

# 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**  
**Index**

Pages 1488-2248

**ERRATA:**

**The header on all pages  
of this file should read**

**“April 27, 2006”**

**instead of**

**“April 27, 2004”.**

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE  
SECOND REGULAR SESSION  
44th Legislative Day  
Thursday, April 27, 2006

S/Rep. Richard G. Woodbury  
House Chair  
**READ and ORDERED PLACED ON FILE.**

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

Prayer by Honorable Joanne T. Twomey, Biddeford.  
National Anthem by Biddeford High School Chamber Singers.  
Pledge of Allegiance.  
The Journal of yesterday was read and approved.

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**COMMUNICATIONS**

The Following Communication: (H.C. 448)

**STATE OF MAINE**

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

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 Business, Research and Economic Development has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 2099      Resolve, To Provide Assistance to Heating  
Fuel Customers Who Enter into Prepaid  
Contracts That Are Not Honored

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

Sincerely,  
S/Sen. Lynn Bromley  
Senate Chair  
S/Rep. Nancy E. Smith  
House Chair

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (H.C. 449)

**STATE OF MAINE**

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

April 26, 2006

Honorable Beth Edmonds, President of the Senate  
Honorable John Richardson, Speaker of the House  
122nd Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:  
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Taxation has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1557      An Act To Improve the Business Equipment  
Tax Reimbursement Program

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

Sincerely,  
S/Sen. Joseph C. Perry  
Senate Chair

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**SPECIAL SENTIMENT CALENDAR**

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

**Recognizing:**

Barbara B. Lapointe-Bossie, of Van Buren, for her many years of dedicated service to her community through her work and volunteerism. Ms. Lapointe-Bossie worked for Maine School Administrative District 24 for 22 years, beginning as a cook and retiring as a supervisor. She has been a member of the Van Buren American Legion Auxiliary for 51 years, during which she has held positions of Secretary, Auxiliary Historian and First and Second Vice President. She was President of the Auxiliary for 5 consecutive years, and she was presented with the prestigious Auxiliary V.I.M. Life Membership. Ms. Lapointe-Bossie has been an active participant in Dirigo Girls State, annual scholarship awards and the Voice of Democracy programs. She is a lifetime member of the Acadian Village in St. John's Valley. She was a board member and enthusiastic supporter of the Hope School, a school for handicapped and severely learning disabled children. Ms. Lapointe-Bossie is currently the chair of the St. Bruno's Parish Church Mercy Meal Program and was in the church choir for 20 years. We acknowledge Ms. Lapointe-Bossie's exemplary community service to the Van Buren area and to the State of Maine. We extend our best wishes to her;

(HLS 1875)

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

On **OBJECTION** of Representative SMITH of Van Buren, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

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

Representative **SMITH**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am very, very pleased and proud to be able to speak on behalf of Barbara Lapointe-Bossie. She has been in the Town of Van Buren all her life. I have known her for many years. Barbara is one of those people who have given generously and quietly all her life to the community. I won't cover everything she has done, but there are a few things that really are very striking and important.

One of the things that impresses me the most is that Barbara was one of the pioneers of providing a program for children with special needs. This was in the days before the state recognized the need for programs for such children and before the federal government recognized the need. Barbara and other mothers in the community pioneered, establishing on their own resources, a place for the children to have some kind of education. A place for the children to be able to be socialized. This is something that was done back in 1964. They went door to door fundraising to open a school. The Hope School was born in the Town of Van Buren. This was a school for the handicapped children and those with severe learning disabilities where none existed before. Again, I will remind you that this is before it was something that

was politically correct and before there was all kinds of state funding. Why it is so impressive for Barbara is the fact that she pioneered and gave of herself and helped create programs, which we all know are so important today.

Another aspect of Barbara is she spent many years employed by the school district as a cook. It was striking. As a cook, this was the warm and friendly face that the children would meet when they would go get their meals and they became so attached to Barbara as they would go through the meal line.

I ask you to join me in recognizing and honoring her. She has been a community leader by her service and her example and she has made the Town of Van Buren and its surrounding communities and the people so much the better for her services. Thank you.

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

**Recognizing:**

Michelle Vazquez-Jacobus, of Lewiston, faculty member at the University of Southern Maine's Lewiston-Auburn College, who is the recipient of the 2006 Donald Harward Faculty Award for Service-Learning Excellence. This award is presented through the Maine Campus Compact to 3 faculty members for demonstrating a significant commitment to practicing and promoting service-learning or making public service an integral part of their teaching. Ms. Vazquez-Jacobus is being honored for her work with the Lewiston Youth Empowerment Program. We extend our congratulations and best wishes to Ms. Vazquez-Jacobus on her receiving this award;

(HLS 1881)

Presented by Representative MAKAS of Lewiston. Cosponsored by Senator ROTUNDO of Androscoggin, Representative SAMPSON of Auburn, Representative WALCOTT of Lewiston, Representative O'BRIEN of Lewiston, Representative CRAVEN of Lewiston, Senator SNOWE-MELLO of Androscoggin, Representative SHIELDS of Auburn, Representative SIMPSON of Auburn.

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

**READ.**

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

Representative **MAKAS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I can tell you first hand from my own experience teaching at LA College that Michelle Vazquez-Jacobus is truly worthy of this award. She is a wonderful asset to the school and to the many students whom she has touched and in some cases, whose life she has changed. Michelle is also a great asset to our community as a whole. I would be negligent not to add to this that her family also should be honored today. They also have contributed greatly to Michelle's ability to all the many things that she does.

Her husband, Robert, whom I have also had the pleasure of getting to know is a wonderful colleague at LAC and their three lovely children whom I just met, Dante, Luca and Sophia who have had to see mommy help others in addition to them. Thank you very much to Michelle and to her family.

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

Representative **O'BRIEN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I know Michelle from another point of view, from the point of view of the youngsters and families that she has been able to reach out to through the Service Learning Project, families that perhaps didn't have the

wherewithal or the wonderful guidance from their own youngsters in the schools. Through the Service Learning Project, her students at Lewiston Auburn College have brought out the best in these families through the Service Learning Project. Unless you have actually seen from whence the family came from and how they benefited from this Service Learning Project, it is hard to believe that it truly is life changing. For the inner city, which is part of what I represent in Lewiston, our B Center, which gives services to downtown people, her students at Lewiston Auburn College have shown that you truly can put into operation the idea that teaching is life changing. I would say that again. Teaching is life changing for the students and for the person who is the teacher. Thank you. Thank you. Thank you Michelle.

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

**In Memory of:**

Janina "Jina" Zulma Haslam, of Lamoine, who was an eighth-grade graduate of the Lamoine Consolidated School. A bright and talented young lady, Jina was a member of the 2005 Union 92 Girls Championship Basketball Team, was most improved on the 2004 Cross-Country Championship Team, was a member of the Softball Championship Team and was a member of the three-time State Championship Cheering Team. Jina was known as an outstanding musician and choral member. She received the class Highest Average Award in history and was an honor roll student. From the time that she was eight years old, Jina worked at a local goat farm doing everything from delivering newborns to identifying the entire herd and from running the milking operation to assisting the attending veterinarians. Upon her death, some of Jina's organs were donated to others in need, ensuring that three people would be able to continue their lives. Jina will truly be missed each and every day by her family and numerous friends;

(HLS 1890)

Presented by Representative BIERMAN of Sorrento.

Cosponsored by Senator DAMON of Hancock.

On **OBJECTION** of Representative BIERMAN of Sorrento, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

The **SPEAKER**: The Chair recognizes the Representative from Sorrento, Representative Bierman.

Representative **BIERMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to tell you a little bit about a remarkable young lady. Jina Haslam was just 14 years old when on June 20 while riding her bicycle near her home in Lamoine her beautiful life was cut short by an automobile. Jina was a wonderfully talented young lady who had her whole life ahead of her with a set course and direction. She was an honor student who could play four different musical instruments with a passion for taking care of animals. Since the age of 8 she had worked at a local goat farm caring for hundreds of goats. She ran the milking operation as you heard and made goat cheese and could assist tending vets. She was often entrusted to watch the herd when the owners were out of town.

Jina had a contagious personality and was so loved by the community. Her mother and father, Patty and Bobby Haslam have a hole in their heart that can never be repaired. Jina's memory, spirit and love will live on. In the small Town of Lamoine at their grammar school where Jina had graduated just six days before the tragedy, there is a mission, an organization called the "Jina's Gym Fund." Gina's grandmother is spearheading this endeavor with Patty and Bobby. They are raising money through donations and various events. With the

support of the community, they will build a new gymnasium and event center in Jina's memory.

To date they have raised over \$115,000 and have had donations from as far away as England and Hawaii. There is a webpage dedicated to her for this purpose. It is [www.iinasgym.org](http://www.iinasgym.org). Jina continues to live with her gift of life. Three individuals now have a chance at life with her liver and kidneys.

This is difficult for me, but I can't imagine how difficult it is for her mother and father who are up in the gallery.

It is a small world. Jina's mother, Patty, back in the mid '70s lived in Hawaii with her mother and father. I also lived there. Her parents and my parents are life-long friends. It is amazing where life takes you. I just want to thank Bobby and Patty for bringing Jina into this world and hope to help carry your brief. Thank you.

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

#### In Memory of:

United States Army Specialist Joseph Alan Lucas, Sr., of Augusta, Georgia, for his heroism in defending the freedom of all Americans. He grew up in the Bath and Wiscasset area but had been living in Georgia with his wife and 15-month-old son. He was assigned to the 5th Squadron, 7th Cavalry Regiment, 1st Brigade Combat Team, 3rd Infantry Division, Fort Stewart, Georgia. He was killed on December 15, 2005 during combat operations near Baghdad. Specialist Lucas was posthumously awarded a Purple Heart, Iraqi Campaign Medal, Global War on Terrorism Service Medal and a Bronze Star. We acknowledge Specialist Lucas' dedicated service, and we recognize the ultimate sacrifice he made for his country. He will be greatly missed and long remembered by his loving family, his friends and his grateful State and Nation;

(HLS 1874)

Presented by Representative VAUGHAN of Durham.

Cosponsored by Senator MAYO of Sagadahoc, Representative WATSON of Bath, Representative GROSE of Woolwich, Senator DOW of Lincoln, Representative RINES of Wiscasset, Representative ADAMS of Portland, Senator ANDREWS of York, Representative ANNIS of Dover-Foxcroft, Representative ASH of Belfast, Representative AUSTIN of Gray, Representative BABBIDGE of Kennebunk, Representative BARSTOW of Gorham, Senator BARTLETT of Cumberland, Representative BEAUDETTE of Biddeford, Representative BERUBE of Lisbon, Representative BIERMAN of Sorrento, Representative BISHOP of Boothbay, Representative BLANCHARD of Old Town, Representative BLANCHETTE of Bangor, Representative BLISS of South Portland, Representative BOWEN of Rockport, Representative BOWLES of Sanford, Representative BRANNIGAN of Portland, Representative BRAUTIGAM of Falmouth, Senator BRENNAN of Cumberland, Senator BROMLEY of Cumberland, Representative BROWN of South Berwick, Representative BROWNE of Vassalboro, Senator BRYANT of Oxford, Representative BRYANT of Windham, Representative BRYANT-DESCHENES of Turner, Representative BURNS of Berwick, Representative CAIN of Orono, Representative CAMPBELL of Newfield, Representative CANAVAN of Waterville, Representative CARR of Lincoln, Representative CEBRA of Naples, Representative CHURCHILL of Washburn, Representative CLARK of Millinocket, Representative CLOUGH of Scarborough, Senator CLUKEY of Aroostook, Representative COLLINS of Wells, Senator COURTNEY of York, Senator COWGER of Kennebec, Representative CRAVEN of Lewiston, Representative CRESSEY

of Cornish, Representative CROSBY of Topsham, Representative CROSTHWAITE of Ellsworth, Representative CUMMINGS of Portland, Representative CURLEY of Scarborough, Representative CURTIS of Madison, Representative DAIGLE of Arundel, Senator DAMON of Hancock, Representative DAVIS of Falmouth, Representative DAVIS of Augusta, Senator DAVIS of Piscataquis, Senator DIAMOND of Cumberland, Representative DRISCOLL of Westbrook, Representative DUCHESNE of Hudson, Representative DUDLEY of Portland, Representative DUGAY of Cherryfield, Representative DUNN of Bangor, Representative DUPLISSIE of Westbrook, Representative DUPREY of Hampden, Representative EBERLE of South Portland, Representative EDER of Portland, Representative EDGECOMB of Caribou, President EDMONDS of Cumberland, Representative EMERY of Cutler, Representative FAIRCLOTH of Bangor, Representative FARRINGTON of Gorham, Representative FINCH of Fairfield, Representative FISCHER of Presque Isle, Representative FISHER of Brewer, Representative FITTS of Pittsfield, Representative FLETCHER of Winslow, Representative FLOOD of Winthrop, Senator GAGNON of Kennebec, Representative GERZOFOSKY of Brunswick, Representative GLYNN of South Portland, Representative GOLDMAN of Cape Elizabeth, Representative GREELEY of Levant, Representative HALL of Holden, Representative HAMPER of Oxford, Representative HANLEY of Paris, Representative HANLEY of Gardiner, Representative HARLOW of Portland, Senator HASTINGS of Oxford, Senator HOBBS of York, Representative HOGAN of Old Orchard Beach, Representative HOTHAM of Dixfield, Representative HUTTON of Bowdoinham, Representative JACKSON of Allagash, Representative JACOBSEN of Waterboro, Representative JENNINGS of Leeds, Representative JODREY of Bethel, Representative JOY of Crystal, Representative KAELIN of Winterport, Representative KOFFMAN of Bar Harbor, Representative LANSLEY of Sabattus, Representative LERMAN of Augusta, Representative LEWIN of Eliot, Representative LINDELL of Frankfort, Representative LUNDEEN of Mars Hill, Representative MAKAS of Lewiston, Representative MAREAN of Hollis, Representative MARLEY of Portland, Representative MARRACHÉ of Waterville, Senator MARTIN of Aroostook, Representative MAZUREK of Rockland, Representative McCORMICK of West Gardiner, Representative McFADDEN of Dennysville, Representative McKANE of Newcastle, Representative McKENNEY of Cumberland, Representative McLEOD of Lee, Representative MERRILL of Appleton, Representative MILLER of Somerville, Representative MILLETT of Waterford, Representative MILLS of Farmington, Senator MILLS of Somerset, Senator MITCHELL of Kennebec, Representative MOODY of Manchester, Representative MOORE of the Passamaquoddy Tribe, Representative MOORE of Standish, Representative MOULTON of York, Representative MUSE of Fryeburg, Representative NASS of Acton, Senator NASS of York, Representative NORTON of Bangor, Senator NUTTING of Androscoggin, Representative NUTTING of Oakland, Representative O'BRIEN of Lewiston, Representative OTT of York, Representative PARADIS of Frenchville, Representative PATRICK of Rumford, Representative PERCY of Phippsburg, Representative PERRY of Calais, Senator PERRY of Penobscot, Representative PILON of Saco, Representative PINEAU of Jay, Representative PINGREE of North Haven, Representative PINKHAM of Lexington Township, Representative PIOTTI of Unity, Senator PLOWMAN of Penobscot, Representative PLUMMER of Windham, Senator RAYE of Washington, Representative RECTOR of Thomaston, Representative

RICHARDSON of Carmel, Representative RICHARDSON of Greenville, Speaker RICHARDSON of Brunswick, Representative RICHARDSON of Skowhegan, Representative RICHARDSON of Warren, Representative ROBINSON of Raymond, Representative ROSEN of Bucksport, Senator ROSEN of Hancock, Senator ROTUNDO of Androscoggin, Representative SAMPSON of Auburn, Senator SAVAGE of Knox, Representative SAVIELLO of Wilton, Representative SCHATZ of Blue Hill, Senator SCHNEIDER of Penobscot, Representative SEAVEY of Kennebunkport, Representative SHERMAN of Hodgdon, Representative SHIELDS of Auburn, Representative SIMPSON of Auburn, Representative SMITH of Monmouth, Representative SMITH of Van Buren, Senator SNOWE-MELLO of Androscoggin, Representative SOCKALEXIS of the Penobscot Nation, Representative STEDMAN of Hartland, Senator STRIMLING of Cumberland, Senator SULLIVAN of York, Representative SYKES of Harrison, Representative TARDY of Newport, Representative THOMAS of Ripley, Representative THOMPSON of China, Representative TRAHAN of Waldoboro, Senator TURNER of Cumberland, Representative TUTTLE of Sanford, Representative TWOMEY of Biddeford, Representative VALENTINO of Saco, Representative WALCOTT of Lewiston, Representative WEBSTER of Freeport, Senator WESTON of Waldo, Representative WHEELER of Kittery, Representative WOODBURY of Yarmouth, Senator WOODCOCK of Franklin.

**READ and ADOPTED.**

On motion of Representative VAUGHAN of Durham, the House **RECONSIDERED** its action whereby the Sentiment was **ADOPTED**.

The **SPEAKER**: The Chair recognizes the Representative from Durham, Representative Vaughan.

Representative **VAUGHAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I did not know Army Specialist Joseph Alan Lucas. Maybe none of us did, but I think it is ultimately important that we recognize these young men and women who are volunteering to serve their country and their fellow Americans by going of their own volition to engage the forces in Iraq. It is a privilege and an honor to be able to speak to these sentiments. We often times are at a loss for words when we encounter the family. I want to thank the family for their sacrifice and I would like to thank them for being a military family. I thank them for their service to the country. Thank you.

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

**REPORTS OF COMMITTEE**

**Divided Report**

Majority Report of the Committee on **LABOR** reporting **Ought Not to Pass** on Bill "An Act Authorizing Participation in the State Group Health Plan for Retiring Legislators"

(H.P. 1491) (L.D. 2098)

Signed:

Senators:

SNOWE-MELLO of Androscoggin  
BARTLETT of Cumberland

Representatives:

SMITH of Van Buren  
HUTTON of Bowdoinham  
CRESSEY of Cornish  
CLARK of Millinocket  
DRISCOLL of Westbrook

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1039)** on same Bill.

Signed:

Senator:

STRIMLING of Cumberland

Representatives:

JACKSON of Allagash  
HALL of Holden  
DUPREY of Hampden  
TUTTLE of Sanford  
HAMPER of Oxford

**READ.**

On motion of Representative SMITH of Van Buren, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

**BILLS IN THE SECOND READING**

**House as Amended**

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)

(H. "A" H-1053 and H. "B" H-1054 to C. "B" H-1037)

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

On motion of Representative GROSE of Woolwich, was **SET ASIDE**.

On motion of Representative GROSE of Woolwich the House **RECONSIDERED** its action whereby **Committee Amendment "B" (H-1037) as Amended by House Amendment "A" (H-1053) and House Amendment "B" (H-1054)** thereto was **ADOPTED**.

On further motion of the same Representative, the House **RECONSIDERED ADOPTION** of **House Amendment "A" (H-1053) to Committee Amendment "B" (H-1037)**.

On further motion of the same Representative, the House **RECONSIDERED ADOPTION** of **House Amendment "B" (H-1054) to Committee Amendment "B" (H-1037)**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the **Minority Ought to Pass as Amended Report** was **ACCEPTED**.

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 would like to thank the good Representative. First, I need to apologize. Yesterday I dropped the ball and I missed the opportunity to debate this bill. Afterwards, a number of people said this issue is so important that they wanted to have an opportunity to debate it. I wanted to get up and say why the reconsideration vote is important.

About a month ago a lot of you got a letter from 1,600 citizens of the Town of Dayton asking that their projects not be deferred, part of this deferral list. It is a fairly significant piece of mail that we got. Another is from the Town of Orrington. I got it just yesterday where the Board of Selectmen, through the Town Manager, asked that we insure every necessary funding be

appropriated to address the deferred works on State Road, Route 115.

Back in December when I began as part of a working group that the Governor put together on this deferment list and you all got a blue binder talking about the scope of the issue, the concerns, the costs to jobs. I hope you took a chance to read from it.

I am just going to read a couple of the quotes. From the Town Manager of Thomaston who said, "This deferment has impacted not only the 16,000 plus vehicle trips and public safety, but has also impacted \$56 million in economic development in the immediate future and up to \$75 million long term." Representative Cebra is actually quoted in here as saying, "I am deeply concerned about the condition of Route 11 between the towns of Naples and Casco. These problems are creating driving hazards that are exaggerated over the change in weather." The Town Manager of Naples has a concern about the number of accidents and deaths due to the condition of the roads. It goes on and on for a number of pages.

There is a safety concern. There is a map that is going around to your desks. I don't know if they have handed it out just yet, but that map if you flip it over there is text on one side and it shows you in red, those are the immediate deferments. What we are talking about in this biennium, that \$130 million, we whittled it down to \$90 million. That is the impact statewide. In the legend if you look at the light blue, those are the things that are in the six-year plan. It is a domino effect. If we don't get this deferment list fixed, those things are going to be moved back and not be funded.

After that, they are simple project requests. This is a statewide impact. You are talking safety. I believe the good Senator from Knox and the Representative from Wells put out a piece that talks about Maine needs to keep highways and bridge improvements on track. Safety is a first priority. That is between 1,000 and 2,000 jobs. I am sure most of us have heard in person, by phone or e-mail from the likes of Pike Industries in Wells, Sergeant and Sergeant up in the Old Town area, Lane construction is out here right now, I am talking about the number of people, good paying jobs, that we are going to lose. It will be 1,000 to 2,500 jobs that we may lose because of this deferment. It is unacceptable and it is needless.

The needs are very urgent. You may live or have constituents that live on one or many of the over 2,000 posted roads in our state, miles of posted roads. There are 250 bridges in the State of Maine that have already gone beyond their life span. Think back to the Waldo/Hancock Bridge and how we reacted. We fixed that problem, ironically, with the GARVEE. Tomorrow, next week, next month, if we had another catastrophe like that with a bridge that had to be shut down, we would be back in here probably passing this very same bond. It would cost us more money, but we would be passing it. The reason why, in the case of the Waldo/Hancock Bridge, it affected that entire region. It sent people for months, four and five months, out of their way, 40 miles out of the way, every mile a truck has to travel out of the way for freight costs them money, costs the drivers more money. It costs the citizens more time and energy. Look at gas prices for those detours. This is not simply roads and bridges. It is safety. It is economic growth. It is jobs. It is very important. After you have those 250 bridges that are already beyond their lifespan, you have another 1,000 that are at 50 years or older. They are reaching the end of their lifespan.

We are at a very urgent and crisis point in our infrastructure. As many of us saw with the amendment that was added yesterday, Representative Millett's, we are looking to fight over a shrinking, ever shrinking pie, for that funding. It is chaos.

Many of you are going to say that we have the money. Why can't we just wait for the next legislative session to do bonds at that point? First of all, I think that is a bit naive. We know how the bond process works in the Legislature. It will set a cap. We will put in very many important projects in there such as the rural bonds, working waterfronts, jobs, economic development and then transportation. We will end up with a significantly smaller transportation bond than we need now. If we don't fund these projects now, what will happen is the double digit inflation, construction inflation, that is 25 percent steel products have increase, 10 to 15 percent for concrete, real estate transactions that affect a lot of transportation projects have gone up 10 percent. It is conservatively estimated that if we don't do these projects, no one says these projects are not due, just when do we do them? Do we do them now or do we do them later? If we just simply wait until later, it is going to cost another \$10 million in inflationary costs if we don't do them now.

We have asked the department, how is this going to affect the future federal dollars if we use the GARVEE mechanism? It will be 2 percent of our future federal dollars that will be used to pay for the debt service of this. It will be more than offset by the savings by doing the job now, rather than letting the inflationary costs of construction and equipment and materials eat up any of that.

There is a piece of paper that someone gave me earlier that has been going around some of the caucuses that says that we actually have \$246 million to go into transportation bond monies. I have to say it is just not accurate. This would be like me going to the good Representative from VinalHaven, Representative Pingree, and saying that I have some ideas on Health and Human Services. I don't know her budget. It would be a poor choice for her to listen to my policy decisions on that. I do have a voice in those policy decisions, but she is there every day and hears the decisions, the committee hears those decisions and that is why our committee came to the decision that we did. It was a 10 to 3 bipartisan decision.

Back to this form, it says we have \$50 million in authorized, but unissued bonds. That is not accurate. We are actually spending money twice. I know the Legislature likes to do that sometimes, but it is probably not a good idea and probably one of the reasons we are in the mess we are.

There are \$34 million in general obligation bonds that is for the Portland off the rail expansion. These are things that are non-highway and bridge. There is another \$27 million that is actually highway and bridge. However, the first time by law that we are able to issue that \$27 million is this June. That hasn't even been open and able to be sold. It is already in the pipe line. It has already, basically, been spent. We have used it to set up contracts to do planning. The cash that we have in hand, the \$31 million that we have in cash, \$15 million general fund, \$16 million from the highway fund will allow us to move this conveyor belt forward, if you will. That is what we have been saying if you look at that map again. The deferred projects in the six year plan projects, it allows us to move them slowly forward. If we miss this construction season going into the 2007 construction season, very simply, our roads are going to be less safe. We are going to lose significant jobs in the industry. These are good paying jobs, construction workers, I believe, make about \$30,000 a year. New graduates from the universities in engineering is about \$45,000. It is going to cost us more money, plain and simple.

I hope you will vote for the reconsideration. I hope you will support the Majority Report when it comes back at that point and support the bonds. The people of Maine have overwhelmingly supported these for the last 10 plus election cycles with 60 and



70 percent of their support. This will go to referendum. Let those people decide if this is a good investment. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative McKenney.

Representative MCKENNEY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. We have just heard a pretty complete list of unmet needs from Representative Marley, the Representative from Portland. I would tell you that we are always going to have unmet needs in every aspect of everything we do. We are going to have unmet needs because there just is not enough money. There is never enough money. Whether we pass a bond now or whether we pass a bond in the Legislature for next June, we have lost seven months. We haven't lost anything. There is plenty of money in the system. Chairman Marley just mentioned that the \$50 million that is unissued at this present time, some of that will be issued, but we have no way of knowing that. He mentioned that it was spent. It is not spent. It might be committed, but it is not spent. We don't have it, so we can't spend it.

Representative Marley failed to mention one important fact on this list of curtailed projects. You have probably all seen these projects in your district. We have actually found enough money to put 40 percent of those projects back on line. That is \$15 million from the general fund as part of the budget negotiations, which nobody seems to want to talk about, but I think is a milestone. We are transferring \$15 million from the general fund. It usually goes the other way. We found \$15 million in the highway fund to match that along with \$10 million of earlier savings for a total of \$40 million, roughly 40 percent of those curtailed projects.

I have no idea how DOT is going to prioritize putting those projects back, but if it was a high priority project before, it is going to continue to be a high priority project.

There are some upsides to not bonding. One of the upsides of not bonding, we have seen over the last four or five years. We now have \$20 million more in the highway fund because we are not paying it out in debt service. Come the next fiscal year, we will have \$20 million to spend on roads that we didn't have when I first came here.

If we all agree today that we were going to bond \$60 million, would we pick GARVEE as the way to do it? GARVEE is borrowing against future incoming federal highway funds. Think back for a minute when we first got the tobacco settlement. There was pressure in these bodies to sell that immediately. Sell all that tobacco money upfront for a one-time pot of money. Some states succumbed to that. Wisely, we did not. We do the same thing when we encumber our federal highway revenues.

Let me tell you a couple of stories about GARVEE and some other states. GARVEE has been around since about 1995 when the federal government authorized it as a way to find more money for highways. The State of Maryland now encumbers 24 percent of their incoming highway revenue to pay off GARVEE debt. The State of Rhode Island pays 18 percent. The champion is the State of Massachusetts up until the year 2009 are going to have to pay 50 percent of their incoming federal revenue to satisfy their GARVEE debt. We are coming late to this process. We are one of the last states to consider GARVEE. I can see this happening in the future, especially this particular GARVEE, which is not for an emergency. It is for just ordinary stuff that should be in the budget. It is for paving. It is for road construction. We should have that in the budget.

I think maybe you would agree that if we all agreed on bonding, why would we bond GARVEE? Thank you very much.

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

Representative HOGAN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I appreciate the concerns of the good Representative McKenney. I do disagree. In fact, in 1976, this House spent approximately 26 percent of the total revenue on transportation. Today, we are spending 11 percent. You tie that in with the fact that we are losing ground on our major funding, the gas tax, because of the efficiency and the less use of gas. We are losing ground greatly in our roads and bridges. In fact, there is approximately 3,000 bridges in this state of which 40 percent of these bridges haven't been touched in 50 years. I don't know how the heck you are going to get at some of these bridges through a general budget, highway fund or any other kind of funding unless you do something like this.

These projects impact all over the State of Maine. In fact, in Saco, for example, which is part of the pact group, including Biddeford, allocated funds from \$90 million to go to replacing the crumbling Ferry Road near Camp Ellis. That is right along the shore front. It is leaving the face of the Earth unless something is done. In Biddeford, these funds would be going towards the repairing of Main Street. It is not a good situation in Biddeford or in my community of Old Orchard Beach.

I wish that people would think very hard about this and wonder where the real funding is going to come for this if we do not get into something like the GARVEE. I appreciate Senator Damon's effort and Representative Marley's effort. They are good leaders. They are someone that should be followed in this case. Thank you very much.

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. I apologize for speaking twice in the same month. The issue is the GARVEE bond. The issue is whether we meet our responsibility to our public.

Let me take a little different approach. It is something that we have all been through at one time or another. The renovation of a house, for safety purposes, because of growing needs of the family, comfort, it is a long-range benefit. Putting a new roof on a house, addition on the house, rewiring the house. The question is, do you do it with borrowing or do you wait until you have the money on hand? If you borrow to get the work done, you, of course, have the problem of paying back debt and paying the interest on it.

You are paying the interest. You are getting the work done, excuse me, at today's rate, today's material costs, today's labor costs. Over the long run, you are paying back those borrowed dollars with dollars that are inflationary cheaper, of less value. If you wait, you have the inflation of materials, labor inflation, further deterioration and the money may not become available. I just mentioned a moment ago that next year, seven months from now, we can put in for another bond. There is no guarantee that that other bond is going to come. There is no guarantee that in the next Legislature they will be supporting a bond for transportation costs. It is my suggestion to you that it is better to get the job done in a timely fashion rather than put it off.

The good Chairman of the committee talked about jobs and good wages. Probably without this there will be a 30 percent less employment of highway workers this year. Add those 30 percent to the employment list and you have revenue coming into the state from their earnings. You also get the corporate earnings increasing, which will provide revenue to help pay off those bonds. Add to it getting the work done now and it provides better safety for our people and when it gets right down to it, that is my major consideration, the roads that I travel on, my family travels on and my constituents travel on. Are they safe? What is it

going to cost me to drive my car on a bad road? For example, down in Old Orchard Beach or down Route 15 in Orrington. A front end job, what \$250 or \$300. I think it is extremely important for us to consider this GARVEE bond part of the package. Support Committee Amendment "A" and let's get our responsibility taken care of.

The department over the years has improved its record on establishing priorities and getting the jobs most necessary to do done. The transportation department has reorganized, streamlined and is getting more work done with the employees that they have on hand now than they used to get done. We have an industry here, a construction industry here, that I would put up against construction people anywhere in the country. It is a very short season of being able to do this type of work. They get a remarkable amount of work done. Let the construction industry do its job. Let's make the roads safer for the people of the State of Maine. Thank you.

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

Representative PARADIS: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would like to relay a voice from Aroostook County from Jerry James, Public Works Director in Presque Isle. He says, "Here in Aroostook County, as in other parts of Maine, well-maintained roadways are critical to our economy. It is especially important to a service center community such as Presque Isle. We need the state and the MDOT to stay on course with an aggressive maintenance and construction program, which, in turn, will enable us to focus on our infrastructure needs. Roadway deficiencies do not heal themselves. Delaying maintenance projects today will cost more than just increases in materials. Delaying road projects hurts our short-term economy as well as our long-term growth." I strongly urge you and the rest of the Legislature to support the GARVEE bond proposal. Transportation projects mean jobs that help people pay taxes and otherwise support the local economy. I certainly endorse what Mr. James has said. I urge everyone to vote for this proposal here today.

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 don't rise to try to persuade anybody of anything here, but merely to put myself on the record. I will most likely be voting against this, simply to honor the commitment that I made in the context of the budget, the deal that was stuck, which was a good deal, a fair deal. I want to live up to it. I do, however, believe there is a serious need for additional highway funding. I would otherwise support this or even better, general obligation bonding for this purpose.

The SPEAKER: The Chair recognizes the Representative from Ripley, Representative Thomas.

Representative THOMAS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I make my living running a small business in Maine as do five of my six brothers. Something that you learn very fast running a small business in Maine is nothing will kill you any quicker than death. Nothing will put you out of business any quicker than if you owe too much money. Payments that are no problem when times are good, become a nightmare when business slows. I believe that applies to government. I believe that applies to state government. When I look at what future legislatures are going to be obligated to pay, I am very concerned. We owe the State Retirement System \$3 billion. We are not even paying the interest on that debt. It is not going down. It is going up. We have \$1.2 billion that we are obligated to pay to fund the health insurance for retired state workers and retired teachers. We have \$600 million in general

obligation bonds that have either been issued or are authorized and will be issued. We have \$200 million in general facilities bonds. We have issued over \$800 million in bonds to build new schools. I could go on and on. No one will argue that we are in desperate need of money to fix roads. When you look at rising interest rates, energy costs going through the roof, are we going to have an economy where we are going to be able to pay all these obligations and take on more? I don't think this is a time when we should be taking on more obligations. Maybe we should ask Maine hospitals before we take on anymore debt. Thank you.

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

Representative CUMMINGS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In regard to this issue, there are members of this House on both bodies that know that the bridges and the roads of this state are in dire need and there are tremendous unmet needs. They also know that 2,000 jobs right now would be a good thing. Many people on both sides know that our bonded indebtedness is half what it was in the 1980s and that our per capita debt ratio is in the bottom third of all states. Many people know this and they are right to want to invest in our road and our bridges and our people. Apparently one State Senator came to the Commissioner of Transportation and said, "I need to have some help here. I need to vote for this bond. They are going to tar and feather me." He said, "If you give them the tar, then maybe they won't need the feathers." I think that is exactly a good sentiment back home that you are hearing all over the state.

However, there is a higher value. The higher value is working together. When we agreed on a budget that is comprehensive, not just in terms of highways, many of us had to give up things that we didn't want to give up. I don't agree with giving this up, but that is part of negotiations. I think it reflects poorly on those who wanted to. Their judgment is not right here. As part of their request in a budget negotiation that is comprehensive as part of a handshake that said we will work together when many doubted whether we could, we said that we would not do this. You do not have my vote on this. I think we need to look at the bigger picture as we go forward in working together. What I have seen is that when we do, we create better public policy and we set a good tone for this state.

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

Representative SIMPSON: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I take offense, quite truthfully, to the good Representative from Portland's remarks because I believe our integrity was just questioned. I just want, on the record, for you to know that the Transportation Committee, its chairs from either body, were not included in that discussion. I appreciate that a handshake was made, but it certainly was not made with this committee. I apologize if it feels as though we were not honoring a deal. We were not part of a deal.

This working group that the Governor put together was a bipartisan group. It had stakeholders from across Maine that came together. They recommended \$15 million from the general fund, \$15 million from the highway fund and then a bonding package. When we saw the \$15 million coming from the general fund and we set aside the \$15 million from the highway fund, I guess we just thought that the rest of the package would probably come together.

I just need to say also that I talked to Commissioner Wyke and she relayed that when our infrastructure is crumbling at the rate it is crumbling, our bond rating is affected. That concerns me greatly. I have never been a big fan of revenue bonds. I do,

however, believe that we have been put in a position where we need to come up with an alternative plan. This is the alternative plan. It is the best we have. It was my goal to put it to the public so that they would have a say and they would be transparency. If this goes to the people and they vote it down because they don't believe that bonds are necessary, we are good. At least give them the opportunity to say whether they want their money to go into their roads and their bridges. I think that is the least we can do when our infrastructure is crumbling. Thank you ladies and gentlemen.

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 had spoke to leadership yesterday and made a deal or a commitment that we would try to minimize the debate to about 30 minutes. While I love to hear the passion on this issue, I hope people will temper that. Let's focus on the issue at hand, our roads and our bridges.

I just want to wrap up. I think we all want to do what is right here. Just simply, I was listening to Appropriations, I am one of those sad people that actually listens to the Internet sometimes to the various committees. Appropriations had the State Treasurer before them the other day. He was talking about even under the 5 percent rule that the low ceiling we had was up to \$128 million in bonds that we could do. We could actually go as high as \$310 million in bonds. When we talk about our indebtedness, I appreciate the good Majority Leader not being able to support this and speaking to us about how we have lowered our indebtedness.

We are also doing another thing. We are bleeding the highway fund and the general fund again. We are saying this is something we need to stop, however, we are doing it again. Let's talk about the highway fund indebtedness. That is what we are talking about. It was 13 percent when I came to the Legislature. It is 5 percent now. As far as GARVEE, the grant anticipation revenue vehicles, they have been used by over half of our states. Some states have misused them just as other states have misused bonds. They are a good vehicle. They are a vehicle that will provide us the opportunity to pay for this.

I just want to read from a couple of things. The Brookins Institute says using GARVEE for a financial tool to accelerate development and construction of needed projects with the cost of inflation outweighs that of debt costs makes sense. I don't know how people feel about the Brookins Institute, but I decided to go to another group that talks about recommendations for funding our roads. Funding roads and bridges through the broader use of innovation financial mechanisms makes sense. It lists the GARVEE, the state infrastructure banks and others. It goes on to say that innovative financial descriptions are a variety of techniques where money is borrowed to supplement existing tax revenues to build roads. It speaks about the GARVEE. This is actually written by some researchers by the Heritage Foundation. It is not one of the most liberal groups. I think this is something that has been accepted. We have all addressed what the need is. We haven't said that we don't think the roads and bridges need to be done. All this committee has said is that we know what the need is. It is over \$2 billion in our infrastructure needs. We would like to send it to the voters. I hope people will let us move the reconsideration vote and then we can continue this debate I people feel like it.

It is a very important issue and hopefully we will listen to our constituents. Thank you very much.

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

Representative BOWLES: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. With all due respect to my friend and colleague from Portland, Representative Marley, this is not about roads, ladies and gentlemen. This is about trust. A third of you are new to the Legislature. You weren't here in the last several legislature's, in particular the 121st. You never experienced the level of mistrust and distrust that permeated this end of the hall.

When we started this Legislature the Speaker, Representative Cummings, Representative Duplessie, Representative Tardy and myself sat down and we said, what can we do to rebuild trust? What can we do to make this institution function correctly, as it has ceased to function in the last Legislature? We set about trying to repair the damage. One of the ways we did that was, with the Speaker's insistence, to open communication. It was an open door policy that said we can come and talk any time. We can sit down and discuss our differences and try to work towards resolution. That cannot be done without trust.

Many members came to me after the supplemental budget and said how nice it was to once again have a two-thirds budget. That is the way budgets were supposed to be. There was supposed to be compromise. There was supposed to be give and take. Some people who have been in this building for a long time recognized the fact that the lack of two-thirds budgets in recent years have led to the decline of communications and trust in this body. They were happy to see that restored. A part of that restoration was a negotiation that took place over the supplemental budget. Part of that was a commitment on the part of the members of leadership. I don't know and can't speak and wouldn't speak to anything that took place in a democratic caucus in terms of communication. I know clearly what the commitment was that was made by democratic leadership. To their credit, the Speaker, Representative Cummings and Representative Duplessie, Representative Brannigan and several others on the committee have stuck to that commitment and to their word. We didn't think at that time we were negotiating that that we had to go to each and every member of the caucus and ask them if their leadership was speaking for them. We were speaking for our members, because we asked our members what they wanted us to do. We reflected that in our negotiations. I hope your leadership did the same. Regardless, we accepted their word. They are men of honor. They have not betrayed us in the two years that we have dealt with them. We had no reason or expectation to think that they would this time. They have not.

For those of you who are going to move forward into the next Legislature, if you don't reestablish and affirm that bond of trust right now, then you are going to enter into another period like the last Legislature where people are simply not going to be willing to communicate. They are not going to be willing to negotiate. They are not going to be willing to compromise. I will assure you it is not pleasant. I have been through it and it is not pleasant.

Mr. Speaker, I thank you. I thank Representative Cummings and the other members of democratic leadership who have honored their word. I ask my colleagues to honor their word as well. I hope we can put this issue behind us. We have a lot of other issues in the next two days. A number of them are issues that have been negotiated. We need to believe that those negotiations were held in good faith.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Mazurek.

Representative MAZUREK: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I appreciate the fine words that Representative Bowles spoke. The only losers in this whole scenario in this whole great speech that he made are

the citizens of Maine. They are the ones who are going to be driving on the terrible infrastructure that we call our road system. Regardless of how many jobs we have lost, 2,000 or 3,000 jobs, I guess that doesn't matter to many people. Maine's construction industry wages averages around \$33,000 a year. They can find some other work for that.

It costs us, as drivers in the State of Maine, about an extra \$280 to drive on our roads today. The total cost to the citizens of Maine is about \$263 million. Every time we defer a construction project, we are delaying economic development for our communities and for our citizens. We constantly hear that Maine is terrible for business. There is not enough business in Maine. What do we do, we don't help them out by not passing any bond bills so we can keep our goods and services from being moved about.

If you want businesses to operate, you have to give them a chance to do it in a right way. They have to have a road system. You can't expect these truckers to use some of the roads that we are seeing today. We want people to flow back and forth and ideas to flow back and forth. We have to help these people. This \$60 million bond issue is something that we can well afford for the people of Maine. Thank you.

The SPEAKER: The Chair recognizes the Representative from Manchester, Representative Moody.

Representative **MOODY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I appreciate very much the reference to trust. I don't know about anybody else here, but I have tried to keep faith with the people who put me here. My faith does not belong to any political party. I speak for many here who would release the leadership to vote whichever way they wish. Coming down here to run lockstep behind any political leadership is not what I call keeping trust with your constituency. My constituency, much of them, will drive on Route 41 in Mt. Vernon and I cannot let this go by without speaking of that. It is a disaster area. They used to have a van, the Department of Transportation, with all sorts of sensors on it. They would drive over the roads and they would get a sense of whether this road needed repair and what needed to be done, what the condition of it was. That van originally cost them \$800,000. To my knowledge, they don't have that van any longer. Now all you need is a rider and a comfort bag. Thank you.

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

Representative **BURNS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I know that the good Representative from Portland, Representative Marley, wanted to have the last word on this. He clearly didn't get it. I, on the other hand, hope to have the last word on this. It is okay if I don't get it. I had made a commitment to Representative Marley not to speak on this issue, but when the issue of trust came up, like the Representative from Manchester, I felt compelled to speak on this. I appreciate the fact that we with a two-thirds majority voted for a budget. I am grateful for that. I didn't engage in a deal with anybody. I voted with the rest of you for that budget because I felt that we worked hard and we compromised on a really good budget. I didn't engage in any deals. The trust that I have, as the Representative from Manchester, Representative Moody, pointed out, is with my constituents.

There is something very important that I want to share with you. Last year the York County Legislative Delegation met a number of times on the topic of economic development. A major issue, one prompting us to send a letter to the Department of Transportation, was the deteriorating condition of the three major east west corridors in York County that our economy is dependent on, especially during the tourist season because we

want people to come up to our beautiful state and not just visit the coast, but to be able to travel westward as well.

The fact that the York County Delegation unanimously sent a letter to the DOT asking them to tend to our roads, I think is significant. I think it speaks to the trust that we established as a York County Delegation of legislators, Republicans, Democrats from the House and from the Senate. I think as we can plainly hear from representatives across the state that our roads are deteriorating. They are essential to our economy, not just in the sense of creating jobs, but of conducting business. This is truly a business friendly state. Spending money to improve our roads is the right thing to do. I urge you to support this bond. Thank you.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Driscoll.

Representative **DRISCOLL**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I don't have the historical perspective that many of you have that have served in this body for years. However, I do believe there are emergency needs that need to be addressed. I believe our constituents are looking to us to enhance the infrastructure that we currently see failing before us. We live in Maine. We don't live in Florida or Georgia. We can't put a road down and forget about it for 30 years. I was driving on a road through Gardiner and Hallowell the other day. The roadway there looked like a jigsaw puzzle. What they are doing to repair the road is cold patch. Likewise, how can we go and skim coat a road in Maine and expect it to last for any amount of time. People will drive on it for a couple of years and say, isn't this great until it starts heaving again.

A lot of communities probably have experienced or are experiencing the same thing that I have in Westbrook. I saved a letter that I was given from a former Senator who was actually Senate chair of the Transportation Committee about six years ago. That letter states to him that there would be appropriate funding coming from the state as well as from the local pacts to provide a funding mechanism to improve an intersection in Westbrook that is getting worse and worse by the years just because of sprawl and the population increase. That letter was six years old. Today that intersection still hasn't been worked on. There has been some survey work. I think probably most communities can tell stories like that.

When we start failing with respect to keeping up our infrastructure, it does affect business in the state. It certainly concerns me and I certainly support sending this type of issue out to the voters for a vote. I wasn't involved with the discussion with respect to leadership and the budget. I certainly respect the decisions that they made. However, I wasn't involved with that. I certainly support this LD. Thank you.

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

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

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

#### ROLL CALL NO. 527

YEA - Annis, Austin, Bierman, Bishop, Bowen, Bowles, Brannigan, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Cummings, Curley, Curtis, Daigle, Davis G, Davis K, Dudley, Dugay, Duplessie, Duprey, Eder, Edgecomb, Emery, Fischer, Fitts, Fletcher, Flood, Glynn, Hall, Hamper, Hanley B, Hanley S, Hotham, Jodrey, Joy, Kaelin, Lansley, Lerman, Lewin, Lindell, Marean, McFadden, McKane, McKenney, McLeod, Millett, Mills,

Moulton, Muse, Nass, Nutting, Pineau, 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.

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

ABSENT - Berube, Greeley, Jacobsen, Moore G, Ott, Patrick. Yes, 82; No, 63; Absent, 6; Excused, 0.

82 having voted in the affirmative and 63 voted in the negative, with 6 being absent, and accordingly the Minority **Ought to Pass as Amended Report was ACCEPTED.**

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

House Amendment "B" (H-1054) 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 **PASSED TO BE ENGROSSED as Amended by Committee Amendment "B" (H-1037) as Amended by House Amendment "A" (H-1053) and House Amendment "B" (H-1054) thereto and sent for concurrence. ORDERED SENT FORTHWITH.**

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

**SENATE PAPERS  
Non-Concurrent Matter**

Resolve, To Establish a Blue Ribbon Commission on Solid Waste Management (EMERGENCY)

(S.P. 694) (L.D. 1777)  
(C. "A" S-545)

**FINALLY PASSED** in the House on April 6, 2006.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-545) AS AMENDED BY SENATE AMENDMENT "A" (S-623) thereto in NON-CONCURRENCE.**

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

**REPORTS OF COMMITTEE  
Divided Report**

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act To Reform the Income Tax for Middle-income and Lower-income Families"

(S.P. 586) (L.D. 1605)

Signed:

Senator:

COURTNEY of York

Representatives:

HANLEY of Paris

McCORMICK of West Gardiner

WOODBURY of Yarmouth

CLOUGH of Scarborough

PINEAU of Jay  
BIERMAN of Sorrento  
SEAVEY of Kennebunkport

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-618) on same Bill.**

Signed:

Senators:

PERRY of Penobscot

STRIMLING of Cumberland

Representatives:

CLARK of Millinocket

HUTTON of Bowdoinham

WATSON of Bath

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

**READ.**

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

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

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

The **SPEAKER:** 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. 528**

YEA - Annis, Ash, Austin, Babbidge, Barstow, Beaudette, Bierman, Bishop, Blanchard, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Ceбра, Churchill, Clough, Collins, Cressey, Crosby, Crosthwaite, Cummings, Curley, Curtis, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dugay, Dunn, Duplessie, Duprey, Eberle, Edgecomb, Emery, Finch, Fischer, Fisher, Fitts, Fletcher, Flood, Glynn, Goldman, Greeley, Hamper, Hanley B, Hanley S, Harlow, Hotham, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, Marraché, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moulton, Muse, Nass, Nutting, Paradis, Percy, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Saviello, Seavey, Sherman, Shields, Smith N, Stedman, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Vaughan, Webster, Woodbury, Mr. Speaker.

NAY - Adams, Blanchette, Bryant, Burns, Cain, Canavan, Clark, Craven, Dudley, Eder, Faircloth, Farrington, Gerzofsky, Grose, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Mazurek, Moody, Norton, O'Brien, Perry, Rines, Sampson, Schatz, Simpson, Smith W, Twomey, Valentino, Walcott, Watson, Wheeler.

ABSENT - Berube, Hall, Hogan, Jacobsen, Moore G, Ott, Patrick.

Yes, 107; No, 37; Absent, 7; Excused, 0.

107 having voted in the affirmative and 37 voted in the negative, with 7 being absent, and accordingly the Majority **Ought Not to Pass Report was ACCEPTED** in concurrence.

**COMMUNICATIONS**

The Following Communication: (S.C. 645)

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

April 26, 2006

Honorable John Richardson  
Speaker of the House  
2 State House Station  
Augusta, ME 04333-0002

Dear Speaker Richardson:

In accordance with Joint Rule 506 of the 122nd Maine Legislature, please be advised that the Senate today confirmed the following:

Upon the recommendation of the Committee on Agriculture, Conservation and Forestry, the nomination of:

Thomas Qualey of Sherman for appointment to the Board of Pesticides Control;

Steve Schaefer of Grand Lake Stream for appointment to the Land Use Regulation Commission.

Upon the recommendation of the Committee on Education and Cultural Affairs, the nomination of:

Carol A. Epstein of Bangor for appointment to the Maine Community College System Board of Trustees.

Kris Doody-Chabre' of Caribou for appointment to the Maine Community College System Board of Trustees.

Robert P. Clark of Fort Fairfield for appointment to the Maine Community College System Board of Trustees.

John J. Mooney of Harborside for appointment to the Maine Maritime Academy Board of Trustees.

Paul M. Rich of Edgecomb for reappointment to the Maine Maritime Academy Board of Trustees.

Upon the recommendation of the Committee on Health and Human Services, the nomination of:

Brenda M. Harvey of Gardiner for appointment as the Commissioner of the Department of Health and Human Services.

Upon the recommendation of the Committee on Insurance and Financial Services, the nomination of:

Edmund J. McCann of Hallowell for appointment to the Dirigo Health Board of Directors.

Jonathan S.R. Beal of Portland for appointment to the Dirigo Health Board of Directors.

Upon the recommendation of the Committee on Judiciary, the nomination of:

Honorable Andrew M. Mead of Bangor for reappointment as a Superior Court Justice.

Honorable Ann M. Murray of Bangor for reappointment as a District Court Judge.

Honorable John V. Romei of Machias for reappointment as a District Court Judge.

Honorable Andrew M. Horton of Falmouth for reappointment as a District Court Judge.

Honorable John C. Nivison of Winslow for reappointment as a District Court Judge.

Upon the recommendation of the Committee on Legal and Veterans Affairs, the nomination of:

Cushing P. Samp of Saco for appointment to the Gambling Control Board.

A. Mavourneen Thompson of Peaks Island for appointment to the Commission on Governmental Ethics and Election Practices.

Upon the recommendation of the Committee on Natural Resources, the nomination of:

Edith Cronk of Wiscasset for appointment to the Outdoor Heritage Fund Board.

We were also notified by the Joint Standing Committee on Education and Cultural Affairs that the Nomination of Michael D. Pearson of Enfield to the Maine School of Science and Mathematics Board of Trustees was unable to be completed within the statutory period required.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (S.C. 661)

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

April 26, 2006

Honorable Millicent M. MacFarland  
Clerk of the House  
State House Station 2  
Augusta, ME 04333

Dear Clerk MacFarland:

Please be advised the Senate today adhered to its previous action whereby the Majority Ought Not To Pass Report from the Committee on Legal and Veterans Affairs was Accepted in Non-concurrence on Bill "An Act To Extend the Lobbyist Reporting Requirements to Executive Branch Lobbying Activities" (H.P. 1235) (L.D. 1727).

The Senate today also adhered to its previous action whereby Resolve, To Establish the Work Group to Review and Recommend Improvements for the Certificate of Need Program (H.P. 1254 L.D. 1814) was Indefinitely Postponed in Non-concurrence.

The Senate today also adhered to its previous action whereby Resolve, To Ensure Financial Management at the Department of Health and Human Services (S.P.748

L.D.1949) was Indefinitely Postponed in Non-concurrence.

The Senate today also adhered to its previous action whereby Joint Study Order To Establish the Commission To Study Access to Birth Certificates and Medical Records for Adult Adoptees (H.P. 1502) was Indefinitely Postponed in Non-concurrence.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

**READ and ORDERED PLACED ON FILE.**

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**ENACTORS  
Mandate**

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

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House necessary, a total was taken. 125 voted in favor of the same and 4 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**



**Acts**

An Act To Facilitate the Hiring of Health Care Personnel during Emergency Circumstances

(S.P. 783) (L.D. 2036)  
(C. "A" S-615)

An Act To Implement the Recommendations of the Joint Standing Committee on Education and Cultural Affairs Regarding Review of the State Board of Education under the State Government Evaluation Act

(H.P. 1494) (L.D. 2103)  
(H. "A" H-1017)

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

**SENATE PAPERS**

Bill "An Act To Implement Organizational Improvements to the Legislative Youth Advisory Council"

(S.P. 856) (L.D. 2114)

Committee on **EDUCATION AND CULTURAL AFFAIRS** suggested and ordered printed.

Came from the Senate, under suspension of the rules and **WITHOUT REFERENCE** to a Committee, the Bill **READ TWICE** and **PASSED TO BE ENGROSSED.**

Under suspension of the rules, the Bill was given its **FIRST READING WITHOUT REFERENCE** to a committee.

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

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

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

Representative **TRAHAN**: Mr. Speaker, could somebody explain it?

The **SPEAKER**: The Representative from Waldoboro, Representative Trahan has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bangor, Representative Norton.

Representative **NORTON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I believe what has been done here is just simply updating some of the information and some of the report back dates of the Youth Advisory Council. There was a repeal of the requirement of the Department of Education to transfer the \$30,000. I believe there is some grant money going on there too. Part B simplifies the appointment process and it changes the council's reporting requirements from an annual report to the full Legislature to a biennial report to the Legislative Council. I think that is the jest of it.

Under further 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** in concurrence. **ORDERED SENT FORTHWITH.**

**ENACTORS**

**Acts**

An Act To Enhance Maine's Energy Independence and Security

(H.P. 1439) (L.D. 2041)  
(S. "A" S-628 to C. "A" H-1024)

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

**SENATE PAPERS**

**Non-Concurrent Matter**

An Act To Establish a Food Policy for Maine

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

**PASSED TO BE ENACTED** in the House on April 26, 2006.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "B" (S-629)** in **NON-CONCURRENCE.**

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

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

**ORDERS**

On motion of Speaker **RICHARDSON** of Brunswick, the following Joint Resolution: (H.P. 1506) (Cosponsored by President **EDMONDS** of Cumberland and Representatives: **ADAMS** of Portland, **ANNIS** of Dover-Foxcroft, **ASH** of Belfast, **AUSTIN** of Gray, **BABBIDGE** of Kennebunk, **BARSTOW** of Gorham, **BEAUDETTE** of Biddeford, **BERUBE** of Lisbon, **BIERMAN** of Sorrento, **BISHOP** of Boothbay, **BLANCHARD** of Old Town, **BLANCHETTE** of Bangor, **BLISS** of South Portland, **BOWEN** of Rockport, **BOWLES** of Sanford, **BRANNIGAN** of Portland, **BRAUTIGAM** of Falmouth, **BROWN** of South Berwick, **BROWNE** of Vassalboro, **BRYANT** of Windham, **BRYANT-DESCHENES** of Turner, **BURNS** of Berwick, **CAIN** of Orono, **CAMPBELL** of Newfield, **CANAVAN** of Waterville, **CARR** of Lincoln, **CEBRA** of Naples, **CHURCHILL** of Washburn, **CLARK** of Millinocket, **CLOUGH** of Scarborough, **COLLINS** of Wells, **CRAVEN** of Lewiston, **CRESSEY** of Cornish, **CROSBY** of Topsham, **CROSTHWAITE** of Ellsworth, **CUMMINGS** of Portland, **CURLEY** of Scarborough, **CURTIS** of Madison, **DAIGLE** of Arundel, **DAVIS** of Falmouth, **DAVIS** of Augusta, **DRISCOLL** of Westbrook, **DUCHESNE** of Hudson, **DUDLEY** of Portland, **DUGAY** of Cherryfield, **DUNN** of Bangor, **DUPLESSIE** of Westbrook, **DUPREY** of Hampden, **EBERLE** of South Portland, **EDER** of Portland, **EDGECOMB** of Caribou, **EMERY** of Cutler, **FAIRCLOTH** of Bangor, **FARRINGTON** of Gorham, **FINCH** of Fairfield, **FISCHER** of Presque Isle, **FISHER** of Brewer, **FITTS** of Pittsfield, **FLETCHER** of Winslow, **FLOOD** of Winthrop, **GERZOFISKY** of Brunswick, **GLYNN** of South Portland, **GOLDMAN** of Cape Elizabeth, **GREELEY** of Levant, **GROSE** of Woolwich, **HALL** of Holden, **HAMPER** of Oxford, **HANLEY** of Paris, **HANLEY** of Gardiner, **HARLOW** of Portland, **HOGAN** of Old Orchard Beach, **HOTHAM** of Dixfield, **HUTTON** of Bowdoinham, **JACKSON** of Allagash, **JACOBSEN** of Waterboro, **JENNINGS** of Leeds, **JODREY** of Bethel, **JOY** of Crystal, **KAELIN** of Winterport, **KOFFMAN** of Bar Harbor, **LANSLEY** of Sabattus, **LERMAN** of Augusta, **LEWIN** of Eliot, **LINDELL** of Frankfort, **LUNDEEN** of Mars Hill, **MAKAS** of Lewiston, **MAREAN** of Hollis, **MARLEY** of Portland, **MARRACHÉ** of Waterville, **MAZUREK** of Rockland, **McCORMICK** of West Gardiner, **McFADDEN** of Dennysville, **McKANE** of Newcastle, **McKENNEY** of Cumberland, **McLEOD** of Lee, **MERRILL** of Appleton, **MILLER** of Somerville, **MILLETT** of Waterford, **MILLS** of Farmington, **MOODY** of Manchester, **MOORE** of the Passamaquoddy Tribe, **MOORE** of Standish, **MOULTON** of York, **MUSE** of Fryeburg,

NASS of Acton, NORTON of Bangor, NUTTING of Oakland, O'BRIEN of Lewiston, OTT of York, PARADIS of Frenchville, PATRICK of Rumford, PERCY of Phippsburg, PERRY of Calais, PILON of Saco, PINEAU of Jay, PINGREE of North Haven, PINKHAM of Lexington Township, PIOTTI of Unity, PLUMMER of Windham, RECTOR of Thomaston, RICHARDSON of Carmel, RICHARDSON of Greenville, RICHARDSON of Skowhegan, RICHARDSON of Warren, RINES of Wiscasset, ROBINSON of Raymond, ROSEN of Bucksport, SAMPSON of Auburn, SAVIELLO of Wilton, SCHATZ of Blue Hill, SEAVEY of Kennebunkport, SHERMAN of Hodgdon, SHIELDS of Auburn, SIMPSON of Auburn, SMITH of Monmouth, SMITH of Van Buren, SOCKALEXIS of the Penobscot Nation, STEDMAN of Hartland, SYKES of Harrison, TARDY of Newport, THOMAS of Ripley, THOMPSON of China, TRAHAN of Waldoboro, TUTTLE of Sanford, TWOMEY of Biddeford, VALENTINO of Saco, VAUGHAN of Durham, WALCOTT of Lewiston, WATSON of Bath, WEBSTER of Freeport, WHEELER of Kittery, WOODBURY of Yarmouth, Senators: ANDREWS of York, BARTLETT of Cumberland, BRENNAN of Cumberland, BROMLEY of Cumberland, BRYANT of Oxford, CLUKEY of Aroostook, COURTNEY of York, COWGER of Kennebec, DAMON of Hancock, DAVIS of Piscataquis, DIAMOND of Cumberland, DOW of Lincoln, GAGNON of Kennebec, HASTINGS of Oxford, HOBBS of York, MARTIN of Aroostook, MAYO of Sagadahoc, MILLS of Somerset, MITCHELL of Kennebec, NASS of York, NUTTING of Androscoggin, PERRY of Penobscot, PLOWMAN of Penobscot, RAYE of Washington, ROSEN of Hancock, ROTUNDO of Androscoggin, SAVAGE of Knox, SCHNEIDER of Penobscot, SNOWE-MELLO of Androscoggin, STRIMLING of Cumberland, SULLIVAN of York, TURNER of Cumberland, WESTON of Waldo, WOODCOCK of Franklin)

**JOINT RESOLUTION HONORING THE MAINE NATIONAL GUARD**

WHEREAS, patriots from the District of Maine mustered to form a militia to fight for the colonies in the Revolutionary War and for the nation during the War of 1812; and

WHEREAS, the Maine National Guard has proudly served the citizens of Maine during natural disasters such as forest fires, floods and storms and has bravely defended the United States of America during times of war since Maine first entered the Union in 1820, and over the years the highest percentages of volunteers have been Maine people; and

WHEREAS, nearly 2,390 soldiers and airmen of the Maine Army National Guard and the Maine Air National Guard have faithfully answered the call to duty in America's Global War on Terror. At times the State has had a larger percentage of personnel mobilized in support of that mission than any other state in the Union; and

WHEREAS, members of the Maine Army National Guard and the Maine Air National Guard are defending freedom and democracy around the globe, including in Iraq and Afghanistan, where they are playing a vital role in protecting the safety and security of all Americans; and

WHEREAS, the people of Maine have the utmost respect for the members of the Maine Army National Guard and the Maine Air National Guard for putting their lives in danger for the sake of the freedoms enjoyed by all Americans; and

WHEREAS, the people of Maine are appreciative of the countless personal and professional sacrifices that the volunteers of the Maine Army National Guard and the Maine Air National Guard and their families have made in order to protect our freedoms; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-second Legislature now assembled in the Second

Regular Session, on behalf of the people we represent, take this opportunity to express our solidarity with the men and women of the Maine Army National Guard and the Maine Air National Guard and their families; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Adjutant General of the Maine National Guard.

**READ and ADOPTED.**  
Sent for concurrence.

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The SPEAKER: At this time I would like to have General Libby come to the rostrum to address the House of Representatives.

GENERAL LIBBY: Speaker Richardson, I appreciate the opportunity to be here this morning. Let me begin by thanking Representative Harlow for the note he sent down to me that said, "God Bill, smile at least." For those who didn't know, Charlie played too many games at Orono without a helmet when we were back there in the '60s.

The Speaker told me that he didn't tell me that he wanted me to speak this morning, therefore, I would keep it brief. I will, sir.

First of all, let me thank the men and women of the Maine National Guard who are represented up there in the balcony today. I am honored to be the Adjutant General of such a magnificent organization. As we speak this morning, we have troops in Afghanistan, Iraq and in Mississippi waiting to go to Iraq. There are folks in Custer, Diego Garcia and all over the face of the globe representing this state and this nation extremely well as you would expect men and women in the Maine National Guard to do. Let me ask you to join me in recognizing the true heroes of the Maine National Guard, those who are seated in the balcony.

Let me conclude by expressing my appreciation of the House for the support that you have given the guard during this session and the support we got during the last session. You have been magnificent in the response of the pieces of legislation we brought forward to assist our troops in and their families of those who have been deployed. It has been a pleasure to work with the leadership and we certainly appreciate the support you have shown us in this setting and the support that you and the people of the State of Maine have demonstrated at our welcome home ceremonies, our send off ceremonies, our freedom salute campaigns. We are honored and proud to serve you and the nation. Thank you very much.

The SPEAKER: General Libby if you could join me for just a moment. I have for you a copy of the Joint Resolution which we have made copies for all who are here. This embodies our feelings as members of the Legislature about the work that you have done. You are here to guard the State of Maine and the nation. We always want to be there for you. We thank you very much, General, and all the members we served with you for all you have done on behalf of the State of Maine. You have made us very proud. We hope that wherever you go you will remember that we are always with you. Thank you very much.



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

**SENATE PAPERS  
Non-Concurrent Matter**

Resolve, Authorizing the Commissioner of Administrative and Financial Services To Sell or Lease for Veterans' Housing the Interests of the State in Hedin Hall at the Dorothea Dix Psychiatric Center and To Establish a Task Force To Examine Using Stevens School in Hallowell for Veterans' Housing  
(S.P. 765) (L.D. 1984)  
(C. "A" S-480)

**FINALLY PASSED** in the House on March 16, 2006.

Came from the Senate **PASSED TO BE ENGROSSED IN NON-CONCURRENCE.**

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

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

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

Representative **MOULTON**: Thank you Mr. Speaker. As to the nature of the difference between the House version and the Senate, to anyone that wishes to answer.

The **SPEAKER**: The Representative from York, Representative Moulton has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Barstow, Representative Barstow.

Representative **BARSTOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. To answer my good colleague and friend's question, there is no difference in the version that came out of committee. My understanding is that it is in this posture because it was on the Senate table for a certain amount of time. Thank you, Mr. Speaker.

The House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH.**

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

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The House recessed until 2:30 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:

**UNFINISHED BUSINESS**

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

Bill "An Act To Protect Victims of Domestic Violence"

(S.P. 739) (L.D. 1938)

- In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-525).**

**TABLED** - April 12, 2006 (Till Later Today) by Representative **BLANCHETTE** of Bangor.

**PENDING** - **ADOPTION OF HOUSE AMENDMENT "B" (H-990)** to **COMMITTEE AMENDMENT "A" (S-525).**

Subsequently, Representative **TARDY** of Newport **WITHDREW House Amendment "B" (H-990)** to **Committee Amendment "A" (S-525).**

Representative **MILLS** of Farmington **PRESENTED House Amendment "D" (H-1044)** to **Committee Amendment "A" (S-525)**, which was **READ** by the Clerk.

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

Representative **MILLS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. This amendment does a couple of things. It addresses some of the concerns raised in debate last week concerning a previous amendment to this bill. It addresses the concerns to the Criminal Justice Academy. The amendment is directed to Title 25, which is the public safety statute and not to Title 19-A, which includes the domestic violence provisions and the provisions for obtaining a protective order.

The proposed amendment requires the Criminal Justice Academy to provide training to law enforcement officers regarding the proper handling, storage, safe keeping and return of firearms and accessories that are received pursuant to a temporary or "so-called" permanent protection order. These are firearms that are received. They are not confiscated as evidence, but they are received pursuant to a temporary order. They are not firearms that have been used in any crime.

So, to address some of the concerns relating to custody and safekeeping of those firearms, this requires the academy to do training. It also requires the academy to consult with a statewide organization involving domestic abuse victims, such as the coalition we are familiar with and an organization having statewide membership representing the interests of firearms owners.

Thirdly, the amendment requires law enforcement officers and agencies to exercise reasonable care to avoid loss, damage or reduction in the value of any firearms taken pursuant to these involuntary court orders. Firearms, again, are not evidence, and does not allow such a firearm to be permanently marked or test fired unless there is suspicion that the firearm has been used in the commission of a crime. It states that any liability for damage or reduction of value is governed by the Maine Tort Claims Act. I think we discussed that on the record last week.

Ladies and gentlemen, I would ask for a roll call.

The same Representative **REQUESTED** a roll call on the motion to **ADOPT House Amendment "D" (H-1044)** to **Committee Amendment "A" (S-525).**

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

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

Representative **BLANCHETTE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I stand here to ask you to defeat this amendment that was offered by the good Representative Mills from Farmington. It is not because I believe for one minute, I know she had the best interests of everybody involved at heart when she presented this and wanted to may be put to rest some of the people's uneasy feelings that law enforcement, in fact, around the state was disregarding the care of people's firearms when they were confiscated for domestic violence issues. The thought of this was very, very troubling to myself and any number of members of this House to think that that is happening.

I talked to a lot of the chief's of police that have been in our hallways the last couple of weeks. I called the Sheriff's Department. I have called a different number of people to find out if, in fact, there has been a reoccurring problem of damage

and discussion to weapons that have been confiscated. There has not been a problem. In fact, some of my law enforcement officials were highly offended to think that we are questioning their ability to do their job that they are trained on. I said that there is an answer to this. I picked up the phone and I called John Rogers who is the Director of the Criminal Justice Academy where all law enforcement officers are trained in this state. I asked if there was, in fact, a program. He said, "Representative Blanchette, in the basic program of law enforcement that is done at the state level, there are on the books now eight hours of classroom training in how to handle confiscated guns, weapons and evidence. Once that eight hours in the classroom is completed, then they move on to an additional eight hours of training in federal law for confiscation of weapons and evidence that is seized by the police."

This is already covered in your basic law enforcement training at the Maine Criminal Justice Academy. I also pursued the fact that if we have some officers either in our local municipal governments, our sheriff's departments that had not received this training at the Maine Criminal Justice Academy and would have to be refreshed on this, what the cost would be. They would need to develop a program that could be accessed online from any municipality that has access to a PC. The cost to develop this program would be \$30,000. Mr. Rogers informed me that they do not have an additional \$30,000 in their training budget that they could put this training packet together. This, in fact, would have to be passed on to any and all municipalities that had to avail themselves of this service. I guess I have to use the dreaded "m" word, mandate and unfunded mandate is even more dreaded. None of us want to pass on additional costs to any of our towns and counties.

I am asking you to really consider with 16 hours of already mandated training at the Vassalboro Police Academy, which is run by the State of Maine, do we need additional training in the confiscation of firearms that are seized in the event of a domestic violence incident?

There have been no problems. In fact, if you want to check with your local police departments, sheriffs, constables or maybe you live on the border, then check with the Royal Canadian Mounted Police, most of your firearms collectors to a great degree are law enforcement officials themselves. Why would they take a gun that is an heirloom, open the closet door and throw it in the bottom of the closet and leave it there. It doesn't make sense. They are responsible for that. If it is evidence, then it has to be presented in court and it has to be presented in the manner in the way it was received. We are putting an amendment on a bill that doesn't need to be there, that is already enacted in every class at the police academy.

I checked with my Chief of Police in Bangor because we are one of the larger municipalities in the town. I have 75 trained police officers. If, in fact, some of them got their training, they would have to be certified in Maine anyway, but they hadn't received this course at the academy. It is \$50 for everyone to go down to the academy, plus the time and a half for his replacement while he is at the academy, which amounts to about \$50 an hour that the city or the municipality has to pay. They have to pay for him to go to have the training. They also have to pay for a replacement if, in fact, it is one of the patrol officers, that is on duty that day that the training roster comes out.

I urge you to defeat this, although, well intentioned, it is another unnecessary amendment to a bill that came out of the committee that looked at this, studied it, had nobody speak against it. It came out unanimous out of my committee. I would urge you to vote to defeat this amendment. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Monmouth, Representative Smith.

Representative SMITH: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would ask that you support the pending motion, with all due respect to the Chair of the committee. I appreciate her work in the process to get us to this process. I believe the amendment is thoughtful and well written. Most importantly, it is placed appropriately in law to accomplish the goal that was set out. I think it is a huge improvement over the previous amendment. I ask you to vote for it. Thank you.

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

Representative SIMPSON: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise today to oppose the pending motion. I don't know if it is a good idea or a bad idea. I oppose it because the conversation we have here today is about guns. The original bill was "An Act to Protect Victims of Domestic Violence." Instead of having a conversation about domestic violence, we are talking about guns. The other day we had silent witnesses in our hallway. Perhaps some of you didn't stop to read them, but I did so I will share this information. I oppose the pending motion on behalf of these women. Evelyn Bailiss, 72, who was shot in bed. Linda Grindell, 39, shot five times, leaving behind three children. Kimberly Palmer, 29, leaving a four year old son. She was shot two times in the head. Sandra McCormick, 32 in 1995, shortly after confiding in her sister that she was leaving her abusive relationship, she was shot in the back of her head while folding laundry, leaving behind a four year old son. Carol Cross, Lewiston, while accompanied by the police to collect her children and her things, was shot in front of her children and then their father killed himself also in front of those children.

This is a very serious issue. It is not about guns. It is about safety and women and domestic violence. It is very disturbing that the conversation in the room and what people are hearing about is how we are going to protect guns and not about protecting women and children.

The SPEAKER: A roll call has been ordered. The pending question before the House is adoption of House Amendment "D" (H-1044) to Committee Amendment "A" (S-525). All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 529

YEA - Annis, Austin, Babbidge, Barstow, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clark, Clough, Collins, Cressey, Crosby, Crosthwaite, Curley, Curtis, Daigle, Davis G, Driscoll, Duchesne, Dugay, Duplessie, Duprey, Edgecomb, Emery, Faircloth, Farrington, Finch, Fischer, Fisher, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hanley S, Hotham, Jackson, Jennings, Jodrey, Joy, Kaelin, Lewin, Lindell, Lundeen, Marean, Marraché, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Millett, Mills, Moore G, Moulton, Muse, Nass, Nutting, Paradis, Patrick, Perry, Pinkham, Piotti, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Rines, Robinson, Rosen, Sampson, Saviello, Sherman, Shields, Smith N, Stedman, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Vaughan.

NAY - Adams, Ash, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Craven, Cummings, Davis K, Dudley, Dunn, Eberle, Eder, Gerzofsky, Goldman, Grose, Harlow, Hogan, Hutton, Koffman, Lerman, Makas, Marley, Mazurek, Miller, Moody, Norton, O'Brien, Percy, Pilon, Pineau, Pingree, Plummer, Schatz, Seavey, Simpson,

Smith W, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Mr. Speaker.

ABSENT - Berube, Jacobsen, Lansley, Ott, Woodbury.

Yes, 96; No, 50; Absent, 5; Excused, 0.

96 having voted in the affirmative and 50 voted in the negative, with 5 being absent, and accordingly **House Amendment "D" (H-1044) to Committee Amendment "A" (S-525) was ADOPTED.**

**Committee Amendment "A" (S-525) as Amended by House Amendment "D" (H-1044) thereto was ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-525) as Amended by House Amendment "D" (H-1044) thereto in NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH.**

## REPORTS OF COMMITTEE

### Divided Report

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "C" (H-1058)** on Bill "An Act To Create Mandatory Minimum Sentences for Persons Convicted of Certain Sex Offenses against Victims under 12 Years of Age" (H.P. 1224) (L.D. 1717)

Signed:

Senator:

NUTTING of Androscoggin

Representatives:

BLANCHETTE of Bangor  
HANLEY of Gardiner  
CHURCHILL of Washburn  
GERZOFISKY of Brunswick  
SYKES of Harrison  
GROSE of Woolwich  
PLUMMER of Windham  
GREELEY of Levant  
PARADIS of Frenchville

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "D" (H-1059)** on same Bill.

Signed:

Senators:

DIAMOND of Cumberland  
CLUKEY of Aroostook

Representative:

DAVIS of Augusta

### READ.

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

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

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

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

Representative **DAVIS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. It has been a couple months since I have been waiting to do this. Wow, this

has been quite a lesson for me, the last couple months. I think I would rather give childbirth all over again to six kids than to produce a single bill here. The bill before you, in my opinion, is woefully lacking in what needs to be done to protect our children. I want to start by saying that everyone on the Criminal Justice Committee and all of you who have read endless papers of data and statistics and testimony, we all really do want to do the right thing. We all just come to it from a different point in our lives and with different opinions.

The bill before you is a diversion from the original bill, which we all consider as "Jessica's Law." This is not LD 1717. I want you to look closely at the bill. Although it bears the number of LD 1717, it has no reference to the original context intended by its sponsors. It bears not the slightest resemblance to the legislation commonly referred to as "Jessica's Law," of which was the intent.

The Majority Report, the report that is in front of you, was inspired by, crafted by and written for the benefit of the DA's Office. We have for far too long allowed the departments of state government to influence and dictate the course of legislation. This is a prime example. It was intended to throw you a bone, to give you the impression that we are addressing this very serious epidemic of child sexual abuse and exploitation. This legislation does not accomplish what is necessary to protect our children, nor does it implement changes suggested by three studies commissioned by the CEO of the State of Maine during the 118th, 119th and 120th Legislatures.

The only way to stop pedophiles from further sexually abusing our children is simple. As hard as it is, it is simple. You must remove them from the environment that tempts them. This is a fact that some have chosen to ignore. Pedophilia is a constant. There are no cures. There is no therapy. There is no silver bullet. For the past 20 years we have done nothing more than to pick at a scab at this very serious infection that has spread throughout our society.

This version of 1717 simply scrambles a few existing words in our law books. It rearranges the decks on the Titanic, if you will, but does nothing to stop the sinking ship. This version of 1717 is nothing more than the sound and fury of signifying nothing. If we accept the specious arguments used to defend this bill, then we are conceding to defeat with no help of protecting the children of the State of Maine.

What this bill is in its present form is a rouse. It is a well organized, well orchestrated professionally crafted rouse. We can and should do a whole lot better. Please don't accept the status quo. Press red and defeat this motion so that we can move on to more substantial legislation that will make a real difference. Remember, those who expect nothing will not be disappointed.

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. I commend Representative Davis, because I do believe she is sincere and thoughtful in the viewpoint that she espouses, but I do strongly disagree and want to explain why. I rise because I served as House Chair of the Commission to Improve Community Safety and Sex Offender Accountability known as the Sex Crime Commission. Our recommendations became law in 2004.

Fellow members of the House, we are faced with a choice to be blunt. One, be perceived as protecting children by supporting the Minority Report, the original "Jessica's Law" or two, to actually protect children by taking the reasonable step set forth in the Majority Report.

I respect the good intentions of all those who supported the original "Jessica's Law," but the hard reality is it would be bad for children.

I hold up a white flyer that was in support of the original "Jessica's Law." It states that Maine has the eighth weakest penalty range of all states regarding sex crimes against children under age 12. I am very familiar with this statistic. I am familiar with this statistic because I wrote it. It was, I repeat, it was an accurate statistic when it was placed into the report of the commission in early 2004. However, as chair of the commission, I personally proposed a major increase in penalty ranges for sex crimes involving victims under 12 years of age. The committee, which included representatives from law enforcement, prosecutors and judges uniting behind this proposal based on a targeted approach and a careful analysis of the statistics. We won and it is the law. Therefore, the statistic about Maine having the eighth weakest penalty range is obsolete as of September 2004.

The general neglect of and ignorance of this fact illustrates that the work of the Sex Crime Commission is almost entirely forgotten amidst the "Jessica's Law" debate even though "Jessica's Law" pertains to sex crimes against children under 12. It is the exact issue our Sex Crime Commission addressed. The fact that the Sex Crime Commission is forgotten is entirely understandable. The Sex Crime Commission wasn't discussed daily on Bill O'Reilly. Indeed our commission's report was never discussed on Bill O'Reilly. For that matter, our Sex Crime Commission wasn't in the media much at all, even here in the State of Maine. All our Sex Crime Commission did was quietly, meticulously and unanimously propose laws to better protect Maine children from perverts. Those proposals became law. I submit to the members of the House that this quiet little known result may be slightly more beneficial to Maine children than the bilious benighted bloating of Bill O'Reilly.

Kennebec County District Attorney Kelly wrote me on March 21 regarding "Jessica's Law" in the commission report. Alan Kelly happens to be a Republican and Alan Kelly is the most experienced child molestation prosecutor in Maine. Alan Kelly states that the results of the Sex Crime Commission's work in statute less than two years has led to "significant improvement" in penalties for perverts who abuse children under 12. This improvement became law less than two years ago. The deputy DA states "these changes should be given the chance to become fully implemented before we fly to ill conceived and counter productive changes like the O'Reilly version of "Jessica's Law."

Let me assure Representative Davis that I passionately share and commend her for her concern for child protection. That goal has been a goal of mine for many years. I would, however, without hesitation support the O'Reilly version of the "Jessica's Law" if it protected children. I have been willing in the past to take those kinds of stands even when sometimes I have to clash with some members of my own caucus. However, the problem with the O'Reilly version of "Jessica's Law" is it would not protect children. If the original version were to pass, many perverts would escape a deserved gross sexual assault conviction because prosecutors acting in the best interest of children and wanting some conviction on the record will allow molesters of young children to plead to a lesser charge.

I am voting with Republican prosecutor Alan Kelly to reject the O'Reilly version. Indeed I am voting with all the prosecutors in Maine on this issue to support the Majority Report. I thank the members of the House.

The SPEAKER: The Chair recognizes the Representative from Standish, Representative Moore.

Representative **MOORE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am pleased to rise in support of Representative Davis's suggestion that this matter be defeated. I don't know what O'Reilly says, but I know what the people of Standish say. The penalties for these savage crimes must be severe and they must be definite. O'Reilly, who knows? Standish people want these savage criminals punished and they want them punished hard. They don't care what Stephanie Anderson says or any other Republican or Democrat District Attorney. They care about the kids and the savage crimes that are being waged against them. I hope we do what Representative Davis has suggested. Send these savage people where they belong for a long, long time. Thank you.

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

Representative **TRAHAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. It seems that this debate has become a litmus test on who wants to be tougher on pedophiles, the folks on the radio or the folks in this Legislature. It is unfortunate that it has come to the place that it has. I believe everyone in this chamber and in the other chamber wants to get tough on pedophiles.

The problem that I have, ladies and gentlemen, with the original 1717 is that it really asks this chamber to ignore professionals that deal with these types of cases everyday. It asks us to ignore the victim advocate groups that are out there and advocating every single day for the victims of sexual violence. It is asking us to ignore that and go with our emotions and make a statement that we are somehow so offended that we are going to vote for a bill that could do harm to our current system.

Ladies and gentlemen, I think that the folks who are out there saying that they are advocating for a minimum of 25 years, for me personally, are soft on pedophiles. What I would do personally would be far worse than the 25 years. We live in a different world. We live in a world where we have to abide by the judicial process. We have to abide by our laws and what has happened in the past. It is not practical in this case to do what the advocates of the original 1717 wanted. We have to work within our current system. We have to live within our civility. I know I wouldn't be civil with these people. We have to be thoughtful in what we do here. The amendment that you have before you, the Majority Report, is a civil approach to lengthening sentences on these offenses. We were told in our caucus that it is most likely that this law will lead to the doubling of sentences. It has lifetime probation, supervised with electronic devices. That is a lot tougher than what we have in current law. It puts into statute language that if a victim is under the age of 12, it is a factor in sentencing and it should lead to longer sentencing. That is reasonable. It isn't what I would personally like to do, but it works within our current system and it lengthens the time that pedophiles are in jail. That is what I care about.

At this point in time, I am not willing, as a legislator, to ignore the professionals, ignore the victim advocate groups and do something that I feel in my heart and all of my instincts are telling me will harm the victims of this violence. I ask this chamber to be diligence in your patience, wise in your vote, support the Majority Report. In five years if this hasn't led to longer sentences, then I will be an advocate for something tougher, but today is not the day. Thank you.

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

Representative **SYKES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This amended version of LD 1717, in my opinion, is a huge improvement over

the original bill. It, in fact, incorporates the thoughts and suggestions of many individuals and organizations, not just one. I am sure that everybody here has an immediate reaction when they saw a 25 year mandatory minimum. Great. Throw them in jail and toss away the key. The emotions raised by this topic, I believe, have caused some to lose sight of the potentially dangerous consequences that may result from the passage of the original bill. By taking our time and involving many individuals, the Criminal Justice and Public Safety Committee has presented to us a bill which will indeed result in more convictions for gross sexual assault with longer sentences, guilty parties taking more responsibility for the crime and most importantly providing greater protection and safety for our children.

The bill establishes a sentence of any number of years. It establishes in that three-tier or three-step sentencing process a base sentence of 20 years. That is where it starts. It can go up and down. The judge has to justify, for good reason, why it goes up or down, depending on the aggravating or mitigating circumstances. That 20-year base is twice what it is now. It keeps the judicial discretion that allows the judge to take a look at the individual cases on a case by case basis.

It also sets a standard of probation for life, which I think is a really important factor here. It is absolutely necessary for this crime. We should never relinquish supervision of these criminals. Violation of that probation for life carries with it a life sentence in jail.

The committee discussed at length the issue of mandatory minimum sentences for this crime. The crime is reprehensible. There is no doubt about that and deserves a serious consequence. As we listen to all of the testimony, it became obvious to me that a mandatory minimum sentence will have been unacceptable, and as I stated, in fact, dangerous consequences. The only minimum sentence available for conviction of that particular crime being at 25 years, they are all going to say, prove it, let's go to trial. In many situations it may not be a strong case. The young victim will have to testify and there may be no physical evidence. It is a very difficult case to prove. As a result of this, there will be fewer convictions and more sex offenders on the streets and those sex offenders are not going to have to register on the sex registry. Imagine the disappointment and disillusionment that a victim of this crime, going to trial and the person is found not guilty, what their feeling is of the Criminal Justice System.

Ladies and gentlemen of the House, I want to be able to put my name on a bill, which will increase the time these perpetrators spend in jail, not on a bill that will result in fewer convictions.

As we debated this bill, it again became obvious to me that there was a lot of discussion about the rights of the victims. They have a right to know that an appropriate jail sentence will be given for those convictions.

I don't know if you folks know this or not, but this is National Crime Victims Week. This past Sunday I had an opportunity to speak before an organization that I hope will never, ever gain another member. It was a Maine Chapter of the Parents of Murdered Children who sponsored a recognition week for the National Crime Victims Week.

Maine has come a long way in recognizing and supporting the victims of crime. This Legislature and previous Legislatures have passed a lot of laws and put them on the books. We now have a Victim's Compensation Fund to provide financial aid to victims. Victims must be notified of any plea agreement offered. By law, they must be notified of the time and place of the trial. They have the right to make a statement prior to sentencing. They must be notified of the final disposition of the charges. They have the right to privileged communications with a victim advocate. They

must be notified of a pending release of a defendant. They must be notified of early termination of probation. They have the right to participate in the Victim Support Program. The Attorney General's Office and the District Attorney's work very closely with the victims as the case proceeds through the court system. I understand our system is not perfect, but it is a much improved one. The ultimate right of the victim is not a piece of legislation passed by this body. It is not a Governor's Proclamation. It is not a judge's decision. The ultimate right of a victim must be nurtured, protected, encouraged and enhanced by every person and agency in our criminal justice system and every person in our governmental structure.

The amended version of LD 1717 before us today will result in more convictions, longer sentences, the guilty party will be encouraged to take more responsibility for their crime and convicted persons will remain under the supervision of the Department of Corrections for the rest of their life and all of this is an improvement to the system. This bill will enhance the ultimate right of a victim of a crime. The ultimate right of a victim is trust.

They have the right to trust that the Criminal Justice System will do the best job it can to see that justice is done. This bill, the amended version of LD 1717 will enhance that trust. I urge you to support this amended version. Thank you.

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

Representative DAVIS: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I just want to make a point that someone indicated that perhaps the sentences under the Majority Report will be doubled. That would be great if we were giving average sentences of 10, 15 or 20 years. Fifty-seven percent of the sentences that someone served for a conviction of gross sexual assault in our corrections system in the last four years including 2005, the average sentence, 57 percent of those serving time in jail for gross sexual assault served three to five years.

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 want to direct you to the original bill on LD 1717 and I want you to see who reported this bill out of committee. This is not Bill O'Reilly's bill. This is not the media's bill. This name came out under Representative Blanchette as chair of the Criminal Justice and Public Safety Committee. This was the result of many hours of deliberation and work by the committee that was enacted by the Maine State House as the one that oversees criminal justice and public safety and reviews the laws that we pass on. That the District Attorneys that I have to point out because everybody seems to think that they control us instead of us controlling them. They are elected by the very people that elected you to this House of Representatives. If they are not doing their job and you think they are plea bargaining them and you think they are just taking the easy way out, then why did you bother to vote for them in your district? There is somebody out there that would be a little harder on them. They are going to encourage a body much like this one to pass mandatory minimums. I've got a news flash for you. It is probably a great idea, because once we see the sentence and once there is no bargaining room within this and somebody is convicted of it, we don't need a judge on the bench. Let's hire a clerk for \$25,000 a year and tell that person to dispense the sentence that we have ordered them to irregardless of the information that is presented to the court. They don't care. The Legislature said that you were arrested and found guilty, you are going.

How many children are you going to destroy in that very vote that says 25 minimum? Don't argue on this. I have read every piece of paper that has come across my desk, good, bad and indifferent on this law. We took it off the table. It was tabled unassigned, much to the dismay of everyone. We committed it yesterday back to committee. My committee met on this and we had a good healthy discussion on this. For some reason, nine people in this House and one Senator came out with the same decision that we needed to amend this bill to put in the 20 year sentences and if the judge deviated from that, the judge at that point in time had to justify the deviation from the law.

I reminded a lot of our committee members when we were talking, because our committee does a lot of talking and we swap ideas back and forth and we are not so rigidly controlled that nobody is afraid to speak their mind.

We were talking about what would happen in a courtroom and a seven year old child has been grossly sexually assaulted to the point where this child had to be hospitalized because this was a 350 pound man that sexually assaulted this child. We have gone through the trauma and we have gone through the grossness of the hospital stay, people talking to this child and we want this pedophile locked up. The child has to testify at one point or another. The judge can, and they do, on recommendations from district attorneys, psychiatrists, witness advocates decide that the child could not stand up against the riggers of cross examination in a courtroom. The judge can have it videotaped. That is fine. They are in the judge's chamber, but that pedophile under the laws in the Constitution of the United States has a right to be there. This child is going to have to look this pedophile in the face again and try to forget the horror that happened.

When you are dealing with pedophiles and you are dealing with gross sexual assault, it is not only the act of the violation itself, it is the horror and the intimidation that goes along with it. The thought crossed my mind that if someone was going to face 25 years, lifetime probation, throw away the key, put them shackles, what is the incentive. You are raping a seven year old child that weighs 65 pounds. You have them down. You are in complete control. Why do you want to leave them alive? Think about it. I want you to picture that child as your own, as your grandchild. This is exactly what can and probably will happen if people know that they are going to get this book thrown at them when they walk through the court, not because the judge said this is what should happen, this is what the Legislature in the State of Maine, we are by statute a citizen Legislature. We are not judges. We do get pulled in on jury duty and some of us don't like it, but you have to do it anyway.

We hire the best. We interview. We cross examine. We know more about these judges that are sitting on the bench and their personal life and their personal beliefs by the time that they stand and get sworn in in a swearing in ceremony on the second floor, probably than their family does. The committee or jurisdiction will demand that. What point of this are we going to stop questioning the judicial system that has worked for as long as their country has been around and decide that we, all of us, as citizen legislators working with a very, very, very emotional issue, know better than the judges and the district attorneys or anyone else, the victim witness advocate that has held that child on their lap trying to get some coherent testimony out of them because this child is traumatized.

This amendment to this bill puts some teeth into locking up sexual predators. My committee voted 10 to 3. These people don't take their obligations lightly. We asked the hard questions. We got the hard answers. We disagreed and then we disagreed

some more. We took a vote and we came out 10 to 3 Ought to Pass with this amendment.

Ladies and gentlemen, I implore you to put this through. Pass the Majority Ought to Pass as Amended Report. Let's do what is right for the children and the families out there that depend on us to not only pass the laws, but to make sure they are fair. They are just and they can be enforced with as little pain to the victim as possible. LD 1717 as amended will do that. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Davis.

Representative DAVIS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am going to be supporting the Representative from Augusta, Representative Davis, with her amendment. I think society wants us to crack down on these savages that commit these crimes. I think we are hearing this if we talk to our constituents. Where there is a will there is a way. This may just be the beginning, but it is time to do it. It also seems that when they let these people out of prison, they congregate in the same place. It is mostly the cities. I understand Augusta has their share and certainly other communities there. I will be voting for the original amendment. 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. Representative Davis raised a statistic about gross sexual assaults over the course of the past four years. Again, I commend her in her thoughtfulness on these issues. I am not one of those who thinks we should ignore statistics. I think we should listen carefully to them and try to use them in a way that guides our public policy intelligently. I would just respectfully point out that if you are looking at gross sexual assault over the past four years, there is two distinguishing points, one, there are many gross sexual assaults that have nothing to do with any version of this legislation. We are only talking about those where the victim is under 12, whether it is the Majority Report, the Minority Report or what the commission addressed and what went into law in September 2004.

That leads me to my next point. If you are looking at the past four years, you would have to look only the last year and a half to analyze the effectiveness of the commission report and what came into law in September 2004. What we are hearing from prosecutors is that these are being significantly utilized and that they are indeed helping with enhancement of penalties over this last rather short period of time the last year and a half.

I listened to them, not because I accept the prosecutor's statements as blanket truth, but because I have worked closely with, for example, Deputy District Attorney Alan Kelley. He is a very thoughtful, sincere person who cares deeply about these issues he wants very, very much to see enhanced time in jail for these perpetrators against children under 12. What he is telling us is that law that went into place in September 2004 is working. Now, thanks to the large majority, bipartisan majority, of the Criminal Justice Committee we have an excellent proposal that will do even more in that respect.

I just wanted to point out that we are headed in the right direction and the Majority Report enhances a thoughtful proposal that went into law, a very recent time ago. With those combined efforts we will see and have seen, significant increases in penalties for molesters of our youngest children.



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

Representative **PLUMMER**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. As a member of the Criminal Justice Committee and on the Majority Report, I strongly support the amended version of LD 1717 that has been put before us. When I first heard about the original bill with the mandatory minimum sentences, I thought this was something that I would support, getting tough on perpetrators. I then took the time to learn about what the mandatory minimum sentences would do. At the public hearing, the testimony was overwhelmingly against mandatory minimum sentences. The intent of the mandatory minimums was to send people who commit gross sexual assaults against children under 12 to prison for a minimum of 25 years. I agree with the good Representative who said that 25 years is not enough for people who commit these crimes. In reality, if the mandatory minimums become law, most of these offenders will spend no time behind bars and also would not be listed on the sex offender registry. The reasons are very straight forward. When a child is a victim of sexual assault, there is rarely another witness to the crime. The child does not normally inform anyone until long after the assault. By that time, there is no physical evidence for the police to collect. The only witness left to testify is the child themselves. Younger children are easily confused on the witness stand and also have a difficult time expressing exactly what was done to them.

I agree that when a person is tried and convicted of gross sexual assault, they should be sent away for a long period of time. However, nearly all of the people sent to prison for gross sexual assault against a child are there as a result of a plea agreement.

I have never particularly liked plea agreements. In a sense, it is conflicting for me to stand here and support them today. The only reason that I do favor them is that I am very sure without them there would be very few convictions for gross sexual assault against young children. This would mean that these perpetrators could offend over and over again and suffer no punishment. This would result in more victims. In the end, I determined that I could not support a law that would do that.

Fortunately we were given another chance in committee to review this. We hammered out the bill that was presented to you today, a bill that I very much support.

I also did independent research on this. Unlike some of my good friends, I do care what the district attorneys say. I spent a great deal of time talking with Cumberland County District Attorney Anderson. She says that this bill would actually lead to fewer convictions in child sex cases. Children sometimes aren't capable of testifying in rape cases. Victims often favor plea agreements because it spares the trauma of a trial. I also talked with District Attorney Anderson about a case that she recently had come before her. The victim was actually 12 years old, but the assault had happened earlier. The victim was very composed and the District Attorney's Office made the decision that this victim would be able to present a good case. In fact, according to the Cumberland County District Attorney, this victim did an excellent job on the stand, but the defendant was acquitted. She surveyed the jury and found that they did believe the victim and they didn't believe the defendant, but they would not convict on the child's word against the defendant. That is the case that we would set up over and over again with a mandatory minimum sentence.

I have received many calls and e-mails as I expect many of you have. One individual stated that many, many states have passed similar legislation and asked why the Maine Legislature

has not done what all of these other states have one. This was several weeks ago when I did the research, but I went online and found out that there were other states. At that time the states were Louisiana, Arizona and, of course, Florida. I have been advised that other states since that time have newly passed laws. Those were the only three states. The way the talk shows were playing this up, I thought I would find at least half of the states had passed mandatory minimums. That was not the case.

People who support mandatory minimums say this is being tough on criminals. The mandatory minimums would allow offenders to walk away. This is not being tough. It would result in fewer convictions and fewer incarcerations. I believe that is why the majority of the committee originally supported Ought Not to Pass and why we were able to go back and turn this around into a bill that the majority of the committee could support.

Remember, there is no support among Maine's district attorneys for the 16 counties in Maine or among the victim's advocates or among the prosecutors for mandatory minimum sentences.

I will conclude by telling you what I took away from my conversations with District Attorney Stephanie Anderson. A vote to pass mandatory minimums is a vote to allow child molesters to go free and molest over and over again. It will not protect children. I urge you to support the amended version of LD 1717. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Raymond, Representative Robinson.

Representative **ROBINSON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I first want to say I appreciate all the work the committee and those individuals involved in this have put into this. It is a terrible heinous issue and crime that I think a lot of our communities may hit an awful lot closer than we all want to admit. I just want to take a moment to be a voice for a family in Raymond whose life was turned upside down last fall. They went through the process. Their 10 year old young son was assaulted in his home with his older sister in the house. They went through the process. The family wanted to take this to court. The young boy was willing to testify. The district attorney and the lawyers involved plea bargained the case. They plea bargained to three counts of gross sexual assault against a minor. That plea bargain was for eight years. The judge took off one year because the individual, this was last September, had owned his crime, reduced the sentence to seven years and this predator who came into this family's house and assaulted a 10 year old boy will be eligible for parole in five years.

This family came to me and said they have lost faith in the DAs and lost faith in the judges and wanted to see the Legislature, the lawmakers, do something about this. I appreciate the work that the committee has done. I appreciate all the work that has been involved, however, we are still leaving it in the hands of the individuals who gave a predator who plead guilty to three counts of gross sexual assault, essentially five years in jail. We are still leaving it in the people's hands that came to that decision, which is why I cannot support the Majority Report. Thank you.

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

Representative **GERZOFSKY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today after serving many years on the Criminal Justice and Public Safety Committee. I was in this House when we passed LD 1903, which was the sentencing law that Representative Faircloth spoke about earlier. That sentencing law went a long way to change some of our sentencing. That needed to be changed.

This bill, 1717 as amended by the committee and I so proudly voted for, changes it again. It gives us what I heard in Criminal Justice and Public Safety Committee, but also in Judiciary yesterday when we were confirming judges, a benchmark that the judges have asked for. That benchmark is 20 years, not five, not 10, but 20. If a judge chooses to go above or below, he is going to be held accountable to put that on record, why. It also gives the judge the authority to go for any amount of time if it is a really horrendous crime. It allows the judge to use the age of the child as a mitigating charge so we can get longer sentences. The sentencing has got to stop here and now. At 25 minimum/maximum sentence, we are going to get nobody in. We are going to lose these cases. We are not going to have these people put on the registry and we are not going to get them behind bars. Giving the judges this benchmark that they have voted for, the DAs have voted for, the victim's groups have voted for, is going to help go down the road where these animals should be. They should be locked up and in our care. They are going to be on lifetime probation so, God forbid, they ever, ever do anything wrong. Not only offending another child, but do anything wrong, they are going to serve out their probation behind bars. Their probation is the rest of their life. You don't get any harder on crime than the rest of their life.

I have heard people talk about seeing who is going to be tough on crime. Let the spin stop here, today and now in this body. Let's be tough on crime. Let's do what the DAs have asked us to do, the judges have asked us, the victims groups have asked us. They have all voted down this phony mandatory minimum 25 year crime sentence. They have all voted for this. Let's give them the tools they need. I have sat in this body and listened to time and time again where we wanted to give our DAs tools. For crying out loud, let's not take a tool away. Let's give them a tool. Let's give them the benchmark that they so desperately need and let's vote for this amendment. Thank you very much.

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

Representative DAVIS: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I just want to clarify that the benchmark that is being proposed at 20 years is already available to them now. A crime of gross sexual assault can bring up to 30 years right now.

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. 530**

YEA - Adams, Annis, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Bowen, Brannigan, Brautigam, Brown R, Browne W, Bryant, Bryant-Deschenes, Burns, Cain, Campbell, Canavan, Carr, Churchill, Clark, Clough, Collins, Craven, Crosby, Cummings, Curtis, Daigle, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Emery, Faircloth, Farrington, Finch, Fischer, Fisher, Flood, Gerzofsky, Goldman, Greeley, Grose, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Jodrey, Kaelin, Koffman, Lerman, Lewin, Lindell, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McFadden, McKenney, Merrill, Miller, Millett, Mills, Moody, Moulton, Nass, Norton, O'Brien, Paradis, Patrick, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Plummer, Rector, Richardson D, Richardson E, Richardson M, Rines, Sampson,

Schatz, Shields, Simpson, Smith N, Smith W, Sykes, Tardy, Thompson, Trahan, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Austin, Bierman, Bishop, Bowles, Cebra, Cressey, Crosthwaite, Curley, Davis G, Davis K, Duprey, Edgecomb, Fitts, Fletcher, Glynn, Hall, Hotham, Joy, Lansley, McCormick, McKane, McLeod, Moore G, Muse, Nutting, Pinkham, Richardson W, Robinson, Rosen, Saviello, Seavey, Sherman, Stedman, Thomas, Vaughan.

ABSENT - Berube, Jacobsen, Ott.

Yes, 113; No, 35; Absent, 3; Excused, 0.

113 having voted in the affirmative and 35 voted in the negative, with 3 being absent, and accordingly the Majority Ought to Pass as Amended Report was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "C" (H-1058) was READ by the Clerk.

Representative DAVIS of Augusta PRESENTED House Amendment "A" (H-1062) to Committee Amendment "C" (H-1058), which was READ by the Clerk.

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

Representative DAVIS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Just simply, the amendment to this bill is the initial 25 year minimum sentence that we had requested on 1717 in its initial form. You are just simply going to vote for "Jessica's Law" or against it. Thank you.

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

Representative BLANCHETTE: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am not going to delay the debate and hopefully not going to cause a whole lot of debate. I am going to ask you to defeat this amendment. This is the 25 year mandatory minimum. We just went through 40 minutes of debate on it. Mr. Speaker, when the vote is taken, could I ask for a roll call please.

Representative BLANCHETTE of Bangor REQUESTED a roll call on the motion to ADOPT House Amendment "A" (H-1062) to Committee Amendment "C" (H-1058).

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-1062) to Committee Amendment "C" (H-1058). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 531**

YEA - Austin, Bierman, Bishop, Bowles, Carr, Cebra, Clark, Collins, Cressey, Crosthwaite, Curley, Davis G, Davis K, Duprey, Edgecomb, Fischer, Fitts, Fletcher, Flood, Glynn, Hall, Hamper, Hotham, Jackson, Joy, Kaelin, Lansley, Lindell, McCormick, McFadden, McKane, McLeod, Millett, Moore G, Muse, Nutting, Patrick, Pinkham, Richardson W, Robinson, Rosen, Saviello, Shields, Stedman, Tardy, Thomas, Tuttle, Vaughan.

NAY - Adams, Annis, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Bowen, Brannigan, Brautigam, Brown R, Browne W, Bryant, Bryant-Deschenes, Burns, Cain, Canavan, Churchill, Clough, Craven, Crosby, Cummings, Curtis, Daigle, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Emery, Faircloth, Farrington, Finch, Fisher, Gerzofsky, Goldman, Greeley, Grose, Hanley B, Hanley S, Harlow, Hogan, Hutton, Jennings, Jodrey, Koffman, Lerman, Lewin, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, Merrill, Miller, Mills, Moody, Moulton, Nass, Norton, O'Brien, Paradis, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Plummer, Rector, Richardson D, Richardson E, Richardson M, Rines, Sampson, Schatz, Seavey, Simpson, Smith N, Smith W, Sykes,



Thompson, Trahan, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

ABSENT - Berube, Campbell, Jacobsen, McKenney, Ott, Sherman.

Yes, 48; No, 97; Absent, 6; Excused, 0.

48 having voted in the affirmative and 97 voted in the negative, with 6 being absent, and accordingly **House Amendment "A" (H-1062) to Committee Amendment "C" (H-1058) FAILED ADOPTION.**

Subsequently, **Committee Amendment "C" (H-1058) was ADOPTED.** The Bill was assigned for **SECOND READING** later in today's session.

### UNFINISHED BUSINESS

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

**SENATE DIVIDED REPORT - Majority (8) Ought to Pass as Amended by Committee Amendment "A" (S-588) - Minority (5) Ought Not to Pass - Committee on TAXATION on Bill "An Act To Strengthen Maine's Craft Brewers"**

(S.P. 792) (L.D. 2048)

- In Senate, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-588).**

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

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

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

Representative **CLOUGH:** Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I spoke on this the last time it was before us. That has been quite a while now. I am going to repeat some of the things I said to keep them fresh in your mind before you vote. When the bill came before the Taxation Committee, we were asked to make a change to the present tax code to provide a credit against excise taxes imposed on alcohol manufactured and sold in Maine by a brewer equal to 17.5 cents a gallon of malt liquor. Also, a tax credit up to 50 percent of the amount of the excise taxes due from the brewer. Also, a reduction of 50 percent the payroll taxes that have been withheld. In other words, provide a credit against the income tax paid by the brewer equal to 50 percent of the payroll taxes withheld.

The reason given for bringing this bill forward was that it was very uncompetitive because of the higher excise tax in the State of Maine for those small brewers that exported product outside the state. During testimony we learned that when you export outside the state, the person buying the product pays the excise tax in the state in which they reside. Maine excise tax does not get involved. I also asked the question to one of the proponents as to if they would get the exemption on all of their products sold or just on the product that was shipped outside the state in excess of what had been shipped in the past. They said they thought that was the way it was. In fact, that is not the way it is. The way it is is they are going to get this exemption on all product from the first case sold.

My problem with this bill is while we are trying to put ourselves in a position of coming up with fair and equitable tax policy for businesses, we continue to carve out special exemptions for certain businesses. That just puts us further and

further away from the point where we can modify our tax code where every business is operating on an equal basis. Once you do it for this business, believe me, next year when the committee convenes, there will be several businesses waiting on the doorstep. I would submit that it is not our responsibility to make a business viable. It is our responsibility to provide a climate, especially a taxation and regulatory climate, where a business can be viable if they have the right business. I would ask you to vote against the pending motion.

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

Representative **CLARK:** Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Time and time again when you go through the state no matter where you go, we are constantly hearing this is a poor place to do business in the State of Maine. I am willing to bend over backwards to keep business here in the State of Maine. The last thing I want to do is see them pack up and go to another state and make their product and ship it back here to the State of Maine if we can do everything possible to help them stay here, I am more than willing to do that. I am constantly hearing it time and time again as you all are. This is an extremely difficult state to do business. What is wrong with bending over and helping some of these people out? Let's keep what small business we have in the State of Maine. Let them sell their products here instead of having to send them out of state and bring them back in the state. I hope when you vote, you vote with the Majority Report. Thank you very much Mr. Speaker.

The **SPEAKER:** The Chair recognizes the Representative from Westbrook, Representative Duplessie.

Representative **DUPLESSIE:** Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would also like to support what Representative Clark just said. We have an opportunity to help out some small Maine businesses that would like to grow here in the State of Maine. They have an opportunity right now to their business brewed outside of Maine. They would like to expand and continue to produce the good quality Maine brews they produce. That is what we need to do. We need to encourage the business climate, small businesses. The State of Maine has 34 breweries. They employ 206 people currently. Just think if we could pass something like this and encourage two or three of those breweries to double their capacity. It could mean 20 or 30 more employees for those businesses. That is all good for the Maine economy.

Those 206 employees in the State of Maine by those 34 breweries in a 2005 study done by Dunneman Associates, there was a total earning of \$7 million. The ripple effect from some of the these breweries in Maine is all positive because then there are more employees employed to deliver the brew to drive the trucks, to work in the warehouse. The ripple effect is positive. This bill has a sunset clause of three years, which will come back to the Legislature to be reviewed. That will tell if the impact is worth keeping it, expanding it or doing away with it. A fair compromise was made in the Taxation Committee for this bill. That is why we have an 8 to 5 report, Ought to Pass. Please support the Majority Report and support Maine's small business to expand. Thank you.

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

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

The SPEAKER: The Chair recognizes the Representative from Sorrento, Representative Bierman.

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

The SPEAKER: The Representative may pose his question.

Representative **BIERMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Should this legislation pass? Would this violate the interstate commerce law?

The SPEAKER: The Representative from Sorrento, Representative Bierman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative **CLARK**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I can't answer that question, but I can tell you one thing. If we pass it, then we will find out.

The SPEAKER: The Chair recognizes the Representative from Kennebunkport, Representative Seavey.

Representative **SEAVEY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I urge you to support the pending motion and pass the bill. I don't think it is much of a special exemption as some have said. We are only talking about excise tax on beer. Not a lot of companies pay that tax. It is really an important jobs bill. It is a manufacturing bill as well. Some of these small breweries can sustain the jobs in the summer employment in the summertime, but come the wintertime, they can't do that. They have to lay off a lot of people and it becomes summer employment. If they can turn around and build their businesses and keep their people working all year long, I think it is important. Many of these small breweries, 30 some odd, any one of these could turn into Anheuser-Busch. I think it is a credit to the State of Maine. I urge you to support the pending motion.

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

Representative **HUTTON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. It is not often that I agree with the good Representative Clough, but in this case I do. We had the small brewers come to us and tell us that they had this problem and that they really needed something to help them grow and boost up the industry. We all voted on this bill. I voted against it, but about a week later the *Portland Press Herald* had an article about craft brew sales hit the best pace in decade. At Gritty McDuffs production rose nearly 30 percent to more than 2,050 gallons. All in all this article basically says that the craft beer industry is doing great. Production is up. They are coming to help us with help in growing their industry. That is well and good. I don't mind giving small businesses a hand, but what they are asking for was pretty expansive. Not to bring up another bill, but if we vote for 2056 this afternoon or tomorrow, we will also be giving them a break on their personal property tax. I urge you to caution when you take this vote and hopefully you will vote no.

Representative **TUTTLE** of Sanford **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 to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 532**

YEA - Adams, Ash, Austin, Babbidge, Barstow, Beaudette, Blanchard, Bliss, Brannigan, Brautigam, Brown R, Burns, Cain, Cebra, Churchill, Clark, Cressey, Crosby, Cummings, Curley,

Davis G, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Emery, Faircloth, Farrington, Fischer, Fitts, Fletcher, Gerzofsky, Glynn, Grose, Hall, Hanley S, Harlow, Hogan, Hotham, Jackson, Jennings, Joy, Koffman, Lansley, Leman, Lindell, Makas, Marean, Marley, McCormick, McFadden, Merrill, Miller, Mills, Moody, Moore G, O'Brien, Paradis, Percy, Pilon, Pineau, Pingree, Pinkham, Piotti, Richardson D, Richardson E, Richardson M, Rines, Robinson, Saviello, Seavey, Sherman, Smith N, Thomas, Thompson, Trahan, Tuttle, Vaughan, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Bierman, Bishop, Blanchette, Bowen, Bowles, Browne W, Bryant, Bryant-Deschenes, Campbell, Canavan, Carr, Clough, Collins, Craven, Crosthwaite, Curtis, Daigle, Finch, Fisher, Flood, Goldman, Greeley, Hamper, Hanley B, Hutton, Jodrey, Kaelin, Lewin, Lundeen, McKane, McKenney, McLeod, Millett, Moulton, Muse, Nass, Norton, Nutting, Patrick, Perry, Plummer, Rector, Richardson W, Rosen, Sampson, Schatz, Shields, Simpson, Smith W, Stedman, Sykes, Tardy, Twomey, Valentino, Walcott.

ABSENT - Berube, Jacobsen, Marraché, Mazurek, Ott.

Yes, 90; No, 56; Absent, 5; Excused, 0.

90 having voted in the affirmative and 56 voted in the negative, with 5 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (S-588) was READ** by the Clerk and **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" (S-588) in concurrence.**

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

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**SENATE PAPERS  
Non-Concurrent Matter**

Bill "An Act To Require the Commission on Governmental Ethics and Election Practices To Produce a Register of All Registered Lobbyists"

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

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-822)** in the House on April 7, 2006.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-822) AS AMENDED BY SENATE AMENDMENT "D" (S-622)** thereto in **NON-CONCURRENCE.**

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

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

**COMMUNICATIONS**

The Following Communication: (H.C. 450)  
**MAINE STATE LEGISLATURE**  
**AUGUSTA, MAINE 04333**

April 18, 2006  
 The Honorable Beth Edmonds  
 President of the Senate  
 The Honorable John Richardson  
 Speaker of the House of Representatives  
 122nd Legislature  
 State House  
 Augusta, ME 04333

Dear Madam President and Mr. Speaker:  
 Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on Agriculture, Conservation and Forestry from the review and evaluation of the Maine Seed Potato Board under the State Government Evaluation Act. In its review, the Committee found that the Board is operating within its statutory authority.

Sincerely,  
 S/Senator John M. Nutting  
 Senate Chair  
 S/Representative John F. Piotti  
 House Chair

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

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

**ENACTORS**

**Emergency Measure**

An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2006-07

(H.P. 1437) (L.D. 2039)  
 (S. "A" S-630 to C. "A" H-952)

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. 106 voted in favor of the same and 12 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

**Emergency Measure**

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

(H.P. 1501) (L.D. 2109)  
 (C. "A" H-1040)

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. 103 voted in favor of the same and 23 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker Pro Tem and sent to the Senate.

**Acts**

An Act To Make Minor Substantive Changes to the Tax Laws  
 (H.P. 1218) (L.D. 1711)  
 (C. "A" H-974)

An Act To Accelerate Private Investment in Maine's Wireless and Broadband Infrastructure  
 (H.P. 1471) (L.D. 2080)  
 (C. "A" H-1018)

An Act To Implement Recommendations Concerning Temporary Guardian and Conservator Laws  
 (H.P. 1475) (L.D. 2087)  
 (C. "A" H-1023)

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; H. "C" H-1042)

An Act Regarding Prepaid Contracts for Heating Fuel  
 (H.P. 1493) (L.D. 2101)  
 (C. "A" H-1025)

An Act To Extend the Alternative Delivery Methods Pilot Program for Certain School Construction Projects  
 (H.P. 1505) (L.D. 2113)

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

**Resolves**

Resolve, Directing the Department of 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)

Resolve, To Extend the Reporting Deadline for the Task Force on Citizenship Education

(H.P. 1504) (L.D. 2112)

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 Amend the Fees for Probate Filings

(S.P. 717) (L.D. 1800)  
 (C. "A" S-617)

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

On motion of Representative FLOOD of Winthrop, was **SET ASIDE**.

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

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

An Act To Issue Certificates of Title for Single-unit Mobile Homes

(H.P. 1457) (L.D. 2061)  
 (C. "A" H-1038)

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

On motion of Representative JOY of Crystal, was **SET ASIDE**.

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

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

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

**ROLL CALL NO. 533**

YEA - Adams, Annis, Ash, Babbidge, Barstow, Beaudette, Bierman, Bishop, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Bryant-Deschenes, Burns, Cain, Campbell, Canavan, Carr, Cebra, Clark, Clough, Collins, Craven, Crosby, Cummings, Curley, Daigle, Davis K, Driscoll, Duchesne, Dugay, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Faircloth, Farrington, Finch, Fischer, Fisher, Fitts, Fletcher, Flood, Glynn, Goldman, Greeley, Grose, Hall, Hanley B, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jodrey, Kaelin, Koffman, Lerman, Lewin, Lundeen, Makas, Marley, Marraché, Mazurek, McCormick, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Moore G, Muse, Nass, Norton, Nutting, O'Brien, Paradis, Patrick, Percy, Perry, Pilon, Pingree, Piotti, Plummer, Rector, Richardson M, Rines, Rosen, Sampson, Saviello, Schatz, Seavey, Simpson, Smith N, Smith W, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Twomey, Valentino, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Austin, Churchill, Cressey, Crosthwaite, Curtis, Emery, Hamper, Joy, Lansley, Lindell, Marean, McFadden, McKane, Moulton, Pinkham, Richardson D, Richardson E, Richardson W, Robinson, Sherman, Shields, Stedman.

ABSENT - Berube, Davis G, Dudley, Gerzofsky, Jacobsen, Jennings, Ott, Pineau.

Yes, 121; No, 22; Absent, 8; Excused, 0.

121 having voted in the affirmative and 22 voted in the negative, with 8 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

An Act to Amend the Laws Governing Home Construction Contracts To Increase Consumer Awareness

(H.P. 1477) (L.D. 2089)  
(C. "A" H-1006)

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

On motion of Representative CROSBY of Topsham, was **SET ASIDE**.

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

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

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

**ROLL CALL NO. 534**

YEA - Adams, Annis, Ash, Austin, Babbidge, Barstow, Beaudette, Bierman, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Burns, Cain, Campbell, Canavan, Cebra, Clark, Clough, Craven, Crosby, Cummings, Curley, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Emery, Faircloth, Farrington, Finch, Fischer, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jodrey, Koffman, Lansley, Lerman, Lewin, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McKane,

McKenney, McLeod, Merrill, Millett, Mills, Moody, Moore G, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Paradis, Patrick, Percy, Perry, Pilon, Pingree, Piotti, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Rines, Robinson, Rosen, Saviello, Schatz, Seavey, Sherman, Shields, Simpson, Smith N, Smith W, Sykes, Tardy, Thompson, Trahan, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Bishop, Bryant-Deschenes, Carr, Churchill, Collins, Cressey, Crosthwaite, Curtis, Hamper, Hanley B, Joy, Kaelin, Lindell, McFadden, Miller, Pinkham, Plummer, Sampson, Stedman, Thomas, Vaughan.

ABSENT - Berube, Fisher, Hall, Jacobsen, Jennings, Ott, Pineau.

Yes, 123; No, 21; Absent, 7; Excused, 0.

123 having voted in the affirmative and 21 voted in the negative, with 7 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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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:

**SENATE PAPERS**  
**Non-Concurrent Matter**

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

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

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (S-437) AS AMENDED BY SENATE AMENDMENT "C" (S-554) AND HOUSE AMENDMENT "I" (H-1051)** thereto in the House on April 26, 2006.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (S-437) AS AMENDED BY SENATE AMENDMENT "C" (S-554)** thereto in **NON-CONCURRENCE**.

Representative BARSTOW of Gorham moved that the House **RECEDE AND CONCUR**.

Representative MERRILL of Appleton **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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 Cummings.

Representative **CUMMINGS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I urge you to defeat the Recede and Concur motion. The Recede and Concur motion says that a 75 day period exists to petition your government that doesn't exist. A good lawyer or a clerk that doesn't have to be in can cannibalize that 75 days almost immediately and it doesn't exist for a true petition against a development project. I urge you to move on from Recede and Concur so that we can go back to the posture we were in yesterday where a reasonable and solid compromise allows a developer to get an early signal of 30 days of when a project is going to be petitioned or not. That is a tremendous step forward for those who would like to invest and get financing. The 75 days does not sufficiently, as it is written, exist for the petitioners in this state and in this country who are granted those rights under the

Constitution. I urge you to vote no on the Recede and Concur motion and let us go back to where we were yesterday.

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 have great respect for my good friend from Portland, but I do rise in disagreement with his opposition to this motion and further with the statement that 75 days is not enough time to take action on this.

Our committee, speaking with stakeholders, towns, clerks, city clerks and municipal officials, have stated to us that 75 days is ample time. Further, I would like to take this opportunity to remind the body that though we are focused on these book ends, the 75 day window after a permit is approved, there is the process, looking prospectively of the hearings that are held on a permit, the opportunity for the public to participate and the opportunity for our elected officials to deliberate on actions of approving a permit to look at whether or not this is proper for their community. This 75 days is not the only 75 days that you are going to be looking at the issue at hand, but rather it is the final process after the permit has been approved with what is already in statute. With respect to the committee's work, the compromise that we have sought on this, and with the understanding that this is a version that the other body finds appealing, I would ask that you support the Recede and Concur motion. Thank you Mr. Speaker.

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. I would ask that you join with the vote that shall be cast by Representative Cummings and such others as myself in opposing the motion that is now on the floor. Without the amendment presented by Representative Cummings, the bill as proposed is full of so many time locks and trip wires as to make an unwary person unable to navigate it wisely, if they are given only the knowledge that they have had of living in their town to date and being able to present what petitions they wish, when they wish, and expecting that the elected representatives of the people will heed them.

Without the amendment now presented to the bill, for the bill by Representative Cummings, we have no such ability to carefully navigate. My own city clerk assures me in writing that unamended the bill would present an opportunity of about actually 20 days for people to actually circulate a petition that would have any chance of succeeding, and not have to gather hundreds of signatures a day, and be something that could be scheduled in a timely way and not cost us a fortune in special elections. Rather than draw out the arguments today, I would merely ask that you join with Representative Cummings and others in rejecting the motion that is now on the floor today, so that we may return to the compromise amendment as presented the other day. Thank you.

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

Representative **MCKANE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am just going to speak briefly. Representative Cumming's amendment is a good amendment. It is a compromise. The way the bill stood the 75 days from the planning board vote was unrealistic. It might as well have been nothing. It was undoable. In Damariscotta it took eight months to get a vote together. Seventy-five days is less than eight months. If we had had that bill, things might be a lot different in Damariscotta right now. I would ask you to at least go along with us. I know the people in my community certainly don't

want the bill as it stands. I am sure the people in your communities when they find out about this bill, because most of them don't know about it, will be very unhappy if it goes through with this simple 75 days as it stands now. I ask you to join with Representative Cummings. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Manchester, Representative Moody.

Representative **MOODY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. In the new spirit of trust that we have been endowed with in the past few days, I wonder if I could ask the Clerk to read the committee report.

Representative **MOODY** of Manchester **REQUESTED** that the Clerk **READ** the Committee Report.

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

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

Representative **TWOMEY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I urge you to vote against this pending motion. This is really all about the people's voice. I have had more e-mails on this. Biddeford and Saco are the towns that have had more referendums on projects and they want to have their voice heard. If we do not do this, then your roll call votes will show it and this is a very, very important issue. It goes to the heart of democracy in allowing people the right to speak. 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. Briefly, this bill came into our committee with strong bi-partisan support and left our committee with strong bi-partisan support. The emphasis of the bill is on balancing competing interests, not to create trip wires as some amendments would endow this measure with. Instead, it focuses not on the book at the beginning, which is where the application stage starts. It focuses on the other book end, which is well past the approval stage. That was the work of the committee to try to balance those interests. The measure that is before you is a modest measure to restore rights that have been taken away by judicial action. Therefore, ladies and gentlemen of the House, I strongly recommend voting in favor of this motion. Thank you Mr. Speaker.

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

Representative **EDER**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. It was with a very heavy heart that I voted for House Amendment "I" yesterday. I believe that the process as it stands works just fine. If there is anything that I learned in my two terms here is that what we do here is compromise. This is about compromise. Amendment "I" is a good sound compromise, as much as I would prefer not to have any change. I would ask you to join me in voting red against the Recede and Concur motion.

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 am going to urge you to vote red and defeat this motion to Recede and Concur for a number of reasons. This is about the David and Goliath of the world. When the homeowner and the resident in your city loses the ability to petition their government to listen to them, then they just don't stand a chance. I served as an elected official in the Town of Bangor for 12 years. I saw the \$5,000 suits and the briefcases and the Gucci shoes come through the door. They are just wielding more power than God himself because they had the bank account to back it up. The one I listened to

was the little old farmer that came in off the farm and he has cow dung on his shoes and he doesn't really smell good, but what they want to do is take his land and develop it so it will never be rural agricultural land again.

Did the council want to listen to this little dirty farmer that came in that was smelling up their newly directed council chambers? No. You know what, we had to. That person meant more in his farm clothes with the dirt on his shoes and smelling up the chamber than anybody who could walk though with their beautifully shined loafers. Please defeat this.

The Representative from Portland, Representative Cummings, is a good compromise that will keep people feeling that they have some power over the David and Goliath syndrome. Thank you.

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

Representative **SCHATZ**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. A couple of weeks ago, maybe it seems longer than that, I got up and indicated that I had voted in favor of this motion as it came out of committee thinking that maybe a legislative closure for municipalities might preserve and prevent some of the stress and strain that takes place when development occurs in a community. As I indicated then, I have reconsidered and I am adamant about trying to defeat this bill. I do also feel that the compromise is a valid one. I think these issues are of a kind and a nature that should be the province of the municipalities. They have governing bodies who are very capable. They may not act as quickly or in the direction that we would always want, but we suffer from that as well. I would, again, strongly encourage your defeating this motion and going to the compromise. Thank you Mr. Speaker.

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

Representative **WALCOTT**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I had a whole week, as we all did, to think about the issues that we have before us in these last few days. I wracked my brain to try to think of why I think this bill is a bad idea. One example I can come up with that I think it is a bad idea. I thought about it. I put a lot of thought in it. I came up with one. I mentioned yesterday about how from time to time we kind of stick with our committees. Those are the things that we kind of focus on. While I was thinking about it, my attention swayed to the Health and Human Services Committee on which I serve, as it inevitably does. I did come up with some thing that this bill would affect from Health and Human Services, a issue that we deal with that I know is important to many people in this chamber. The Health and Human Services Committee has dealt with bills dealing with this issue every year I have been here. At issue is methadone clinics. This bill exempts nothing from the law. If you go back to the original bill, you have 75 days, which approximately is February 11th. I am horrible at math, but it is around there some point. If you got your permit around February 11th, your time is done. The election had to be by today to stop that methadone clinic in your town. That is it. If you didn't make it, you got it.

Under this compromise, the election doesn't have to happen by that 75th day. You have to have the signatures. The builder knows what is going on within 30 days under this amendment. You have to take out the petition by then. You have 75 days. It is a good compromise, 75 days to collect your signatures and then you hold the election. If you don't go with this amendment, if we accept the Recede and Concur motion we go back to 75 days and Rockland, Lewiston and South Paris may end up with their methadone clinics if someone isn't paying attention.

I hate to use the argument of methadone clinics because personally I don't think they are an awful thing. I think drug treatment is important. I know that many people in this body have submitted many bills concerning methadone clinics. Their constituents have issues that they want to discuss. Seventy-five days, February 11th, we were all ready in session and the time period is gone. That is it. You didn't stop it. Two and a half months, too bad, you got it. There is nothing you can do about it forever. You have got it. You have to live with it. If you want to go home in answer to that, go ahead. I am a little nervous myself about that. We were one of the communities that possibly would have had one, as was South Paris and Rockland and other towns that people have submitted bills from. There you go. That is the argument.

February 11th, and if my math is wrong, it is only off by a few days so it is around that. That is it. Your time is up. That is what you get if you vote for the Recede and Concur motion. That is the argument I used. Think about your committees. That is the argument I used. Think about your committees. What in your committee might be affected by this bill? That is what I did. That is the things that I focused on. That is what I came up with, methadone clinics because everybody seems to have a problem with methadone clinics. That is it. If they got their permit on February 11th and you couldn't hold the election by today, you have got it. Not collecting your signatures as this amendment that Representative Cummings put in would say you collected your signatures within that 75 days and took out your application in 30 days. The contractor knows within 30 days, if you don't get that by 30 days then that is it. You have 75 days to collect your signatures.

I tell you right now that if you end up with a methadone clinic in your community and someone was not paying attention to what is going on and that is how you got it and they come to you and say how can we stop this, can you put in a bill, you can answer that I am sorry and I was the one that voted that you only had 75 days. Think about it. There are issues. This is not about the Jones across the street's garage only. This is not about Walmart only. This might be about things that you may not even want. If you miss the 75 day for the window for the election, you had to have done everything starting from February 11th to today. Otherwise, too bad, that is it. You got whatever it is, whether it be a methadone clinic, Walmart the size of Rhode Island. Whatever it is, you have got it. Think about it.

Think about the one issue in your knowledge of this institution that this really affects. In my case that was methadone clinics. That was the one issue I think we really deal with that people might have a problem with in their community. Really give that some thought whether or not you want that. That is what you are going to have to answer for. That is the kind of things you may end up with. February 11th, 75 days. Thank you.

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

Representative **SIMPSON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I have been here for six years of this debate. I have talked to the people who are opponents and proponents and I have listened very carefully. I hear a lot of conversation about the long process of getting to that final permit when there is opposition. If people have larger pocketbooks, they can hire lawyers. They can delay a project for a very long period of time. Their frustration level for developers of having gone through all of that, having to deal with the lawyers and the delays that lawyers can cause. They don't want to have this happen at the end. The problem I see with this original bill as it came from the Senate, the other body, is the 75 day problem to stop citizens from doing something. If you have a big enough



pocketbook, you can delay a project for a very long time. If you are John Q Public, you can't do anything. That is a problem. It is a fundamental problem of citizens having rights to petition their government for redress of grievances. It is not citizens who can afford an expensive attorney to help them stop that thing they don't want in their neighborhood, but just people who look around and say this is going to ruin my neighborhood. I don't want to have this happen. I want to be able to stop what my planning board did. If we Recede and Concur, that 75 days is going to mean that the people who you represent won't be able to stop it. Once again, in my city on Monday a question was once again refused, so the delay continues. Seventy-five days won't ever get anyone to a vote in the City of Auburn.

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

Representative **KOFFMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just want to make one quick point. This bill is about retroactively undoing a building permit that has gone through a public process. It is not about prospectively trying to change your ordinances. It is what Damariscotta and the other initiatives have been of late. They are to be celebrated. The community has come together and prospectively decided that they want to take an action that will shape their future community. We are talking about retrospective decisions.

I continue to believe that this bill is about fairness and predictability in the land use governance process. What is fair for the large business is fair for the small business. We have heard about shiny loafers and Goliaths and methadone clinics and lightning bolts coming down from Greek Gods, big boxes and deep pocket lawyers. This is about predictability and fairness and it is that simple. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Manchester, Representative Moody.

Representative **MOODY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I have been on the losing end of being a small-time developer with borrowed funds trying to do a project and having the permit pulled as a result of something that happened two years after the project was underway. I have been on the losing end of this a couple of times. This isn't about lawyers and big bags of money. What this is about here today in this body is a matter of trust. Trust is a matter of integrity. What we are asking now is, do we trust the committee that came out with a 12 to 2 report on this bill or do we go elsewhere at the 11th hour for revision?

I am concerned about the members of this committee, the Chair. I feel as though we are about to roll them. I do not feel that this is a process that we ought to engage. If we are going to talk trust, let's get down to it. Thank you.

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

Representative **BABBIDGE**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I see this as a basic question. We elect the people in local government, the people that serve on those boards and so forth. We all know that sometimes, whether it is a large municipality or a small town, some people have some closer relationships with other people. Sometimes those relationships can cloud their judgment. Even though it is a board, they not always make the correct decision.

My biggest concern when this bill came to the floor originally, actually wasn't the time it would take to get signatures on a petition, it was allowing the people enough time to become aware of the problem. It seems to me that most of the time the people that might object to something might be interested in the NIMBY aspect of things and so forth. I might be inclined to mostly

disagree with them. In my opinion we cannot stop them from participating in the process, not ethically.

I want to make one comment about trusting the committee. I have great respect for this committee and its leadership, but I did happen to come to the chamber long ago. I brought with me a high school class and it turned out that this class when they were in the third or fourth grade had done a project about changing the Maine license plate to a lobster plate. The day that my students were in the balcony a Saco classroom who had brought the issue to the chamber again was in the balcony at the very same time. There were people here on the floor that had speeches prepared against the lobster license plate. They looked in the eyes of those kids who had come to see their government in action to act on a bill that they had proposed and in my opinion, they absolutely caved to the balcony. They didn't want to disappoint those kids.

My belief is that maybe committees would come up with different opinions occasionally if we had the kind of Chebeague Island effort to appear before them in a multi-day testimony of regular people saying we have these concerns.

I don't think that we should over emphasize the trust issue here. My view of this is that the amendment offered by the Representative from Portland, Representative Cummings is a drastic improvement over the current situation for those that have proposals and who deserve an answer and the ability to invest and plan on a reasonable time frame.

I do feel that Recede and Concur would be to big a step against what I would consider to be a people's basic right in democracy and that is the right to petition within a reasonable time frame. Thank you for your attention.

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

Representative **BURNS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. There is no need for us to Recede here. We have spent an awful lot of time in this chamber on this bill. I realize the committee that worked this bill spent a lot of time on it as well. We have spent a good bit of time on it. We have compromised. I was vehemently opposed to this bill. I voted for this bill with this amendment put forth by Representative Cummings. We voted for this and I don't recall what the numbers were, but it was a large number of us that voted in support of it. It was on both sides of the aisle. There is no need for us to Recede here. We voted for a good bill. We voted for a bill with the utmost consideration for the people back home and the right that they have to petition what they perceive to be a wrongdoing. I urge you to vote against this Recede and Concur motion. Thank you.

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. The motion before us is to Recede and Concur. It is entirely a procedural motion. If we Recede and Concur, I remind you my good colleagues there are more amendments awaiting action on this bill, 1481, than awaited us on the state budget. Once the bottle has been shaken and the cork removed, you will become intimately acquainted with all of them I dare say. For that reason alone, I think, the motion to Recede and Concur should be considered extremely carefully before you reach down and vote green upon it, not the least of which would be your assurance that no rights were taken away from anybody by judicial action as has been asserted. What happened in those long ago law cases was that rights were underscored, rights for citizens who dwell in your town and rights of developers who build in your town. One of those two parties who didn't get enough, feel grumpy and for six to eight years

have labored fiercely with every crowbar, every lobbyist, every plaintiff and plea that they could muster to have you overturn what they think were the unjust rights of the other guy, which means, you and me.

Every town which has communicated about this bill with us directly, which includes my town of Portland, resolved against it, which includes Representative McKane's town of Damariscotta, their selectmen resolved against it. The turnout in the Town of Nobleboro, the vote about this was greater than that of the presidential election itself. Towns know by the very weight and words of the bill as proposed, that unless we do something to the contrary, following the magic figure of 75 days, they will never, and I mean never, I underscore the word never will have by the law any ability to alter any kind of permit once issued for land use. Your town meeting can't. Your town council can't. Your city council can't. Never is never. It is an amazing proposition that one level of government without being asked to by another level of government is stripping them of their powers unknown. Just think about what never means, folks. Never is never. Katahdin will weather in the wind. Cosmos will collide and burst. Suns are going to flare and fuse, but the York Beach Dairy Queen permit stands solid as Mt. Rushmore for all time and eternity.

That is what is sitting waiting for you on your desk right now. The ability of towns to direct their own affairs should be underscored and not stolen from them by this Legislature. Is it as if from our seat here today we see all time and all eternity laid out before us and we have made the right decision because a Portland Lawyer spoke to us in the hallway?

Ladies and gentlemen of the House, I think I have a little more faith in our town meetings. I have a little more faith in our citizens and I hope I have a little more faith in you and I since we are all voting, after all, on a procedural motion that you will not vote to Recede and Concur so that if the bill is at all to survive, it will at least have some small palliative castor oil pill put into it, such as the amendment offered by our friend, Representative Cummings. Without it, I assure you, next session we will be back here with many more town resolves with many more irritated citizens with confused messed up, backed down and tied down land permits than you ever thought of. Without that, you will find that this bill, without the amendment before us, would be as big a plate of hash as anything served under that name over in the state cafeteria.

I urge you strongly not to vote to Recede and Concur so we may move on to continue our progress with the amendment as presented and now upon the bill. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **BISHOP**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I wonder what it will be like to be taken hostage by an amendment. Thank you very much.

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

Representative **MOULTON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to extend a guided invitation to the good Representative from Portland to visit with me at York Beach. I am afraid to acquaint you with the fact in advance that in York Beach there is no Dairy Queen. The Town of York has banned that sort of enterprise already through its ordinances. However, on a more serious note, there was a mention made earlier in the debate about a dirt farmer. I would like to tell the body about a certain dirt farmer in

Moody who entered into a contract with a local developer. Unfortunately like the situation given to us by the good Representative from Manchester, it failed. It failed because of governmental delay. What we are talking about here is trying to balance out the interests so that people are not unnecessarily delayed with the plans. This gentleman needed the money. He was in retirement. He needed it for nursing home expenses. I can hardly think of him as being in the same category as a Walmart. I see these things. This measure, ladies and gentlemen, is intended to try to balance out those interests. That is what makes it so difficult for this body and this Legislature to deal with it. We have to balance out those interests. When the time comes, Mr. Speaker, I recommend us voting in favor of this motion. Thank you Mr. Speaker.

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

**ROLL CALL NO. 535**

YEA - Annis, Austin, Barstow, Beaudette, Bierman, Bishop, Blanchard, Bowen, Bowles, Brannigan, Browne W, Bryant-Deschenes, Carr, Cebra, Churchill, Clark, Clough, Collins, Cressey, Crosby, Crosthwaite, Curtis, Daigle, Davis G, Dugay, Duprey, Eberle, Edgecomb, Emery, Fischer, Fisher, Fitts, Fletcher, Flood, Greeley, Hall, Hamper, Hanley B, Hanley S, Jacobsen, Joy, Kaelin, Koffman, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKenney, McLeod, Millett, Moody, Moulton, Muse, Nass, Nutting, Pilon, Pinkham, Plummer, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Sampson, Saviello, Seavey, Sherman, Shields, Smith N, Stedman, Sykes, Tardy, Thomas, Valentino, Woodbury.

NAY - Adams, Ash, Babbidge, Blanchette, Bliss, Brautigam, Brown R, Bryant, Burns, Cain, Campbell, Canavan, Craven, Cummings, Curley, Davis K, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Eder, Faircloth, Farrington, Finch, Gerzofsky, Glynn, Goldman, Grose, Harlow, Hogan, Hotham, Hutton, Jackson, Jodrey, Lerman, Lundeen, Makas, Marraché, Mazurek, McKane, Merrill, Miller, Mills, Moore G, Norton, O'Brien, Paradis, Patrick, Percy, Perry, Pingree, Piotti, Rector, Rines, Schatz, Simpson, Smith W, Thompson, Trahan, Tuttle, Twomey, Vaughan, Walcott, Watson, Webster, Wheeler, Mr. Speaker.

ABSENT - Berube, Jennings, Marley, Ott, Pineau.  
Yes, 78; No, 68; Absent, 5; Excused, 0.

78 having voted in the affirmative and 68 voted in the negative, with 5 being absent, and accordingly the House voted to **RECEDE AND CONCUR.. ORDERED SENT FORTHWITH.**

**REPORTS OF COMMITTEE  
Divided Reports**

Majority Report of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1063)** on Bill "An Act To Make Minor Technical Changes to Maine's Spending Growth Benchmarks"

(H.P. 1350) (L.D. 1909)

Signed:

Senators:

ROTUNDO of Androscoggin

MARTIN of Aroostook

NASS of York

Representatives:

BRANNIGAN of Portland

DUDLEY of Portland



CRAVEN of Lewiston  
FISCHER of Presque Isle  
LERMAN of Augusta  
MILLS of Farmington  
MILLETT of Waterford  
NUTTING of Oakland  
BOWEN of Rockport

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

Signed:

Representative:

CURLEY of Scarborough

**READ.**

On motion of Representative FISCHER of Presque Isle, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. Committee Amendment "A" (H-1063) was **READ** by the Clerk and **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-1063)** and sent for concurrence. **ORDERED SENT FORTHWITH**.

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Nine Members of the Committee on **EDUCATION AND CULTURAL AFFAIRS** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (S-577)** on Bill "An Act To Update Teachers' Minimum Salaries"

(S.P. 480) (L.D. 1381)

Signed:

Senators:

MITCHELL of Kennebec  
SCHNEIDER of Penobscot

Representatives:

DAVIS of Falmouth  
FINCH of Fairfield  
EDGECOMB of Caribou  
NORTON of Bangor  
GOLDMAN of Cape Elizabeth  
MAKAS of Lewiston  
CAIN of Orono

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

Signed:

Senator:

TURNER of Cumberland

Representatives:

STEDMAN of Hartland  
LANSLEY of Sabattus

One Member of the same Committee reports in Report "C" **Ought to Pass as Amended by Committee Amendment "B" (S-578)** on same Bill.

Signed:

Representative:

MERRILL of Appleton

Came from the Senate with Report "A" **OUGHT TO PASS AS AMENDED READ** and **ACCEPTED** and the Bill **PASSED TO BE**

**ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-577) AS AMENDED BY SENATE AMENDMENT "A" (S-620)** thereto.

**READ.**

Representative GOLDMAN of Cape Elizabeth moved that the House **ACCEPT** Report "A" **Ought to Pass as Amended**.

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

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

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

Representative **BOWEN**: As many of you know, the minimum salary proposal was part of the budget originally. It came before our committee. We had, as I recall, a long hearing in Appropriations on this proposal and tried to get to the heart of what the problems are that we are trying to solve with this piece of legislation. What we identified was basically three issues that the salary piece was supposed to fix for us. One of the problems was you had young teachers who were coming out of college and going into the workforce at the bottom of the salary scale and many of them had lots of debts from their university experience that they wanted that salary higher to help them offset those costs. We also had the issue of retaining the other teachers in the teacher corp. because we know there is a lot of turnover. We lose a lot of teachers in the first five years and it was thought that if we get salaries up, that would help that as well. Also we had the issue of, to some extent, equalizing salaries between the different districts. We have some very high paying districts and we have some that are very low. Underfunded districts can't afford to compete with the more wealthy districts. When we sat down to work on the budget, we tried to figure out some ways to solve those problems without having to go through the process of having the dramatic effects on collective bargaining and property taxes and so forth that this proposal will have.

The good news is we have managed to do quite a lot, frankly, in the budget that all of us passed here a few weeks ago to solve, or at least take a big step forward, on all three of those problems. With regard to college debt problem, you may already be aware that the state has a program called the Educators for Maine Program, which is run by FAME. What it is is a program that offers forgivable loans to students who are in an education track and going into teaching up to \$3,000 a year for the four years they are in school. When they become teachers in service for every year of teaching that they do, they get one year of those loans, \$3,000 forgiven. It is a great program. Unfortunately what we have found in the hearing is that the program is underfunded. One of the pieces that was put into the supplemental budget that we passed a few weeks ago was a near doubling of the amount of money from the General Fund going into the Educators for Maine Program. They are right now sort of crunching numbers to figure out how many more people we are going to be able to bring into the program. They are going to do some things to expand the availability of the program and make it so it is a little more effective in getting the word out that this is available to young college students who want to go into teaching and we think in that way we are able to sort of take a big step forward on the college debt load issue.

On the retention of in-service teacher's issue, we actually got a couple of things accomplished this session that I think we can be very proud of. Thing number one we did is we passed by a wide margin, as I recall, the local assessment moratorium bill. As most of you know, the local assessment system that was put in place a couple of years ago created a tremendous amount of

work, paperwork, took teachers away from teaching, away from working with kids so that they could basically push paper around. It was not a very well designed system. The committee worked very hard to come up with a way to put a moratorium on that while it was reworked. We passed that in here. With that single piece of legislation, we dealt a serious blow to the workload issue that from my perspective as a classroom teacher is one of the main issues driving teachers out of the profession. We are spending way too much time on paperwork and not nearly enough time with kids.

The other piece that we put into the budget to deal with retention issues is the National Board of Teacher's Standards Certification Program to put a cash benefit for those teachers. Probably nobody outside of the profession knows about this, but there is a body called the National Board of Professional Teaching Standards, which many years ago established a set of standards for exemplary teaching and awards a board certification, much like you find in many other professional fields to those teachers who achieved those high standards. It is a very difficult process to undertake. It takes a year or a year and a half to do it. It is very costly. The consequence is, you end up with teachers who spent a tremendous amount of time looking at their craft, honing their craft, learning and working on the material that they work with and becoming better teachers. We have about 100 of those teachers in the state now. We have tens of thousands across the nation. In 30 other states, we discovered when we were researching this, offer some sort of stipend to board certified teachers to encourage them to come to those states and teach. As of the passage of the budget here a few weeks ago, Maine has also become one of the states, to my knowledge, the only one in New England, which offers a stipend to nationally board certified teachers who have achieved this very high distinction. I have learned, coincidentally, from an e-mail that I got yesterday at my school e-mail account, from my assistant principal, forwarded from the Commissioner, says, "As you may know, the Legislature recently agreed to provide a \$3,000 annual stipend to any Maine teacher achieving National Board certification. As a result, more teachers are expressing interest in certification." It goes on to explain how to achieve the certification process and who to contact at the department and so forth.

So, already, even weeks after this has been put into place, teachers are beginning to look at taking the time out of their schedules to pursue board certification and become better teachers. By rewarding our great teachers and by doing what we can on workload, I think we have taken some giant steps forward in this session on teacher attention issues.

The last issue having to do with more equality among salaries across the state, we actually got another chunk done out of the budget by putting more than \$40 million towards to EPS ramp up to 55 percent that we are in the middle of right now. Over the next couple of years we are making a dramatic state funded expansion of money into our education system. The sheet I have here from the Department of Education indicates in '04 and '05 the state's share of total spending on K-12 education was \$737 million. That is expected to top a billion by the '08-'09 school years. That is four years to add a quarter a billion dollars in new funding to our schools. What that means is for schools that are at or above the EPS number, that could potentially mean property tax relief if the local school districts take the step of controlling spending and applying that money to property tax relief.

You also have nearly 100 districts that are below the EPS numbers established by the state. This spreadsheet has been floating around that has the over/under on the 100 percent of EPS. We have, by my count, almost 100 districts that are under

what the state says they should be spending. The additional money that we are going to be pouring into these districts over the next couple of years means that those low districts that haven't had the resources to provide a decent salary to those teachers are going to have more resources. We know that the EPS system contains a salary matrix provision that has average salaries across the state and as the amount of money pouring into EPS continues, that salary matrix will be adjusted each year to move that salary up. Those districts below EPS will be expected to raise their teacher's salaries as we continue to make these dramatic investments in our schools over the next couple of years.

The three issues we had in front of us, we worked very hard in the Appropriations Committee trying to find a way to do this in the budget. I think that we did it with that and a couple other pieces of legislation that we have been good enough to pass in this body and, most importantly, we have done this without what we all know is going to be a dramatic impact on our local districts, an unfunded liability that even conservative estimates place at at least \$50 million to bring not just these teachers under \$30,000, but all the other teachers in the teacher's scale up to a higher level. We have done a lot. We have managed to avoid a burden placing another burden, another mandate, on our local districts that the property tax is going to have to take care of. I think we can walk out of here without supporting this provision and go home to our teachers and tell them that we have done a good job.

I was back in the classroom after all of these weeks just earlier this week, back with my eighth graders and my teacher colleagues and I was happy to tell them that I thought we had made a lot of progress this session and that they could be proud of the work that we have done for them. I would ask that we oppose the pending motion and move on to the Ought Not to Pass.

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

Representative **NORTON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I like all the things I just heard. The thing that bothers me a little bit is what we are really trying to do here is address some of the problems that some of those 100 SAUs have. If we can pump money into their schedule by giving those people who are below a minimum of 27 for the coming year and \$30,000 for the following year, it helps them move that much more quickly. These SAUs actually have several teachers, in fact, what we are trying to do, this is it, at state's expense is pay those districts for everyone they have below \$27,000 for next year and below \$30,000 for the following. That is not just new hires. That is anyone who makes below that.

I have been hearing the problems that people think that has. Actually it doesn't have the problems we are hearing about. I invite you to talk with the commissioner or whoever you need to to get the facts on that. This is our way of trying to help with that recruitment and retention problem. What has been happening is the lower end of the pay scales have not been moving. It gets very difficult for small schools to attract the kinds of teachers that they want to have, that would give their children the same kind of equity that schools who can pay more attract. This is our way of trying to help that piece and address it. That money is pumped into the salary schedule then it becomes part of that salary schedule and since the teacher salary grid is a piece of EPS that is expenditure driven, then the state reimburses you for that salary. Since most of these districts are high receiving districts, that comes at a pretty good rate. If you are a high receiver, the state reimburses you considerably more. Most of you probably know what percentage you have of state subsidy. That, along

with, paying for the increase on the base, moves small schools up quite quickly. That was our goal in this bill.

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

Representative **SCHATZ**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I represent six schools. They are minimum receivers. They are minimum receivers not because they are wealthy communities, but they are that way because they are low in enrollment and high in assessed value. What this bill would do is tend to push up the wage structure in such a way that it would really create an expense on those communities that would have to come out of the property value, because they are not the high receiver schools as the good Representative from Bangor had indicated would gain by this method. I would encourage you to defeat this measure and vote red, please.

The SPEAKER: The Chair recognizes the Representative from Hartland, Representative Stedman.

Representative **STEDMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would also urge you to vote against this motion. Having dealt with teacher's salaries, negotiating salaries over the years, it has been my experience that once you have changed the base number, the whole scale goes up too. When this happens, this puts an additional burden on the local system to meet those demands of salary for people wherever they are on the scale. When you look at those districts, particularly in southern Maine and in the larger cities, most of them do not have this problem because they are already at a \$30,000 base or more. This is not an issue for them. For the smaller towns and smaller SAUs in the state, this can be a tremendous burden over the next few years.

I would urge you to look at the Senate Amendment, which is (S-629), which was added in the Senate. Some of the expectations from this particular amendment, the intent of the Legislature, is the 123rd Legislature will appropriate at least \$2,118,308 in fiscal year '07 and '08 to carry out the purpose of this bill. This is putting a burden on the next Legislature to meet the demands we are placing on them by putting this bill in action. That is only one of the problems that I can see as related to this amendment. As an example, I would like to encourage you to vote against this. Let the local districts as their money rolls in from the state to meet their education costs, address this issue locally and let them do it without being told by the state that you have got to do this. Thank you.

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

Representative **SHERMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I agree with the last three speakers. I would like to add something very short and sweet. This morning we were talking about bonds. It was suggested that we listen to our citizens back home. I haven't heard that at this point. I have e-mails from several school districts in southern Aroostook County. One of them talks about the devastation that this would perform on what they are trying to do now. There are a few things left out that ought to be mentioned. Southern Aroostook School District, the Superintendent over there, they have had take backs already on those individuals who are not teachers, but who work in the school districts. We are talking bus drivers, some of the aides, some of the people who work year round, we are getting a skewing of money here simply by saying, let's help the teachers along.

A couple of other issues, I got a call from the Town Manager in that area. One of the six towns in the Southern Aroostook School District, they are having a town meeting next week,

because they are behind on the payments in the school district and they are going to have a town meeting to see whether or not they can get a bank loan to pay their share into this school district. These districts are struggling now to get things paid for. The Superintendent also told me they are in the process of negotiation and the papers that are on the table now on a starting salary of \$30,000. What is your funding on the 281 form on the essential programs and services? They said they are getting 64 percent. I said that is not bad. He said that is not the whole story, because the funding formula has things like \$38 per kid for substitute teachers. That is not nearly enough. He also said there is a line for supplies. They are over on that. You throw in a number of costs that they are going to have and may continue to have around fuel and busing, he told me that they are going to have to raise over \$980,000. By the time you figure out what the EPS formula actually contributes towards the full school operation, it is hardly 64 percent. It is somewhat lower than that.

I also had an e-mail from Roger Shaw who is Superintendent at Mars Hill. He uses the same language. He uses very specific examples of what is taking place. It is great for us to be able to stand down here and speak hypothetically, but when you talk to those 100 school districts that were mentioned before and they give you number after number. I think it causes us to take a deep breath before we do this.

I would also add, I asked the Superintendent if he had the average salaries around the state? He said that he did. There are some nice starting salaries, especially in those areas where they are above the 88 percent per labor market and the 100 or 107 percent labor market where they are already going to get reimbursed. I appreciate the good Representative from Bangor telling us that this is certainly going to help move those salaries up so that maybe we will be at that 88 percent labor market. He also gave me some top salaries too. There are top salaries that are pushing \$60,000 a year in this state. As a negotiator, you are talking about lower starting salaries. One of our tricks, if you will, when we were negotiating was to look who was on the salary schedule and where and we never bothered with the lower end of the salary schedule for the very few people that were there. If you look at the upper end of the salary schedule, some of those are fairly decent. We used to say, let the school board figure out what they can do if they want new teachers in here. They can play around with the lower end of the salary schedule. Some of this business about low salaries are a function of how negotiations took over a series of years.

If you look at the average teacher's salary, I hate to talk to average, in this state is not far out of line for the average wages in this state. We all play these games. At one time when I was on the NEA Board, I was called in and we wanted to have the average teacher's salary the same as the average salary in the State of Maine. We exceeded that for a period of time. This is just another way of doing this. We understand this is a political year. I understand that. We understand probably why some of these bills are in. I think the reality is people are going to get hurt, seriously real live people. They have roads to fix. They are going to borrow money out of the bank for tax anticipation notes, if that sounds familiar, to pay what they owe the school districts.

Out of Aroostook County, in general, the superintendents are saying, you are killing us, in a figurative way, I gather, maybe literally. I would oppose the \$30,000 with all due respect to the profession that I served in for 30 some years. I think it is out of line at this time. I think if EPS was operating on a correct labor market, you might be able to support this. Thank you.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative Goldman.

Representative **GOLDMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I certainly appreciate the dilemma that this particular kind of bill can present. I do not wish, in any way, to either sound or be unsympathetic to those various dilemmas. There are a couple of points that I really would like to make.

Number one, we already have in statute a minimum teacher's salary. From time to time it gets raised. The last time that I remember it being raised was almost 20 years ago. In statute right now the minimum is \$15,500. Having looked at the various salary scales throughout the state, I don't think there is anybody who is a full-time classroom teacher who is actually being paid at that minimum. As with other things from time to time, it becomes a necessary economic competitive necessity. It is one of the things that the state statutes certainly are expected to do. It is to update those kinds of minimums. Therefore, that is where this particular effort comes from.

As far as any kind of precedent, I was a superintendent beginning more than 20 years ago, the last time the minimum was raised. It was raised in a somewhat different manner, perhaps that is the way this should have happened. In any rate, we had block grants and we began to do some creative negotiating. We did, in fact, have sympathies for raising the minimum. I am sure everybody in this body also has sympathies for doing that, particularly in those parts of the state where teachers are not competitive as far as statewide salaries are concerned.

We found, as a matter of fact, that it was a healthy process and one that helped us sometimes to look at what we are doing. In many cases, some teacher's salary scales have far too many steps and there needs to be some kind of regrouping or rethinking how you do it. It also was possible for us to take the process over more than one year. The negotiating process allowed us to respond to some of the dilemmas that people are raising in a more orderly and more manageable fashion. I personally do not have total answers to any of the issues that people are raising. I do think that this is a major way in which states make statements. In this case, a statute statement of a minimum salary that from time to time as people look at our state and come to it and look for employment, it is important to make sure that these minimums are raised periodically.

I do want to commend my good colleague, Representative Bowen, I deeply applaud the steps that were taken, the stipends and the loan forgiveness. Those are all important issues. When this discussion was started in our committee earlier, of course, we had a somewhat different understanding of where the money was coming from, how it would be used and a little different version of how this would happen. I do want to go back and emphasize that it is a state statute necessity. We already have a minimum in place. At \$15,500 it is not going to attract many young teachers coming into the state. Thank you very much.

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

Representative **NORTON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. There was a question put to me and I don't think I answered it. I will direct your attention to the amendment with the filing number (S-620) if you are having trouble understanding where we are. This bill has been amended. Someone said that the state picks up the cost for the minimum salary for the first year. I want to direct your attention to what it says about the second year. It says each school administrative unit shall establish a minimum salary of

\$30,000 for certified teachers for the school year starting on June 30, 2007 and in each subsequent school year. I did just want to point that out, because I had been asked about that.

The SPEAKER: The Chair recognizes the Representative from Naples, Representative Cebra.

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

The SPEAKER: The Representative may pose his question.

Representative **CEBRA**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I understand this amendment covers the starting salaries for the first year and it has an intent, but not a mandate to have the Legislature and the state pay after that? Who pays for all the other salaries that are increased as a result of the ripple effect that we heard mentioned here at the local level?

The SPEAKER: The Representative from Naples, Representative Cebra has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bangor, Representative Norton.

Representative **NORTON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Once those higher minimum salaries are rolled into the EPS grid, your community then will receive the portion of that that you receive in state subsidy. That is what happens as teacher's salaries do increase because of that grid.

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

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

The SPEAKER: The Representative may pose his question.

Representative **TRAHAN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. The previous speaker confused me a bit. I was wondering if there could be a clarification. There was an amendment that was attached in the other body. Are we voting on the Majority Report out of committee or are we voting on the bill as it came back from the Senate?

The SPEAKER: The Majority Report as amended by Committee Amendment "A." The Clerk indicates that the Senate Amendment is not before us because we have not yet adopted the report. Therefore, it would not be proper to be before us. At this stage, it is as you look on Supplement #3 it will indicate to you that the pending question before the House in which a roll call has been ordered is to accept Report "A" Ought to Pass as Amended. The Representative may proceed.

Representative **TRAHAN**: Thank you Mr. Speaker. Having talked to several members who are very confused on where we were, I just wanted to have you clarify that in order take action that has been done in the other chamber, we first have to pass this bill to get on to that.

The SPEAKER: That is correct. You can't get there yet until we have taken our action first, then we could adopt the Senate Amendment if that is the decision of the body.

The Chair recognizes the Representative from Winterport, Representative Kaelin.

Representative **KAELIN**: Point of Order, Mr. Speaker.

The SPEAKER: The Representative may state his Point of Order.

Representative **KAELIN**: Thank you Mr. Speaker. As I understand it, what is before us is Senate Amendment (S-577), which you just confirmed. If I read that fiscal note carefully, it tells me there is a state mandate involved in passage of that amendment, particularly in the future years. I believe the bill is in the posture before us where it would pass on a simple majority. I would like to ask the Speaker if he could rule as to whether or not

there shouldn't be a mandate preamble on this bill requiring a two-thirds vote for passage.

The SPEAKER: The Chair would answer that he wouldn't answer that question until the question was ripe, meaning the question was before us. At this time the only question before us is acceptance of Report "A." If we get to that point, your motion to consider would be appropriate before us and then I would rule on it. The Representative may proceed.

Representative KAELIN: Thank you Mr. Speaker. Before the vote is taken the question about whether or not there should be a mandate preamble on the motion is at that time appropriately before you.

The SPEAKER: After Engrossment that is when it would be appropriate for you to rise and state an objection.

The Chair recognizes the Representative from Sabattus, Representative Lansley.

Representative LANSLEY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I guess in the confusion we were speaking about ramping up a \$27,000 minimum salary to a \$30,000, which that information is not correct now with running the Committee Amendment. So it is a \$30,000 minimum salary with the fiscal note that is attached to the Committee Amendment.

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

Representative NORTON: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I do think that the good Representative from Sabattus is correct. I was premature. I was looking at the Senate Amendment. I do think that the posture we are in is the \$30,000 piece of it.

On motion of Representative DUPLESSIE of Westbrook, TABLED pending the motion of Representative GOLDMAN of Cape Elizabeth to ACCEPT Report "A" Ought to Pass as Amended and later today assigned. (Roll Call Ordered)

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

An Act To Amend the Fees for Probate Filings  
(S.P. 717) (L.D. 1800)  
(C. "A" S-617)

Which was TABLED by Representative TARDY of Newport pending PASSAGE TO BE ENACTED. (Roll Call Ordered)

Subsequently, Representative FLOOD of Winthrop WITHDREW his REQUEST for a roll call.

The Bill was PASSED TO BE ENACTED, signed by the Speaker and sent to the Senate.

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

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

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)  
(C. "C" H-1058)

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

On motion of Representative VAUGHAN of Durham, was SET ASIDE.

On further motion of the same Representative, the House RECONSIDERED its action whereby Committee Amendment "C" (H-1058) was ADOPTED.

The same Representative PRESENTED House Amendment "B" (H-1070) to Committee Amendment "C" (H-1058) which was READ by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Durham, Representative Vaughan.

Representative VAUGHAN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. It has been stated that the Legislature has no actual interest in doing anything to protect the public from sexual predators. I know that a lot of people from both sides of the aisle have submitted bills within the last couple of years. This amendment prohibits a person who has been convicted and sentenced as a 10-year registrant or as a lifetime registrant from taking residency and maintaining registry in a small municipality that does not have its own police department or other law enforcement agency is capable of responding to a call within five minutes.

There are a number of small towns in this state, probably every one of us has such a situation in our districts. They are towns without police forces.

The SPEAKER: Will the Representative please defer?

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Blanchette and asks for what reason the Representative rises?

Representative BLANCHETTE: Point of Order. I would ask the Speaker to rule on the germaneness of this being before us. This appeared before Criminal Justice and Public Safety in the form of a bill and it was LD 285. It came out of the committee Ought Not to Pass on May 5, 2005. I would like a ruling immediately please.

Representative BLANCHETTE of Bangor asked the Chair to RULE if House Amendment "B" (H-1070) to Committee Amendment "C" (H-1058) was GERMANE to the Bill.

Subsequently, Representative VAUGHAN of Durham WITHDREW House Amendment "B" (H-1070) to Committee Amendment "C" (H-1058).

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Representative MCLEOD of Lee inquired if a Quorum was present.

The Chair ordered a quorum call.

More than half of the members responding, the Chair declared a Quorum present.

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Representative TARDY of Newport PRESENTED House Amendment "F" (H-1075) to Committee Amendment "C" (H-1058), which was READ by the Clerk.

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

Representative TARDY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I offer this amendment, which creates a new crime of aggravated gross sexual assault so that this body can stand for and recognize that there is a difference in the ways in which some crimes can be committed. What I thought as I put this amendment together is how do we find language that recognizes the most horrible of crimes that we have in society and how do we track the facts of the "Jessica's Law" case and create a crime, which I can't imagine wouldn't warrant a mandatory minimum sentence.

I understand as a criminal defense attorney that some of you actually worked for a while in a prosecutor's office and in the AGs Office when I was in law school. Mandatory minimum sentences do create a stress upon the system. I have concerns with some mandatory minimum sentences, but for sure Maine law is littered

with examples of mandatory minimum sentences and the system hasn't failed because of that particular part of criminal law.

There is a mandatory minimum sentence for a conviction of murder. There is a mandatory minimum sentences if you night hunt. This is a 25 year mandatory minimum for a forcible rape of somebody who has not attained the age of 12. this makes sense. It gives the prosecutors an additional tool and it will not break the system. I urge its adoption.

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 have a great deal of respect for the good Representative from Newport, Representative Tardy, I am going to ask this body to once again reject an amendment that is put onto LD 1717 for some of the following reasons. My committee is well aware that we need to start tracking how things are done. The Representative from Harrison, Representative Sykes, at our workshop when we worked LD 1717 came out with a suggestion that the committee work on a tracking system so that we are aware of what the judges are passing down, what is happening out there and how you correct a problem if, in fact, there is a problem out there. You must analyze the facts first. To put a mandatory minimum in place and then try to compile the facts is just going to muddy the waters again.

Once again, I am asking you to respect the majority of the committee that passed LD 1717 out of here and want your endorsement for final passage. Please vote to reject this amendment. Thank you.

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

Representative **MILLS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I join the good woman from Bangor in urging you to not adopt this amendment for the following reasons. Regardless of the sentencing provision, this proposal of aggravated gross sexual assault sets us back about 100 years in terms of what needs to be proven in order to obtain a conviction for a sexual assault against a child. For many, many decades we have had something called statutory rape or statutory sexual assault so that when the alleged victim is under the age of 14 under our criminal code it is not necessary for the state to plead and prove lack of consent on the part of the victim.

In 1975 and 1976 this Legislature in adopting the Maine Criminal Code took out the term "by force and against her will" and replaced it with the term compulsion. Compulsion is the element that the state has to prove in offenses against adults in most cases. This amendment would strip us from the strict liability provision and go back to having to prove lack of consent on the part of the child under the age of 12. I think that is unnecessary and almost prehistoric in terms of what needs to be proven and what should be proven in a criminal case. When we are talking about a child, there is no way that we want a child to take the stand and be asked by anybody in the courtroom. Did you, in fact, attempt to repel, your attacker? That would have to be proven. Did you attempt to say no? Did you resist the attacker? Did you consent? Did you say it was okay? These are children. This should remain a strict liability offense on the books. In no instance should the state be required to plead and prove that force was used on a child of tender years such as this. This sets us back. I ask you to vote against adopting this amendment.

Representative **CLARK** of Millinocket **REQUESTED** a roll call on the motion to **ADOPT House Amendment "F" (H-1075) to Committee Amendment "C" (H-1058)**.

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 Harrison, Representative Sykes.

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

The SPEAKER: The Representative may pose his question.

Representative **SYKES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In reading this amendment (H-1075), I am trying to determine whether or not it includes lifetime probation or supervised release?

The SPEAKER: The Representative from Harrison, Representative Sykes has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bangor, Representative Blanchette.

Representative **BLANCHETTE**: Thank you Mr. Speaker. I was behind the glass conducting business. I did not hear the question. Could the Representative please repeat it?

The SPEAKER: Would the Representative please repeat his question.

Representative **SYKES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In reading through the proposed amendment (H-1075), I do not find anywhere where it says and mandates lifetime supervision or supervised release or probation. Maybe I just missed it. I don't know.

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

The Chair recognizes the Representative from Harrison, Representative Sykes.

Representative **SYKES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. If it does not, then it is a key ingredient for me. Don't release these people without having that chain attached to them. This type of crime needs mandatory supervised release, probation for life.

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

Representative **GERZOFSKY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Does this amendment that I have in front of me contain lifetime sentence for this crime? I would like an answer to that sir.

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

Representative **GERZOFSKY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Taking lead from my good friend, Representative Sykes, I would state that if that answer is no, the previous bill has lifetime sentencing for aggravated assault already in it. I would appreciate it if people would vote against this amendment for that reason. Thank you.

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Daigle.

Representative **DAIGLE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I apologize for jumping at at the last minute like that. It is not a strategy. I have been furiously trying to read the bills in front of me. Based on the previous questions, I see this amendment before us as proposing a new Section 5 to the bill. In the earlier questions about does it no longer do this? Does it no longer do that since it is not striking out those sections, I suggest in the last five minutes of furiously reading that it is leaving all of those things that we liked and approved a few minutes ago or an hour or so intact. This is just adding another component to that. I see no striking of sections 1



thru 4 in the previous legislative actions we have taken. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is adoption of House Amendment "F" (H-1075) to Committee Amendment "C" (H-1058). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 536**

YEA - Annis, Austin, Bierman, Bishop, Bowen, Bowles, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Clark, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgecomb, Emery, Fitts, Fletcher, Flood, Glynn, Hall, Hamper, Hotham, Jackson, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Millett, Moore G, Moulton, Muse, Nass, Nutting, Pinkham, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Saviello, Seavey, Sherman, Shields, Stedman, Tardy, Thomas, Vaughan.

NAY - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Brown R, Bryant, Burns, Cain, Canavan, Churchill, Craven, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Greeley, Grose, Hanley B, Hanley S, Harlow, Hogan, Hutton, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Percy, Perry, Pilon, Pingree, Piotti, Plummer, Rines, Sampson, Schatz, Simpson, Smith N, Smith W, Sykes, Thompson, Trahan, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

ABSENT - Berube, Crosby, Jennings, Ott, Pineau.

Yes, 67; No, 79; Absent, 5; Excused, 0.

67 having voted in the affirmative and 79 voted in the negative, with 5 being absent, and accordingly **House Amendment "F" (H-1075) to Committee Amendment "C" (H-1058) FAILED ADOPTION.**

Subsequently, **Committee Amendment "C" (H-1058) was ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "C" (H-1058)** and sent for concurrence. **ORDERED SENT FORTHWITH.**

**SENATE PAPERS**

**Non-Concurrent Matter**

Bill "An Act To Protect Victims of Domestic Violence"

(S.P. 739) (L.D. 1938)

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-525) AS AMENDED BY HOUSE AMENDMENT "D" (H-1044)** thereto in the House on April 27, 2006.

Came from the Senate with that Body having **ADHERED** to its former action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-525) in NON-CONCURRENCE.**

Representative RICHARDSON of Brunswick moved that the House **RECEDE AND CONCUR.**

Representative TARDY of Newport **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR.**

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

On motion of Representative CUMMINGS of Portland, **TABLED** pending the motion of Representative RICHARDSON of Brunswick to **RECEDE AND CONCUR** and later today assigned. (Roll Call Ordered)

**CONSENT CALENDAR**

**First Day**

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

(S.P. 816) (L.D. 2085) Bill "An Act To Clarify the Sales Tax Exemption for Air Ambulance Services" Committee on **TAXATION reporting Ought to Pass as Amended by Committee Amendment "A" (S-589)**

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

**ENACTORS**

**Acts**

An Act To Amend the Crime of Aggravated Criminal Mischief (S.P. 706) (L.D. 1789) (S. "A" S-605 to C. "A" S-504)

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

On motion of Representative BLANCHETTE of Bangor, was **SET ASIDE.**

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-504) as Amended by Senate Amendment "A" (S-605)** thereto was **ADOPTED.**

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Senate Amendment "A" (S-605) to Committee Amendment "A" (S-504)** was **ADOPTED.**

On further motion of the same Representative, **Senate Amendment "A" (S-605) to Committee Amendment "A" (S-504)** was **INDEFINITELY POSTPONED.**

Subsequently, **Committee Amendment "A" (S-504)** was **ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-504)** in **NON-CONCURRENCE** and sent for concurrence.

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

Bill "An Act To Protect Victims of Domestic Violence"

(S.P. 739) (L.D. 1938)

Which was **TABLED** by Representative CUMMINGS of Portland pending the motion of Representative RICHARDSON of Brunswick to **RECEDE AND CONCUR.** (Roll Call Ordered)

The SPEAKER: A roll call having been previously 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. 537**

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Bryant, Burns, Cain, Canavan, Craven, Cummings, Davis G, Davis K, Duchesne, Dudley, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Koffman, Lerman, Makas, Marley, Marraché, Mazurek, Miller, Moody, Norton, O'Brien, Paradis, Patrick, Percy, Perry, Pilon, Pingree, Piotti, Plummer, Rines, Sampson, Schatz, Simpson, Smith N, Smith W, Thompson, Tuttle, Twomey,

Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

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

ABSENT - Berube, Brautigam, Crosby, Jennings, Ott, Pineau. Yes, 68; No, 77; Absent, 6; Excused, 0.

68 having voted in the affirmative and 77 voted in the negative, with 6 being absent, and accordingly the motion to **RECEDE AND CONCUR FAILED**.

Subsequently, on motion of Representative CUMMINGS of Portland, the House voted to **INSIST** and **ASK** for a **COMMITTEE OF CONFERENCE**. Sent for concurrence.

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

**CONSENT CALENDAR**  
**Second Day**

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

(S.P. 816) (L.D. 2085) Bill "An Act To Clarify the Sales Tax Exemption for Air Ambulance Services" (C. "A" S-589)

No objections having been noted at the end of the Second Legislative Day, the Senate Paper was **PASSED TO BE ENGROSSED AS AMENDED** in concurrence. **ORDERED SENT FORTHWITH**.

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

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On motion of Representative CLARK of Millinocket, the House adjourned at 7:56 p.m., until 9:00 a.m., Friday, April 28, 2006.