

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
33rd Legislative Day
Monday, April 3, 2006

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

Prayer by Dr. Robert H. Crosthwaite, Pastor, Faith Community Fellowship, Ellsworth

National Anthem by Matthew Small, Orono.

Pledge of Allegiance.

Doctor of the day, Christopher Stenberg, M.D., Cape Elizabeth.

The Journal of Friday, March 31, 2006 was read and approved.

Representative SMITH of Van Buren assumed the Chair.
The House was called to order by the Speaker Pro Tem.

SENATE PAPERS
Non-Concurrent Matter

Bill "An Act To Provide for Victims of Trafficking"
(H.P. 893) (L.D. 1296)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-864) in the House on March 23, 2006.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-864) AS AMENDED BY SENATE AMENDMENT "A" (S-534)** thereto in **NON-CONCURRENCE**.

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

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Bill "An Act To Facilitate the Maine Quality Forum"
(H.P. 1490) (L.D. 2097)

Sponsored by Representative MILLER of Somerville.
(GOVERNOR'S BILL)

Cosponsored by Senator MAYO of Sagadahoc and Representative: SIMPSON of Auburn, Senator: HOBBS of York.

Committee on **HEALTH AND HUMAN SERVICES** suggested and ordered printed.

REFERRED to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.

Sent for concurrence.

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act To Extend the Lobbyist Reporting Requirements to Executive Branch Lobbying Activities"
(H.P. 1235) (L.D. 1727)

Signed:

Senators:

PLOWMAN of Penobscot
GAGNON of Kennebec

Representatives:

FISHER of Brewer

OTT of York
PINKHAM of Lexington Township
MOORE of Standish
NASS of Acton
BROWN of South Berwick

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-923)** on same Bill.

Signed:

Senator:

MITCHELL of Kennebec

Representatives:

VALENTINO of Saco
PATRICK of Rumford
TUTTLE of Sanford

READ.

Representative PATRICK of Rumford 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 items appeared on the Consent Calendar for the First Day:

(H.P. 143) (L.D. 192) Bill "An Act To Establish the Pine Tree Recreation Zone" (EMERGENCY) Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-929)**

(H.P. 1275) (L.D. 1835) Bill "An Act To Protect Consumers from Credit Card and Debit Card Holds" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-930)**

(H.P. 1304) (L.D. 1864) Resolve, Authorizing the Commissioner of Administrative and Financial Services To Sell or Lease the Interests of the State in Certain Real Property Located on State Highway 191 in East Machias; U.S. Route 1 in Thomaston; U.S. Route 2 in Skowhegan; Hospital Street in Augusta; and the Presumpscot River in Falmouth Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "B" (H-927)**

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

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

CONSENT CALENDAR

Second Day

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

(S.P. 660) (L.D. 1743) Bill "An Act To Allow the Department of Health and Human Services To Locate Parents Who Are Delinquent in Child Support Payments through Information Related to Cellular Telephones" (EMERGENCY) (C. "A" S-535)

(S.P. 666) (L.D. 1749) Bill "An Act To Clarify the Taxable Status of Processing Fees Charged in Connection with Cancelled Lodging Reservations" (C. "A" S-530)

(S.P. 695) (L.D. 1778) Bill "An Act To Protect Children from Contact with Convicted Sex Offenders" (C. "A" S-536)

(S.P. 709) (L.D. 1792) Bill "An Act To Protect Maine Families and the Environment by Improving the Collection and Recycling of Mercury Thermostats" (C. "A" S-533)

(S.P. 713) (L.D. 1796) Bill "An Act To Ensure the Continued Viability of Affordable Housing" (C. "A" S-531)

(S.P. 714) (L.D. 1797) Bill "An Act To Clarify the Qualifications for the Maine Residents Property Tax Program" (EMERGENCY) (C. "A" S-532)

(S.P. 731) (L.D. 1931) Bill "An Act To Encourage Energy Independence for Maine" (C. "A" S-523)

(S.P. 780) (L.D. 2029) Bill "An Act To Implement the Recommendations of the Commission To Study Alternative Voting Procedures, the Citizen Initiative Process and Minor Party Ballot Access" (C. "A" S-526)

(H.P. 1243) (L.D. 1735) Bill "An Act To Authorize Chebeague Island To Secede from the Town of Cumberland" (C. "A" H-915)

(H.P. 1290) (L.D. 1850) Bill "An Act To Clarify the Change of Beneficiary Provision in the Maine State Retirement System Laws" (C. "A" H-921)

(H.P. 1444) (L.D. 2050) Resolve, To Allow the Department of Inland Fisheries and Wildlife To Convey a Part of a Parcel of Land in the Town of Fairfield (C. "A" H-922)

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 AS AMENDED** and sent for concurrence.

(S.P. 739) (L.D. 1938) Bill "An Act To Protect Victims of Domestic Violence" (C. "A" S-525)

On motion of Representative TARDY of Newport, was **REMOVED** from the Second Day Consent Calendar.

The Unanimous Committee Report was **READ**.

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

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

Bill "An Act To Amend Certain Animal Health Laws"
(H.P. 1293) (L.D. 1853)
(C. "B" H-918)

Bill "An Act To Amend the Notice of Risk to Personal Data Act"
(H.P. 1417) (L.D. 2017)
(C. "A" H-925)

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

Bill "An Act To Create the Insurance Fraud Division within the Bureau of Insurance"
(H.P. 1394) (L.D. 1990)
(C. "A" H-924)

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

On motion of Representative PILON of Saco, was **SET ASIDE**.

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

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

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment Friday, March 31, 2006, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Expression of Legislative Sentiment Recognizing Seth Wescott of Farmington

(SLS 951)

- In Senate, **READ** and **PASSED**.

TABLED - March 2, 2006 (Till Later Today) by Representative MILLS of Farmington.

PENDING - PASSAGE.

Subsequently, this Expression of Legislative Sentiment was **PASSED** in concurrence.

ENACTORS

Emergency Measure

An Act Regarding the Maine Clean Election Act

(S.P. 570) (L.D. 1596)
(C. "A" S-521)

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. 125 voted in favor of the same and 3 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 Laws Regarding Aquaculture Leases

(H.P. 1443) (L.D. 2049)
(C. "A" H-880)

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

Emergency Measure

An Act To Amend the Definition of "Municipality" as It Relates to the Maine Municipal Bond Bank Act

(H.P. 1466) (L.D. 2072)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

Emergency Measure

Resolve, Establishing the Commission To Study Eliminating the Normal Retirement Age for Corrections Officers and Mental Health Workers

(S.P. 246) (L.D. 748)
(C. "B" S-432)

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

Representative DUPLESSIE of Westbrook **REQUESTED** a roll call on **FINAL PASSAGE**.

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

Emergency Measure

Resolve, Concerning the Authority of "Do Not Resuscitate" Directives

(S.P. 680) (L.D. 1763)
(C. "A" S-522)

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

On motion of Representative CUMMINGS of Portland, **TABLED** pending **FINAL PASSAGE** and later today assigned.

Emergency Measure

Resolve, Regarding Legislative Review of Portions of Chapter 270: Uniform Reporting System for Health Care Quality Data Sets, a Major Substantive Rule of the Maine Health Data Organization

(H.P. 1389) (L.D. 1982)
(C. "A" H-881)

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

Acts

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

(S.P. 662) (L.D. 1745)
(C. "A" S-520)

An Act To Protect Drivers' Privacy by Clarifying Ownership of Data Recorded by Motor Vehicle Data Recorders

(H.P. 1325) (L.D. 1885)
(C. "A" H-876)

An Act Regarding Storm Water Program Administration

(H.P. 1435) (L.D. 2035)
(C. "A" H-879)

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

Resolves

Resolve, To Preserve Patient Records

(H.P. 1396) (L.D. 1994)
(C. "A" H-882)

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 Strengthen the State Purchasing Code of Conduct Laws

(S.P. 686) (L.D. 1769)
(C. "A" S-499)

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

On motion of Representative TARDY of Newport, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

On motion of Representative BARSTOW of Gorham, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned. (Roll Call Ordered)

CONSENT CALENDAR

First Day

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

(H.P. 1459) (L.D. 2064) Resolve, Regarding Legislative Review of Portions of Chapter 33: Home Day Care Provider Rules, a Major Substantive Rule of the Department of Health and Human Services (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass**

(H.P. 1368) (L.D. 1951) Bill "An Act To Establish Guidelines and Criteria for Audits Conducted by the Department of Health and Human Services" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-933)**

(H.P. 1390) (L.D. 1983) Resolve, Directing the Department of Health and Human Services To Develop a Model for Community-based Therapeutic Living Settings for Adults with Mental Illness Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-932)**

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

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 House recessed for the purpose of conducting Legislative Scholarship Ceremonies.

(After Recess)

The House was called to order by the Speaker.

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

**CONSENT CALENDAR
First Day**

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

(S.P. 693) (L.D. 1776) Bill "An Act To Establish the Maine Agricultural Drought Protection Act" (EMERGENCY) Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-540)**

(S.P. 804) (L.D. 2063) Bill "An Act To Clarify the Use of Dedicated Funds for the Preservation of Deeds Records" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-538)**

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

The House recessed until 11:30 a.m.

(After Recess)

The House was called to order by the Speaker.

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

Resolve, Concerning the Authority of "Do Not Resuscitate" Directives

(S.P. 680) (L.D. 1763)
(C. "A" S-522)

Which was **TABLED** by Representative CUMMINGS of Portland pending **FINAL PASSAGE**.

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

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

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

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, March 31, 2006, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

SENATE DIVIDED REPORT - Majority (7) Ought to Pass as Amended by Committee Amendment "A" (S-494) - Minority (6) Ought Not to Pass - Committee on INLAND FISHERIES AND WILDLIFE on Bill "An Act To Amend the Laws Governing All-terrain Vehicles"

(S.P. 722) (L.D. 1922)

- In Senate, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill and accompanying papers **INDEFINITELY POSTPONED**.

TABLED - March 31, 2006 (Till Later Today) by Representative WHEELER of Kittery.

PENDING - ACCEPTANCE OF EITHER REPORT.

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

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Create a Property Tax Exemption for Property Owners with Limited Personal Property Assessments

(H.P. 1446) (L.D. 2052)
(C. "A" H-877)

TABLED - March 29, 2006 (Till Later Today) by Representative CUMMINGS of Portland.

PENDING - PASSAGE TO BE ENGROSSED.

Subsequently, the **RESOLUTION** was **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

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

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

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

In reference to the action of the House on March 27, 2006 whereby it insisted and Asked for a Committee of Conference, the Chair appointed the following members on the part of the House as Conferees:

Representative KOFFMAN of Bar Harbor
Representative DUCHESNE of Hudson
Representative DAIGLE of Arundel

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

Resolve, Establishing the Commission To Study Eliminating the Normal Retirement Age for Corrections Officers and Mental Health Workers

(S.P. 246) (L.D. 748)
(C. "B" S-432)

Which was **TABLED** by Representative DUPLESSIE of Westbrook pending **FINAL PASSAGE**. (Roll Call Requested)

On motion of Representative HUTTON of Bowdoinham, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Resolve 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 "B" (S-432)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "A" (H-935)** to **Committee Amendment "B" (S-432)** which was **READ** by the Clerk.

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

Representative **HUTTON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. All this is to simply strip off the emergency. Thank you.

House Amendment "A" (H-935) to Committee Amendment "B" (S-432) was ADOPTED.

Committee Amendment "B" (S-432) as Amended by House Amendment "A" (H-935) thereto was ADOPTED.

Representative TARDY of Newport **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended.**

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

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

ROLL CALL NO. 434

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

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

ABSENT - Bryant-Deschenes, Dugay, Emery, Hotham, Jennings, Lerman, Makas, Moore G, Perry, Stedman, Watson.

Yes, 75; No, 65; Absent, 11; Excused, 0.

75 having voted in the affirmative and 65 voted in the negative, with 11 being absent, and accordingly The Resolve was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "B" (S-432) as Amended by House Amendment "A" (H-935) thereto in NON-CONCURRENCE** and sent for concurrence.

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

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

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment Friday, March 31, 2006, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

HOUSE REPORT - Ought to Pass as Amended by Committee Amendment "A" (H-849) - Committee on TRANSPORTATION on Bill "An Act To Amend the Motor Vehicle Laws"

(H.P. 1306) (L.D. 1866)

TABLED - March 21, 2006 (Till Later Today) by Representative COLLINS of Wells.

PENDING - ACCEPTANCE OF COMMITTEE REPORT.

Subsequently, the Unanimous Committee Report was **ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-849) was READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Tuesday, April 4, 2006. **ORDERED SENT FORTHWITH.**

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

The **SPEAKER:** The Chair recognizes the Representative from Cape Elizabeth, Representative Goldman who wishes to address the House on the record.

Representative **GOLDMAN:** Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. In reference to roll call number 428 on LD 1640, had I been present, I would have voted nay. Thank you, Mr. Speaker.

On motion of Representative CLARK of Millinocket, the House adjourned at 12:30 p.m., until 9:00 a.m., Tuesday, April 4, 2006.