

MAINE STATE LEGISLATURE

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House of Representatives
One Hundred and Twenty-Fifth Legislature
State of Maine

Daily Edition

First Regular Session

December 1, 2010 – June 29, 2011

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ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
FIRST REGULAR SESSION
33rd Legislative Day
Tuesday, April 12, 2011

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

Prayer by James M. Sacco, Green Acre Bahá'í School, Eliot.
National Anthem by Deanna Jordan, Caribou.
Pledge of Allegiance.
Doctor of the day, Jennifer Hayman, M.D., Falmouth.

The SPEAKER: The Chair recognizes the Representative from Deer Isle, Representative Kumiega, who wishes to address the House on the record.

Representative **KUMIEGA**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise today to recognize a young man that has been dealt a tough hand and is trying very hard to make the best of it. Brandon Higgins had his freshman year at Deer Isle-Stonington High interrupted by the diagnosis of a brain tumor, but he has not let that stop him from being a 15-year-old. Just last week he traveled to the Boston Garden and saw a basketball game as a guest of the Celtics.

Earlier this year with the help of the Make-A-Wish Foundation, Brandon and his family flew to Los Angeles to see the NBA All-Star Game and met several players, including four Celtics. He recruited them as members of Team Brandon, signified by this green wristband that some of the players have been seen wearing on the court. So if any members of the House have dreams of being on the same team as Paul Pierce and Kevin Garnett, please see me or Brandon's family. Team Brandon always has a roster spot open.

The Journal of Thursday, April 7, 2011 was read and approved.

SENATE PAPERS

Bill "An Act Concerning Notification to an Employer of Misrepresented Medical Information under the Maine Human Rights Act"

(S.P. 440) (L.D. 1426)

Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** suggested and ordered printed.

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

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

Bill "An Act To Implement Recommendations on Reinventing Government"

(S.P. 444) (L.D. 1437)

Committee on **STATE AND LOCAL GOVERNMENT** suggested and ordered printed.

Came from the Senate, **REFERRED** to the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed.

The Bill was **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT**, in **NON-CONCURRENCE** and sent for concurrence.

COMMUNICATIONS

The Following Communication: (H.C. 129)

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333-0002**

April 7, 2011

The Honorable Heather J.R. Priest
Clerk of the House
2 State House Station
Augusta, Maine 04333

Dear Clerk Priest:

Pursuant to my authority under Title 10, MRSA, Chapter 1-A, §11, I am pleased to appoint Connie Jones, Executive Director of the Midcoast Chapter of the American Red Cross, to the Citizen Trade Policy Commission.

Please let me know if you have any questions regarding this appointment.

Sincerely,

S/Robert W. Nutting

Speaker of the House

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 130)

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333-0002**

April 11, 2011

The Honorable Heather J.R. Priest
Clerk of the House
2 State House Station
Augusta, Maine 04333

Dear Clerk Priest:

Pursuant to my authority under 20-A, MRSA, §11053, I am pleased to reappoint Representative Emily Ann Cain of Orono to the New England Board of Higher Education.

Please let me know if you have any questions regarding this appointment.

Sincerely,

S/Robert W. Nutting

Speaker of the House

READ and ORDERED PLACED ON FILE.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

The following Bills and Resolve were received, and upon the recommendation of the Committee on Reference of Bills were **REFERRED** to the following Committees, ordered printed and sent for concurrence:

AGRICULTURE, CONSERVATION AND FORESTRY

Resolve, To Enhance Agriculture and Farming

(H.P. 1058) (L.D. 1444)

Sponsored by Representative CROCKETT of Bethel.

CRIMINAL JUSTICE AND PUBLIC SAFETY

Bill "An Act To Require Videoconferencing for Civil and Criminal Proceedings for Inmates"

(H.P. 1069) (L.D. 1438)

Sponsored by Representative BURNS of Whiting.

Cosponsored by President RAYE of Washington and Representatives: CLARKE of Bath, CROCKETT of Bethel,

CURTIS of Madison, ESPLING of New Gloucester, GUERIN of Glenburn, OLSEN of Phippsburg, SANDERSON of Chelsea.
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Bill "An Act Regarding Permits To Carry Concealed Firearms"
(H.P. 1070) (L.D. 1439)

Sponsored by Representative HANLEY of Gardiner.
Submitted by the Department of Public Safety pursuant to Joint Rule 204.

EDUCATION AND CULTURAL AFFAIRS

Bill "An Act To Establish the Maine Farm and Fish to School Program"

(H.P. 1060) (L.D. 1446)

Sponsored by Representative McCABE of Skowhegan.
Cosponsored by Senator LANGLEY of Hancock and Representatives: BEAVERS of South Berwick, BECK of Waterville, BERRY of Bowdoinham, BLACK of Wilton, BOLAND of Sanford, BRIGGS of Mexico, BRYANT of Windham, CAIN of Orono, CAREY of Lewiston, CHAPMAN of Brooksville, CHIPMAN of Portland, CORNELL du HOUX of Brunswick, GRAY of Palmyra, CROCKETT of Bethel, DILL of Cape Elizabeth, DILL of Old Town, DOW of Waldoboro, EDGECOMB of Caribou, EVES of North Berwick, FLEMINGS of Bar Harbor, FOSSEL of Alna, FOSTER of Augusta, GIFFORD of Lincoln, GILBERT of Jay, GOODE of Bangor, GRAHAM of North Yarmouth, HARLOW of Portland, HARMON of Palermo, HARVELL of Farmington, HERBIG of Belfast, HINCK of Portland, HOGAN of Old Orchard Beach, HUNT of Buxton, INNES of Yarmouth, KENT of Woolwich, KRUGER of Thomaston, KUMIEGA of Deer Isle, LOVEJOY of Portland, LUCHINI of Ellsworth, MAZUREK of Rockland, MCKANE of Newcastle, MITCHELL of the Penobscot Nation, MORRISON of South Portland, NELSON of Falmouth, O'BRIEN of Lincolnville, RANKIN of Hiram, RICHARDSON of Warren, ROCHELO of Biddeford, ROTUNDO of Lewiston, RUSSELL of Portland, SANBORN of Gorham, SHAW of Standish, STEVENS of Bangor, STUCKEY of Portland, TIMBERLAKE of Turner, TREAT of Hallowell, WAGNER of Lewiston, WEBSTER of Freeport, WELSH of Rockport, Senators: ALFOND of Cumberland, GOODALL of Sagadahoc.

ENERGY, UTILITIES AND TECHNOLOGY

Bill "An Act To Create Jobs through the Establishment of the Renewable Energy Resources Feed-in Tariff Program"

(H.P. 1061) (L.D. 1447)

Sponsored by Representative RUSSELL of Portland.
Cosponsored by Senator ALFOND of Cumberland and Representatives: BERRY of Bowdoinham, INNES of Yarmouth, KENT of Woolwich, MacDONALD of Boothbay, Senator: BARTLETT of Cumberland.

Bill "An Act To Ensure Regulatory Parity among Telecommunications Providers"

(H.P. 1075) (L.D. 1466)

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

ENVIRONMENT AND NATURAL RESOURCES

Bill "An Act To Transfer Recycling Technical Assistance and Solid Waste Policy Responsibilities from the State Planning Office to the Department of Environmental Protection"
(EMERGENCY)

(H.P. 1073) (L.D. 1458)

Sponsored by Representative MOULTON of York.
Cosponsored by Senator SULLIVAN of York and Representatives: GRAHAM of North Yarmouth, HINCK of Portland.

Bill "An Act To Legalize and Tax Marijuana"

(H.P. 1067) (L.D. 1453)

Sponsored by Representative RUSSELL of Portland.
Cosponsored by Representatives: CEBRA of Naples, LIBBY of Waterboro, MITCHELL of the Penobscot Nation, O'BRIEN of Lincolnville, WINTLE of Garland.

Committee on **HEALTH AND HUMAN SERVICES** suggested.

On motion of Representative STRANG BURGESS of Cumberland, **TABLED** pending **REFERENCE** and later today assigned.

INLAND FISHERIES AND WILDLIFE

Bill "An Act Regarding the Right of Native Americans To Be Issued Hunting, Trapping and Fishing Licenses"

(H.P. 1071) (L.D. 1456)

Sponsored by Representative SOCTOMAH of the Passamaquoddy Tribe.
Cosponsored by President RAYE of Washington and Representatives: CAIN of Orono, CURTIS of Madison, FITTS of Pittsfield, MALONEY of Augusta, MITCHELL of the Penobscot Nation, Senators: ALFOND of Cumberland, HASTINGS of Oxford, SULLIVAN of York.
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Bill "An Act To Improve Timely Access to Health Care Data"
(EMERGENCY)

(H.P. 1076) (L.D. 1467)

Sponsored by Representative CAIN of Orono.
Cosponsored by Senator CRAVEN of Androscoggin and Representatives: EVES of North Berwick, PETERSON of Rumford, STRANG BURGESS of Cumberland, STUCKEY of Portland, Senator: ROSEN of Hancock.

Committee on **INSURANCE AND FINANCIAL SERVICES** suggested.

On motion of Representative RICHARDSON of Warren, **TABLED** pending **REFERENCE** and later today assigned.

JUDICIARY

Bill "An Act To Protect Time-share Condominium Associations"

(H.P. 1062) (L.D. 1448)

Sponsored by Representative CROCKETT of Bethel.
Cosponsored by Senator PATRICK of Oxford and Representatives: CRAY of Palmyra, HAYES of Buckfield, PRIEST of Brunswick, RICHARDSON of Warren, WATERHOUSE of Bridgton, Senator: BLISS of Cumberland.

Bill "An Act To Strengthen the Consent Laws for Abortions Performed on Minors and Incapacitated Persons"

(H.P. 1072) (L.D. 1457)

Sponsored by Representative CRAFTS of Lisbon.
Cosponsored by Senator MASON of Androscoggin and Representatives: ESPLING of New Gloucester, GUERIN of Glenburn, MORISSETTE of Winslow, O'CONNOR of Berwick,

PARKER of Veazie, SIROCKI of Scarborough, TURNER of Burlington.

LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT

Bill "An Act To Enforce Wage Laws"
(H.P. 1064) (L.D. 1450)

Sponsored by Representative RUSSELL of Portland.
Cosponsored by Representatives: BERRY of Bowdoinham, GILBERT of Jay, GOODE of Bangor, INNES of Yarmouth.

Bill "An Act To Create Transparency and Accountability in Economic Development Subsidies"
(H.P. 1065) (L.D. 1451)

Sponsored by Representative RUSSELL of Portland.
Cosponsored by Representatives: BERRY of Bowdoinham, FLEMINGS of Bar Harbor, GOODE of Bangor, STUCKEY of Portland.

Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** suggested.

On motion of Representative PRESCOTT of Topsham,
TABLED pending **REFERENCE** and later today assigned.

Bill "An Act To Create the Maine Street Economic Development Bank"
(H.P. 1066) (L.D. 1452)

Sponsored by Representative RUSSELL of Portland.
Cosponsored by Representative BEAVERS of South Berwick and Representatives: BERRY of Bowdoinham, BOLDUC of Auburn, CAREY of Lewiston, CHIPMAN of Portland, GOODE of Bangor, Senator: BARTLETT of Cumberland.

Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** suggested.

On motion of Representative PRESCOTT of Topsham, the Bill was **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES**, ordered printed and sent for concurrence.

STATE AND LOCAL GOVERNMENT

Bill "An Act To Provide More Efficient Notice of Public Activities"
(H.P. 1059) (L.D. 1445)

Sponsored by Representative HAYES of Buckfield.
Cosponsored by Representative DUCHESNE of Hudson.

TAXATION

Bill "An Act To Strengthen Maine Industry through Energy Efficiency Investment"
(H.P. 1063) (L.D. 1449)

Sponsored by Representative HINCK of Portland.
Cosponsored by Representatives: BERRY of Bowdoinham, FITTS of Pittsfield, FLEMINGS of Bar Harbor, HAYES of Buckfield, KNIGHT of Livermore Falls, RUSSELL of Portland, Senator: THIBODEAU of Waldo.

Bill "An Act Concerning Technical Changes to the Tax Laws"
(H.P. 1077) (L.D. 1468)
Sponsored by Representative KNIGHT of Livermore Falls.
Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 204.

TRANSPORTATION

Bill "An Act To Allow Police Officers To Operate Mobile Command Units without a Special License"
(H.P. 1068) (L.D. 1454)

Sponsored by Representative HASKELL of Portland.
Cosponsored by Senator BRANNIGAN of Cumberland and Representatives: CELLI of Brewer, DRISCOLL of Westbrook, FOSSEL of Alna, HANLEY of Gardiner, HOGAN of Old Orchard Beach, PEOPLES of Westbrook.
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

VETERANS AND LEGAL AFFAIRS

Bill "An Act To Permit Video Gaming for Money Conducted by Nonprofit Organizations"
(H.P. 1078) (L.D. 1469)

Sponsored by Representative FITTS of Pittsfield.
Cosponsored by Senator PATRICK of Oxford and Representative: PETERSON of Rumford.

Pursuant to Statute

Administrator of the Unorganized Territory
Representative KNIGHT for the **Administrator of the Unorganized Territory** pursuant to the Maine Revised Statutes, Title 36, section 1604 asks leave to report that the accompanying Bill "An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2011-12" (EMERGENCY)
(H.P. 1074) (L.D. 1459)

Be **REFERRED** to the Committee on **TAXATION** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **TAXATION** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

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

ORDERS

On motion of Representative CEBRA of Naples, the following Joint Resolution: (H.P. 1079) (Cosponsored by Senator COLLINS of York and Representatives: BURNS of Whiting, CHASE of Wells, CLARK of Easton, CRAFTS of Lisbon, DAMON of Bangor, DAVIS of Sangerville, DUNPHY of Embden, ESPLING of New Gloucester, FITZPATRICK of Houlton, GUERIN of Glenburn, HARMON of Palermo, JOHNSON of Greenville, LIBBY of Waterboro, LONG of Sherman, MALABY of Hancock, McCLELLAN of Raymond, O'CONNOR of Berwick, PARKER of Veazie, PARRY of Arundel, RIOUX of Winterport, SARTY of Denmark, SIROCKI of Scarborough, TIMBERLAKE of Turner, TURNER of Burlington, WILLETTE of Mapleton, WINSOR of Norway, WOOD of Sabattus, Senators: MASON of Androscoggin, PLOWMAN of Penobscot, SNOWE-MELLO of Androscoggin, THOMAS of Somerset) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214)

JOINT RESOLUTION RECOGNIZING THE SOVEREIGNTY OF MAINE AND MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO CEASE CERTAIN MANDATES

WE, your Memorialists, the Members of the One Hundred and Twenty-fifth Legislature of the State of Maine now assembled in the First Regular Session, most respectfully present and petition the President of the United States and the members of the Congress of the United States, as follows:

WHEREAS, the Tenth Amendment to the United States Constitution reads as follows: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people"; and

WHEREAS, the Tenth Amendment defines the total scope of federal power as being that specifically granted by the United States Constitution and no more; and

WHEREAS, the scope of power defined by the Tenth Amendment means that the Federal Government was created by the states specifically to be an agent of the states; and

WHEREAS, today, in 2011, it is as if the states are treated as agents of the Federal Government; and

WHEREAS, many federal laws seem to be in violation of the Tenth Amendment to the United States Constitution; and

WHEREAS, the Tenth Amendment assures that we, the people of the United States of America and each sovereign state in the Union of States, now have, and have always had, rights the Federal Government may not usurp; and

WHEREAS, Article IV, Section 4 says, "The United States shall guarantee to every State in this Union a Republican Form of Government," and the Ninth Amendment states, "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people"; and

WHEREAS, the United States Supreme Court has ruled in *New York v. United States*, 112 S. Ct. 2408 (1992), that Congress may not simply commandeer the legislative and regulatory processes of the states; and

WHEREAS, a number of proposals from previous administrations and some now pending from the present administration and from Congress may further violate the United States Constitution; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully claim sovereignty under the Tenth Amendment to the United States Constitution over all powers not otherwise enumerated and granted to the Federal Government by the United States Constitution; and be it further

RESOLVED: That we urge and request that the President of the United States and Members of Congress, as our agents, work to end the federal mandates that are beyond the scope of these constitutionally delegated powers; and be it further

RESOLVED: That we urge and request that all compulsory federal legislation that directs states to comply under threat of civil or criminal penalties or sanctions or requires states to pass legislation or lose federal funding be prohibited or repealed; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable Barack H. Obama, President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives and to each Member of the Maine Congressional Delegation.

READ.

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

Representative **CEBRA**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I present this Joint Resolution recognizing the sovereignty of the State of Maine and memorializing the President of the United States and the U.S. Congress to cease certain mandates.

The Tenth Amendment of the U.S. Constitution reads: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

We, as a state, have certain rights that have been granted to us by the U.S. Constitution and the Federal Government has certain rights granted to it by the U.S. Constitution. When, from time to time, the Federal Government oversteps its bounds, the bounds that are placed in this U.S. Constitution, it comes time for individual states to resolve that the Federal Government gets the message from those of us out here around the country to keep itself limited to the powers that it is designated to have.

So this Joint Resolution, because of quite a few overstepping of its bounds by the Federal Government, such as recently we just had a hearing on Real ID, and there are quite a few other areas where the Federal Government reaches into the State of Maine's jurisdiction. I respectfully present this Resolution and I thank you for your time, and I hope that you will join me in standing up for our Tenth Amendment rights as a state. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Cain.

Representative **CAIN**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. This Joint Resolution is a classic example of differing views on the role of government.

As Democrats, we view government as playing a positive role in people's lives and that the states have responsibilities to govern themselves to meet the needs of their citizens. However, the Federal Government exists to steward the interests of all people of the United States and set standards through laws, mandates, and policies to do that. Those issues are usually about education, health, security, the environment, civil rights and more. But this Resolution, Mr. Speaker, is close to state nullification of federal laws, and I will remind the body that we fought a civil war over that issue.

We have a process using federal courts to determine whether there is a constitutional violation and we have elections to express our discontent or content with laws passed at the federal level. To allow each state to determine on its own which federal laws to follow leads to governmental chaos. I urge you to join me in voting against the pending motion, and Mr. Speaker, I request a roll call.

Representative **CAIN** of Orono **REQUESTED** a roll call on **ADOPTION**.

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 Waterboro, Representative Libby.

Representative **LIBBY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The Tenth Amendment is something we should look at very highly. The Kentucky and Virginia Resolutions will show us the historical points of nullification, as the Representative spoke about.

The aspect I want to speak on right now is that the Tenth Amendment movement pertains to a lot of different entities. One of the entities that I would like to talk about is the Food Safety Modernization Act, and this is one part of the Tenth Amendment Resolutions that talks about that, whereas the Federal Government going into what the states have for regulations on food. This would be one aspect of pushing back on that saying,

no, the state has the right to regulate food, not the Federal Government, following the Tenth Amendment. Thank you.

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

ROLL CALL NO. 18

YEA - Ayotte, Beaulieu, Bennett, Bickford, Black, Burns DC, Burns DR, Cebra, Celli, Chase, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dow, Dunphy, Edgcomb, Espling, Fitts, Fitzpatrick, Flood, Fossil, Foster, Fredette, Gifford, Gillway, Guerin, Hamper, Hanley, Harmon, Harvell, Johnson D, Johnson P, Keschl, Knapp, Knight, Libby, Long, Maker, Malaby, McClellan, McFadden, McKane, Morissette, Moulton, Newendyke, O'Connor, Olsen, Parker, Parry, Picchiotti, Plummer, Prescott, Richardson D, Richardson W, Rioux, Rosen, Sanderson, Sarty, Shaw, Sirocki, Strang Burgess, Tilton, Timberlake, Turner, Volk, Waterhouse, Weaver, Willette A, Willette M, Winsor, Wintle, Wood, Mr. Speaker.

NAY - Beavers, Beck, Beliveau, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Carey, Casavant, Chapman, Chipman, Clark H, Clarke, Cornell du Houx, Dill J, Dion, Driscoll, Duchesne, Eberle, Flemings, Gilbert, Goode, Graham, Harlow, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Innes Walsh, Kaenrath, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maloney, Martin, Mazurek, McCabe, Morrison, Nelson, O'Brien, Peoples, Peterson, Pilon, Priest, Rankin, Rochelo, Rotundo, Russell, Sanborn, Stevens, Stuckey, Theriault, Treat, Tuttle, Valentino, Wagner R, Webster, Welsh.

ABSENT - Beaudoin, Dill C, Eves, Kent, Nass.

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

79 having voted in the affirmative and 67 voted in the negative, with 5 being absent, and accordingly the Joint Resolution was **ADOPTED**.

Sent for concurrence.

On motion of Representative WINSOR of Norway, the following Joint Resolution: (H.P. 1081)

**JOINT RESOLUTION RECOGNIZING APRIL 18, 2011 AS
WORLD AMATEUR RADIO DAY**

WHEREAS, because it uses an international natural resource, the radio spectrum, amateur radio must organize nationally and internationally for better mutual use of the radio spectrum among radio amateurs throughout the world; and

WHEREAS, amateur radio communication has evolved from crude spark-gap technology to true digital communication, integrating the use of computers and radio to communicate locally as well as worldwide; and

WHEREAS, on April 18, 1925, the International Amateur Radio Union was founded, which illustrates how international cooperation and communication are hallmarks of amateur radio; and

WHEREAS, the International Amateur Radio Union has given amateur radio a voice in developing international agreements that allow amateurs to communicate over international borders; and

WHEREAS, there are more than 3,000,000 amateur radio operators worldwide, with more than 730,000 in the United States and more than 5,000 in the State of Maine; and

WHEREAS, each year on April 18th, amateur radio operators throughout the world celebrate World Amateur Radio Day and sponsor special events to promote and publicize amateur radio; and

WHEREAS, this year's theme is "Amateur Radio: The First Technology-based Social Network"; and

WHEREAS, amateur radio is a licensed service that may be used only among licensees and only for noncommercial use and, at times of emergency or natural disasters, is often the only dependable way to communicate locally or internationally; and

WHEREAS, amateur radio operators volunteer their equipment and time to provide this valuable service and Maine amateur radio operators routinely provide public service communications for such events as the Dempsey Challenge, the Trek Across Maine, the Beach to Beacon 10K Road Race, the New England Forest Rally, the Kenduskeag Stream Canoe Race, the Tour de Cure, the National Multiple Sclerosis Society walkathons, the Can-Am Crown International Sled Dog Race, the Loon Echo Bike Trek and the World Biathlon Championship; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-fifth Legislature now assembled in the First Regular Session, on behalf of the people we represent, take this opportunity to recognize and acknowledge the accomplishments and public service provided by amateur radio operators as they celebrate World Amateur Radio Day on the 86th anniversary of the founding of the International Amateur Radio Union; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the American Radio Relay League and the International Amateur Radio Union.

READ and ADOPTED.

Sent for concurrence.

On motion of Representative TREAT of Hallowell, the following Joint Order: (H.P. 1080)

ORDERED, the Senate concurring, that the Joint Rules be amended by amending Joint Rule 208 to read:
Rule 208. Requirements for Drafting.

A request for a bill or resolve filed with the Revisor of Statutes is considered complete when the request is properly titled and accompanied by sufficient instructions, information and data required for its preparation. When a request is not accompanied by sufficient instructions, information or data, the Revisor of Statutes is directed to give written notice of inadequate information to the legislator. Upon receipt of said written notice, the legislator has 5 business days, unless an alternative period is set jointly by the presiding officers, to file adequate information with the Revisor of Statutes, or the request for the bill or resolve will be denied. Drafts prepared by an outside source must be filed in final form by the appropriate cloture date.

~~When directed by the sponsor, the Revisor of Statutes shall prepare a bill or resolve in concept form. The bill or resolve shall contain only an enacting clause and a summary of the proposed legislation and shall not be fully drafted by the Revisor of Statutes. The bill or resolve prepared in this form shall be printed and referred to a committee in the same manner as other legislation and may be reported in fully drafted form by that committee in the same manner as other legislation. This method of drafting legislation is not allowed for legislation submitted by the Governor, by agencies or departments of state government, by study commissions, or pursuant to statute. Any request for a bill or resolve submitted after cloture must state if it is a request for a concept draft. Any committee amendment must be germane to the detailed summary of the concept draft.~~

Joint Select Committee on **JOINT RULES** suggested.

READ and REFERRED to the Joint Select Committee on **JOINT RULES**.

Sent for concurrence.

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

SENATE PAPERS

The following Joint Order: (S.P. 457)

ORDERED, the House concurring, that Bill, "An Act To Amend the Powers and Duties of Municipal Treasurers," H.P. 390, L.D. 497, and all its accompanying papers, be recalled from the Governor's desk to the Senate.

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

READ and **PASSED** in concurrence.

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

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Kayla Burchill, of Portland, a student at Deering High School, who was named the 2011 Miss Basketball at the annual Maine McDonald's Senior All-Star Banquet at Husson University. We extend our congratulations and best wishes to her on her receiving this honor;

(HLS 235)

Presented by Representative HASKELL of Portland. Cosponsored by Senator ALFOND of Cumberland, Senator BRANNIGAN of Cumberland, Representative RUSSELL of Portland, Representative CHIPMAN of Portland, Representative HARLOW of Portland, Representative HINCK of Portland, Representative LOVEJOY of Portland, Representative STUCKEY of Portland, Representative DION of Portland.

On **OBJECTION** of Representative HASKELL of Portland, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

REPORTS OF COMMITTEE

Change of Committee

Representative STRANG BURGESS from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Ensure That Children's Products Are Free of Cadmium"

(H.P. 385) (L.D. 492)

Reporting that it be **REFERRED** to the Committee on **ENVIRONMENT AND NATURAL RESOURCES**.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **ENVIRONMENT AND NATURAL RESOURCES**.

Sent for concurrence.

Divided Report

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought Not to Pass** on Bill "An Act To Increase the Maximum Distance from a School within Which a Sex Offender May Not Reside That May Be Set by Municipal Ordinance"

(S.P. 23) (L.D. 8)

Signed:

Senator:

GERZOFISKY of Cumberland

Representatives:

PLUMMER of Windham

BLODGETT of Augusta

CLARKE of Bath

HANLEY of Gardiner

HASKELL of Portland

LAJOIE of Lewiston

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-13)** on same Bill.

Signed:

Senators:

MASON of Androscoggin

WHITEMORE of Somerset

Representatives:

BURNS of Whiting

LONG of Sherman

MORISSETTE of Winslow

SANDERSON of Chelsea

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

READ.

Representative PLUMMER of Windham moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The Chair ordered a division on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **PLUMMER**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. LD 8 deals with sex offender residency restrictions. The Criminal Justice and Public Safety Committee and this Legislature dealt with residency restrictions in the 122nd Legislature, in the 123rd Legislature. In fact, in the 123rd Legislature, we created what is known in the Criminal Justice Committee as Section 261. That's because it is Section 261 that was added to Title 17. In sex offender restricted zones, any sex offender, whether they are on the registry or not, may not initiate direct or indirect contact with another person who has in fact not attained 14 years of age.

At that time, the Criminal Justice and Public Safety Committee felt that this was much better than residency restriction, and the sex offender restricted zones apply to: real property comprising a public or private elementary or middle school; real property comprising of a childcare center or a childcare facility; a daycare operated by a family childcare provider; a nursery school or a small childcare facility as defined under Title 22; or an athletic field, park, playground or recreation facility or youth camp licensed under Title 22, or other place where children are the primary users. We felt good about what we had done. We felt we were adding a real layer of protection for children.

In the 124th Legislature, the issue came back to us. We worked hard on this, came up with compromises that established residency restrictions as an option for municipalities, for public and private schools of up to 750 feet. Fourteen communities across the state took us up on this offer and passed residency restrictions.

This bill does not help anyone. It could create a false sense of security where there is no added public safety. In states where

residency restrictions have been adopted, many sex offenders stopped registering. They went underground. Nobody knew where they were. The public didn't know where they were, the police didn't know where they were. This has happened in a number of states and some states have chosen to repeal those restrictions because of the unintended consequences.

You have on your desk, well probably in the plastic receptacle near your desk by now, you have letters from at least two district attorneys, one being District Attorney Evert Fowle, who says, previous legislatures have already forged appropriate compromise in this area. Passage of this bill would encourage migration of sex offenders from the urban centers into the rural areas. There would be less supervision. My fear is that this bill would have unintended consequences and that the public would not be well-served by its passage.

You also have another letter from District Attorney Stephanie Anderson, representing the Maine Prosecutors Association. District Attorney Anderson says, although this bill on its face would purport to protect the public, we believe that unintended consequences may flow which will actually compromise public safety.

This is a bill that I wouldn't feel as passionately about if it weren't for the fear of those unintended consequences, that it really doesn't do anything to enhance public safety, but it may very well have the unintended consequence of compromising public safety. I would urge you to support the Ought Not to Pass. The Criminal Justice and Public Safety Committee will be coming back to you with a bill that proposes a three-tiered system so that we can identify the real bad people and we can watch them closely. We have passed legislation in the last couple of sessions that have put sex offenders in prison for longer times. We need to do this and we also need to know who the ones are that really need to be watched closely. LD 8 will not do that and I urge you to vote for the Ought Not to Pass. Thank you, Mr. Speaker.

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

Representative **BURNS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I want to speak about this bill for just a moment. I am going to encourage you to vote in opposition to the pending motion and hope you will support the Committee Amendment that we had come up with. I see this Committee Amendment and this bill as a very commonsense approach to the discussion and the argument that's been going on about sex offender setback and restrictions. You've heard arguments and you are going to hear more arguments today that these don't work, that they may even be counterproductive. I don't accept those arguments. I ask you, how do you prove a negative? How do you prove that a child was not molested or abducted because of a reasonable distance that a sex offender had to live away from a place where children frequent, children spend their day? Children are in an environment that is supposed to be protected and taken care of, let's say you can't prove that, so you don't really know.

I live in a small community, which is what this amendment is drafted to try to address. It is a small town with one church, one community store, one town office, one school. We have no local law enforcement and we have the State Police and the Sheriff's Department, and, as you all know, they have vast areas to cover. In fact, in my community there are no patrol officers living right now. What we do have is a lot of vigilant eyes. The people that live in the community, the people that live around that school and in the center of our town. Those are the people that live in the houses that would be within this amended 2,500 foot setback surrounding the school on both sides.

My community has one major road going through it, Route 1, so the houses that the kids frequent and come and go to, day in and day out, are the houses that live within that area. These same kids come and go in the morning; they come and go in the afternoon. They know the people in those houses, the people in the houses know them, and, believe me, people know when they are coming and going and they know what they're up to. They know whether there are vehicles in the area that shouldn't be, and they know who lives in the house next to them. Law enforcement doesn't always know that. They depend on these people in these small communities. That is one of the tools that law enforcement has, and I am suggesting that is also one of the tools that the communities might have.

We saw this, some of us saw this amendment, as I said, as a reasonable compromise for these small communities that don't have local law enforcement, that don't have a chief of police, as opposed to towns that do have all that infrastructure, do have an organized law enforcement community. You do have treatment facilities which may present a problem in itself if a registered sex offender has to attend those. We don't have those in most of these small communities. This is only one small tool, but its one small tool that, I think, Mr. Speaker, is necessary for our small communities to opt into if they choose to. As you've heard, only 15 out of about 500 communities in this state have opted to have any setbacks at all. So it's not going to be a rush of communities to impose these setbacks.

The other issue that you've heard is that, and will hear, is that sometimes it pushes people out of the community and puts them into the next neighboring community. I submit to you that this wouldn't happen. Twenty-five hundred feet from one of these places where children frequent is not a great distance. There is plenty of opportunity, plenty of houses. In fact, most all of the houses are outside of that boundary, so it wouldn't be an issue. I don't know for sure if this will work, but I don't think anybody can stand here and tell you with any great degree of confidence that it will or will not prevent one of these situations from taking place. In my quarter of a century of working in professional law enforcement, much of that was spent working in child sexual abuse cases. I know predators, I understand them to some extent, and I understand that where there's a will there's a way. As far as I'm concerned, this setback is a reasonable tool to help take one of those ways away from them. I would urge you to reject the pending motion and to Accept the House Amendment. Thank you, Mr. Speaker.

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

Representative **HASKELL**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise to give you some information. I put some multi-colored sheets on your desk just to help you kind of follow along with some of the reasoning that the committee used when it came up with this compromise two years ago, and frankly, it was a compromise. It had been my proposal that there be no residency restrictions. A group of three interested parties – the Department of Corrections, the Maine Coalition Against Sexual Assault, and the Maine Municipal Association – sat down and came back to the committee with a compromise, and that compromise two years ago was our current law, the 750 feet, and this was a way to acknowledge that there are some communities who want to have the option. However, when the committee – and I supported that compromise, not necessarily willingly. Sometimes I have to get dragged into a compromise, but in my mind when you have reached a compromise you have, because in my mind all of the empirical evidence points to the fact that residency restrictions do not work.

If you look on the blue sheet, you will see the number of crimes that are perpetrated by offenders known to the victim prior to their offense, and that number has continued to astound me but it is repeated across the country. That is 93 percent. Ninety-three percent of the time that kids are violated, it's somebody that is known to that child before the offense, and 60 percent of these offenses take place in the victim's home or the home of someone they know. Simply restricting where somebody lays their head at night does not keep kids any safer.

The studies on the yellow sheet, and I have the full studies here if anybody wants to look at all of them, but research shows that there is no correlation between residency restrictions and reducing sex offenses against children, or improving the safety of children. The residency restrictions have become a popular means of protecting communities from the threat of recidivist sexual violence and virtually no evidence exists to support the effectiveness of this law. In fact, a growing body of research says that these laws destabilize offenders, they increase transients, they interfere with the efficiency of sex offender registries, and they increase rather than reduce the threat posed by sex offenders. Residential proximity has very little impact.

One of the things that we have come to understand over the number of years that we've been talking about sex offenders in our committee is that it is recidivism. It's not residential proximity but rather social or relational proximity. If you are looking for a way to make kids safer in your community, I strongly urge you to begin a program early in school, as well as early at home, which I know many of you do at home, but encourage programs of education for young children to understand this. The first thing we teach kids when they come to kindergarten is the fire marshal or somebody from your fire department comes in and teaches them "stop, drop and roll." Even a kindergarten kid gets that and lives are saved. There are ways in the very early ages to talk about how to tell and who to tell, and kids need this information. If you've got a bit of effort to put into making your communities safer, I urge you to go to your schools and make sure that these programs are being offered to all of the programs in your school.

We don't want to make it any more difficult for law enforcement officers to keep track of the activities of these sex offenders. I urge you to read some of the material that's in front of you and, in particular, the sex offender residency restrictions white sheet here, which talks about the contact zones. Representative Plummer and I distributed that to you so that you could see the efforts that have been taken, and frankly, other states have been asking "Where did this come from?" "How did you develop this?" "How can we get this in place in our communities?" So I urge you to support the Ought Not to Pass motion to keep the compromise that was made two years ago in place and to make sure that we're furthering rational sex offender policies. Thank you.

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

Representative **DION**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. No crime troubles me more than those affecting children in our community. As a former police officer, with the deepest respect from my colleague from Whiting, we share an understanding of the trauma these events bring to our children, and because of that trauma we have a duty not to subscribe to a false positive. These men have engaged in despicable acts and they were not deterred by the sanctity of their marriage vow. They were not hindered by their responsibility or trust that their children had placed on them, they were not shied by the morals we share as a community, and they felt no threat from the felony law and prison sentence that awaited them, and they hurt, they hurt many in their wake. So

today we contemplate whether or not a zoning ordinance will hold them in check.

I dare suggest to you they do not fear a zoning ordinance. If we want to see the face of sexual assault, we should not take out a tape measure. That will tell us nothing. When you set your table on Thanksgiving Day, look to your left and to your right. They sit right there before you, and I know my good friend from Whiting would agree that when we walked to the door and knocked on it, we came for the father, the brother, the uncle, the grandfather, the cousin, the trusted family member. So that's what we have to pay attention to. I patrolled 14 communities with no police department that I shared with the State Police, and my colleague from Whiting is correct, we are spread thin. Between us, we knew all 90 men that we bear to witness and watch, and we did. Now the interesting thing is if you apply zoning law to control this kind of behavior, you will push more of these offenders into rural Maine and out of the density of supervision that the cities provide. That is for sure. I am just telling you this: as a father to daughters, I have always looked among my peers, the men that I invited into my home as the potential threat, not the stranger. The stranger makes wonderful movies and occasionally makes horrible fact, but the truth of the matter for the everyday victim, when she looked up, she is hurt by someone who just yesterday said "I love you." Thank you.

The SPEAKER: The Chair recognizes the Representative from Chelsea, Representative Sanderson.

Representative **SANDERSON**: Thank you, Mr. Speaker. The good Senator Courtney brought us this bill because there was a town within his district that did have an ordinance on the books restricting sex offenders from living within 2,500 feet from a school where children congregated. With the current law that we now have, that mandated that that town now reduce the safety zone which they felt appropriate within their own municipality by over two-thirds to 750 feet. Right now, every town within this state, over 400 municipalities, has the option to enact a safety zone of 250 feet. Approximately 15 towns in our state have chosen to utilize that option. Senator Courtney's town would like to be able to go back to what they feel is more comfortable for them, 2,500 feet.

Mandating 2,500 feet in cities, yes, could have a devastating effect. It could impact it by forcing sex offenders out into rural communities and away from services, just as the good Representatives before me have argued. That's why this is not a mandate, and I believe communities such as Portland, Augusta, Bangor and Bath have wisely chosen not to enact such a restriction, to keep convicted sex offenders within an area which local enforcement patrols. But what about our smaller communities without a police department, towns whose only coverage is county and state enforcement, small communities where a familiar face that you see walking to school every day in your neighborhood becomes a friend over time because of familiarity? What do we do about that?

Now, yes, we have been visited by this subject in prior sessions. Once again, it is back in the 125th and I guarantee it will probably be back in the 126th as well, because our municipalities want the ability to enact and be able to exercise home rule and make decisions for themselves about this kind of subject, and I strongly urge you to vote against the Ought Not to Pass. Let our municipalities decide for themselves what is best for their community. Only 15 towns have done this. Does that mean all of the sudden we're going to have a mass exodus of sex offenders thrown out of town? No, because under this law anybody living where they are right now, if they are within that zone should a municipality decide to enact it, they are grandfathered. But at least the folks know where they are. This

protects them from having more move in. I think this is a good law. Thank you.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Celli.

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

The SPEAKER: The Representative may pose his question.

Representative **CELLI**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. A question to the floor: is this change only for sex offenders who have committed a crime against children 14 and under, or would this limit be for all sex offenders?

The SPEAKER: The Representative from Brewer, Representative Celli, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Windham, Representative Plummer.

Representative **PLUMMER**: This measure, if enacted, would apply to all people who are on the sex offender registry. Not necessarily those who have committed crimes, because there are people who have committed crimes that are not on the registry, but yes, it would apply to all people who are on the registry regardless of their crime.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Celli.

Representative **CELLI**: Thank you, Mr. Speaker. A final question now and these are I feel that this crime is more heinous than murder because of the scars that are left for years and years. But sex offenders, you know a lot of us automatically think children. A lot of sex offenders, their victims are the elderly, their victims are middle-aged house wives, and we don't have any restrictions on where they can live, close to nursing homes and stuff like that. So I'm wondering, do we need to look at adding those type of institutions also instead of just schools? Thank you.

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

Representative **HASKELL**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I'd like to respond, first of all, to Representative Celli's question, which is, I think, where do you draw the line? What we ought to be thinking about is where do we draw a line that it's going to make any difference, what is the impact, and he is absolutely correct. If you begin to say this is only around schools, then what about daycares? Well, what kind of daycares? There are licensed and then there are other kinds of home daycares. Do you draw a line around those as well? This is the argument, elderly, I think his point is well taken and I would respond that this is the problem with thinking that drawing a line is going to make a difference in whether or not that uncle or that brother or that grandfather and, occasionally, that grandmother offends against those children. This is not an effective method.

To the good Representative from Chelsea, for whom I have a great deal of respect, in her comments she talked about this residency restriction being a way to keep them out, but this residency restriction doesn't keep people out, it doesn't keep sex offenders out of that district. They can walk across the line as soon as they wake up in the morning. If they are 2,501 feet or 751 feet from that school, they can get up out of bed in the morning and walk across that line and be there. That's why the important piece here is the law about the contact zone and understanding what that law brings to bear on those people. That's the thing that's against the law for them. So once you think that you're going to keep them out by simply providing a residency restriction, you're only keeping them out while they're sound asleep and they generally don't do very much harm while they're sound asleep. So it has to do with where they're able to

move around during the day, and those folks who are, as the good Representative mentioned, already living within those zones would be grandfathered. So once again, can we tell our kids that's a safe zone or not a safe zone? I think we need to tell our kids something else, not just here is the small percentage. Remember, 93 percent of the time that a kid is violated against, it's not some stranger jumping out of the bushes, it's somebody they know. So the education that has to go on is not around the somebody who lives in that house, but you've got to watch out and you've got to be careful and you've got to own your own body. Those things are important for kids to know. Thank you.

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

Representative **BURNS**: Thank you, Mr. Speaker. I appreciate your indulgence in allowing me to speak again on this, but a point was just raised that I think we ought to keep in mind and that's familiarity. A lot of times we're talking about people who don't know these children and a lot of times we're talking about people who do know these children and vice versa. When a child sees somebody day in and day out, familiarity comes into place and often a laxness occurs and the child may very well become a victim because of that familiarity. This would help. This would help in those situations because the kids that I'm talking about that walk to and from school in these places see these places every day. This gives them a little bit of a buffer zone.

You know, when I went to high school, I was allowed to take a gun to school when I wanted to go hunting during November. You can't do that anymore, we've changed the rules because things have happened at schools that never happened before. That's the same thing with this situation. Things are happening in our community that we've never had to face before. This is an important and a serious situation. Everybody has agreed to that. But this is also one aspect, one remedy I see in a rural community. If you haven't lived in a rural community, you might be missing part of the concept here. The concept is an opportunity for people who live in those communities to have a tool to keep their children safe, and I think this goes a step towards that. Thank you very much again.

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

Representative **PLUMMER**: Thank you, Mr. Speaker. When I came into this Legislature in the 122nd Legislature, I requested and was assigned to the Criminal Justice and Public Safety Committee. I was looking forward to dealing with police, fire, guns, prisons, exciting things. No one told me I would be dealing with sex offenders. This is a role that was thrust upon me, thrust upon us and we must deal with it. I will also make one other remark about the 122nd. It seemed to me about half the bills that we faced in the Criminal Justice and Public Safety Committee were to correct the unintended consequences of previous legislators. I won't be in this House next year to deal with those unintended consequences, but I strongly believe that this bill, if passed, would have unintended consequences. Thank you.

Representative **HAYES** of Buckfield **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. 19

YEA - Beaulieu, Beavers, Beck, Beliveau, Berry, Bickford, Blodgett, Boland, Bolduc, Briggs, Bryant, Burns DR, Cain, Carey, Casavant, Cebra, Celli, Chapman, Chase, Clarke, Cornell du Houx, Curtis, Damon, Dill C, Dill J, Dion, Driscoll, Duchesne, Eberle, Edgecomb, Fitts, Fitzpatrick, Flemings, Fossel, Gilbert, Goode, Graham, Hamper, Hanley, Harlow, Harmon, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Innes Walsh, Kaenrath, Kent, Knapp, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maloney, Martin, Mazurek, McCabe, Morrison, Moulton, Nelson, O'Brien, O'Connor, Olsen, Peoples, Pilon, Plummer, Prescott, Priest, Rankin, Richardson D, Rochelo, Rotundo, Russell, Sanborn, Sarty, Shaw, Sirocki, Stevens, Strang Burgess, Stuckey, Tilton, Treat, Valentino, Volk, Wagner R, Webster, Welsh, Mr. Speaker.

NAY - Ayotte, Bennett, Black, Burns DC, Chipman, Clark H, Clark T, Cotta, Crafts, Cray, Crockett, Cushing, Davis, Dow, Dunphy, Espling, Flood, Foster, Fredette, Gifford, Gillway, Guerin, Harvell, Johnson D, Johnson P, Keschl, Knight, Libby, Long, Maker, Malaby, McClellan, McFadden, McKane, Morissette, Nass, Newendyke, Parker, Parry, Peterson, Picchiotti, Richardson W, Rioux, Rosen, Sanderson, Theriault, Timberlake, Turner, Tuttle, Waterhouse, Weaver, Willette A, Willette M, Winsor, Wintle, Wood.

ABSENT - Beaudoin, Eves.

Yes, 93; No, 56; Absent, 2; Excused, 0.

93 having voted in the affirmative and 56 voted in the negative, with 2 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

Majority Report of the Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-75)** on Bill "An Act To Allow the Transfer of Whitewater Rafting Allocations When Water Levels in a River Are Not Suitable for Whitewater Rafting" (EMERGENCY) (H.P. 304) (L.D. 378)

Signed:

Senators:

MARTIN of Kennebec
PATRICK of Oxford
TRAHAN of Lincoln

Representatives:

DAVIS of Sangerville
CRAFTS of Lisbon
EBERLE of South Portland
ESPLING of New Gloucester
GUERIN of Glenburn
SARTY of Denmark
SHAW of Standish
WOOD of Sabattus

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

Signed:

Representative:

CLARK of Millinocket

READ.

On motion of Representative DAVIS of Sangerville, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-75)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Wednesday, April 13, 2011.

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-76)** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine To Change the Schedule for Redistricting

(H.P. 387) (L.D. 494)

Signed:

Senators:

THOMAS of Somerset
COLLINS of York
SULLIVAN of York

Representatives:

COTTA of China
BOLAND of Sanford
BOLDUC of Auburn
CASAVANT of Biddeford
CELLI of Brewer
HARVELL of Farmington
KAENRATH of South Portland
MOULTON of York
TURNER of Burlington

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

Signed:

Representative:

GRAHAM of North Yarmouth

READ.

On motion of Representative COTTA of China, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The **RESOLUTION** was **READ ONCE**. **Committee Amendment "A" (H-76)** was **READ** by the Clerk and **ADOPTED**. The **RESOLUTION** was assigned for **SECOND READING** Wednesday, April 13, 2011.

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought Not to Pass** on Bill "An Act To Prohibit Certain Uses of Cellular Telephones and Handheld Electronic Devices while Operating a Motor Vehicle" (H.P. 500) (L.D. 670)

Signed:

Senators:

COLLINS of York
DIAMOND of Cumberland
THOMAS of Somerset

Representatives:

CEBRA of Naples
GILLWAY of Searsport
MAZUREK of Rockland
PARRY of Arundel
PEOPLES of Westbrook
RIOUX of Winterport
ROSEN of Bucksport
THERIAULT of Madawaska
WILLETTE of Mapleton

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-80)** on same Bill.

Signed:
Representative:
HOGAN of Old Orchard Beach

READ.

On motion of Representative CEBRA of Naples, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

CONSENT CALENDAR

First Day

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

(S.P. 90) (L.D. 301) Bill "An Act Relating to Abandoned Vehicles" Committee on **TRANSPORTATION** reporting **Ought to Pass**

(S.P. 172) (L.D. 580) Bill "An Act To Protect Children from Sexual Predators" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-26)**

(H.P. 506) (L.D. 679) Resolve, To Leverage Federal Opportunities for Job Creation in Maine Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass**

(H.P. 264) (L.D. 331) Resolve, Regarding Legislative Review of Portions of Chapter 895: Underground Facility Damage Prevention Requirements, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY) Committee on **ENERGY, UTILITIES AND TECHNOLOGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-85)**

(H.P. 302) (L.D. 376) Resolve, Directing the Department of Health and Human Services To Complete the Redesign of a Shared Living Program for Adults with Intellectual Disabilities (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-81)**

(H.P. 333) (L.D. 440) Bill "An Act To Allow Employees of the Maine School of Science and Mathematics to Join the State's Group Health Plan" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-83)**

(H.P. 1011) (L.D. 1372) Bill "An Act To Make Additional Supplemental Appropriations and Allocations for the Fiscal Year Ending June 30, 2011" (EMERGENCY) Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-84)**

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

CONSENT CALENDAR

Second Day

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

(S.P. 39) (L.D. 65) Resolve, To Require Dementia Care Training in Long-term Care Facilities, Adult Day Care Programs, Certain Residential Care Facilities and Supported Living Arrangements (C. "A" S-24)

(S.P. 71) (L.D. 220) Bill "An Act Relating to Maine Farm Wineries" (C. "A" S-23)

(H.P. 211) (L.D. 258) Bill "An Act Relating to Access to Vital Records" (C. "A" H-77)

(H.P. 325) (L.D. 407) Bill "An Act To Require Clarification of the Dig Safe Standards" (C. "A" H-78)

(H.P. 412) (L.D. 529) Bill "An Act To Enhance Transparency in the Regulation of Large, Investor-owned Transmission and Distribution Utilities" (C. "A" H-79)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were **PASSED TO BE ENGROSSED as Amended** in concurrence and the House Papers were **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

BILLS IN THE SECOND READING

Senate

Bill "An Act Regarding the Determination of Distance for the Purposes of the Gambling Control Board Laws" (S.P. 208) (L.D. 677)

House

Bill "An Act To Add Transit Services to the Growth Management Program Comprehensive Plan" (H.P. 474) (L.D. 644)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the Senate Paper was **PASSED TO BE ENGROSSED** in concurrence and the House Paper was **PASSED TO BE ENGROSSED** and sent for concurrence.

ENACTORS

Emergency Measure

An Act To Refund the Sales Tax Paid on Fuel Used in Commercial Groundfishing Boats (H.P. 162) (L.D. 185) (C. "A" H-53)

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

On motion of Representative CURTIS of Madison, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

Emergency Measure

Resolve, Directing the Maine Turnpike Authority To Place Signs Directing Motorists to Hebron Academy at the Closest Interstate Exits (H.P. 376) (L.D. 483)

(H. "A" H-73 to C. "A" H-60)

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. 130 voted in favor of the same and 3 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 3: Eligibility Requirements for Specialized Case Types, a Major Substantive Rule of the Maine Commission on Indigent Legal Services (H.P. 451) (L.D. 593)

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

Acts

An Act To Clarify Joint Tenancy Reinstatement
(S.P. 18) (L.D. 3)
(C. "A" S-22)

An Act Regarding Access to Sexually Explicit Material
(H.P. 44) (L.D. 51)
(C. "A" H-56)

An Act To Extend the Maximum Time Period for Powers of Attorney for Minors and Incapacitated Persons
(H.P. 147) (L.D. 170)
(C. "A" H-57)

An Act To Prohibit the Issuance of a Duplicate Absentee Ballot under Certain Circumstances
(H.P. 156) (L.D. 179)
(C. "A" H-58)

An Act To Update the Maine Uniform Trust Code
(H.P. 415) (L.D. 532)

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.

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

SENATE PAPERS

Bill "An Act To Amend the Yarmouth Water District Charter"
(S.P. 448) (L.D. 1441)

Bill "An Act To Create Efficiencies in State Government by Transferring the Duties of the Public Advocate to the Office of the Attorney General"
(S.P. 451) (L.D. 1455)

Came from the Senate, **REFERRED** to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** and ordered printed.

REFERRED to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** in concurrence.

Resolve, To Implement the Recommendations of the Report on Services for Elders and Other Adults Who Need Long-term Home-based and Community-based Care

(S.P. 452) (L.D. 1461)

Came from the Senate, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.

REFERRED to the Committee on **HEALTH AND HUMAN SERVICES** in concurrence.

Bill "An Act To Establish Standards for Portable Electronic Device Insurance"

(S.P. 455) (L.D. 1464)

Came from the Senate, **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed.

REFERRED to the Committee on **INSURANCE AND FINANCIAL SERVICES** in concurrence.

Bill "An Act To Amend the Laws Governing Freedom of Access"

(S.P. 456) (L.D. 1465)

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

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

Bill "An Act To Amend the Department of Marine Resources' Administrative Suspension Process"

(S.P. 453) (L.D. 1462)

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

REFERRED to the Committee on **MARINE RESOURCES** in concurrence.

Bill "An Act Concerning the Recording of Plans for Subdivisions"

(S.P. 447) (L.D. 1460)

Came from the Senate, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed.

REFERRED to the Committee on **STATE AND LOCAL GOVERNMENT** in concurrence.

Bill "An Act To Amend the Nonresident Income Tax Filing Requirements"

(S.P. 446) (L.D. 1440)

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

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

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

Representative **TUTTLE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I would be remiss if I didn't mention that Representative Strang Burgess has been inducted into the Great Women of Maine, which occurred last Thursday night at The Landing at Pine Point. So Meredith, congratulations on your induction.

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

On motion of Representative **WEAVER** of York, the House adjourned at 11:43 a.m., until 10:00 a.m., Wednesday, April 13, 2011.