqué to its membership, "Welcome to the struggle of all species to be free. We are the burning rage of a dying planet. The war of greed ravages the earth and species die out every day. ELF works to speed up the collapse of industry, to scare the rich and to undermine the foundations of the state. We embrace social and deep ecology as a practical resistance to movement. We have to show the enemy that we are serious about defending what is sacred. Together we have teeth and claws to match our dreams. Our greatest weapons are imagination and the ability to strike when least expected. Since 1992 a series of earth rights and Halloween smashes has mushroomed around the world. Thousands of bulldozers, power lines, computer systems, building and valuable equipment have been composted. Many ELF actions have been censored to prevent our bravery from inciting others to action. We take inspiration from the Luddites, the Levellers, Diggers and the Autonomia Squatter Movement. ELF Zapatistas are the little people who are mischievous elves of lore. Authorities can't see us because they don't believe in elves. We are practically invisible. We have no command structure, no spokes persons, no office, just many small groups working separately seeking vulnerable targets and practicing our craft. Many ELFs are moving to the Pacific Northwest and other sacred areas. Some ELFs will leave surprises as they go. Find your family and let's dance as we make ruins of the corporate money system. Form stormy night action groups; encourage friends you trust. A tight community of love is a powerful force. Do recon; check out targets that fit your plan and go over what you will do. Attack power lines, cut support cables, unbolt towers and base supports, saw wooden poles, transformers shoot out, bonfires, throw metal chains on top and blow them up. Smash computers, burn and flood buildings." These are the folks that you are dealing with ladies and gentlemen. They aren't just a few punks running our streets. They are organized. It is time that we get our heads out of the sand and recognize this crime of terrorism. These folks don't mean to just scare. They mean to harm. They mean to put themselves on the map so that they can promote their own narrow, elite agenda. We need to recognize what we are facing. We are facing an enemy that will attack this state and its industries. We are a rural state whose economy is based upon its natural resources. We are the enemy. We are the targets of these folks.

We all know that sometimes in this Legislature we fail to act on issues until a crisis evolves. How far will we let these people go? Right now they haven't harmed anyone, but how long will it be before they accidentally kill someone when they burn down a building or they cut off the support base or they spike a tree? How long will it be before someone is harmed? We need to recognize that these people are acting through desperation and through a rationalization that pushes them to a place where they can commit crimes and violence against others in the name of their cause. That is no different than Al-Qaeda and the other terrorists that infest the world. Sometimes their issues and concerns are legitimate, but it is their ability to rationalize and go

to a place in their mind that justifies killing, maiming and burning. Those are the folks that need to be stopped. I believe in protest and I believe in the First Amendment right to free speech, but I don't believe in violence. Unfortunately, some people do and I hope that at some point – it may not be this year – that this legislature recognizes what you are dealing with. I think that we should honor those that peacefully protest, but we need to carve out those folks that don't and recognize that they are not a figment of our imagination.

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. No one wants anyone to get hurt. But the last time I checked we still had a law that said innocent until proven guilty. I don't know how we can sit here and say that these hooligans or this environmental group was responsible for this. We don't know who is responsible for this. Two weeks ago I had a tire that was slashed and I had a window that was blown out. Are those environmentalists? I think we are going to the extremes here. I think that Representative Blanchette makes a good point. There is a law on the books and I hate to put everybody in that category because I, as an environmentalist, feel that we have done some wonderful things. We have cleaner rivers and streams and we have beautiful areas that we can all enjoy in the State of Maine because of the environmental movement and because of those of us who have cared and I know that Representative Trahan cares about some of those issues. So to put everyone in a category really upsets me. I think that if someone could read this title, "An Act to Deter Environmental Terrorism in the State" could be taken in a lot of ways. I could say that the pollution from my incinerator is environmental terrorism. I could say what is happening to the Maine north woods with the Plum Creek development is environmental terrorism and it depends on your perspective. It depends on which way you spin it, so I agree that this should not be passed and please follow my light. Thank you, Mr. Speaker.

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. There are a number of problems with this bill, one of which is that it singles out one group as being more contentious than the other. I think a lot of the rhetoric that was just read off to us from a wacko environmental group somewhere, as read to us by the Representative from Waldoboro, Representative Trahan, is the same kind of wacko rhetoric that you can get from any number of groups. There are a number of people who may find a contentious reason to go out and paintball somebody's house. It might be animal rights, it might be reproductive rights, it might be labor disputes – that's a pretty popular one – and on some of the roads in my district just plowing snow into your neighbor's driveway might qualify as reason to paintball a house. The problem is that the cure is worse than the disease. What we are doing is singling out one group in a contentious debate and declaring that they are more likely than any other group to be responsible for criminal activity. When, in reality there are a lot of wackos out there and a lot of different groups espouse all kinds of wacko causes and to say that this is the one that we are going to say that right now is the most responsible for this kind of behavior is, on our part, irresponsible. Thank you, Mr. Speaker.

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

Representative **FAIRCLOTH**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. As we see the end of the session approaching we sometimes see the phenomenon of

rhetorical inflation and the good Representative from Waldoboro, Representative Trahan, whom I like very much and appreciate his ideas and thoughts, but when Al-Qaeda enters the debate about a possible violation of law for which there is a remedy currently on the books then we have seen an example of Rhetorical Hyperactivity Disorder. We need to tone it down. The chair of the committee is correct. There is a law on the books that deals with this issue. We have a lot of bills pending about which there are real issues. This is not one of them; if somebody does something wrong like this we have current laws to address it. Thank you and let's move on and leave Al-Qaeda out of it.

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

Representative **TRAHAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I think that I need to clarify what I said and what its intent was. I wasn't trying to link environmentalists to Al-Qaeda and I think that that was inappropriate to make that connection. What I did say was that the ability to rationalize and that is the point where the first amendment and terrorists change. If a person is out there and actively protesting an issue and they do it peacefully that is what our constitution protects and I honor that. But, when people rationalize beyond that point that violence is okay in the name of their cause then I draw the line and that is the difference. That was the point that I was making about terrorists. They rationalize in their head that it is okay to blow up women and children and that it is okay to burn down buildings and create situations that will lead to harm for another. That is the difference and that was the point I was making. Thank you.

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

Representative **DAVIS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am on the majority Ought to Pass. One of the things that I see very little of in our committee is little of preventative laws. We tend to have a knee-jerk reaction. The intent of this legislation is to recognize that we will be seeing a lot more of these, "environmental acts of terror", if you will. Maybe that is too strong of a sentence, but I have seen over and over the loss of property and the loss of income by professionals that work in the woods and that have their – excuse me I am floundering here. It is a loss of property, it is a loss of income when someone decides that they are going to – I keep coming up with "act of terror", but it is not an act of terror. This law is an attempt to prevent such actions against developments that you may not agree with. I also resent the fact that when someone makes a decision that is on the opposite side that it is an emotional decision and if we all are voting because of emotional issues then we should probably leave. I think that all of us look at the facts, we listen to the testimony and we consider the picture as a whole: where we are going and where we have been. That is exactly why I voted Ought to Pass on this bill. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Windham, Representative Plummer.

Representative **PLUMMER**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I too serve on the committee of jurisdiction in this case and I agree with Representative Davis from Augusta. With all due respect to the good House Chair, the Representative from Bangor, she and I are on opposite sides of this report. I did listen during the public hearing. I heard what people had to say. I heard the pleas from people that we need to do something to stop these actions. I heard from people saying that we would be interfering with freedom of speech if we were to adopt this as a law. I believe that this crosses the line a great deal from freedom of speech. I

know freedom of speech. This is not freedom of speech. I will defend people's freedom of speech, but dumping animal feces and animal parts on someone's front porch goes way beyond my concept of freedom of speech. I heard the people testify about what it felt like to be in those houses, that their children still can't sleep at night for fear that those people will be back. That's not freedom of speech. Those people were truly terrorized and I believe that this is terrorism. I would urge you to not support the Minority Report. Thank you.

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

Representative **BLANCHETTE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. First of all, I will offer a sincere apology to any member of this House that I may have offended by implying that the might have emotions in some of their deliberations. If I have offended you I am extremely sorry. But I need to point out the fact that what you are acting on is an assumption and only an assumption. No one has ever been charged with the vandalism that occurred at Plum Creek. You are making a broad based assumption that it was an organized terrorist group from out of town. I have been reading some of the material that has come across my desk and I have seen misleading quotes from the town manager in Greenville. They think that it was an organized group, but they don't know until someone is charged and they face the judge and a penalty has been laid down to them. They are guilty and you cannot even connect them without the proof and what happened up there is aggravated criminal mischief. The Maine Criminal Statutes will take care of it. Don't duplicate it and muddy the waters. It is not necessary and, once again, I really do apologize if I offended anybody for implying that they would think with their heart.

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. I will be voting against the pending motion to support if this bill should pass. It is not lost on me that already this session we have felt it so important to protect homeless people that we give them special distinction in our laws and yet here we are reluctant to talk about true crimes against the normal people of this world who are being terrorized by these groups.

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

Representative **TWOMEY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am speechless. To compare homeless people that are not regular people saddens me and I must rise and go on the record in objection to that comment that homeless people are not regular people. It could be you tomorrow, Representative Daigle and I am saddened for that, Mr. Speaker and I must be put on the Record.

The SPEAKER: The Chair will indicate to the members that I know that it is near lunchtime and I know that it is towards the end of the session and I think that the points that are being made are good ones. I would encourage members, however, to make those points in a way that seems less offensive and, frankly, would be more effective than what has been done so far here. I will remind you that we have guests today, whether they be young people who are acting as pages or folks up in the gallery. I want them to think, as I know, that we hold decorum and respect and civility and, frankly, friendship amongst each of us in the highest order. So I believe that there is a way for all of us to make the point and I believe that a number of the speakers who have spoken on this particular issue could have reframed what they have said in a way to be more effective with what they have said and a way to be less offensive. Now, some of what has

been said is, in fact, appropriate and some of what has been said with respect to making an analogy between homeless folks if they need protection versus the fact that if this is for the environment that they need protection. It is the manner in which you say it. Let's do our best together to get through the end of the session and being respectful of one another.

The Chair reminded all members that it was inappropriate to attack other members and encouraged them to be respectful of all members in the House.

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

Representative **MILLS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I reviewed this bill and I too have serious objection to the way it has evolved. I am proud of the fact that I served in capacity as a district attorney for fifteen years for three counties in Western Maine. Prior to that I served for four years as an assistant attorney general in the criminal division of this state also prosecuting crimes across the State of Maine. I am proud of my conviction record and while criminal mischief wasn't exactly my specialty I did prosecute and try and take to conviction probably hundreds of criminal mischief cases in the district and superior courts in my three counties. Whether they were felonies or misdemeanors I obtained successful prosecutions and conviction. During periods of strife, such as during the labor union strike in Rumford in the early eighties and the strike at IP in Jay in the late eighties, there were allegations of criminal mischief against management and against the union and against bystanders. Any cases that we were able to put together we prosecuted, I hope, fairly and squarely. We obtained a few convictions some of which went to Jury trial and didn't get convictions. But, there were times of tension where we used available and existing laws to prosecute whoever the culprits were. Often times, the problems in these cases, including the ones that have been mentioned in the newspapers and on the floor today, are problems of investigation and problems of proof identifying the perpetrators. I am here to suggest that adding a new law to the books doesn't help anybody identify the perpetrators. I am here to suggest that this law will not help prove a case or prosecute a case.

My major problem with the bill, as it has been amended in the committee, is not that it singles out one particular group, but that it is so incredibly broad that I fear for the major unintended consequences of this proposed new felony provision. It makes it a felony if a person, "intentionally damages, destroys or tampers with the property of another having no reasonable grounds to believe that the person has a right to do so." Now that is already a crime, "for the purpose of causing substantial harm to the health, safety, business, calling, career, financial condition, reputation or personal relationships of the person with the property interest or any other person." I have these visions of Halloween pranksters out on October 31st and a couple of school kids having a beef with another school kid and throwing eggs at the other kids bicycle. That would constitute a felony under this provision. It is already a crime. It is a misdemeanor. Making it a felony because somebody has a beef with another person, including an intention or motive to interfere with another person's personal relationships is just way over broad. I ask you not to put this law on the books. It doesn't fit with the rest of the criminal code. We have the tools at hand and I can attest to the fact that I prosecuted so called environmental terrorists about 15 years ago when there was tree spiking going on in Mt. Blue State Park. We obtained convictions under the then Criminal Mischief Law, which was before the tree spiking law was even added to the books. We obtained convictions under existing law. The law is satisfactory. Leave it alone. Thank you.

Representative RINES of Wiscasset **REQUESTED** that the Clerk **READ** the Committee Report.

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

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

Representative **GERZOFSKY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I won't repeat what I mentioned last night at a caucus on this very bill to save myself a little bit of embarrassment. But, I would like to say that this bill by this title came in front of us in the 120th and before the end of the day was defeated several times by at least a 20 vote margin. This bill also had multiple cosponsors that chose to get off the bill because it wasn't necessary. We have laws on the books now that deal with every single thing that I have heard today. As the good Representative from Farmington, Representative Mills, has stated with her long years of experience at prosecuting these cases it is pretty tough in Maine to commit a crime without getting in trouble if they catch you.

When they talked about spiking trees and things that can really do danger we have elevated those crimes. They are felonies and they will put you in jail for a long time. We have put laws on the books to protect the people of Maine and to protect the businesses of Maine.

The last time that we got up and debated this bill we talked about the fact that businesses might not want to be held accountable for their business practices. This bill doesn't deal with that. This bill has been watered down so much that it has now become something completely different. This bill has nothing to do with the environment. It certainly has nothing to do with protecting the environment. It doesn't have much to do with terrorism, unless you really want to stretch the term terrorism. I would suggest that we have far more important bills to take up, bring off the table and debate. This is not one of them. This bill has been dealt with in this body time and time and time again. It has been defeated only because we don't need it and we don't need to be filling the books up with pages of laws that don't work, aren't necessary and are going to protect nobody. Please defeat this. Thank you very much.

The **SPEAKER**: The Chair recognizes the Representative from Wilton, Representative Saviello.

Representative **SAVIELLO**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. It is my understanding, and perhaps I am incorrect, but Criminal Justice gave this to the Criminal Law Advisory Commission and they suggested that the original draft be re-written. What you see before you is a rewrite of that draft because they felt that it was more necessary to be a deterrent, as Representative Trahan suggested, for those groups that actually recruit people to do these actions. Now I am not a lawyer, but I believe that it is necessary to vote against this motion and to allow the Majority Report to pass. Thank you, Mr. Speaker.

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

Representative **LINDELL**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would like to share with the body some of the thoughts that I have had during this debate because, quite frankly, I had intended to vote for this motion, given the title of the bill and having read the original bill. The reason I had intended to vote for this motion is that I have a problem with enacting legislation that uses the motive of the crime as the basis for an elevated sentence or an elevated penalty. It should be the action itself, the crime itself and the impact on the victim itself that should determine the penalty in my opinion. Having read the majority committee report though, I am

going to vote against this motion because it seems to me that that report is well crafted to create a new tool in the toolbox of law enforcement authorities that are dealing with an increasing problem of organized activists, whatever their motivation, who are using criminal mischief to reach their goals and to achieve their goals. It is causing real harm to people and it is causing real harm to businesses. It is interfering with business in this state and for that reason being more informed as a result of this debate, I believe that I will be voting against this motion. Thank you, Mr. Speaker.

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

Representative **MILLS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I simply want to correct the record because I was concerned about the Criminal Law Advisory Commission's input into this bill and I checked on it before this bill came up on the calendar and I have a report, their report, on my computer and I just want to quote from parts of it at least. They said, "CLAC does not believe that this bill is necessary and that existing laws cover this type of conduct. Also, there appears to be sufficient other criminal offenses in the code to cover this activity." The Criminal Law Advisory Commission, as you know, is made up of non-partisan judges, district attorneys, defense attorneys and participants in the criminal justice system. We have nothing at stake other than to make sure that the best interests of the criminal code, the integrity of the criminal code, is adhered to. Thank you.

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

Representative **SYKES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. No one has the freedom of speech and no one has the right to do the types of vandalism that have been described here. On the other hand, the types of vandalism that have been described, cutting power lines, is already aggravated criminal assault – mischief. The vandalism described about the bulldozer is already aggravated criminal mischief. Burning someone's house down is a Class A crime. They are not going to be charged under criminal mischief. One of my big concerns with this bill is what may happen to that 18 year old senior who is not happy with a failing English grade and decides to tamper with, damage or try and intimidate that English teacher and have that 18 year old senior charged with a felony, which will be with that person for the rest of their lives. Thank you.

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

Representative **PARADIS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is one bill that I have really agonized over. I finally decided to go with it. I think that it is a matter of sending a message, and a loud one, that these actions, which are often very dangerous and lethal will not be tolerated, whether it be spiking trees or releasing a skidder or a bulldozer down a woods road. Whatever the age of the person I think they should be very accountable. So I urge everyone to vote against the motion here of Ought Not to Pass.

The **SPEAKER**: The Chair recognizes the Representative from Allagash, Representative Jackson.

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

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

Representative **JACKSON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I agree with a lot of the comments that have been made about how people shouldn't be held to a type of terrorism that possibly went on in these Plum Creek episodes.

In the case of something that I am more familiar with, which would be economic terrorism is there the possibility of a group of people, having asked state and federal officials to look into issues that have been causing a hardship on them when these people don't come to listen to the frustrations of a group, and if an action is taken – in this bill where it talks about tampering and loss of money – that might cause hundreds of thousands of dollars of damage even though it is non-violent considered environmental terrorism? Is barricading roads that stop commerce with wood products, is that supposed to be environmental terrorism? I would like to know if someone could answer in regards to this question and if this law would probably cause people that had no where else to go and never did anything violent, but certainly knew they were doing something unlawful to be put into a higher class with terrorists or is it going to just be left at plain criminal mischief?

The **SPEAKER**: The Representative from Allagash, Representative Jackson has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Farmington, Representative Mills.

Representative **MILLS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would attempt to answer that the definition of property to another is very, very general under the criminal code and can me any property interest. The definitions of damaging destroying and tampering with the property of another are also very general and very broad so that any action that might interfere with your use of your property could come under this statute.

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

Representative **TRAHAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I wonder if that previous testimony might be a little bit misleading and the reason why I say that is that it is under my understanding that the district attorney makes a conscious decision on what charges to file against someone and just because somebody could be charged under a statute doesn't mean that the district attorneys are going to do that. I believe that they act with good reason and common sense when they bring charges and I just want this chamber to know that there is a difference between somebody that could be charged and somebody that most likely will be.

The **SPEAKER**: The Chair recognizes the Representative from Portland, Representative Dudley.

Representative **DUDLEY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. If I may try to summarize the remarks of the Representative from Waldoboro, we are the government – trust us.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is acceptance of the Minority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 426

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Brown R, Bryant, Burns, Cain, Canavan, Churchill, Clark, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fisher, Gerzofsky, Grose, Hanley B, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marean, Marley, Mazurek, Miller, Mills, Norton, O'Brien, Percy, Perry, Pilon, Pineau, Pingree, Sampson, Schatz, Simpson, Smith N, Sykes,

Thompson, Tuttle, Twomey, Walcott, Webster, Wheeler, Mr. Speaker.

NAY - Annis, Austin, Bierman, Bishop, Bowen, Bowles, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Dugay, Duprey, Edgcomb, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marraché, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Millett, Moody, Moore G, Moulton, Muse, Nass, Nutting, Ott, Paradis, Patrick, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Rines, Robinson, Rosen, Saviello, Seavey, Sherman, Shields, Tardy, Thomas, Trahan, Valentino, Vaughan, Woodbury.

ABSENT - Berube, Emery, Fischer, Goldman, Hotham, Smith W, Stedman, Watson.

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

68 having voted in the affirmative and 75 voted in the negative, with 8 being absent, and accordingly the Minority **Ought Not to Pass Report was NOT ACCEPTED.**

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

Representative **DUDLEY** of Portland **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. 427

YEA - Annis, Austin, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Clark, Clough, Collins, Cressey, Crosby, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Dugay, Duprey, Edgcomb, Fisher, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, Marraché, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Millett, Moody, Moore G, Moulton, Muse, Nass, Nutting, Ott, Paradis, Patrick, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Rines, Robinson, Rosen, Saviello, Seavey, Sherman, Shields, Tardy, Thomas, Trahan, Tuttle, Valentino, Vaughan, Woodbury, Mr. Speaker.

NAY - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Churchill, Craven, Cummings, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Gerzofsky, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Mazurek, Miller, Mills, Norton, O'Brien, Percy, Perry, Pilon, Pineau, Pingree, Sampson, Schatz, Simpson, Smith N, Sykes, Thompson, Twomey, Walcott, Webster, Wheeler.

ABSENT - Berube, Emery, Fischer, Goldman, Hotham, Smith W, Stedman, Watson.

Yes, 83; No, 60; Absent, 8; Excused, 0.

83 having voted in the affirmative and 60 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" (S-504)** was **READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Friday, March 31, 2006.

SENATE DIVIDED REPORT - Majority (7) Ought Not to Pass - Minority (5) Ought to Pass as Amended by Committee Amendment "A" (S-471) - Committee on EDUCATION AND CULTURAL AFFAIRS on Bill "An Act To Permit Charter Schools in Maine"

(S.P. 606) (L.D. 1640)

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

TABLED - March 28, 2006 (Till Later Today) by Representative **NORTON** of Bangor.

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

The **SPEAKER**: The Chair recognizes the Representative from Falmouth, Representative **DAVIS**.

Representative **DAVIS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. This is on charter schools and the Majority Report was Ought Not to Pass. Just briefly I will summarize my feelings about it. The Department of Education, the Teacher Organization, the Principal's Organization and the Superintendent's Organization all testified that they have too much on their plates and that they can't handle this now. They have No Child Left Behind. They have Learning Results and it is just, at this time, too much. Secondly, it's a pilot project. We are going to experiment with people not having been motivated; they have high absenteeism and so on. There are eighty-two of these things in Maine at this time and we already have a lot of alternative education for those people who aren't doing well. There is an appeal process. If you apply for a chartering authority and don't get it then you appeal. There are reports to be written. This will cost more money, not less. So, if that is what you want to do then, by all means, vote against this Majority Report, but it will cost more money.

One of the things that you haven't heard is that we can get grants from the federal government. I will just remind you that they passed the special education, but they didn't pay for it. They passed No Child Left Behind, but they didn't pay for it. So the federal government will probably give you money for a year or two then drop you as they have in the past. In the bill, it's 2016, President Bush will not be president and Governor Baldacci will not be governor. That is a long ways away. It also includes special ed and special ed costs more money and it costs more to educate a special ed student than it does an advanced placement physics student in high school. That needs to be gone through. We can't forever and constantly be spending money on the people that aren't motivated. We must help them as much as we can and we try to do that with the public school system.

Finally, I was very curious. It leaves home schools out. If you check around the state they are doing quite well with their education. People are educated at home and they are left out of this process. They can't participate. So I would ask you to really look at this for what it is. It is a pilot project and it is going to once again take 10 percent of your students and the money follows the students. Anyway, I urge you to vote with the Majority and to think before you vote for this please because it is not going to cost less money. It is going to cost more. Thank you.

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

Representative **CAMPBELL**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just want to add that it wasn't too long ago that I was sitting here trying to figure out how to fund the schools that we already have at 55 percent and the state picking up the tab for special ed. I think that we better get our act together and get those things done before we

add any more burdens to the taxpayers of the State of Maine. 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 motion. We have an awful lot of material that we have gotten from both sides of this argument on our table here and I am rising in opposition to this motion because the legislation that this motion would defeat is designed to increase the likelihood that students will excel in a standard spaced education system and expand learning opportunities for disengaged students who are underserved by the current system. In fact, in Maine, 2000 high school students drop out of school every year. I was one of them and so was my son and we came to education late in our lives and many kids in Maine are not learning effectively in the school system that we have. As effective as they may be, we are failing many, many, many of our children and 40 states in this country use charter schools to give these kids an opportunity to learn in an environment that is different from those of their peers.

If you have been reading the press lately there has been a very compelling series of articles about how our schools in Maine are failing, certainly boys. I think 60-70 percent of the boys or something like that are doing poorly in school. If you take a look at how many boys are in the top 10 in the school systems across this state, it is about 3-4 percent or something like that. There is an awful lot of need to think about our kids and be creative and bold and create opportunities for them that they do not now have and it is very clear that the opportunities that they have, while it may serve many, failed many as well. What this bill motion would do is defeat a very valuable bill that would force our school administrators, if they agreed to do it on the local level, to provide opportunities for kids who are now failing.

One of the things that I saw at my desk today really struck me as odd frankly because it uses the situation in Massachusetts as a reason to approve this Ought Not to Pass Motion. I have been reading a lot about education lately and we had a bill earlier this morning that was tabled where Learning Results would be put off for a year. I think that that is another example of failing Maine kids frankly. It is interesting that that discussion carries over into Massachusetts because Massachusetts has a statewide test and, in fact, their kids are doing very well. Apparently, Massachusetts also has a charter system. Contrary to the tone of this salmon colored piece of paper I think the Massachusetts school system is working pretty well. This particular piece of paper tells me that millions of dollars have been contributed by private entities in the State of Massachusetts to support charter schools and education for Massachusetts' kids. What is wrong with that I have to ask? I don't understand why we should be concerned about creating an education system that people are willing to spend their own private money to support. Isn't that the direction that we want to be going in? We just added \$41 million to education in this state this week. Most of us came together and only a handful of people disagreed to the budget and I will bet that it wasn't because of the education money. We can make the commitment to our towns and to our kids by providing the money that we need. This Charter school system would augment the choices that we give to kids today and there are many, many, many of them who are failing in the system that we are providing. I think that we need to be bold, we need to be creative and we shouldn't be afraid of new options to bring kids along who aren't being successful in the school systems that we are providing today. This enhances opportunity for Maine kids and that is all that this

bill does and I hope that you will follow my light in defeating this motion. Thank you.

Representative CAMPBELL of Newfield **REQUESTED** that the Clerk **READ** the Committee Report.

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

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

Representative **BOWEN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. As most of you know I am a public school teacher. Though it goes against my own best interest I do support this charter school plan. That comes from my experience in the classroom for 10 years. We try very, very hard to reach every kid that comes through the door. We have special ed staff that tries very hard to reach these kids, but all of us in here who are teachers or were teachers and even all of us who were students as we all were knew those kids. It just didn't fit; It just didn't work for them. They were square pegs and we were trying to get them into round holes. We set up alternate schedules. We have kids come in at other times of the day. We have a ton of stuff that we do in public schools to try and bring these kids along.

I have had kids that come to school in separate transportation. We can't put them on the bus with the other kids because of histories that they have developed. Remember I have eighth graders. By the time that they get to the eighth grade there are long-term relationships that have developed between these kids and the other kids. They come to school in separate transportation and they are put in a separate room in the building. Two years ago we had a kid that was in a separate building from the rest of his classmates because we couldn't even have him in the same building. We have to have lunch brought to them because, for whatever reason, with all of the efforts that we have made over the years we can't get that kid connected into the system. Maybe it is the schedule. Maybe it is experiences that they have had with teachers or other faculty members in the building. We tried very hard and I don't see this as giving up on the public schools or anything of that like. It is trying to find some way to reach these kids. Sometimes the public schools work and they work very well for most kids. But there are always going to be those kids and you sitting here probably don't remember them in your classes that just didn't connect. Those are the kids that if we fail them cost us down the road. Those are the kids that we see when we read the newspapers and look at the court proceedings. Those are the kids that are always in trouble with the law. The price of failure with those kids is enormous in social services and criminal justice costs and a lot of stuff. So, as a public school teacher it wouldn't make sense to support this, but the fact is that it gives us another tool. Somebody used the tool in the toolbox piece earlier today debating another bill, but that is all that it is. It is one more option and one other place and one more thing that we can try to reach these kids, because we have too. We don't have any other choice and, try as we might in the public school and with all of the accommodations that we make in the public schools sometimes we just can't reach them and the fact is that sometimes we can't afford not to. This is a pilot program. We are going to try it out in a few limited places. Specifically targeted to certain kids who are not making it in these schools and I think that it is something worth a try given the fact that almost every other state is doing this. I think that it is time that we give it a try here. Thank you Mr. Speaker, when the vote is taken I request the yeas and nays.

Representative **BOWEN** of Rockport **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

The **SPEAKER**: The Chair recognizes the Representative from Fryeburg, Representative Muse.

Representative **MUSE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I also recognize that we have many different types of students within our schools and that we need to treat them in many different ways. However, I maintain that this can be done within our school systems. I teach in a school where we have an alternative school within our school in the same way that we have a special ed department and I maintain that this can be done within the same facilities that we already have in place by shuffling buildings, supplies, teachers and we do not need to create a new system. Thank you.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is acceptance of the Majority **Ought Not to Pass** Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 428

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Browne W, Bryant, Burns, Cain, Campbell, Canavan, Carr, Clark, Craven, Crosby, Cummings, Davis G, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Eder, Faircloth, Farrington, Finch, Fisher, Flood, Gerzofsky, Glynn, Grose, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McFadden, Miller, Millett, Mills, Muse, Norton, O'Brien, Paradis, Patrick, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Plummer, Sampson, Sherman, Simpson, Smith N, Thompson, Trahan, Tuttle, Twomey, Valentino, Walcott, Webster, Wheeler, Mr. Speaker.

NAY - Annis, Austin, Bierman, Bishop, Bowen, Bowles, Brown R, Bryant-Deschenes, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis K, Dugay, Duprey, Eberle, Edgecomb, Fitts, Fletcher, Greeley, Hall, Hamper, Hanley B, Hanley S, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, McKane, McKenney, McLeod, Moody, Moore G, Moulton, Nass, Nutting, Ott, Piotti, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Rines, Robinson, Rosen, Saviello, Schatz, Seavey, Shields, Sykes, Tardy, Thomas, Vaughan, Woodbury.

ABSENT - Berube, Emery, Fischer, Goldman, Hotham, Merrill, Smith W, Stedman, Watson.

Yes, 79; No, 63; Absent, 9; Excused, 0.

79 having voted in the affirmative and 63 voted in the negative, with 9 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

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

Bill "An Act To Amend the Maine Health Data Organization Laws Regarding Dental Services"

(S.P. 677) (L.D. 1760)

- In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-515)**.

TABLED - March 28, 2006 (Till Later Today) by Representative **PINGREE** of North Haven.

PENDING - **ADOPTION OF HOUSE AMENDMENT "A" (H-889)** to **COMMITTEE AMENDMENT "A" (S-515)**.

Representative PINGREE of North Haven moved that **House Amendment "A" (H-889) to Committee Amendment "A" (S-515) be INDEFINITELY POSTPONED.**

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

Representative PINGREE: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. With all due respect to my good colleague from Auburn, I do not support the amendment. The amendment basically takes us back to the current status and I will try to briefly explain what is a small and boring issue to you very quickly, especially as it is well past your lunchtime.

The debate that went on during this bill: The Maine Health Data Organization, since 2003 has been collecting all sorts of health data from insurance companies, from all of the different carriers in the state and from MaineCare. It is going to start collecting all of that data. It basically gives us some kind of picture of what kind of procedures are happening in the State of Maine and what kind of doctors are providing what procedures. It is a model around the country. It is an incredibly useful data collection mechanism that has been used by insurance carriers and by the Maine Quality Forum and by our department – all sorts of good uses.

There is a small debate around dental services. This past year the Maine Health Data Organization Board, which has insurance carriers, the Maine Hospital Association, the doctors and all kinds of people represented, voted unanimously to collect dental data information and, therefore, to assess the collection fee of the dental insurance carriers just like the insurance carriers like Anthem and others are being assessed right now for use of the Maine Health Data Organization data.

There are 18 carriers and they all paid the fee except for one and now this dental carrier is the largest one in the state. It also happens to provide all of us dental benefits and they have an opposition and they don't want to pay. By them not paying it is about \$20,000. This \$20,000, if they don't pay, will then be passed on to others. Anthem will make up about \$12,000 and other insurance carriers will make it up and other dental providers will make it up. So, the Maine Health Data Organization is just trying to make them pay. If we don't pass the original Majority Report, it will probably end up in court. It is an issue of fairness and I ask the Chamber to support me in the Indefinite Postponement and to support the original Majority Report. Thank you, Mr. Speaker.

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

Representative SHIELDS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Well, my good friend over there from North Haven, Representative Pingree has spelled out fairly well what this organization does. Now, they take in from assessments from the normal insurers and healthcare administrators almost \$1,200,000. That does not count the money that they take in from selling the data back to them if they want it. This bill also gives them the ability to sell this data to government and other private entities, which is going to bring them more money.

I disagree a little bit with the figures that I have about how much money they are going to get from dental insurers. The ones that I have are something that amounts to around \$15,000, so in the view of things I don't think the money is a problem. The problem, in my mind, is the fact that the current rules – they have substantive rules so they have to come to us to change them – say that they will not assess limited insurers. Now, if you don't think that dental insurance is a limited insurance then we have

got a problem. But, it certainly does qualify as much as insurance against cancer, insurance against an accident and so forth and those are the categories that are limited insurance. So if they want to assess a limited insurance then assess them all. But they are not. They just picked the dental and the bill says that dental insurance will not be considered limited. I think that this is wrong and I think that it is discriminatory, it is inconsistent and it is unfair. So I hope that you will vote against the pending motion and when the vote is taken, Mr. Speaker, I would ask for the yeas and nays.

Representative SHIELDS of Auburn **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-889) to Committee Amendment "A" (S-515).**

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 Indefinite Postponement House Amendment "A" (H-889) to Committee Amendment "A" (S-515). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 429

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

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

ABSENT - Berube, Emery, Fischer, Goldman, Hotham, Jodrey, Smith W, Stedman, Watson.

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

73 having voted in the affirmative and 69 voted in the negative, with 9 being absent, and accordingly **House Amendment "A" (H-889) to Committee Amendment "A" (S-515) was INDEFINITELY POSTPONED.**

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

Representative GLYNN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise to oppose the motion of approval of the bill that is in front of us presently. This bill, without the amendment, puts in front of us a very bad public policy with regard to health insurance and this assessment on health insurance. The law clearly exempts these specialty types of insurance from this reporting, essentially what this bill will do is put into place a fee charging insurance carriers a fee that has got to be passed onto everybody's dental insurance for the privilege of submitting data to the State of Maine and then charging them again when they want to use that data for purposes. It is interesting to note that the State of Maine collects a tremendous amount of data through the NESUM systems,

through the Medicaid program, that is essentially many, if not all of the elements that we are looking at collecting with this bill. Then the question becomes why is it that we need this reporting to go outside and around the state systems? The answer is real simple; the state's computers are still broken. They may never get fixed at this rate. What we are looking at doing is assessing a fee to collect the data and then report it. Until the State of Maine can fix its systems, report out adequately; use the data that we have why would we be looking to broaden our data collection any wider? It makes no sense to me and it certainly makes no sense to me to add an additional fee to make health insurance, specifically dental insurance, more unaffordable. I urge you to oppose this and, Mr. Speaker, when the vote is taken I request the yeas and nays.

Representative GLYNN of South Portland **REQUESTED** a roll call on the motion to **ADOPT Committee Amendment "A" (S-515)**.

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

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

Representative **PINGREE**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Just to briefly respond to the comments of my colleague from South Portland, this is not about the NESUM system being broken. Maine Health Data Organization has been in existence for quite some time. It collects data from commercial carriers and it is going to start collecting the data from MaineCare. It is enormously valuable to both insurance carriers and to state policy makers in terms of figuring out how healthcare services are delivered. It is also information that insurance carriers find very helpful. It is not specific to certain carriers, but they find out competitive information about what is being covered. It has been in existence for quite some time. Anthem, the state and many others want to buy this information as soon as it is available. The very small issue of this bill is whether one dental service provider who doesn't want to pay is going to have to pay. Seventeen others are already paying. Anthem is happy to pay this because they know that it provides them valuable data. So this is just an equity issue of whether we should let one carrier off of the hook. Thank you, Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Berwick, Representative Burns.

Representative **BURNS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would like to make two points. One, the state's computer system is not broken, what is broken is the ability of the private sector contractor who came referred to us by CMS, that being the federal government, that is what is broken. That contractor's ability to deliver the services is essential for us to fulfill our requirements in billing. The second point that I want to make is that data is very, very valuable. The pharmaceutical industry and the health insurance industry whose profit margins continue to go up that way very high to the sky. They use data that benefits them in increasing those profit margins. Now I don't begrudge anybody an opportunity to make a profit, but it's not my job as a Representative to ensure their profits. It is my job as a Representative to ensure that my constituents can afford health care, dental care and pharmaceuticals. This data allows me, you and members of the state Legislature and the people that work for us, to help understand why healthcare costs and dental costs go upwards at a time when we need them to go downwards. So this information is very valuable to us as Representatives of the people of the State of Maine and I think that it is important to keep that in mind. Thank you.

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

Representative **SHIELDS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Just to respond to my friend from North Haven, Representative Pingree. There are only about four or five separate dental insurances in this state. The 17 she is reporting make up dental portions of general insurance companies. The separate dental insurance that had an assessment that they refused to pay was \$13,000 and the others are in the \$200 to \$300 range, so add them all together and it's less than \$15,000. Now, Aetna is going to refuse to pay and neither is our insurance. Neither are Anthem or Cigna or any of the others, but the limited insurance companies have had the right to refuse up until now.

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

Representative **GLYNN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise a second time on this issue because I think that it is a common misunderstanding or, at least we have seen it a lot in the Health Insurance Committee that I serve on and in Health and Human Services that somehow we can make health insurance more affordable if we add a tax on it. It doesn't make any sense to me. It made no sense to me when we added the Dirigo tax on health insurance. That didn't make it more affordable; it made health insurance go up. Yes, if we add a tax assessment on dental insurance we are going to do the same thing. We are going to increase the cost of dental insurance. We are not going to make it more affordable and by raising the cost of insurance it puts it that much further out of the grasp of the hard working people of Maine that want health insurance and dental insurance. Please oppose this motion.

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

Representative **WALCOTT**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. We can cloud the issue and sometimes we try to do it on many Health and Human Services bills by mentioning DHHS. Let me point out that this bill has absolutely nothing to do with the Department of Health and Human Services and it has absolutely nothing to do with NESUMS. It has to do with about \$20,000 that one carrier refused to pay that is already being paid because it is being spread out to all of the other people that are willing to pay and do what they know is right because the data is important to them as well.

We can let one carrier get away with it and still collect just as much money from everybody else or we can make everyone pay their fair share and the result of that is that the assessment for people who have been paying all along will be reduced some because it will be made up by the people that are paying. So we can cloud the issue and say DHHS is bad and NESUMS is falling apart, but this bill has absolutely nothing to do with that. Thank you Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Boothbay, Representative Bishop.

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

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

Representative **BISHOP**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I don't pretend to be an expert in this. I have a question that I would like to direct through the chair.

If the system was made voluntary and if you could do this and anyone who wants it must contribute data to the system to be able to get the state's collected data and the people who want the

data would pay for the state's collected data instead of forcing it would it be possible to have a system whereby the only people that get the data are the people who really want to pay for the data. If somebody could answer that I just don't understand?

The SPEAKER: The Chair recognizes the Representative from Somerville, Representative Miller.

Representative MILLER: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. The whole point of this data system is that it is a 100 percent claim system. If you really want to know what is going on in the healthcare system in this state you want all payers and all participants to be contributing the data. So, if you just do it on a total voluntary basis you have a very spotty data system and it is not useful at all.

The SPEAKER: A roll call has been ordered. The pending question before the House is adoption of Committee Amendment "A" (S-515). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 430

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

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

ABSENT - Berube, Emery, Fischer, Goldman, Hotham, Jodrey, Norton, Smith W, Stedman, Watson.

Yes, 73; No, 68; Absent, 10; Excused, 0.

73 having voted in the affirmative and 68 voted in the negative, with 10 being absent, and accordingly **Committee Amendment "A" (S-515) was ADOPTED.**

The Bill was assigned for **SECOND READING** Friday, March 31, 2006.

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

Representative PERRY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. In reference to roll call number 418, having not been present, I would have voted yea and on roll call number 416, had I been present, I would have voted yea.

On motion of Representative PATRICK of Rumford, the House adjourned at 1:48 p.m., until 9:00 a.m., Friday, March 31, 2006 in honor and lasting tribute to Jacqueline Fournier Hotham, of Rumford.