

# MAINE STATE LEGISLATURE

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

**Volume III**

**Second Regular Session**

April 7, 2006 - May 24, 2006

**Appendix**  
**House Legislative Sentiments**  
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Pages 1488-2248

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE  
SECOND REGULAR SESSION  
43rd Legislative Day  
Wednesday, April 26, 2006

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

Prayer by Honorable George R. Bishop, Jr., Boothbay.

National Anthem by Maine Central Institute Vocal Jazz Ensemble, Pittsfield.

Pledge of Allegiance.

Doctor of the day, David Simmons, M.D., Calais.

The Journal of Friday, April 14, 2006 was read and approved.

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**COMMUNICATIONS**

The Following Communication: (H.C. 447)

**STATE OF MAINE**

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

April 24, 2006

Honorable Beth Edmonds, President of the Senate

Honorable John Richardson, Speaker of the House

122nd Maine Legislature

State House

Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 1805 An Act To Provide Adult Adoptees Access to Their Original Birth Certificates

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

Sincerely,

S/Sen. Barry J. Hobbins

Senate Chair

S/Rep. Deborah Simpson

House Chair

**READ and ORDERED PLACED ON FILE.**

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**SPECIAL SENTIMENT CALENDAR**

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

**Recognizing:**

Anita May (Gamble) and David Thomas Michaud, Sr., of Topsham, on the occasion of their 50th Wedding Anniversary. Mr. and Mrs. Michaud were married on April 19, 1956 at St. Charles Church in Brunswick and are proud parents and grandparents. We send them our congratulations on their Golden Anniversary;

(HLS 1865)

Presented by Representative CROSBY of Topsham.

Cosponsored by Senator MAYO of Sagadahoc, Representative GROSE of Woolwich.

On **OBJECTION** of Representative CROSBY of Topsham, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

The **SPEAKER**: The Chair recognizes the Representative from Topsham, Representative Crosby.

Representative **CROSBY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today to honor two close friends of mine who celebrated their 50th wedding anniversary last week. I have known David and Anita

Michaud my whole life and have always admired their generosity and commitment to the Topsham community. David worked at Pejeboscot Paper Mill for 31 years and Anita works in the elementary school which I attended, along with working for a couple of local doctors. They purchased a local store in 1980 and renamed it appropriately Michaud's Market. They also operated a corner store at the same time, on Jordan Avenue in Brunswick for 9 years. The Michaud's are both proud parents of two sons, David and James, both sons worked in the family business until their oldest son David lost his battle with cancer at the age of 40, 5 1/2 years ago. The Michaud's sold their store to their son Jim and he still works there and he is there today, he couldn't be here with his folks. The Michaud's have two grandchildren, Haley and Dillon, who are both in the Topsham school system and both wanted to be here today. Haley, the older grandchild has a perfect attendance record in school for 2 years running now. They both send their grandparents their love and so does Jim who is at the store. Michaud's Market epitomizes what small business is today. They have a few employees that work in that store and the store serves as a hub in the community where local and state elected officials, like me, police officers, firemen and others go to read the pulse of the community. Many joked during my campaign that this was my headquarters, even though the Michaud's live outside of my district and are represented by my good friend Representative Grose. In closing I would like to thank the Michaud's for helping in the fight against cancer in their efforts to raise money for "Relay for Life" in Brunswick over the past 5 years. This year they held their 3rd annual "Relay for Life" dinner and raised more than \$6,000.00 in one night with over 300 people attending. I also would like to note that they prepared the food for the successful "Keep Me Warm" dinner which I held in February which raised over \$2,200.00. I thank you, Mr. Speaker.

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

Representative **GROSE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. It was a pleasure, this morning, to meet the Michaud's. I actually attended Representative Crosby's dinner and they supplied the meal, it was absolutely wonderful. I told them, this morning, that I am trying to catch-up with them on that 50th wedding anniversary. Thank you.

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

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**REPORTS OF COMMITTEE**

**Ought to Pass Pursuant to Resolve**

Representative **NORTON** for the **Joint Standing Committee on Education and Cultural Affairs** on Resolve, To Extend the Reporting Deadline for the Task Force on Citizenship Education (H.P. 1504) (L.D. 2112)

Reporting **Ought to Pass** pursuant to Resolve 2003, chapter 143, Part B, section 2.

Report was **READ** and **ACCEPTED**. The Resolve **READ ONCE**.

Under suspension of the rules, the Resolve was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules, the Resolve was **PASSED TO BE ENGROSSED** and sent for concurrence.

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

Representative CUMMINGS of Portland moved that Bill "An Act To Create Mandatory Minimum Sentences for Persons Convicted of Certain Sex Offenses against Victims under 12 Years of Age"

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

Be **REMOVED** from the Unassigned Table.

The same Representative **REQUESTED** a roll call on the motion to **REMOVE** the Bill from the Unassigned Table.

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

The **SPEAKER**: A roll call has been ordered. The pending question before the House is to Remove Bill from the Unassigned Table. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 517**

**YEA** - Adams, Annis, Ash, Austin, Babbidge, Barstow, Beaudette, Bierman, Bishop, Blanchard, Blanchette, Bliss, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Bryant-Deschenes, Burns, Cain, Campbell, Canavan, Carr, Cebra, Churchill, Clark, Clough, Collins, Craven, Cressey, Crosby, Crosthwaite, Cummings, Curley, Curtis, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Duplessie, Duprey, Eberle, Eder, Edgecomb, Emery, Faircloth, Farrington, Finch, Fischer, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hall, Hamper, Hanley B, Hanley S, Hartow, Hogan, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Koffman, Lansley, Lerman, Lewin, Lindell, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Miller, Millett, Moody, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Paradis, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Saviello, Schatz, Seavey, Sherman, Shields, Simpson, Smith N, Smith W, Stedman, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Twomey, Valentino, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

**NAY** - NONE.

**ABSENT** - Berube, Bowen, Dugay, Dunn, Mills, Moore G, Ott, Patrick, Rines, Sampson.

Yes, 141; No, 0; Absent, 10; Excused, 0.

141 having voted in the affirmative and 0 voted in the negative, with 10 being absent, and accordingly the Bill was **REMOVED** from the Unassigned Table.

On motion of Representative **BLANCHETTE** of Bangor, the Bill and all accompanying papers were **COMMITTED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and sent for concurrence.

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

**Divided Report**

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-939)** on Bill "An Act To Implement Recommendations of the Study Commission Regarding Liveable Wages Concerning the Definition of a Liveable Wage"

(H.P. 1424) (L.D. 2023)

Signed:

Senators:

STRIMLING of Cumberland  
BARTLETT of Cumberland

Representatives:

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

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

Signed:

Senator:

SNOWE-MELLO of Androscoggin

Representatives:

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

**READ.**

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

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

**CONSENT CALENDAR**

**First Day**

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

(H.P. 1457) (L.D. 2061) Bill "An Act To Issue Certificates of Title for Single-unit Mobile Homes" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1038)**

(H.P. 1501) (L.D. 2109) Resolve, Regarding Legislative Review of Portions of Chapter 17: Rules Regarding Proof of Ownership by Employers Employing Foreign Laborers To Operate Logging Equipment, a Major Substantive Rule of the Department of Labor (EMERGENCY) Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1040)**

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.

(H.P. 1347) (L.D. 1906) Bill "An Act To Safeguard Maine's Highways" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1041)**

On motion of Representative **CURLEY** of Scarborough, was **REMOVED** from the First Day Consent Calendar.

The Unanimous Committee Report was **READ**.

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

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, April 14, 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 the Maine Central Institute Vocal Jazz Ensemble

(HLS 1854)

TABLED - April 14, 2006 (Till Later Today) by Representative FITTS of Pittsfield.

PENDING - **PASSAGE.**

The SPEAKER: The Chair recognizes the Representative from Pittsfield, Representative Fitts.

Representative FITTS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I want to take a minute to acknowledge the members of the MCI Vocal Jazz Ensemble. Under the direction of Mr. Dean Neal they have historically set a very high bar for those ensembles from small schools that compete in Division II in the State year after year. This year's group is no exception and for the 5th straight year they placed first in the State local jazz festival. As a parent of 2 musicians having attended countless festivals over the years it amazes me the talent that exists across our State. These students are just another example of what can be found in our kids, when with outstanding instruction, hard work, parental support and in my case good genes, beautiful music can be created. I want to recognize the seniors in the group, Dustin Sposato, Amanda Glidden, Troy Richardson, Andrew D'Partum, Fletcher Keene, Jeff Kim, Andrew Moody, Ellen Wagner, Arielle Costello, and my son Spencer Fitts. I want to wish them the best in their life's endeavors. Thank you, Mr. Speaker.

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

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

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**ENACTORS**  
**Emergency Measure**

An Act To Ensure Proper Disposal of Debris and Protection of the Environment

(S.P. 47) (L.D. 141)  
(C. "C" S-573)

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

Representative TWOMEY of Biddeford **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 Passage to be Enacted. 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. 518**

YEA - Annis, Austin, Babbidge, Barstow, Beaudette, Bierman, Bishop, Blanchard, Blanchette, Bowles, Brautigam, Brown R, Browne W, Bryant-Deschenes, Burns, Campbell, Carr, Cebra, Churchill, Clark, Clough, Cressey, Crosthwaite, Cummings,

Curley, Curtis, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Duplessie, Duprey, Eberle, Edgcomb, Faircloth, Farrington, Fischer, Fisher, Fletcher, Flood, Glynn, Goldman, Greeley, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Koffman, Lansley, Lerman, Lewin, Lindell, Marean, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Miller, Millett, Moulton, Muse, Nass, Nutting, O'Brien, Paradis, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Rines, Robinson, Rosen, Saviello, Seavey, Sherman, Shields, Simpson, Smith N, Smith W, Stedman, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Valentino, Vaughan, Watson, Webster, Wheeler, Woodbury.

NAY - Adams, Ash, Bliss, Bryant, Cain, Canavan, Collins, Craven, Eder, Finch, Gerzofsky, Grose, Hall, Hutton, Jackson, Jennings, Lundeen, Makas, Merrill, Moody, Norton, Schatz, Twomey, Walcott.

ABSENT - Berube, Bowen, Brannigan, Crosby, Dugay, Dunn, Emery, Fitts, Mills, Moore G, Ott, Patrick, Sampson, Mr. Speaker.

Yes, 113; No, 24; Absent, 14; Excused, 0.

113 having voted in the affirmative and 24 voted in the negative, with 14 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

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**Emergency Measure**

An Act To Improve Early Childhood Special Education

(S.P. 689) (L.D. 1772)  
(C. "A" S-585)

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

Representative MERRILL of Appleton **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.

Representative LINDELL of Frankfort asked leave of the House to be excused from voting on L.D. 1772 pursuant to House Rule 401.12.

The Chair granted the request.

Representative CLARK of Millinocket **REQUESTED** that the Clerk **READ** the Committee Report.

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

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Passage to be Enacted. 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. 519**

YEA - Adams, Ash, Austin, Babbidge, Barstow, Beaudette, Bierman, Bishop, Blanchard, Blanchette, Bliss, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Bryant-Deschenes, Burns, Cain, Campbell, Cebra, Churchill, Clark, Clough, Collins, Crosby, Cummings, Curley, Curtis, Davis G, Davis K, Driscoll, Duchesne, Dudley, Duplessie, Duprey, Eberle, Eder, Edgcomb, Faircloth, Farrington, Finch, Fischer, Fletcher, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jacobsen, Jodrey, Koffman, Lansley, Lerman, Lundeen, Makas, Marraché, McKane, McKenney, McLeod, Miller, Millett, Moody, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Paradis, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Plummer, Rector, Richardson E, Richardson M, Richardson W, Rines, Robinson, Saviello,

Seavey, Sherman, Shields, Simpson, Smith N, Smith W, Sykes, Tardy, Thompson, Trahan, Tuttle, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury.

**NAY** - Annis, Carr, Cressey, Crosthwaite, Flood, Hall, Jennings, Joy, Kaelin, Lewin, Marean, Mazurek, McCormick, Merrill, Pinkham, Richardson D, Rosen, Schatz, Stedman, Thomas, Twomey, Vaughan.

**ABSENT** - Berube, Bowen, Canavan, Craven, Daigle, Dugay, Dunn, Emery, Fisher, Fitts, Marley, McFadden, Mills, Moore G, Ott, Patrick, Sampson, Mr. Speaker.

Yes, 110; No, 22; Absent, 18; Excused, 1.

110 having voted in the affirmative and 22 voted in the negative, with 18 being absent and 1 excused, 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 Allow the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf To Lease Classroom Space to Independent Schools

(H.P. 1386) (L.D. 1979)

(C. "A" H-996)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 120 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate. **ORDERED SENT FORTHWITH.**

**Emergency Measure**

Resolve, To Reduce State Valuation as a Result of the Closure of Georgia-Pacific Facilities

(S.P. 838) (L.D. 2096)

(C. "A" S-590)

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. **ORDERED SENT FORTHWITH.**

**Acts**

An Act Relating to the Assessment of Property Taxes on Time-share Property

(H.P. 1297) (L.D. 1857)

(C. "A" H-993)

An Act To Amend the Law Governing DNA Testing

(H.P. 1348) (L.D. 1907)

(C. "A" H-994)

An Act To Implement Certain Recommendations of the Washington County Economic Development Task Force

(S.P. 743) (L.D. 1944)

(C. "A" S-597)

An Act To Invest in the Future of Maine Citizens

(S.P. 751) (L.D. 1954)

(C. "A" S-586)

An Act To Implement the Recommendations of the ATV Trail Advisory Council

(H.P. 1453) (L.D. 2057)

(C. "A" H-947)

An Act To Amend the Charter of the Anson Water District

(S.P. 842) (L.D. 2100)

(C. "A" S-601)

An Act To Establish a Food Policy for Maine

(H.P. 1497) (L.D. 2107)

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 Collect Information about Employer-based Health Coverage

(S.P. 727) (L.D. 1927)

(S. "A" S-604 to C. "A" S-580)

Resolve, To Ensure the Availability of Consumer-directed Personal Assistance Services

(S.P. 769) (L.D. 1991)

(S. "A" S-600 to C. "A" S-581)

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 Preserve Maine's Working Waterfront

(S.P. 759) (L.D. 1972)

(C. "A" S-602)

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

On motion of Representative DUPLESSIE of Westbrook, was **SET ASIDE.**

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

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

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

Representative **PERCY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Last November, the State of Maine, everybody told us that they wanted us to change the Constitution and we all know that that is not an easy thing to do. Seventy-two percent of the voters said please change the Constitution so that the working waterfront can now be included in current use taxation. They sent us that message and we did it; you did it. I have been hearing from fishermen and people all up and down the coast for the last couple of months, how is it going, how is it going? The Taxation Committee worked so hard, they asked incredible questions, they got good answers and they sent us something that the voters really wanted. So from all the folks along the coast and from my heart, thank you so very much.

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

**ROLL CALL NO. 520**

**YEA** - Adams, Annis, Ash, Austin, Babbidge, Barstow, Beaudette, Bierman, Bishop, Blanchard, Blanchette, Bliss, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Burns, Cain, Campbell, Canavan, Carr, Cebra, Churchill, Clark, Clough, Collins, Craven, Cressey, Crosby, Crosthwaite, Cummings, Curley, Curtis, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Duprey, Eberle, Eder, Edgcomb, Emery, Faircloth, Farrington, Finch, Fischer, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hotham,

Hutton, Jackson, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Lansley, Lerman, Lewin, Lindell, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Millett, Moody, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Paradis, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Saviello, Schatz, Seavey, Sherman, Shields, Simpson, Smith N, Smith W, Stedman, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Twomey, Valentino, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury.

NAY - NONE.

ABSENT - Berube, Bowen, Bryant-Deschenes, Daigle, Dugay, Koffman, Miller, Mills, Moore G, Ott, Patrick, Rines, Sampson, Mr. Speaker.

Yes, 137; No, 0; Absent, 14; Excused, 0.

137 having voted in the affirmative and 0 voted in the negative, with 14 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate

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An Act To Strengthen the Collection of the Tax on Tobacco Products

(H.P. 1485) (L.D. 2093)  
(C. "A" H-1009; H. "B" H-1022)

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

On motion of Representative WOODBURY of Yarmouth, was **SET ASIDE**.

On further motion of the same Representative, 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 as Amended by Committee Amendment "A" (H-1009) and House Amendment "B" (H-1022)**.

The same Representative **PRESENTED House Amendment "C" (H-1042) which was READ by the Clerk and ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-1009), House Amendment "B" (H-1022) and House Amendment "C" (H-1042) in NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH**.

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

**UNFINISHED BUSINESS**

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, April 14, 2006, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

**HOUSE DIVIDED REPORT - Majority (9) Ought Not to Pass - Minority (3) Ought to Pass as Amended by Committee Amendment "A" (H-976) - Committee on LEGAL AND VETERANS AFFAIRS on Bill "An Act To Allow the Importation of Wine"**

(H.P. 1341) (L.D. 1900)

TABLED - April 11, 2006 (Till Later Today) by Representative PATRICK of Rumford.

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

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

Representative **VALENTINO**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I wish to speak on the pending motion. Legal and Veterans worked LD 1900 and recommended the Ought Not to Pass based on several reasons. One we had a concern that the direct shipping will increase the under aged drinking and puts the responsibility of enforcing the under aged drinking laws on shipping companies that deliver the wine. There was also a concern about the increased workload of law enforcement. We also felt that the direct shipment could be a deterrent to the three-tier liquor regulatory system which creates the barriers between the manufacturer and the retailer. There was also a concern that the direct shipment of wine could possibly lead to direct shipment of distilled spirits and beer. We also felt that it would hurt existing small business owners who sell wine. There was also a concern that it would undermine the face to face alcohol liquor transactions by shifting the burden of identification to the manufacturer and ultimately this identification responsibility would rest with the delivery truck driver. Many cities and towns across Maine also have enacted zero tolerance policies when it comes to alcohol and we felt this would undermine such efforts. Maine has a long and proud tradition of responsible alcohol sales and the Committee felt that LD 1900 did not fit with our current policy. Thank you, Mr. Speaker.

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

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Bill "An Act To Extend the Lobbyist Reporting Requirements to Executive Branch Lobbying Activities"

(H.P. 1235) (L.D. 1727)

- In House, Minority (4) **OUGHT TO PASS AS AMENDED** Report of the Committee on **LEGAL AND VETERANS AFFAIRS READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-923)** on April 7, 2006.

- In Senate, Majority (8) **OUGHT NOT TO PASS** Report of the Committee on **LEGAL AND VETERANS AFFAIRS READ** and **ACCEPTED in NON-CONCURRENCE**.

TABLED - April 14, 2006 (Till Later Today) by Representative DUPLESSIE of Westbrook.

PENDING - Motion of Representative HOTHAM of Dixfield to **RECEDE** and **CONCUR**. (Roll Call Ordered)

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

Representative **VALENTINO**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I wish to speak to the pending motion, the pending motion is to recede and concur. I would just urge the people to defeat this motion so that we can get on with an additional motion to insist and ask for a committee of conference on this. I feel that this is a very important and timely issue and that the public deserves better disclosure laws with the lobbyist and that this bill can be resolved if we go to a committee of conference. Therefore, I would urge everyone to defeat the motion to recede and concur. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterville, Representative Canavan.

Representative **CANAVAN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I, too, would ask that you would defeat the pending motion and that you support the motion to insist. This bill is important for what it will mean to the people of Maine in terms of greater transparency in government. Let me say that never in my entire legislative career have I introduced a piece of legislation that was so heavily lobbied. At the hearing for the bill, 6 or 7 contract lobbyist stood to speak in opposition to the bill. Lobbyist paid more money in a week than

the average Maine worker gets paid in a month stood to oppose the bill. One said the bill was unnecessary and others said it was too onerous and another complained that State employees should be required to report more activity. On the constituent side, however, never have I received so many positive comments about any prior legislation that I have introduced, than on this bill. People have sent notes of thanks and one man even asked how he could help advance the legislation. Quite honestly, it's difficult to see why anyone who supports transparency in government would object to full public disclosure of lobbying activity, especially when we know the extent to which it goes on and the extent to which it influences legislation. Thirty-six states now require lobbyist disclosure of executive branch lobbying. Over in the State of New Hampshire just three weeks ago the Governor signed a bill very similar to the one before us now, for the very reason I am fighting to keep this bill alive, because open government is good government and because what this bill proposes to do is shine a brighter light on the legislative process. We owe it to the people we represent to let them know what goes on here in the legislative and executive realm with respect to lobbying and that's exactly the purpose to this bill. We owe it to Maine people, because this is their House and these are their laws. I would, therefore, ask that you defeat the pending motion and support the motion to insist and form a committee of conference. Thank you.

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

Representative **HOTHAM**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of the motion to recede and concur. I think that in light of the fact that the Speaker has earlier in the session indicated the need to study our approach to ethics in this chamber and also a very broad approach to that question to include the lobbying effort that goes on in this building. I think that in lieu of that study and the proposals that will come from the effort, we should recede and concur at this time so that we are able to put forward a well planned concentrated effort on dealing with this issue in an opportunity for everyone to come to the table and have their say. As many of you may know, I have urged the lobbying community here in this State House to get their act together. I am very frustrated by the fact that we walk out in the hallways and find people out there without their name badges. I consider that a common courtesy. This is a scattered approach to an effort that deserves deliberation from both sides so that we move forward in positive way. So I would ask that you support the motion to recede and concur. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Scarborough, Representative Curley.

Representative **CURLEY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I'll be voting no, on the pending motion. I too would like to move forward with a committee of conference. The idea of this bill is right on target, it's timely and for all the reasons that the good Representative from Dixfield addressed, his frustration with some of the lobbying efforts, I think it's time for us to have a committee of conference now, work on those things. I appreciate the Speaker's convening a committee or task force to look at this, but there is no guarantee that this issue will be on the agenda. So I am voting no on this and I would like to have the committee of conference. Thank you.

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

Representative **TWOMEY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I too will be voting no, on this. This is something that is very important. In light of when

you come in here and you are a freshman, you don't even know who the lobbyists are, you don't know who they represent or who they work for. I've always said, just go to Ethics look at everybody's reports, follow the money and follow the legislation. I think this very important and I commend Representative Canavan for bringing this forward and I think we should have a committee of conference. There is no guarantee that this will be taken up. The money is still speaking; I think we need to vote no on this. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Freeport, Representative Webster.

Representative **WEBSTER**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I, too, will be voting no on this. I commend Representative Canavan for bringing forward this bill because of her work on another bill, I've become much more familiar with the issues relating to this. I do agree that it's a good move forward for us to have a task force, but at the same time I think that this is not something that would preclude or should be waited for and we should vote no on this and move forward towards a committee of conference. Thank you, Mr. Speaker.

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

Representative **WALCOTT**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I actually am asking you to vote no on the pending motion. Sometimes I think one of the unfortunate parts of being on a certain committee is you kind of get stuck in that mold of worrying about what happens in that committee. I would ask you to vote no because I serve on the Health and Human Services Committee and think it's very important for every member of this chamber to know, who and how much is lobbying the Department of Health and Human Services. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterville, Representative Canavan.

Representative **CANAVAN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would just like to clear up one statement that I heard earlier, that is that lobbying issues will be a part of the legislative ethics study to be conducted. I have been invited to participate in that committee and the letter that I received was specific in saying that the only issues to be discussed are governmental ethics issues. That means laws dealing with the legislative ethics laws in Title 1 not in Title 3.

The SPEAKER PRO TEM: 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. 521

YEA - Annis, Bierman, Bowles, Brown R, Browne W, Bryant-Deschenes, Carr, Cebra, Churchill, Clough, Crosthwaite, Cummings, Curtis, Daigle, Davis G, Duprey, Edgcomb, Emery, Fischer, Fitts, Flood, Gerzofsky, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Joy, Kaelin, Lansley, Lewin, Marean, McCormick, McFadden, McKenney, McLeod, Millett, Moulton, Muse, Nass, Nutting, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Saviello, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas.

NAY - Adams, Ash, Austin, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Campbell, Canavan, Clark, Collins, Craven, Cressey, Crosby, Curley, Davis K, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Eberle, Eder, Faircloth, Finch, Fisher, Fletcher, Glynn, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Jodrey, Koffman, Lerman, Lindell, Lundeen, Makas, Marraché, Mazurek, McKane, Merrill, Miller, Moody,



Norton, O'Brien, Paradis, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rosen, Sampson, Schatz, Simpson, Smith N, Smith W, Thompson, Trahan, Tuttle, Twomey, Valentino, Vaughan, Walcott, Webster, Wheeler, Woodbury.

ABSENT - Berube, Bishop, Bowen, Dugay, Farrington, Marley, Mills, Moore G, Ott, Patrick, Rines, Watson, Mr. Speaker.

Yes, 58; No, 80; Absent, 13; Excused, 0.

58 having voted in the affirmative and 80 voted in the negative, with 13 being absent, and accordingly the motion to **RECEDE** and **CONCUR FAILED**.

On motion of Representative VALENTINO of Saco, the House voted to **INSIST** and **ASK** for a **COMMITTEE OF CONFERENCE**. Sent for concurrence.

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**HOUSE REPORT - Ought to Pass as Amended by Committee Amendment "A" (H-1033) - Committee on HEALTH AND HUMAN SERVICES** on Resolve, Directing the Department of Health and Human Services To Amend Its Rules To Ensure Efficiencies in the Billing and Delivery of Outpatient Clinical Services

(H.P. 1397) (L.D. 1995)

TABLED - April 14, 2006 (Till Later Today) by Representative PINGREE of North Haven.

PENDING - **ACCEPTANCE OF COMMITTEE REPORT**.

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

The Resolve was **READ ONCE**. **Committee Amendment "A" (H-1033)** was **READ** by the Clerk.

Representative PINGREE of North Haven **PRESENTED House Amendment "A" (H-1045) to Committee Amendment "A" (H-1033)**, which was **READ** by the Clerk.

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

Representative **PINGREE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to briefly especially let members of my Committee know, this was the good Representative from Berwick's bill Representative Burns. He worked very hard with the fiscal office to insure that it went from a positive fiscal note to quite a negative fiscal note so I appreciate his hard work. The substance of the bill has not changed. This would allow social workers and others like social workers to be reimbursed directly by the State rather than having to go through a middle man. I think it is good policy, something the Health and Human Services Committee has tried to do for a number of years and I think we found a way to do it. Thank you, Mr. Speaker and I encourage the House to adopt this amendment to Committee Amendment "A." Thank you.

Subsequently, **House Amendment "A" (H-1045) to Committee Amendment "A" (H-1033)** was **ADOPTED**.

**Committee Amendment "A" (H-1033) as Amended by House Amendment "A" (H-1045)** thereto was **ADOPTED**.

The Resolve was assigned for **SECOND READING** later in today's session.

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#### CONSENT CALENDAR

##### First Day

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

(S.P. 417) (L.D. 1203) Bill "An Act To Amend the Laws Concerning Eminent Domain" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "B" (S-609)**

(S.P. 783) (L.D. 2036) Bill "An Act To Facilitate the Hiring of Healthcare Personnel During Emergency Circumstances" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-615)**

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

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#### REPORTS OF COMMITTEE

##### Divided Report

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass pursuant to Private and Special Law 2001, chapter 54, section 3** on Bill "An Act To Extend the Alternative Delivery Methods Pilot Program for Certain School Construction Projects"

(H.P. 1505) (L.D. 2113)

Signed:

Senators:

MITCHELL of Kennebec

SCHNEIDER of Penobscot

Representatives:

DAVIS of Falmouth

EDGECOMB of Caribou

NORTON of Bangor

GOLDMAN of Cape Elizabeth

STEDMAN of Hartland

MAKAS of Lewiston

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1043) pursuant to Private and Special Law 2001, chapter 54, section 3** on same Bill.

Signed:

Representative:

FINCH of Fairfield

**READ**.

On motion of Representative CAIN of Orono, the Majority **Ought to Pass** Report was **ACCEPTED**.

The Bill was **READ ONCE** and was assigned for **SECOND READING** later in today's session.

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#### SENATE PAPERS

##### Non-Concurrent Matter

Joint Order To Establish the Commission To Study Access to Birth Certificates and Medical Records for Adult Adoptees

(H.P. 1502)

**READ** and **PASSED** in the House on April 14, 2006.

Came from the Senate **READ** and **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

On motion of Representative DAVIS of Falmouth, the House voted to **ADHERE**.

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##### Non-Concurrent Matter

Resolve, To Establish the Work Group To Review and Recommend Improvements for the Certificate of Need Program

(H.P. 1254) (L.D. 1814)

(C. "A" H-934)

**FINALLY PASSED** in the House on April 14, 2006.

Came from the Senate with the Resolve and accompanying papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

The House voted to **ADHERE**.

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**Non-Concurrent Matter**

Resolve, To Ensure Financial Management at the Department of Health and Human Services

(S.P. 748) (L.D. 1949)  
(C. "A" S-546)

**FINALLY PASSED** in the House on April 14, 2006.

Came from the Senate with the Resolve and accompanying papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

On motion of Representative PINGREE of North Haven, the House voted to **ADHERE**.

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The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

**REPORTS OF COMMITTEE**

**Divided Report**

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act To Protect Businesses from Unnecessary Eminent Domain Takings" (EMERGENCY)

(H.P. 1345) (L.D. 1904)

Signed:

Senators:

HOBBS of York  
BROMLEY of Cumberland  
HASTINGS of Oxford

Representatives:

SIMPSON of Auburn  
FAIRCLOTH of Bangor  
CANAVAN of Waterville  
GERZOFISKY of Brunswick  
BRYANT of Windham  
DUNN of Bangor  
SHERMAN of Hodgdon  
CARR of Lincoln  
NASS of Acton

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1046)** on same Bill.

Signed:

Representative:

BRYANT-DESCHENES of Turner

**READ.**

Representative GERZOFISKY of Brunswick moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative LINDELL of Frankfort **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.

On motion of Representative DUPLESSIE of Westbrook, **TABLED** pending the motion of Representative GERZOFISKY of Brunswick to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned. (Roll Call Ordered)

The House recessed until 1:30 p.m.

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(After Recess)

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The House was called to order by the Speaker.

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

**BILLS IN THE SECOND READING**

**House**

Bill "An Act To Extend the Alternative Delivery Methods Pilot Program for Certain School Construction Projects"

(H.P. 1505) (L.D. 2113)

**House as Amended**

Resolve, Directing the Department of Health and Human Services To Amend Its Rules To Ensure Efficiencies in the Billing and Delivery of Outpatient Clinical Services

(H.P. 1397) (L.D. 1995)

(H. "A" H-1045 to C. "A" H-1033)

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

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

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**CONSENT CALENDAR**

**Second Day**

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

(S.P. 417) (L.D. 1203) Bill "An Act To Amend the Laws Concerning Eminent Domain" (C. "B" S-609)

(S.P. 783) (L.D. 2036) Bill "An Act To Facilitate the Hiring of Healthcare Personnel During Emergency Circumstances" (C. "A" S-615)

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.

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**REPORTS OF COMMITTEE**

**Divided Report**

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1036)** on Bill "An Act To Make Additional Allocations from the Highway Fund and Other Funds for the Expenditures of State Government and To Change Certain Provisions of State Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2005 and June 30, 2006" (EMERGENCY)

(H.P. 1382) (L.D. 1974)

Signed:

Senators:

DAMON of Hancock  
SAVAGE of Knox  
DIAMOND of Cumberland

Representatives:

MARLEY of Portland

COLLINS of Wells  
FISHER of Brewer  
HOGAN of Old Orchard Beach  
MAZUREK of Rockland  
PARADIS of Frenchville  
SAMPSON of Auburn

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-1037)** on same Bill.

Signed:

Representatives:

BROWNE of Vassalboro  
McKENNEY of Cumberland  
THOMAS of Ripley

**READ.**

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

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

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

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

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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. 522**

**YEA** - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brautigam, Bryant, Burns, Cain, Campbell, Canavan, Clark, Collins, Craven, Curtis, Driscoll, Duchesne, Dunn, Eberle, Faircloth, Farrington, Finch, Fisher, Gerzofsky, Goldman, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, McCormick, Merrill, Miller, Moody, Norton, O'Brien, Paradis, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Schatz, Simpson, Smith N, Smith W, Thompson, Tuttle, Valentino, Walcott, Watson, Webster, Wheeler.

**NAY** - Annis, Austin, Bierman, Bishop, Bowles, Brannigan, Brown R, Browne W, Bryant-Deschenes, Carr, Cebra, Churchill, Clough, Cressey, Crosthwaite, Cummings, Curley, Daigle, Davis G, Davis K, Dudley, Duplessie, Duprey, Eder, Edgecomb, Emery, Fischer, Fitts, Fletcher, Flood, Glynn, Greeley, Grose, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McKane, McKenney, McLeod, Millett, Moore G, Moulton, Muse, Nass, Nutting, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Saviello, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Twomey, Vaughan, Woodbury, Mr. Speaker.

**ABSENT** - Berube, Bowen, Crosby, Dugay, McFadden, Mills, Ott, Patrick.

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

67 having voted in the affirmative and 76 voted in the negative, with 8 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **NOT ACCEPTED**.

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

The Bill was **READ ONCE**. Committee Amendment "A" (H-1037) was **READ** by the Clerk.

On motion of Representative MILLETT of Waterford, **TABLED** pending **ADOPTION** of Committee Amendment "A" (H-1037) and later today assigned.

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

**HOUSE DIVIDED REPORT** - Majority (12) **Ought Not to Pass** - Minority (1) **Ought to Pass as Amended by Committee Amendment "A" (H-1046)** - Committee on **JUDICIARY** on Bill "An Act To Protect Businesses from Unnecessary Eminent Domain Takings" (EMERGENCY)

(H.P. 1345) (L.D. 1904)

Which was **TABLED** by Representative DUPLESSIE of Westbrook pending the motion of Representative GERZOFSKY of Brunswick to **ACCEPT** the Majority **Ought Not to Pass** Report. (Roll Call Ordered)

The **SPEAKER**: The Chair recognizes the Representative from Appleton, Representative Merrill.

Representative **MERRILL**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise to oppose the pending motion, but before I go into my reasons for that opposition, I'd like to complement the Judiciary Committee this session. They've done an enormous amount of work on the whole issue of eminent domain. They have passed two bills out, one bill that essentially insures that we will never have a Kelo type situation here in Maine; as well as another bill that deals with business valuation and eminent domain takings. In addition, the Judiciary Committee spent four work sessions on this particular bill and I really want to thank them for the work that they did on it. I'd like to explain to you why I oppose the pending motion. LD 1904 really does make a big change in the eminent domain laws, it's a further step from the other work that the committee did this session. This bill applies only to businesses and it says that the State may only take the minimum amount of property necessary to accomplish the public purpose. If your house or property is taken by eminent domain the only recourse a property owner has to fight the taking, is if you can prove that the taking was taken maliciously or fraudulently. I repeat, that's the only recourse you have to fight the actual taking, if the taking was done maliciously or fraudulently. In other words the only issue the land owner or property business owner has a prayer on winning in court is increasing the amount of compensation they get for the taking. If it turns out that the State took more property than they needed essentially you're out of luck. Why is that? The answer is very simple because the Maine law court has consistently held that the court must give deference to the decision of the political entity that has exercised the right of eminent domain. Essentially the courts consider eminent domain takings to be a political decision because the legislature has delegated the power to the Executive Branch and the municipalities, school districts, etc. That's why, although you could spend literally thousands of dollars on expert witnesses to prove that the taking could have been accomplished with less property, with less land even significantly less land, you won't win unless you can prove fraud or malice. In other words, proving overreaching or incompetence won't help. This amendment turns that around dramatically. It allows as business owner the right to actually to have his or her day in court before a judge who can look at the case with fresh eyes. In other words, the judge is not bound by the legal precedent that requires him or her to not second guess the taking decision. This was a lopsided

committee report; it's a 12 to 1 Ought Not to Pass. Some members of the majority were unconvinced that the power of eminent domain has been inappropriately used enough to warrant making this change. Some members in the majority felt uncomfortable because the introduction of this bill was inspired by a case that is currently pending and they don't like to make law in the mist of a legal proceeding. Other members of the committee worried that by allowing this change it would slow down important public works projects. I'd like to respond to each one of those concerns. The first objection being that there isn't enough evidence of a problem to warrant this kind of a big change. My response to that, is that the overreaching of the Maine Department of Transportation in Prospect in the case of the Sail Inn put the largest employer in that town out of business, if this bill saves one business that justifies it. We kill small businesses in this State by one thousand knives; this was one of those knives. The second objection was the Committee's understandable reluctance to make law while a current case is pending before court. It's true that this bill will impact the Sail Inn litigation, but only in one way. It will allow the owners of the Sail Inn to actually have a fair hearing before a judge who is not bound to give deference to the Maine Department of Transportation. It does not mean that the Sail Inn will automatically win its hearing. It only allows them to have a judge who can render an independent judgment. The third objection is whether or not this change in the law will slow down important public works projects. If you accept this argument, you're essentially saying that there are lots of improper eminent domain takings. Let me assure you of this, these cases will move thorough expeditiously because the State will convince the courts they need to move quickly. Secondly, in order to challenge a taking you've got to have a lot of money. Most of these cases don't come anywhere near the courts because they cost so much money. That cost after a loan will significantly winnow out the cases. Finally this case, this bill rather, will force the State, the Maine Department of Transportation in particular to be much more careful. If they'd been more careful, we wouldn't be here talking about this today. I urge you to oppose the pending motion. 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. I don't think any of us want our house or our business taken unnecessarily under the name of eminent domain. So we need protections. Looking over this bill and its amendment I think it has great merit to give us those protections. Mr. Speaker may I pose a question through the chair?

The SPEAKER: The Representative may proceed.

Representative SHIELDS: Would someone who voted against this on the committee please explain to me why they did this and what was wrong with this bill and its amendment?

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 Auburn, Representative Simpson.

Representative SIMPSON: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I voted against this bill and the amendment because I was concerned about the issues which the good Representative from Appleton has already mentioned. One is the case which is currently pending in court which this bill would affect. Another is the fundamental question when you say you can only take what you need, but perhaps the landowner would be left with a piece of property which is entirely worthless, so the Department works very hard with businesses.

We heard a lot of testimony about how they try to take as little as possible, but if what they are going to take would make the business unable to survive then the landowner would be better off having the whole property taken as opposed to being left with piece of land which they cannot use. Other reasons, we've done things to help improve the climate for businesses if their business is taken, in another bill which we just voted on a short while ago increasing the amount of money that they will get for relocating that business. For those reasons I voted against the bill, but I was concerned and members of the committee were concerned, but we had only heard of this one case, this one instance which this bill would then apply to. We have sent a letter to the commissioner asking for a whole history of acquisitions in takings for the Department of Transportation so we would have a report back to the committee next January and see if this is actually a problem in more than this one instance which was an emergency. The Waldo Hancock Bridge was not safe and the Department needed to take action. Thousands of residences rely on that bridge and that project needed to move forward, so that things that delays projects which are so important and need to be done, it was a concern of the Committee or at least for me that that wouldn't happen in a timely manner and more people would suffer. Thank you. I hope you support the pending motion.

The SPEAKER: The Chair recognizes the Representative from Turner, Representative Bryant-Deschenes.

Representative BRYANT-DESCHENES: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm the member of this committee who voted for it. One of the things I can tell you is that there's a lot that happens in the eminent domain field that people aren't aware of. I know because it's happened to me twice. The first time that I had property taken from me I submitted an appraisal to the Department for a lot which at that time was worth \$12,000.00 according to my appraiser who based that on the sales of property all around me. The Department offered me \$5,000.00. They required that I pay for drainage under my property and several other things that I felt was unfair. They told me, I was relocating my business because the highway had been moved behind my property, so I'm in business to make a living and the business has to continue to be run. Their response to me was, well if you have a problem with this we won't be doing any more work on your entrances and you can wait about two years for it to go through the court and then you can get your business going up again at your new site. I think what we have here is a culture of a Department that has absolute power and if you agree that one government entity should have absolute power with no judicial review or no other way of anyone questioning what's happening then I guess you should support this. I don't happen to believe that. I think that what we as a legislature have done is given up this power and we've given it up absolutely. I believe that power corrupts and that absolute power corrupts absolutely. There is a culture in that Department and I'm sure if you look around in your towns there are people who have been approached, property is taken. We have elderly people who have no idea the value of their property, for instance, they are not entitled because the Department has an exemption from the freedom of access to information, they are not even required to tell these people what the appraisal is until months after the entire case is finished. Is there someone in your town who bought their land for \$5,000.00 an acre and maybe it's worth \$20,000.00 now, but they will never see an appraisal because of that. In the area of whether or not you're justly compensated, you can go to a court and ask them to look at this. The judicial branch of the government is the branch that's responsible for interpreting the laws and administering justice. You can seek justice as far as the price is concerned, but as far

as the necessity for the taking you have no one to turn to. We had testimony from people who have served and in fact are setting in this House, who have served as a county commissioner had served on the boards that would determine whether or not the Department of Transportation is giving a fair offer. I can tell you that information wasn't very complementary to the Department. I think saying that we haven't heard anything about problems is not what I say would come from this hearing. I think we heard about a lot of problems. I think that when the people have absolutely no power they aren't going to contest what's happening, if they don't feel there's an avenue for them to do so. We did hear that of the takings very few of them there's a problem with the compensation and I can explain to you why that is. In my particular case my lot was worth \$12,000.00, I think they ended up giving me \$5,000.00, so I lost \$7,000.00. For \$20,000.00 I probably could have fought through to get my money back so it's just not a viable solution. In the case of whether or not the property should have been taken, you don't even have the opportunity to waste your money paying too much for a court decision, you just don't get heard. If you do get in there you don't go in on what we all talk about as a level playing field, which doesn't exist, but it definitely doesn't exist there because the court starts out in favor of the Department. All we're asking for in this bill is that the court give the land owner an even opportunity to be heard, that you start out at the same level so that you can go in and have this looked at. I think that if you have a government entity acting with no oversight with no one else who has any right to review that that is too much power. Thank you.

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. Few Supreme Court decisions drew as much attention as the *Kelo* decision, and just based upon questions I've heard from seatmates and others I want to point out that this bill has nothing to do with that. There is another piece of legislation that the Judiciary Committee crafted that addresses those issues and says to the people of Maine as was the popular request that eminent domain be used for public purposes not to take private property from one and give it to another, so it doesn't have to do with that issue. It also doesn't have to do with the nature or method of compensation. What this is very narrowly about is this new, and I would say in fact from our research, totally novel concept of "minimum necessary." The concept of eminent domain, which since the *Kelo* decision people have reaffirmed they support eminent domain, people want us to be able to use eminent domain for our roads for our bridges, they didn't want it for private purposes maybe, but they wanted it to structure our society with roads and bridges and that's what it does. This "minimum necessary" could be a real threat to us doing the business of our society to build that bridge that people really needed for public safety to build roads that we really need for public safety. They have to lay out a footprint for a project and if you are prevented, you the Department of Transportation, prevented from doing that, you might end up in a situation where the public necessity that really is a value to your constituents is going to be impeded for a significantly longer period of time, I don't think that's what our constituents want. While I very much respect the efforts of the sponsor of this legislation my understanding is that this phrase "minimum necessary" although there's been hundreds of years of definitions in law of eminent domain that this is a totally new and novel concept not modeled in anything from another State and is an invitation to litigation that would not help our constituents so I hope you will support the

very large majority of this committee in supporting Ought Not to Pass report.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Austin.

Representative AUSTIN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. For those of you who drive the Maine Turnpike to reach the capitol each day, you may have noticed construction in Gray, actually running parallel to the Maine Turnpike. This piece is the new Gray connector, something our town has been planning, anticipating and finally realizing after 20 some years of looking for a traffic solution in our village. With this comes some adverse reactions due to the taking of property. Some of my constituents have had to renegotiate with the Maine Department of Transportation to reach a settlement they could be more satisfied with on their property. Two businesses have had their actual access egress affected; one longtime farmer whose property was initially divided in 1956 by the turnpike has now been cut up again and has actually lost his access which in effect leaves his land landlocked. I share these specifics just to paint a picture of the actualities of the everyday ups and downs of construction. It is my hope that my landowners and businesses will continue to work through the process prescribed and reach resolutions in either project adjustments or financial settlement awards. The point is as this bill reflects there is no process to protect one's property from the taking. If as in the case of the business by the Waldo Hancock Bridge, it may truly not have been necessary to take the entire property and that family's longtime established business. I ask you to consider what it must be like to be put in this position of helplessness as your years of hard work slip from your hands without a prescribed process of appeal. Thank you, Mr. Speaker.

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

Representative KAELIN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to rise briefly to commend the Representative from Appleton, Representative Merrill for the work that she's done on this bill. I used to represent the town where the particular business that's the focus of some of her efforts is. To this day I'd don't understand why the DOT took all their property, you could still run a restaurant right there. We've cars going over the bridge, the new bridge being built; the access to the new bridge is down at the end of the parking lot, a very small amount of the parking lot has been used. There was no reason for the DOT to shut that business down, they would not listen to alternatives and I think this is a great bill, I think that it deserves to be passed. I'm personally not afraid of new legal precedence, they seem to be occurring around us all the time and I encourage you to defeat the current motion and pass this bill because I think it's the kind of legislation we should be enacting where we're protecting business interests, individual entrepreneurially interest against a very powerful process that you have to hire the most expensive lawyers in the State to go up against and often it fails. I think this is a good bill and I commend the Representative from Appleton for the work on it. Thank you.

Representative WALCOTT of Lewiston REQUESTED that the Clerk READ the Committee Report.

The Clerk READ the Committee Report in its entirety.

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. 523

YEA - Adams, Babbidge, Barstow, Beaudette, Bierman, Blanchette, Bliss, Bowles, Brannigan, Brautigam, Bryant, Cain,

Campbell, Canavan, Carr, Clark, Craven, Cummings, Curtis, Daigle, Davis G, Duchesne, Dudley, Dunn, Duplessie, Duprey, Eberle, Faircloth, Farrington, Fischer, Fisher, Gerzofsky, Goldman, Greeley, Grose, Hanley S, Harlow, Hogan, Hutton, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Miller, Millett, Moulton, Nass, Norton, O'Brien, Paradis, Percy, Pilon, Pineau, Pingree, Pinkham, Piotti, Richardson D, Richardson E, Richardson W, Rines, Sampson, Simpson, Smith N, Smith W, Tardy, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

**NAY** - Annis, Ash, Austin, Bishop, Blanchard, Brown R, Browne W, Bryant-Deschenes, Burns, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Davis K, Driscoll, Eder, Edgcomb, Finch, Fitts, Fletcher, Flood, Glynn, Hall, Hamper, Hanley B, Hotham, Jackson, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Moody, Moore G, Muse, Nutting, Plummer, Rector, Richardson M, Robinson, Rosen, Saviello, Schatz, Seavey, Shields, Stedman, Sykes, Thomas, Trahan, Vaughan.

**ABSENT** - Berube, Bowen, Crosby, Dugay, Emery, Mills, Ott, Patrick, Perry, Sherman.

Yes, 79; No, 62; Absent, 10; Excused, 0.

79 having voted in the affirmative and 62 voted in the negative, with 10 being absent, and accordingly the Majority Ought Not to Pass Report was **ACCEPTED** and sent for concurrence.

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, April 14, 2006, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Bill "An Act To Amend the Laws Governing the Enactment Procedures for Ordinances"

(S.P. 507) (L.D. 1481)

- In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (S-437) AS AMENDED BY SENATE AMENDMENT "C" (S-554)** thereto.

**TABLED** - April 13, 2006 (Till Later Today) by Representative **TARDY** of Newport.

**PENDING - ADOPTION OF COMMITTEE AMENDMENT "C" (S-437).**

Representative **CUMMINGS** of Portland **PRESENTED** House Amendment "I" (H-1051) to Committee Amendment "C" (H-437), which was **READ** by the Clerk.

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

Representative **CUMMINGS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I lay before you House Amendment "I." I will briefly explain. I think it's an option that balances both the needs of those who seek to develop and the legitimate right of citizens to petition. In very simple terms it does two significant things. First it allows a 30 day period to which you can request your question. Secondly, once the question has been confirmed by the local municipality then the 75 days can begin. The reason that I put this forward, is as many of you know, there are many towns in the State for within 30 days sometimes the town clerk is not available or that the legislative process locally can be tied up for most of that 75 days. Because of that, we really don't have a legitimate, in the original version of the bill, we do not have legitimate 75 days from which to work

from. On the second part, which is the 30 days, I think it protects those who would put forward their money and their development projects and further the economic development of the State. It creates a legitimate window of 30 days in which they can expect to hear from the petitioners and they will know and be able to talk to the financiers about whether there is going to be a citizen challenge or not. I think it balances both of those needs. I would urge you to support the amendment and at this point I think in a nutshell combines what I think is a legitimate right for people to petition their government, while at the same time allowing developer to get the right signals quickly about the likelihood of their project.

The **SPEAKER**: The Chair recognizes the Representative from Gorham, Representative Barstow.

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

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

Representative **BARSTOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Is this amendment to Senate Amendment "C" or Committee Amendment "A"?

The **SPEAKER**: This amendment is to Committee Amendment "C."

Representative **BARSTOW** of Gorham **REQUESTED** a roll call on the motion to **ADOPT House Amendment "I" (H-1051) to Committee Amendment "C" (H-437).**

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 Faircloth.

Representative **FAIRCLOTH**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. There are issues that come before us, abortion, discrimination based on sexual orientation are examples where there are deep philosophical differences and you just don't end up having to vote based upon those and you know that it's going to be divided. This is not one of those issues. There is a pathway, where I believe and I think Representative Cummings amendment achieves it, where all those who voted red on the measure last time should vote for it and all those who voted green last time should vote for it. I have an amendment, as many of you are aware, actually a couple of them, I'm not going to be offering those because this excellent amendment which I strongly support absorbs those concepts. I want to briefly lay out why I think it's true that regardless of how you voted last time you could gladly support this amendment. If you are concerned, and I think it's a very valid concern, about a developer who wants to make sure there's some finality in the process, this is excellent from your prospective, because it provides that 30 day window. If people haven't brought out those petitions in that 30 days then you have vested and you have that in your pocket. It provides a value to you if you are a permittee that you do not have now and that will really be helpful for your project. Secondly, when it comes to the issue of a vote and if its true would allow for a vote at the next available election, but I submit to you that if a town council faces this situation and as contemplated by the amendment, citizens have submitted a sufficient number of signatures. Lets say hypothetically that there is a council that looks very favorably on the proposed development, they have a very strong motive to move up the election for a special election in order to give that developer some finality and some promptness. By the same token, if you have a council that feels sympathy with those who are opposed to the project, they've just received a bunch of valid signatures from the citizens of their town and that council equally is going to feel motivated to move that election up. If the special election

option is there, I think most towns will avail themselves to it regardless of the particular prospective that those council members have and as the amendment provides you can still fall back on the next available election. This is a great step forward from the prospective of the developer, but still does a tremendous service to the citizens by guaranteeing that they do have sufficient time if they oppose a project to bring forward an ordinance change. This is the pathway for all of us to come together and I hope that you will support this excellent amendment and well crafted.

The SPEAKER: The Chair recognizes the Representative from Unity, Representative Piotti.

Representative PIOTTI: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I too rise in support of this amendment. From the previous debate on this issue, back to two weeks ago now, it was clear that there are valid arguments on both sides of this issue. There's a legitimate need for people who hold building permits to have some closure, to know that there is a point after which that permit will not be at risk and conversely there is a legitimate need, a paramount need and concern about citizens rights. A 75 day period or even a 300 day period may simply prove inadequate, because there is no guarantee that the process for redress will go forward, that there will be a sympathetic understanding within the planning board of the town council or whatever the mechanism is in that community, but this amendment changes that. It would allow retroactive citizen initiated action as long as the citizen petition occurs within 30 days and then give another 75 days for those signatures to be collected. If it takes another 100 or 200 or 300 days for actually an ordinance to be developed and a vote to occur on it, that's fine. What this amendment does is puts a period of time on when the petition needs to be made. The clock only ticks then, allowing citizens a chance to announce their intentions, but it does give some closure to the permit holder, which at least I feel, particularly as someone who's been a chair of a planning board for 15 years, is only fair. I applaud the Representative from Portland Representative Cummings for offering this amendment and urge you to support it. Thank you.

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

Representative MOULTON: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. It is good to hear the reorganization that there is a balancing of interest that must take place and this legislation before us reflects our desire and our efforts to achieve a balance. However, I must rise in opposition to the proposed amendment, as thoughtful as it may be, for the reason that there are a number of holes in the amendment that make the bill utterly useless and worse than that, worse than the situation that we have today. I'm going to draw upon the floor speeches given by the good Representatives from Bangor and Unity to make my point and also to look at the proposed amendment itself. It is not good for a developer to have somebody put in an application for a change in an ordinance and then takes 300 days to get around to having a vote on it; you've virtually destroyed the project for most developers. We are not talking about Wal-Mart here ladies and gentlemen, we're talking about people that are typically our neighbors, who for one reason or another are doing something that some of us don't want them to do. Are you going to find a situation where a small group of people can't figure out the system and work it to the disadvantage of somebody whose has already expended tens of thousands of dollars and then ask to extend the time further waiting out a process? Secondly, if you look at the language here on the first page 6-A 2; a public hearing was held. Well it raises the specter that now we are going two

have groups out there and it's going to invite more litigation than it's going to try to resolve, because of which camp are you in. Many applications go through without a public hearing so what process or protection will exist for them as opposed to those that do have a public hearing. Ladies and gentlemen of the House. The measure before us reflected in the Senate Amendment "C" reflects a balance and the proposed amendment to that process lengthens out the process to an extent that it's no longer workable. Therefore, ladies and gentlemen of the House, I do strongly recommend that when the time comes to vote on this amendment that this body will vote red. Thank you very much, Mr. Speaker.

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. Although, I'm not planning on speaking on this amendment I find that it hits pretty close to home. I wish to publicly thank the good Representative from Portland, Representative Cummings for bringing it to the floor. It is the answer that the people in your communities have been waiting for. The change to participate in how their town and how city is, the growth is managed and controlled. As a petitioner to stop the construction of a \$7 million police station in Bangor I can tell you that it's no easy feat to go out to gather the signatures to overturn a councils vote and it took sometime and we had to move fast to get the signatures. In many cases and I have to tell you it's not unique to Bangor nor is it unique to the State of Maine, elected officials have the tenancy to, once elected, to try to shut out the voice of the people and think they are all knowing and they're all smart. Well it's still their town, their taxes still support it and they should have a say on what happens. Wal-Mart came into my town and spent over a million dollars trying to secure land and they got their permits and all of a sudden people in the Penjajawoc Stream area said this is an endangered habitat. That happened well after the 75 days would have happened if this ordinance had been in, but those people were effective in stopping it, but it wasn't fair to the Wal-Mart Corporation because it cost them a lot of money. Every time you cost a corporation money, guess who pays for it, it's not the board of directors or the shareholders of Wal-Mart, it is you the consumer that goes in there for your kids back-to-school clothes or their sand flop flip flops for the beach, so you do pay. This is a good amendment and I urge you to support it and I also urge you on behalf of the citizens that live your towns and your cities and your unorganized territories that with passage of this and final enactment give Representative Cummings a thank you because he's just protected the citizen's process as no other amendment that's come before this body has done. Thank you.

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

Representative DUDLEY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I want to thank Representative from Portland Representative Cummings for bringing this forward. This bill in recent times anyway, emerged, I believe in the 120th legislature, it at least at the time appeared too many of us as a response to an action that was happening in my district with regard to a housing development, Island View Apartments. There were a lot of really horrible accusations going around on both sides; you know the word "NIMBY" was thrown around a little too lightly I thought, even by the then Chief Executive in a way I truly did not appreciate; the previous Chief Executive, I want to highlight very clearly. I supported the housing development; I was against those voters in my district who wanted stop this housing project. I absolutely stand by their right that exists to ask to ask this question of the other voters in

the municipality, but I actually was on the opposite side. We had a very healthy discussion about the need for housing and about the details of this development and the outcome was that the referendum lost. The development went forward, the housing was built and we have a whole lot of new neighbors in Munjoy Hill that we welcome with open arms. I think that it was as a result of everybody having their opportunity to have their say. It's created harmony on Munjoy Hill. I want to say one thing; I don't think LD 1481 is necessary at all. I don't think there's a problem out there. You know, I point to the example in my neighborhood where actually things worked out for the best as a result of the referendum. I think the current system is working, so I see no need for a change, but certainly recognizing the vote the other day, I see the possibility that a change may happen. The change that Representative Cummings is purposing is certainly one that I can live with. What's been especially discouraging to me, this year, in the course of this debate, each of the previous two sessions we've had this debate and both times the bill failed and I certainly as somebody who has constantly opposed this change, I've never once had any developer or real estate agent or their lobbyist come to me and ask to sit down with me and to hammer out what a reasonable compromise would look like. Not once, not one person and this hall is teeming with people who are working on this bill. Not one of them, at any point has come to be and said Representative Dudley how do we work this out, that's a real shame. You know I think our work is done best when we find a way to work together, as we did on the budget this year, great success for all of us. It's a shame that more effort wasn't put in by the proponents of this legislation to find compromise among all of us and for that I'm truly grateful to Representative Cummings because I think that he is offering something that many of us can live with. Thank you.

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

Representative MOULTON: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Like a number of you I'm only a freshman here and I have found with great interest like some of the rest of you that measure here that has been repeatedly in front of this body and for good reason. It was a prior legislature that authorized "CPAC" the Community Preservation Advisory Commission with the responsibility of dealing with several issues, one of which happens to be retroactivity in municipal ordinances or initiatives and this is a creature of the legislature, a group comprised of legislators and community people that through sponsors and cosponsors presented legislation to this body to enact to deal with the situation. Unfortunately, prior attempts had a fatal flaw and that is they tried to address specifically citizen initiatives. We can't do that, we trigger language in the State Constitution that throws into question whether or not the legislature has the authority to limit the discussion simply to citizen initiatives, hence the solution was simply to address it as the legislature can through the police power to communities in general, so it applies both to the government as well as its citizens. We've got on the books a law that has existed for over 130 years which has protected applicants at the time of application, not at the time of approval or even 75 days after approval. The matter before this body is one that attempts to restore some of the balance taken away by a couple of law court decisions that opened wide the door for an abuse of the system. We are not talking about Wal-Mart. In my practice of law I worked with individuals, families, small businesses and non-profits. I've watched towns pick on individuals, small businesses and non-profits when they don't like them and I wonder why. I wonder why a senior citizens center in Kittery keeps getting dumped on because they provide housing,

independent living, for people, 90% or more of whom fall below the federal poverty level and they just keep running into roadblocks from the local government. We are trying to set up a system that respects zoning, which is prospective. There is nothing to prevent any community in the State of Maine and the majority of them have adopted comprehensive plans and zoning which are prospective. This measure deals with the administrative side of it, which we have the rules, now we are living by them. If the rules need to be changed, then go out and change them, but not react to somebody that just comes through the door expecting to live by the rules that exist, it's a separate process. This amendment throws into question any of the perimeters that have existed in this bill because it opens up why time periods. As the good Representative from Unity just noted a couple of minutes ago, it could be 30 days, 60 days, 300 days before a measure intended to change the zoning and shut down a proposal even comes forward to a vote. That's not the certainty the proponents of this bills has requested, so this is a very serious matter and I can not say that those that speak for the developers are speaking correctly. The people that testified in front of the State and Local Government Committee were very firm on the fact that they need closure. The efforts to accommodate the concerns of those who have the municipalities' interest to heart, we believe have been addressed. That's why you see the Senate Amendment being advocated, so therefore, ladies and gentlemen of the House, again I encourage you to vote no on this amendment.

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

Representative VALENTINO: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I also will be voting no on this amendment. I just had an opportunity to review it where it was just put on our desks several minutes ago. I do have several concerns on this as far the procedure goes. I have also checked with the Constitution of the State of Maine, I know a lot of people have talked about limiting the citizen's rights. Right now the Constitution of the State of Maine clearly defines what the rights are for the people under a people's veto on it. Right now, say for example, the Katahdin Land failed that we just passed and had a great big bill signing on the other day. That is really in limbo because we have a people's veto. Ten days after we adjourn, say for example, we adjourn on Friday, within 10 business days all it takes is 6 people in the entire State of Maine to stop any action that we have taken this session. It takes 6 people. They walk into the Secretary of State's Office, they fill out this nice little application and they say I want you to have a question on this people's veto. Then what the Secretary of State does they have to come up with a ballot question. They sit down with the petitioners and themselves and the Secretary of State's Office drafts the language. What I see here on this amendment, it says the initiators must file the question within 30 days; first of all we only give 10 business days under the State of Maine Constitution on a people's veto; why we are giving 30 days here on a municipality; I'm not sure. I'm also wondering, who drafts the question, is it the petitioners that your expecting to be attorneys to draft the question to give to the town that's putting on the ballot for it? So I have a question also as far as this amendment goes. Then I also have a question on it, that they have an opportunity under the people's veto and our Constitution of 90 days to collect the signatures. Under our Constitution they have to collect 50,519 signatures within 90 days and our 90 days we give the people we do not give it after the 10 days we do not give it after the ballot question has been done. We do not give after the petitions have been printed, but the 90 days starts from the date we adjourn on Friday, so all of that time is being limited.



We are asking people for 50,000 signatures, here we're asking for 10% of who voted for Governor in your municipalities, say you had 5,000 people who voted that's 500 signatures that you are trying to get. My other question here is on this, municipality shall allow the petition to be circulated by any registered voter. I just really wanted a clarification on that, what they are saying is that it doesn't really matter if you are from Maine, California, Brazil, if you're unpaid, or if you're paid, or anything else, anybody can just take a petition and go around and circulate it. The other question I had was on number 3, had to be submitted to the municipality for certification of the signatures. Again going by our Constitution in our statutes once they give the petitions to the Secretary of State's Office then the Secretary of State's Office has 30 days after to see if the petitions are valid. In this amendment here I see no timeline for giving the municipalities, a day, a week, a month to certify the signatures on that; it just says that have to be submitted for certification. Does the municipality have 30 days or 60 days to drag this out further, where we have certain set timeline on that? We also have a certain timeline when an election is being called. Where this is changing number 6 of the original bill again I don't see where it is calling for an election. Are we calling for a special election, are we calling for general election on it, how many days, when it's going to be called? Our Constitution has very specific guidelines for a people's veto for the State of Maine to gather the 50,519 signatures under a people's veto and I think for a municipality it should not be stricter than what we are asking here for the entire State of Maine and I think there are too many questions on this amendment on how it is being done and how it is going to actually be administrated at the city halls and what the time frame is and therefore, without further research or details on this I can not support something that's been put on my desk five minutes ago.

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

Representative FAIRCLOTH: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I do want to address a couple of the questions that were raised. First as current law, the town would draft the question the people take out the question similar to what would happen at a State level as well and we would just follow process, doesn't change that one way of the other. This amendment, we are talking about consideration of this issue, it's very similar in many substantive ways to amendments under my name that have been on your desk for awhile, so there's been time to discuss and think about this issue, actually during our entire break. As far as the 300 day issue and I am very sympathetic to Representative Moulton's concern, I want the developer to have certainty. In my reading of it and I'm fairly confident about this, this would go to a vote at the latest, at the next scheduled election, so a June or November. The town would have the option of scheduling a special election earlier. I submit to the members of this body, as I did earlier, but I want to reiterate this, that if you're a town council and you got valid signatures from your citizens I think if it is far away to that next election, you're going to have strong motive to schedule a special election. If you are sympathetic to the developer you also are going to have a strong motive to schedule a special election. We cannot, to answer one of the other questions; we cannot force a special election because that would trigger a mandate provision that would not be feasible. I think it's a practical matter because of the deadlines set out here we are providing a lot better certainty for the developer, if those folks don't bring out that question, those 30 days, you vest. That is a new and I think beneficial provision for the developer and in a practical matter, they, the cities and municipalities in Maine are going to schedule an election as soon as practical. Also with respect, I think that

we do need sufficient time for these citizens to gather their signatures and yes, there are far more people that have to gather signatures statewide on an issue, but there's far more people available to do the gathering as well. I mean, think about it, whether it's a very small town or a large town, the people who are going care and be involved are the people in that municipality and as Representative Blanchette pointed out, you are not going to be having people from Saco or Ft. Kent coming down to Bangor to help out with the issues she worked on with regard to the police station. It's just going to be a smaller group people within that municipality who are going to gather signatures so, by proportion it's a similar time measure that's very reasonable and sufficient, but not overly so.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Webster.

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

The SPEAKER: The Representative may pose his question.

Representative WEBSTER: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. One of the towns I represent has a town meeting form of government. My question is this. In that I voted against this the last time and I would like to find a way to get to yes on the question and I wish the developer certainty as well as the people the right to grievance, having gone home and read the *Federalist No. 10* and done a quite a bit of study on this issue, more than I imagined I might, from our law library. I cannot find an answer to this question. If without this amendment, does my town with a town meeting form of government, do the citizens of my town have a reasonable amount of time, while being responsible in the process? Do they have a reasonable amount of time to pose a grievance and have a reconsideration of a decision that was made by the representatives of their town, that is, those who provided a permit? Thank you, Mr. Speaker.

The SPEAKER: The Representative from Freeport, Representative Webster has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Gorham, Representative Barstow.

Representative BARSTOW: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I appreciate the good Representative from Freeport for posing his question. The answer succinctly on behalf the committee would be yes. The 75 days is the number we came up with, with both those who were stake holders in favor the legislation, but also non-partisan staff as well as expert opinion of those town clerks, city clerks that stated that 75 days, whether it be a town meeting form of government, selectman form of government, town or city council form of government, this would be broad enough and the time frame would be broad enough to allow for action to be taken by a local unit of government. I hope that answers the Representatives question.

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. I would ask if anybody has not made up there minds on this issue a half and hour ago?

The SPEAKER: The Representative from Sanford, Representative Tuttle has posed a question through the Chair to anyone who may care to respond.

The Chair recognizes the Representative from Falmouth, Representative Davis.

Representative DAVIS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I made up my mind days ago, thank you.

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

Representative BURNS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I clearly voted against this bill as it originally came before us a couple of weeks ago. My mind has remained open as it always is and this amendment, I find somewhat appealing. I think it is important for us as we continue our minds, opened on this that we keep certain things in mind. As Representative Webster pointed out there's the principles of federalism that we don't want to lose sight of, but there's other things that we didn't talk about last time and we're not talking about now. Our city councils and our boards of selectmen and our planning boards are comprised of citizens who have other responsibilities, they have jobs, they have families and they volunteer for these positions quite often. What they do is they adopt ordinances they don't set and create them they adopt them from the State Planning Office. Unlike developers who have attorneys who are expert in ordinances our selectmen, our planning board members and our council members are not expert in them. Frequently what happens when a project comes to town, and this happened in my town, the people of the town had no idea that the code enforcement officer issued a permit for a project, that had they known about, would have clearly expressed their opposition to, but the permit was issued, under the cloak of night. There was nothing that they could do to turn this around because so much time had lapsed before they became aware of what happened, so much money was vested in the project that they had no recourse and today have to live with this project that really runs counter to the values of the town. So it's important to keep that in mind. Councilmen adopt ordinances, they're not experts, developers are experts, their lawyers are experts and what we are doing here to get back to principle of federalism, what we need to do is send a message to our municipalities that they need to be more aware of this issue and take action as Belfast has done. They have done exactly what this bill is asking us to do to the entire State; they've done it in their municipality. Let's encourage our municipalities to take action in their interest to protect themselves against projects that they might not want in their communities, but let's not usurp that power and impose our will on them. If we are going to do anything at all I urge you to vote for this amendment.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Barstow.

Representative BARSTOW: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would first preface my comments before I go into elaboration of the committee process and why I'm going to be voting against the pending motion. With regards to the ability of our elected officials at all levels of government, I think that I would like to make clear that we should be looking at this issue with regards to policy and not looking at the individual ability of an elected official at any level of government and specifically the municipal level of government. I will be opposing this amendment and the motion that is before us and in speaking with the committee, the majority of the committee members also feel the same way that I do as I rise here to speak against this motion today. Further it should be

made clear that this is not the first time that I as the committee chair or my colleagues on the State and Local Government Committee have tried to find a compromise over the last several weeks and to be direct over the last year and a half as this bill has gone through our committee process twice, has had several amendments brought forward to it. Through the discussions of the vast majority of the committee, the 75 days was the best compromise that we could find to suit the majority of the needs of the legislators who sit in both bodies of this legislature. As I mentioned earlier, in an answer to the question of the good Representative from Freeport, we had legal interpretation and expertise from city and town clerks stating that 75 days would be a proper amount of time to go forward and carry this through. I also want to take an opportunity to apologize to the Representative from Portland Representative Dudley for the point that he made with regards to feeling like there was no outreach to find compromise on this issue and it's something that he did mention, the advocates on this issue, but personally I think that I maybe should have made a better effort to reach out to you and maybe others. We've worked on this compromise for the last year and a half and I would hope that we would defeat this pending motion and possibly those of other amendments to come forward. Thank you, Mr. Speaker.

Representative VALENTINO of Saco moved that **House Amendment "I" (H-1051) to Committee Amendment "C" (H-437) be INDEFINITELY POSTPONED.**

The same Representative REQUESTED a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "I" (H-1051) to Committee Amendment "C" (H-437).**

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 Portland, Representative Adams.

Representative ADAMS: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. There are more amendments on LD 1481 waiting downstairs in the Revisor's Office than were on the State Budget. I find it sweetly ironic, that anyone who is advocating for some preservation of citizen petitioning rights are the first in the moment of crisis to leap to the floor and try to cut off our own discussion of the very same thing that we are saying we're not denying to citizens and towns. I appreciate very much the courtesy of the House in listening to me the other evening. Colleagues, you know my feelings for the rights of people to petition government. You know, colleagues, my feelings for the rights once vested into development by builders; and colleagues, you know my respect for the 2 or 3 unanimous State Supreme Court decisions which protect both, and have abused neither sets of interests - unless you just are a grumpy loser. I also know this is the point in time where bad things can happen and big things wait to be done, here in this body. So, given all my concerns that you've been so kind as to listen to, and given all the huge avalanche of material waiting to come to us, I would encourage you to vote for Representative Cummings' amendment, which means I will encourage you now to vote against the pending motion to indefinitely postpone the discussion and the bill. I think Representative Cummings is offering an interesting olive branch. I am willing to hear him. I am unwilling to cut him off, and so for those reasons if you happen to be moved so to agree with my position that I took before, when we discussed this bill, I would ask that you join with me now and vote against indefinite postponement and for that olive branch which has been offered. So that we may be off the developers dime onto our own time and marching toward the weekend by which we hope to adjourn and which is getting closer with every passing moment. So I thank you. To summarize, if

you agreed with my position before, I ask that you follow us now and that we listen to what Representative Cummings has to say and send that motion out of this chamber at the end of the day. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Appleton, Representative Merrill.

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

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

Representative **MERRILL**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would like to understand if this amendment absolutely requires that a vote be taken before the clock runs out.

The **SPEAKER**: The Representative from Appleton, Representative Merrill has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Cummings.

Representative **CUMMINGS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In response to the question whether the 75 days includes an election, it does not. Seventy-five days just secures that amount of time for the petitioners, once approved the clock begins ticking, once it's approved by the city hall or the city clerk, its 75 days just to get those petitions in it does not include an election.

The **SPEAKER**: The Chair recognizes the Representative from Freeport, Representative Webster.

Representative **WEBSTER**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. With all due respect to my good colleague who answered my question earlier, I am left with lingering doubt. It seems me that the town I represent, would and certainly some people from the town has expressed some concerns to me that it could be very onerous to try to transact all the business necessary under the current existing statute, the current existing bill. I believe that, giving the people the responsibility to organize and to say we really feel we need to have another discussion or a vote about this, that they can control, but to try to get them to get the question approved, to get the signatures and then to conduct a vote, all within a time frame that for a small town is very challenging, seems to me it puts an onerous amount of responsibility, on the committee, on the town. That's what I'm hearing from people in my town. I like the fact that they get an opportunity to assume responsibility, to take a step and that they can decide when they're going to take the next step and do so in a responsible fashion. This town only has votes two times a year. Imagine if they were to have to do a vote and then another permit happened and they had to do another vote and another vote, how onerous is that. I think this is a reasonable compromise and I can move to yes for this.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "I" (H-1051) to Committee Amendment "C" (H-437). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 524**

**YEA** - Bierman, Bishop, Browne W, Bryant-Deschenes, Carr, Clark, Crosthwaite, Curtis, Daigle, Davis G, Dugay, Emery, Fischer, Fisher, Fitts, Flood, Hall, Hanley S, Joy, Koffman, McCormick, McFadden, Moody, Moulton, Nass, Pilon, Pinkham, Richardson W, Rosen, Sampson, Saviello, Seavey, Stedman, Tardy, Thomas, Valentino.

**NAY** - Adams, Annis, Ash, Austin, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Bryant, Burns, Cain, Campbell, Canavan, Cebra, Churchill, Clough, Collins, Craven, Cressey, Crosby, Cummings, Curley, Davis K, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Faircloth,

Farrington, Finch, Fletcher, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hamper, Hanley B, Harlow, Hogan, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Kaelin, Lansley, Lerman, Lewin, Lindell, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McKane, McKenney, McLeod, Merrill, Miller, Millett, Moore G, Muse, Norton, Nutting, O'Brien, Paradis, Percy, Pineau, Pingree, Piotti, Plummer, Rector, Richardson D, Richardson E, Richardson M, Rines, Robinson, Schatz, Sherman, Shields, Simpson, Smith N, Smith W, Sykes, Thompson, Trahan, Tuttle, Twomey, Vaughan, Walcott, Webster, Wheeler, Woodbury, Mr. Speaker.

**ABSENT** - Berube, Mills, Ott, Patrick, Perry, Watson.

Yes, 36; No, 109; Absent, 6; Excused, 0.

36 having voted in the affirmative and 109 voted in the negative, with 6 being absent, and accordingly the motion to **INDEFINITELY POSTPONE House Amendment "I" (H-1051) to Committee Amendment "C" (H-437) FAILED.**

The **SPEAKER**: A roll call having previously been ordered. The pending question before the House is Adoption of House Amendment "I" (H-1051) to Committee Amendment "C" (H-437). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 525**

**YEA** - Adams, Annis, Babbidge, Blanchette, Bliss, Bowles, Brannigan, Brautigam, Brown R, Bryant, Burns, Cain, Canavan, Craven, Cummings, Curley, Davis K, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Gerzofsky, Glynn, Goldman, Greeley, Grose, Harlow, Hogan, Hotham, Hutton, Jackson, Jennings, Lerman, Lundeen, Makas, Marraché, Mazurek, McKane, McKenney, Merrill, Miller, Muse, Norton, O'Brien, Paradis, Percy, Pineau, Pingree, Piotti, Plummer, Rector, Rines, Schatz, Shields, Simpson, Smith N, Smith W, Thompson, Trahan, Tuttle, Twomey, Vaughan, Walcott, Watson, Webster, Wheeler, Mr. Speaker.

**NAY** - Ash, Austin, Barstow, Beaudette, Bierman, Bishop, Blanchard, Bowen, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clark, Clough, Collins, Cressey, Crosthwaite, Curtis, Daigle, Davis G, Dugay, Duprey, Edgecomb, Emery, Fischer, Fisher, Fitts, Fletcher, Flood, Hall, Hamper, Hanley B, Hanley S, Jacobsen, Jodrey, Joy, Kaelin, Koffman, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McLeod, Millett, Moody, Moore G, Moulton, Nass, Nutting, Pilon, Pinkham, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Sampson, Saviello, Seavey, Sherman, Stedman, Sykes, Tardy, Thomas, Valentino, Woodbury.

**ABSENT** - Berube, Crosby, Marley, Mills, Ott, Patrick, Perry.

Yes, 73; No, 71; Absent, 7; Excused, 0.

73 having voted in the affirmative and 71 voted in the negative, with 7 being absent, and accordingly **House Amendment "I" (H-1051) to Committee Amendment "C" (H-437) was ADOPTED.**

**Senate Amendment "C" (S-554) to Committee Amendment "C" (S-437) was READ by the Clerk and ADOPTED.**

**Committee Amendment "C" (S-437) as Amended by House Amendment "I" (H-1051) and Senate Amendment "C" (S-554) thereto ADOPTED.**

Under suspension of the rules, the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading.**

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "C" (S-437) as Amended by House Amendment "I" (H-1051) and Senate Amendment "C" (S-554) thereto in NON-**

**CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH.**

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

**HOUSE REPORT - Ought to Pass as Amended by Committee Amendment "A" (H-1041) - Committee on CRIMINAL JUSTICE AND PUBLIC SAFETY on Bill "An Act To Safeguard Maine's Highways"**

(H.P. 1347) (L.D. 1906)

Which was **TABLED** by Representative **CURLEY** of Scarborough pending **ACCEPTANCE** of the Committee Report.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-1041)** was **READ** by the Clerk.

Representative **CURLEY** of Scarborough **PRESENTED House Amendment "A" (H-1049) to Committee Amendment "A" (H-1041)**, which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Scarborough, Representative **Curley**.

Representative **CURLEY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am pleased to be the sponsor of LD 1906, "An Act to Safeguard Maine's Highways," it's also known as "Tina's Law" and the "Suspended Driver's License Bill." The goal is to get drivers with suspended licenses off of Maine's highways. I want to thank the Criminal Justice Committee for their unanimous committee report and the Turcotte family for their commitment to following this bill through to its passage. As many of us know, Tina Turcotte was killed on the highway last summer and many of us were caught in that traffic jam. Of course, the bill can do nothing to take away the grief of the family, but all of us want to prevent that from happening again, if we can. At Ms. Turcotte's memorial her friends and family asked me to do something about "it." "It" was the fact that the driver who caused the accident and took her life had 22 license suspensions and 63 driving convictions. The night before the accident the same driver was stopped in New York, he showed a Maine license to a police officer and went on his way despite the fact that his license had been suspended. We all wondered if he was the poster child for bad drivers, but unfortunately it was just the tip of the iceberg. As we drilled down into the problem of suspended licenses it was clear that this was much larger than any of us could have imagined. In fact routine traffic stops by local police since August of 2005 have shown that 1 out of 25 drivers on the highway today has a suspended license. That's 1 out of every 25 drivers. This morning when I was driving up from Scarborough I counted 3,200 cars, just from my house to the State House. Could it be that 100 of those drivers plus should not be on the road? The purpose of the amendment 1049 is to strengthen the bill that came out of committee. The amendment specifies that a person who while knowingly operating with suspended or revoked license, in fact, causes the death of another, they're subject to a minimum term of imprisonment of 5 years. The unanimous committee report does a few things; first it asks the Secretary of State to make every effort to physically take the license from a driver who's had it suspended. The most important part of the bill is that it raises the level of fines and potential jail time for habitual offenders, the worst of the worst. The key word here is "potential" it does not have mandatory jail time even for someone who knowingly is on the highway when they should not be driving and this does not cover suspensions for not paying child support, not having your car registered, not having car insurance. These are serious

vehicular suspensions. Two parts of the original bill were stripped away, one towing or immobilizing the vehicle. I personally like that one. I felt that if you have had 3 major suspensions you should not be driving a car. In the City of Portland, if you have 3 unpaid traffic tickets your car gets the boot, but it was removed from the bill. It's difficult and we didn't want to harm any families who needed to get their children to school, or get to work, just because their significant other or someone in their family had bad judgment. So this amendment before us adds back mandatory minimum sentences, very unpopular topic around the statehouse these debates. This isn't an extreme sentence of 20 or 25 years, its 5 years and that's causing death. Legal council could certainly ask for more than 5 years, but at least some jail time would be served. It's time to say to people who continue to drive with suspended licenses enough is enough. When our friends, neighbors and family get in their car every morning to go to work, school or the grocery store, they should not be looking left or right out of their car window wondering who driving toward me or passing me has a suspended license and should not be on the road. I ask for your support to make Maine's highways safer and vote yes on the pending amendment. Thank you.

On motion of Representative **CUMMINGS** of Portland, **TABLED** pending **ADOPTION of House Amendment "A" (H-1049) to Committee Amendment "A" (H-1041)** and later today assigned.

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

**HOUSE REPORT - Ought to Pass as Amended by Committee Amendment "A" (H-1041) - Committee on CRIMINAL JUSTICE AND PUBLIC SAFETY on Bill "An Act To Safeguard Maine's Highways"**

(H.P. 1347) (L.D. 1906)

Which was **TABLED** by Representative **CUMMINGS** of Portland pending **ADOPTION of House Amendment "A" (H-1049) to Committee Amendment "A" (H-1041)**.

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. I do apologize for my indecisiveness, but we've been running up and down the stairs trying to do some votes as you all understand. I'm going to ask you to really consider what you are voting for on this bill. I respect the good Representative from Scarborough Representative **Curley** and her forthrightness to bring what she feels is a good amendment to a unanimous bill out of Criminal Justice and Public Safety. I am a tad puzzled because of all of the Reps in the House that have come before my committee, we accepted more input from the good Representative from Scarborough Representative **Curley** on this particular bill than we have ever been known to do and it would have been a lot easier if my whole committee had had a chance to look at this bill. My primary objection to it is that I have adamantly and consistently voted against mandatory minimums. "Tina's Law" as presented without this amendment is a good bill. It's a bill that the State of Maine needs, it's a bill that is enforceable and it's a bill that is friendly to both the courts, the prosecutors and everybody involved with taking habitual bad drivers off the road and holding them accountable. This amendment is going to muddy the waters once again. When you start dictating and directing the judicial system that they absolutely have to without ever a piece of evidence been presented before the courts. I have to remind you that I just said this to someone, we were have a little bitty

conference in the Speaker's Office, that if we reach that point, that I'm going to put mandatory minimums on laws that go before the courts, you know what, we've just saved ourselves a bunch of money. We can do away with the judicial system, hire clerk's of the court to work for \$25,000 a year and have them dispense the very laws that we have enacted in this legislature. I'm going to urge you to vote against this amendment, this bill was given many hours, many, many hours and a lot of thought by the Criminal Justice and Public Safety Committee. With input from a lot of people that came up and testified to the need that we need to strengthen the laws for habitual offenders, but not with mandatory minimum sentencing. Had it been brought before the committee and the committee had discussed it I'm sure the recommendation from the committee would have been not to impose mandatory. Mandatory does nothing, absolutely nothing, but muddy the waters in the judicial system. Ladies and gentlemen this could be you facing this court, it could be your son, and it could be your daughter. It's not a good law, it's not needed, the laws on there that can be enforced and will be enforced. I urge you to defeat this amendment and pass the bill that came out of our committee, Unanimous Ought to Pass. Thank you, Mr. Speaker.

Representative CURLEY of Scarborough **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-1049) to Committee Amendment "A" (H-1041)**.

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 adoption of House Amendment "A" (H-1049) to Committee Amendment "A" (H-1041). All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 526

YEA - Annis, Austin, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Clough, Collins, Cressey, Crosthwaite, Curley, Daigle, Davis G, Davis K, Dugay, Duprey, Edgecomb, Fischer, Fitts, Fletcher, Flood, Glynn, Hall, Hamper, Hanley B, Jacobsen, Joy, Kaelin, Lansley, Lewin, Makas, McCormick, McFadden, McKenney, McLeod, Merrill, Millett, Moore G, Muse, Nass, Nutting, Pinkham, Rector, Richardson W, Robinson, Rosen, Saviello, Seavey, Sherman, Shields, Stedman, Thomas, Tuttle, Vaughan.

NAY - Adams, Ash, Babbidge, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Churchill, Clark, Craven, Crosby, Cummings, Curtis, Driscoll, Duchesne, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jennings, Jodrey, Koffman, Lerman, Lindell, Lundeen, Marean, Marley, Marraché, Mazurek, McKane, Miller, Moody, Moulton, Norton, O'Brien, Paradis, Percy, Pilon, Pineau, Pingree, Piotti, Plummer, Richardson D, Richardson E, Richardson M, Rines, Sampson, Schatz, Simpson, Smith N, Smith W, Sykes, Tardy, Thompson, Trahan, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

ABSENT - Barstow, Berube, Canavan, Dudley, Emery, Greeley, Mills, Ott, Patrick, Perry.

Yes, 60; No, 81; Absent, 10; Excused, 0.

60 having voted in the affirmative and 81 voted in the negative, with 10 being absent, and accordingly **House Amendment "A" (H-1049) to Committee Amendment "A" (H-1041) FAILED ADOPTION.**

Subsequently, **Committee Amendment "A" (H-1041) was ADOPTED.**

Under suspension of the rules, the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading.**

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-1041)** and sent for concurrence.

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

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

**HOUSE DIVIDED REPORT - Majority (10) Ought to Pass as Amended by Committee Amendment "A" (H-1036) - Minority (3) Ought to Pass as Amended by Committee Amendment "B" (H-1037) - Committee on TRANSPORTATION on Bill "An Act To Make Additional Allocations from the Highway Fund and Other Funds for the Expenditures of State Government and To Change Certain Provisions of State Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2005 and June 30, 2006" (EMERGENCY)**

(H.P. 1382) (L.D. 1974)

Which was **TABLED** by Representative MILLETT of Waterford pending **ADOPTION of Committee Amendment "B" (H-1037).**

Representative MILLETT of Waterford **PRESENTED House Amendment "B" (H-1054) to Committee Amendment "B" (H-1037)**, which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Waterford, Representative Millett.

Representative MILLETT: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This amendment is a fairly simple amendment, but I would briefly explain what I'm trying to do. I would classify it first of all as a friendly amendment and a sincere one on my part to address what I consider to be some real serious concerns about the future of the Highway Fund and its ability to sustain our highway and bridge construction. It is an amendment that would codify in statute an intent to stay with a 40% General Fund share and a 60% Highway Fund share of those costs which under the Constitution are allowed to be shared for funds and costs associated with enforcing our highway laws, namely the State Police and some Attorney General. I want to make a comment or two about it, as you look at the amendment make this effective for the upcoming biennium and as the fiscal note at the very back page would indicate it would shift money from the Highway Fund as a burden to the General Fund in the upcoming biennium by approximately 5%. While there is nothing in statute currently, the appropriations in the Highway Fund bill before us right now are bearing about 65% of the cost of the State Police Bureau and the Attorney's General that do enforce highway laws. The effect of this in the upcoming biennium would estimate it to be about \$5 million in shifting away from the Highway Fund to the General Fund. Let me just identify three things and I do not intend to belabor this, but there are three things that concern me greatly. First of all, we have in the last six weeks received recommendations or translations of the structural gap for both Highway and General Fund. If you remember that it did indicate that the Highway Fund had a structural gap projected of \$80 to \$90 million. Yesterday on our desks we received the revenues for the month of March and the nine months to-date and you will find that the Highway Fund has dropped a \$1.2 million below estimates year-to-date even after being downgraded in the March revenue re-forecast. Yesterday,

or Monday this week, a briefing of the Legislative Council shared a cost analyst of cash and a month to month, day to day comparison. The average daily cash in the Highway Fund is at a 10 year low and we are looking at a circumstance with recent gas price increase which could only bode more negative news if things don't stabilize in the near term. Finally, for purposes of history, I asked that a copy of an eight page summary, which ironically is printed on pink paper and is on your desk today, that shows over a 20 year span what has been done with Highway and General Fund swapping or if you want to be more blunt "raiding" of one another. It troubles me that we have actually seen considerable shifting of the Highway Fund share of those costs that I mentioned over that two decade span, from a 60/40 which my amendment would put in statute, to a almost unacceptable or indefensible 87% Highway Fund, 13% General Fund. If you look at the back page of the pink summary you'll find that over the years we are actually, if you take a 20 year look not too far off from being in balance, but it has been a very competitive two decade period and one if you look at the summary at the total at the back you'd see that \$85 million plus has been shifted to the General Fund or the General Fund has assumed it, yet the Highway Fund has lost \$129 million. Some bond issues that are shown at the very bottom would indicate that that's a balancing that could be looked at and you could see it in a much fairer light. In the recent two biennia, if you look back on pages, 6, 7 and 8 and look through it you'll see that we have actually moved more than \$42 million away from the Highway Fund to the General Fund. We cannot continue to do this and sustain our efforts at reconstructing, building and maintaining our roads and bridges. So, Mr. Speaker and ladies and gentlemen, I appreciate the benefit of tabling so this amendment would be drafted to Committee Amendment "B," its intent is pure, it is to send a signal to future legislatures and administrations that we need to stabilize this fund and we need to give it some breathing room, because it needs all the help it can get. Thank you.

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

Representative **TWOMEY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. On this amendment, that is what my concern is. That the money, when people in my community go to the polls and vote and there's a question on the ballot that says "We're going bond for roads and bridges," they think that's what's happening. And only, you know now do I find out in these 8 years that that money that they are voting for, for bonds is not going for roads and bridges, its going into the General Fund. That to me reeks of dishonesty and I'm not trying to point fingers here, but I can't sit here in good conscience and tell people because we didn't do what the question on the ballot said now we've got to go out and bond again for more money. I think somebody should go to jail for that kind of action, I am sorry. I think it's dishonest and I can't support that. When people go to the polls and there's a question that says "Do you support money for bridges and roads?" that money, those bonds should go for bridges and roads. I don't think it should be put in the General Fund. I have those same papers and there's like \$85 million that I asked about last night in caucus that they're saying "Oh, no well we have to pay for that debt service," but when I got the numbers from impartial people that aren't Democrats or aren't Republicans that's the figures that I get. There something terribly wrong, just credibility alone, how can you go back home, and every time I go to the polls now and I see that on the ballot how can I vote for that when I know. What I've seen here that money is not going for what it says, it's going for the General Fund. There is something terribly wrong with that Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Marley.

Representative **MARLEY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm in a peculiar position as far as, certainly as the Chair of Transportation we want more money in the Highway Fund and it kind of interesting talking about the needs for roads kind of predicates on another issue. We were talking about taking from Peter to pay Paul basically, because the General Fund is in as desperate needs as we are and we're still ignoring the larger issue as far as the funding pie for the Highway Fund is actually shrinking. It's not a popular word to say in the Legislature, but without gas indexing we actually would be not flat lined in our revenue we would be losing ground significantly, especially around the inflationary issue. Just if I may, the good Representative Millett handed out the purple paper and at the bottom it shows \$85 million General Fund to support Highway Fund and then the Highway Fund back and I believe the Representative from Biddeford Representative Twomey talked about that. That does not take into account, if you see at the note there, there's like a \$23 million, a \$37 million and \$29 million. That's actually the debt service for General Fund Bonds that pay for Transportation Bonds. I think I said the accurately. So, I think even the good Chair of Appropriations would probably say we're even. The money has shifted back and forth and actually a number of those shifts have been bi-partisan shifts. Once again, Chair of Transportation, I would prefer you not touch the money, I would prefer the money goes to the roads, in good times the money has shifted back and forth and that's been a bi-partisan decision of this body. One of the largest was a \$34 million shift in 2005, it was LD 1321 possibly, and that was supported by, I believe the good Representative Millett and leadership on both sides of both aisles. So the money has shifted back and forth, it is not to say that we can't put more money into our roads and bridges. So policy wise I will probably end up supporting this amendment, however, it's a very large policy discussion, it impacts the General Fund greatly and I don't know if doing it through an amended form is the proper way of doing it. It does have significant impact in the General Fund, so as much as I want money in the Highway Fund, we have great need, and we have about \$2 billion in unmet need. While I appreciate the \$5 million cash, this goes back to the larger issue of bonding and why we need to do capital investments through that method as well, as well as to grow the pie for our transportation infrastructure. I will be supporting this amendment; however, I do not feel comfortable asking the rest of the legislature to do this unless it's in the larger form where you can talk about the General Fund implications as well. Thank you.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Brannigan.

Representative **BRANNIGAN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I'd hope to try to deal with Representative Twomey's question. I'd like to deal with that directly, but while she is waiting to get back to her seat, or can hear me. First of all we do not raid either fund. In my time, even though there has been a little contention or guarding of each fund, the going back and forth had to do with the needs of the General Fund or the Highway Fund. None of the money we're talking about has to do with bonds. When something is bonded for highways and bridges it goes to highways and bridges. It is true, that at times, the General Fund has been generous and paid some of the debt of the Highway Fund, that is part of the back and forth. They needed it we didn't. I wanted Representative Twomey and everybody else to understand, that any money that the people approve of for roads and bridges goes to roads and bridges. Any money that happens to be going to the Highway

Fund to the General Fund, back and forth is tax money, tax money from various taxes for the General Fund and very much, taxes on our gas tax for the Highway Fund. So if somebody else needs to clarify that more, please do, but this is a gentle fight which is not really a fight at all. Thank you.

The SPEAKER: The Chair recognizes the Representative from Waterford, Representative Millett.

Representative MILLETT: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to thank the good Chair from Portland Representative Brannigan, he's absolutely right; this had nothing to do bonding. It is an attempt on my part to send a signal that we wish to be planning in the long term to share that smaller portion of the budget that deals with the Bureau of State Police and the support of several Attorneys' General who enforce the highway laws and only that. I want to also concur with the Representative's use of the word "raid," I used it as an historical word, but not an accusatory way because he and I share some history. We don't like to be accused of raiding funds, one fund or the other to benefit the other and that's where I'm coming from. It's happened too frequently, while the good House Chair of Transportation is correct, it's usually been done in a bi-partisan way, it's always been lose enough so that there's that animosity or ill will that's created when one fund comes out ahead. I'm trying to basically say to the Highway Fund, "I feel your pain; you need help," and I want to try to stabilize it on the long term. It has nothing to do bonding whatsoever; it is simply an attempt to do a better job of constantly planning for the future.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Brannigan.

Representative BRANNIGAN: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I will be voting for this, however, I hope that the Highway folks will feel our pain when the General Fund has some real hurt. Of course, notwithstanding they will help us.

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

Representative CARR: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I think that it's unfortunate that our debate and discussions over whether or not we should do Highway Bonds this time has gotten to a point where we may be jeopardizing a Bureau within the Department of Public Safety. I know that over the years the percentage has jumped back and forth, depending upon whether the Highway Fund needed money or whether the General Fund needed money. I think that we are back to that again. I think that it is unfortunate that when the Bureau has to come in and fight both for the Highway Fund and also for the General Fund. I think that before you make your decision on this, you want to stop and think that when we come back next time you'll be looking for the State Police, the Department which is responsible for highway safety. We just had a major debate on highway safety a few minutes ago. They are the Department that's responsible for investigating accidents on the inter-state for investigating accidents in the rural areas and also for traffic enforcement. I am very concerned about making this change and it just seems that every time we get to a point where we need more money in one or the other we try change back to suit that. Mr. Speaker I'd ask for a roll call on this.

Representative CARR of Lincoln **REQUESTED** a roll call on the motion to **ADOPT House Amendment "B" (H-1054) to Committee Amendment "B" (H-1037)**.

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 Brewer, Representative Fisher.

Representative FISHER: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. First I want to commend the good Representative for putting this amendment in. This has been a touchy subject for us a good number of years. Back several years ago, probably four now, a subcommittee of the Transportation Committee went over and spent some time with the State Police discussing the amount of time spent on highway duties verses the many other responsibilities they have. I don't have the information right at hand, but I believe it was somewhere between 55% and 60% of the time was highway time, which gave us the feeling that the logical split should be somewhere between 55% and 60% out of the Highway Fund. Certainly those extra dollars coming into our Transportation Budget now will be very helpful. Unfortunately, that's just the finger in the dike. Unfortunately, we have such a tremendous backlog of work to do that without additional funding besides this we're going to be in deep trouble. A lot of people who were planning on working on our highway program this summer are not going to be working. Perhaps as much as a 30% cut in employment. This will help, but not nearly enough. You want to think, every time you go out in your car now, every time your family goes out in a car about their safety level when they cross those bridges, when they hit those potholes. Are we meeting our responsibility here? The good Representative on the Appropriations Committee has provided a touch of help, but not nearly what we need. Thank you.

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

Representative COLLINS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. House Amendment 1054 does something that probably should have been done a long time ago. That is to put into statute the split on the Highway Fund as far as their allocation to the State Police and their budget. It has always been kind of a guesswork has to how the split was going to be, currently it's 63/37, not 60/40. In years past, depending on General Fund needs, money has been moved around, much to my chagrin because in my estimation the Highway Fund is supposed to remain whole. It's written in our constitution that the Highway Fund dollars will be solely spent on highway projects not to be diverted, moved around, Highway Fund or whatever. This amendment brought forward by the good Representative Sawin Millett is appropriate to start in the right direction. Most of you realize that I'm a member of the Transportation Committee, have been for 4 terms, my fourth term is supposed to be ending sometime Friday, hopefully, maybe Saturday. In any event, I think that the time has come to make this part of our statutes to protect us. In addition to the Transportation Committee I'm a member of the OPEGA Committee. The Department of OPEGA is currently is looking at this very issue to determine whether or not the split is a 60/40 split.

The SPEAKER: Would the Representative please defer?

The Chair recognizes the Representative from Rockland, Representative Mazurek and inquires as to why the Representative rises.

Representative MAZUREK: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have a question. Is speaking on this amendment proper at this time, it's not discussing the bill in question?

Representative MAZUREK of Rockland asked the Chair to **RULE if House Amendment "B" (H-1054) to Committee Amendment "B" (H-1037) was GERMANE to the Bill**.

The SPEAKER: The answer is what is germane to the discussion before the House today is the contents of House Amendment "B," offered by the Representative from Waterford Representative Millett. The merits as to whether or not that ought to go on or not. I believe the discussions about the question of whether this is the State Police percentage and whether it ought to be added by statute is germane.

Subsequently, the Chair RULED that House Amendment "B" (H-1054) to Committee Amendment "B" (H-1037) was GERMANE to the Bill.

The SPEAKER: The Representative may proceed.

Representative COLLINS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Just to finish up, the OPEGA Committee, as I mentioned previously, currently is looking at this percentage split. I'm not sure how it's all going to come back to us, the committee, as far as the findings of the OPEGA Department, presumably it will be 60/40 or maybe, I'm not sure, I won't even speculate a guess. I think that this amendment is proper, lest wise we will be assured that it will be a 60/40 split, unless we change that law. Thank you, Mr. Speaker.

Subsequently, Representative CARR of Lincoln WITHDREW his REQUEST for a roll call on the motion to ADOPT House Amendment "B" (H-1054) to Committee Amendment "B" (H-1037).

The Chair ordered a division on the motion to ADOPT House Amendment "B" (H-1054) to Committee Amendment "B" (H-1037).

A vote of the House was taken. 101 voted in favor of the same and 5 against, and accordingly House Amendment "B" (H-1054) to Committee Amendment "B" (H-1037) was ADOPTED.

Representative DUPREY of Hampden PRESENTED House Amendment "A" (H-1053) to Committee Amendment "B" (H-1037), which was READ by the Clerk.

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

Representative DUPREY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. A few months ago I bought a motorcycle, my wife thinks it's a mid-life crisis, but I just don't like paying the high price of gas, I like getting 50 miles per gallon. When I talked with the Secretary of State about getting a Rep plate for my motorcycle, because the statute says you are allowed one motor vehicle plate and a motorcycle is a motor vehicle. He said that the statutes are kind of a gray area where he didn't think he had clear authority to do so. What this amendment does is gives the Secretary of State the authority to give any Rep that wishes that has a motorcycle that would like a Rep plate for their motorcycle, and there are a few of us, would have them and we'd be able to pay for that just like you pay for regular plates. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Marley.

Representative MARLEY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will be brief. The good Representative from Hampden spoke to me; I've had number of members who've asked for this. It actually is a burden as far as those who do ride a motorcycle to the legislature to find adequate parking. It has no fiscal impact, we certainly support it and I would like to add that and I will be supporting this amendment.

Subsequently, House Amendment "A" (H-1053) to Committee Amendment "B" (H-1037) was ADOPTED.

Committee Amendment "B" (H-1037) as Amended by House Amendment "A" (H-1053) and House Amendment "B" (H-1054) thereto was ADOPTED.

The Bill was assigned for SECOND READING Thursday, April 27, 2006.

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

**CONSENT CALENDAR  
First Day**

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

(S.P. 717) (L.D. 1800) Bill "An Act To Amend the Fees for Probate Filings" Committee on JUDICIARY reporting Ought to Pass as Amended by Committee Amendment "A" (S-617)

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

There being no objection, the Senate Paper was PASSED TO BE ENGROSSED as Amended in concurrence.

**SENATE PAPERS  
Non-Concurrent Matter**

Bill "An Act To Enhance Maine's Energy Independence and Security"

(H.P. 1439) (L.D. 2041)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1024) in the House on April 14, 2006.

Came from the Senate PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1024) AS AMENDED BY SENATE AMENDMENT "A" (S-628) thereto in NON-CONCURRENCE.

The House voted to RECEDE AND CONCUR.

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

**Non-Concurrent Matter**

An Act To Amend the Crime of Aggravated Criminal Mischief

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

(C. "A" S-504)

FAILED of PASSAGE TO BE ENACTED in the House on April 5, 2006.

Came from the Senate PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-504) AS AMENDED BY SENATE AMENDMENT "A" (S-605) thereto in NON-CONCURRENCE.

The House voted to RECEDE AND CONCUR.

**Non-Concurrent Matter**

Bill "An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2006-07" (EMERGENCY)

(H.P. 1437) (L.D. 2039)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-952) in the House on April 7, 2006.

Came from the Senate PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-952) AS



**AMENDED BY SENATE AMENDMENT "A" (S-630) thereto in NON-CONCURRENCE.**

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

The following Joint Order: (S.P. 847)

**ORDERED**, the House concurring, that the Joint Select Committee on Research, Economic Development and the Innovation Economy is established as follows.

**1. Establishment.** The Joint Select Committee on Research, Economic Development and the Innovation Economy, referred to in this order as "the committee," is established.

**2. Membership.** The committee consists of 14 members of the Legislature: 4 Senators appointed by the President of the Senate and 10 members of the House of Representatives appointed by the Speaker of the House. The 14 members must include at least one member from each of the following joint standing committees: the Joint Standing Committee on Agriculture, Conservation and Forestry; the Joint Standing Committee on Appropriations and Financial Affairs; the Joint Standing Committee on Business, Research and Economic Development; the Joint Standing Committee on Education and Cultural Affairs; the Joint Standing Committee on Marine Resources; the Joint Standing Committee on Natural Resources; the Joint Standing Committee on Taxation; and the Joint Standing Committee on Transportation.

**3. Duties.** The committee shall:

A. Review the current status of state efforts to address research and economic development, including:

- (1) The final report of the Joint Select Committee on Research and Development from the 118th Legislature;
- (2) The State's science and technology plan; and
- (3) The preliminary findings of the 5-year "Evaluation of Maine's Public Investment in Research and Development" by Michael Luger, E. Brent Lane, Irwin Feller and Catherine S. Renault of the Kenan Institute of Private Enterprise; and

B. Develop recommendations for future legislative action to expand research and economic development activities in this State. These recommendations may include the following:

- (1) The role of research and development in the economic development strategy of the State;
- (2) The relative role of educational institutions, governmental agencies, private research facilities and businesses within the State's research and economic development strategy;
- (3) The level of bonding for capital investments in support of research and economic development and the manner in which such funds should be expended; and
- (4) The level of ongoing appropriations in support of research and economic development and the manner in which such funds should be expended.

**4. Meetings.** In conducting its duties, the committee may meet with any individuals, departments, organizations or institutions it considers appropriate.

**5. Appointments.** All appointments must be made no later than 30 days following the adjournment of the Second Regular Session of the 122nd Legislature. The first-named members appointed from each body are co-chairs of the committee.

**6. Staff assistance.** The Office of Policy and Legal Analysis shall provide staffing and clerical assistance to the committee and may, within existing resources, obtain technical assistance from appropriate sources.

**7. Compensation.** Members of the committee are entitled to receive the legislative per diem as defined in the Maine Revised Statutes, Title 3, section 2 and reimbursement for travel for attendance at meetings of the committee.

**8. Report.** The committee shall submit its findings and recommendations, along with any necessary implementing legislation, to the First Regular Session of the 123rd Legislature by December 6, 2006.

**9. Extension.** If the committee requires a limited extension of time to complete its study and make its report, it may apply to the Legislative Council, which may grant an extension.

**10. Budget.** The chairs of the committee, with assistance from the committee staff, shall administer the committee's budget. Within 10 days after its first meeting, the committee shall present a work plan and proposed budget to the Legislative Council for its approval. The committee may not incur expenses that would result in the committee's exceeding its approved budget. Upon request from the committee, the Executive Director of the Legislative Council shall promptly provide the committee chairs and staff with a status report on the committee budget, expenditures incurred and paid and available funds.

Came from the Senate, **READ** and **PASSED AS AMENDED BY SENATE AMENDMENT "A" (S-624).**

**READ.** Senate Amendment "A" (S-624) **READ** by the Clerk and **ADOPTED.** **PASSED** as Amended by Senate Amendment "A" (S-624) in concurrence.

**UNFINISHED BUSINESS**

The following matter, in the consideration of which the House was engaged at the time of adjournment Friday, April 14, 2006, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (5) **Ought to Pass as Amended by Committee Amendment "B" (H-975)** - Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Permit Interstate Wine and Malt Liquor Sales and Delivery to Homes"

(H.P. 415) (L.D. 560)  
TABLED - April 11, 2006 (Till Later Today) by Representative PATRICK of Rumford.

PENDING - **ACCEPTANCE OF EITHER REPORT.**

On motion of Representative RICHARDSON of Brunswick, the Minority **Ought to Pass as Amended** Report was **ACCEPTED.**

The Bill was **READ ONCE.** Committee Amendment "B" (H-975) was **READ** by the Clerk.

On motion of Representative CLARK of Millinocket, the House adjourned at 4:56 p.m., until 9:00 a.m., Thursday, April 27, 2006 in honor and lasting tribute to Bryant James Prosser, of Medway.

Representative VALENTINO of Saco **PRESENTED House Amendment "C" (H-1055) to Committee Amendment "B" (H-975)**, which was **READ** by the Clerk.

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

Representative **VALENTINO**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. LD 560 was a hold over bill that was very similar to another bill that we had before us this session. The Legal and Veterans Affairs Committee worked the bill extensively and toward the end of the session, the wine connoisseur permit language was suggested. Representative Patrick, the Chair of the Committee, worked tirelessly with Representative Lindell and Legal and Veterans Republican Lead Representative Randy Hotham to try and find an agreement that all were satisfied with. That is why this House Amendment, as a resolve, is here before you today. The reason that it has my name on it is that even though Representative Patrick had worked it out with these other gentlemen is that he away at this time. This amendment replaces the bill with a resolve, the resolve directs the Liquor and Licensing Tax Division within the Department of Public Safety to conduct a study and convene a meeting of interested stakeholders to review and study the laws of alcohol regulation including the issues associated with out-of-state sales and direct distribution to consumers in the State. The study requires a report to the joint standing committee of legal jurisdiction and to report back by January 30, 2007. Thank you.

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 just want to go on the record supporting this amendment. This is an issue that many have worked hard and diligently on, probably few more than this member standing before you. We thought we had a way to get this done with all the parties in agreement, but that fell apart. The fact of the matter is that direct shipment of wine to the homes of consumers is inevitably going to come to the State of Maine. If not, it's going to come to all the States around us and leave Maine alone standing against the marching forces of progress. This was achieved in Vermont using a similar gathering of all the stakeholders at the table, all getting together, it's a form in which all the hyperbole and various changes back and forth between the various parties could be subdued and reasoned people can come together and find meeting of the minds to achieve this. There are also pending court cases that may yet force the issue. I want to again lend my support to this amendment. Thank you, Mr. Speaker.

Subsequently, **House Amendment "C" (H-1055) to Committee Amendment "B" (H-975) and ADOPTED.**

**Committee Amendment "B" (H-975) as Amended by House Amendment "C" (H-1055) thereto was ADOPTED.**

Under suspension of the rules, the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading.**

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "B" (H-975) as Amended by House Amendment "C" (H-1055) thereto and sent for concurrence.**

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

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