

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE  
FIRST REGULAR SESSION  
JOURNAL OF THE SENATE**

In Senate Chamber  
Thursday  
March 24, 2005

Senate called to order by President Beth Edmonds of  
Cumberland County.

Prayer by Pastor Kristen Bjorn of the Fairfield United Methodist  
Church.

**PASTOR BJORN:** Let us pray. Almighty God, creator of all, we  
feel Your presence in every language, every culture, and in every  
race. We look to You and in our own way we offer our daily  
prayer. As we go about our busy days, may we be a people of  
laughter and joy; justice and reconciliation; peace and unity; and  
compassion and sharing. We offer this prayer to You, oh God, in  
Your many names. We pray that Your peace might spread, not  
only in our land but in lands far away. Amen.

Reading of the Journal of Wednesday, March 23, 2005.

Off Record Remarks

Out of order and under suspension of the Rules, on motion by  
Senator **BRENNAN** of Cumberland, the following Joint Order:  
S.P. 506

ORDERED, the House concurring, that when the House and  
Senate adjourn, they do so until Monday, March 28, 2005, at  
10:00 in the morning.

**READ and PASSED.**

Ordered sent down forthwith for concurrence.

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act To Increase Access to Certain Dental Services"  
H.P. 1023 L.D. 1461

Comes from the House, **REFERRED** to the Committee on  
**BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**  
and ordered printed.

On motion by Senator **HOBBS** of York, **REFERRED** to the  
Committee on **BUSINESS, RESEARCH AND ECONOMIC  
DEVELOPMENT** and ordered printed, in concurrence.

Off Record Remarks

Resolve, To Enforce Environmental Health Protection Measures  
in Public Schools

H.P. 1016 L.D. 1451

Bill "An Act To Amend the Laws Regarding the School Revolving  
Renovation Fund" (EMERGENCY)

H.P. 1019 L.D. 1454

Come from the House, **REFERRED** to the Committee on  
**EDUCATION AND CULTURAL AFFAIRS** and ordered printed.

On motion by Senator **MITCHELL** of Kennebec, **REFERRED** to  
the Committee on **EDUCATION AND CULTURAL AFFAIRS** and  
ordered printed, in concurrence.

Bill "An Act To Ban Bear Hunting with Traps except To Protect  
the Public"

H.P. 1022 L.D. 1460

Comes from the House, **REFERRED** to the Committee on  
**INLAND FISHERIES AND WILDLIFE** and ordered printed.

On motion by Senator **BRYANT** of Oxford, **REFERRED** to the  
Committee on **INLAND FISHERIES AND WILDLIFE** and ordered  
printed, in concurrence.

Resolve, Promoting the Consumption of Maine Farm Products at  
the State House Complex

H.P. 1017 L.D. 1452

Bill "An Act Concerning Payment for Repairs on Private Ways"  
H.P. 1021 L.D. 1459

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

On motion by Senator **SCHNEIDER** of Penobscot, **REFERRED** to  
the Committee on **STATE AND LOCAL GOVERNMENT** and  
ordered printed, in concurrence.

Bill "An Act To Make Minor Substantive Changes to the Tax  
Laws"

H.P. 1024 L.D. 1462

Comes from the House, **REFERRED** to the Committee on  
**TAXATION** and ordered printed.



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

Sincerely,

S/Sen. Kenneth T. Gagnon  
Senate Chair

S/Rep. John L. Patrick  
House Chair

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

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The Following Communication: S.C. 118

**MAINE STATE LEGISLATURE  
COMMITTEE ON TRANSPORTATION  
AUGUSTA, MAINE 04333**

March 21, 2005

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 Transportation has voted unanimously to report the following bills out "Ought Not to Pass":

- |          |                                                                                               |
|----------|-----------------------------------------------------------------------------------------------|
| L.D. 258 | An Act To Repeal Gasoline Tax Indexing                                                        |
| L.D. 279 | An Act To Require Trains in the State To Operate with a Minimum of 5 Employees                |
| L.D. 529 | An Act To Allow Vehicles Owned by Sanitary or Sewer Districts To Use Municipal License Plates |

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Dennis Damon  
Senate Chair

S/Rep. Boyd P. Marley  
House Chair

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

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The Following Communication: S.P. 513

**122<sup>nd</sup> MAINE STATE LEGISLATURE  
AUGUSTA, MAINE 04333**

March 23, 2005

Sen. Barry Hobbins  
Senate Chair, Joint Standing Committee on Judiciary  
Rep. Deborah Pelletier-Simpson  
House Chair, Joint Standing Committee on Judiciary  
122<sup>nd</sup> Legislature  
Augusta, ME 04333

Dear Senator Hobbins and Representative Pelletier-Simpson:

Please be advised that Governor John E. Baldacci has nominated G. Arthur Brennan of York for reappointment as a Justice of the Maine Superior Court.

Pursuant to Article 5 Part 1, Section 8 of the Maine Constitution, this nomination will require review by the Joint Standing Committee on Judiciary.

Sincerely,

S/Beth Edmonds  
President of the Senate

S/John Richardson  
Speaker of the House

**READ** and **REFERRED** to the Committee on **JUDICIARY.**

Sent down for concurrence.

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The Following Communication: S.C. 117

**MAINE STATE LEGISLATURE  
COMMITTEE ON LEGAL AND VETERANS' AFFAIRS  
AUGUSTA, MAINE 04333**

March 21, 2005

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 Legal and Veterans Affairs has voted unanimously to report the following bill out "Ought Not to Pass":

- |         |                                                          |
|---------|----------------------------------------------------------|
| L.D. 64 | An Act To Ensure the Maintenance of Veterans' Cemeteries |
|---------|----------------------------------------------------------|

**SENATE PAPERS**

Bill "An Act Regarding Licensing Boards"  
S.P. 505 L.D. 1480

Sponsored by Senator BROMLEY of Cumberland.  
(GOVERNOR'S BILL)  
Cosponsored by Representative SMITH of Monmouth and  
Representatives: BERUBE of Lisbon, COLLINS of Wells,  
RECTOR of Thomaston, ROBINSON of Raymond.

Bill "An Act To Provide for the 2005 and 2006 Allocations of the  
State Ceiling on Private Activity Bonds" (EMERGENCY)  
S.P. 508 L.D. 1482

Sponsored by Senator BROMLEY of Cumberland.  
(GOVERNOR'S BILL)  
Cosponsored by Representative RECTOR of Thomaston and  
Senators: BARTLETT of Cumberland, HOBBS of York, MAYO  
of Sagadahoc, Representatives: AUSTIN of Gray, BARSTOW of  
Gorham, BEAUDETTE of Biddeford, SMITH of Monmouth.

Bill "An Act To Protect Consumers and Enhance Real Estate  
Practice"  
S.P. 510 L.D. 1484

Sponsored by Senator BROMLEY of Cumberland.  
Cosponsored by Representative RECTOR of Thomaston and  
Representatives: BERUBE of Lisbon, KOFFMAN of Bar Harbor.

On motion by Senator **HOBBS** of York, **REFERRED** to the  
Committee on **BUSINESS, RESEARCH AND ECONOMIC  
DEVELOPMENT** and ordered printed.

Sent down for concurrence.

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Bill "An Act To Amend the Laws Governing Reimbursement of  
Nursing Facilities and Nursing Home Admission Contracts"  
S.P. 509 L.D. 1483

Sponsored by Senator MARTIN of Aroostook.  
Cosponsored by Senator: ROSEN of Hancock, Representatives:  
BURNS of Berwick, CAMPBELL of Newfield, GROSE of  
Woolwich, MILLER of Somerville, WALCOTT of Lewiston.

On motion by Senator **MAYO** of Sagadahoc, **REFERRED** to the  
Committee on **HEALTH AND HUMAN SERVICES** and ordered  
printed.

Sent down for concurrence.

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Resolve, Preventing the Upstream Migration of Exotic Species  
past the Fish River Falls and into the Fish River Watershed  
S.P. 502 L.D. 1477

Sponsored by Senator MARTIN of Aroostook.  
Cosponsored by Representative JACKSON of Fort Kent and  
Senators: BRYANT of Oxford, CLUKEY of Aroostook,

Representatives: FISCHER of Presque Isle, PARADIS of  
Frenchville, SMITH of Van Buren.  
Approved for introduction by a majority of the Legislative Council  
pursuant to Joint Rule 205.

On motion by Senator **BRYANT** of Oxford, **REFERRED** to the  
Committee on **INLAND FISHERIES AND WILDLIFE** and ordered  
printed.

Sent down for concurrence.

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Bill "An Act To Ensure Systematic Reporting of Abortions"  
S.P. 504 L.D. 1479

Sponsored by Senator DAVIS of Piscataquis.  
Cosponsored by Representative BOWLES of Sanford and  
Senators: ANDREWS of York, MARTIN of Aroostook, PERRY of  
Penobscot, PLOWMAN of Penobscot, Representatives: CARR of  
Lincoln, JOY of Crystal, THOMAS of Ripley.

On motion by Senator **HOBBS** of York, **REFERRED** to the  
Committee on **JUDICIARY** and ordered printed.

Sent down for concurrence.

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Bill "An Act To Provide an Annual Cost-of-living Adjustment for  
Persons Receiving Workers' Compensation Benefits for Total  
Incapacity"  
S.P. 501 L.D. 1476

Sponsored by Senator NUTTING of Androscoggin.  
Cosponsored by Representative PINEAU of Jay and Senators:  
COWGER of Kennebec, STRIMLING of Cumberland,  
Representatives: GERZOFKY of Brunswick, HUTTON of  
Bowdoinham, PATRICK of Rumford, SMITH of Van Buren.

On motion by Senator **STRIMLING** of Cumberland, **REFERRED**  
to the Committee on **LABOR** and ordered printed.

Sent down for concurrence.

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Bill "An Act To Clarify Rights of Retainage in Public Improvement  
Construction Contracts"  
S.P. 503 L.D. 1478

Sponsored by Senator MILLS of Somerset.

Bill "An Act To Amend the Laws Governing the Enactment  
Procedures for Ordinances"  
S.P. 507 L.D. 1481

Sponsored by Senator BROMLEY of Cumberland.  
Cosponsored by Representative KOFFMAN of Bar Harbor and  
Senators: COWGER of Kennebec, DAMON of Hancock,  
Representatives: EBERLE of South Portland, PIOTTI of Unity,  
WOODBURY of Yarmouth.

On motion by Senator **SCHNEIDER** of Penobscot, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed.

Sent down for concurrence.

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All matters thus acted upon were ordered sent down forthwith for concurrence.

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**REPORTS OF COMMITTEES**

**House**

**Ought to Pass**

The Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Require Agricultural Representation on the Maine Tourism Commission"

H.P. 493 L.D. 673

Reported that the same **Ought to Pass**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Report **READ** and **ACCEPTED**, in concurrence.

**READ ONCE**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY**.

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The Committee on **LABOR** on Bill "An Act To Amend the Process for Review of Hearing Officer Decisions by the Workers' Compensation Board"

H.P. 245 L.D. 322

Reported that the same **Ought to Pass**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Report **READ** and **ACCEPTED**, in concurrence.

**READ ONCE**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY**.

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The Committee on **LABOR** on Bill "An Act To Codify Unallocated Law Regarding the Maine State Retirement System"

H.P. 672 L.D. 962

Reported that the same **Ought to Pass**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Report **READ** and **ACCEPTED**, in concurrence.

**READ ONCE**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY**.

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**Ought to Pass As Amended**

The Committee on **UTILITIES AND ENERGY** on Bill "An Act To Revise the Salary Range of Certain Public Utilities Commission Employees"

H.P. 476 L.D. 656

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-25)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-25)**.

Report **READ** and **ACCEPTED**, in concurrence.

**READ ONCE**.

Committee Amendment "A" (H-25) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY**.

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**Divided Report**

The Majority of the Committee on **LABOR** on Bill "An Act To Require Advance Notice for Decreases in Wage or Salary Levels"

H.P. 196 L.D. 257

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-30)**.

Signed:

Senators:

STRIMLING of Cumberland  
SNOWE-MELLO of Androscoggin  
BARTLETT of Cumberland

Representatives:

SMITH of Van Buren  
DRISCOLL of Westbrook  
JACKSON of Fort Kent  
HALL of Holden  
HUTTON of Bowdoinham  
DUPREY of Hampden  
TUTTLE of Sanford  
HAMPER of Oxford  
CLARK of Millinocket

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Representative:

CRESSEY of Cornish

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-30)**.

Reports **READ**.

On motion by Senator **STRIMLING** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

**READ ONCE**.

Committee Amendment "A" (H-30) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY**.

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**Divided Report**

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Require Fiscal Impact Notes for Proposed Agency Rules"

H.P. 212 L.D. 287

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

SCHNEIDER of Penobscot  
ROTUNDO of Androscoggin  
ANDREWS of York

Representatives:

BARSTOW of Gorham  
HARLOW of Portland  
SAMPSON of Auburn  
BLANCHARD of Old Town  
MUSE of Fryeburg

SCHATZ of Blue Hill

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-39)**.

Signed:

Representatives:

McFADDEN of Dennysville  
MOULTON of York  
BISHOP of Boothbay  
CROSTHWAITE of Ellsworth

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

Senator **SCHNEIDER** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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**Senate**

**Ought to Pass As Amended**

Senator SULLIVAN for the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act Limiting Recovery of Disability Benefits Subject to Offsets"

S.P. 132 L.D. 408

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-23)**.

Report **READ** and **ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-23) **READ** and **ADOPTED**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY**.

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Senator MILLS for the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Clarify the Superintendent of Insurance's Authority To Assess Civil Penalties"

S.P. 133 L.D. 409

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-22)**.

Report **READ** and **ACCEPTED**.

**READ ONCE.**

Committee Amendment "A" (S-22) **READ** and **ADOPTED**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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**Divided Report**

The Majority of the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Prohibit Certain Uses of a Financial Institution's Name"

S.P. 151 L.D. 464

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-24)**.

Signed:

Senators:

SULLIVAN of York  
MAYO of Sagadahoc

Representatives:

PERRY of Calais  
McKANE of Newcastle  
BRAUTIGAM of Falmouth  
LINDELL of Frankfort  
PILON of Saco  
VAUGHAN of Durham  
GLYNN of South Portland  
RICHARDSON of Warren  
MARRACHÉ of Waterville  
HARLOW of Portland

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Senator:

MILLS of Somerset

Reports **READ**.

On motion by Senator **SULLIVAN** of York, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

**READ ONCE.**

Committee Amendment "A" (S-24) **READ** and **ADOPTED**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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**SECOND READERS**

The Committee on **Bills in the Second Reading** reported the following:

**House**

Bill "An Act To Amend the Budget Timetable for Oxford County"  
H.P. 406 L.D. 551

**READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, in concurrence.

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**House As Amended**

Bill "An Act To Establish the Administrative Operating Budget for the Maine State Retirement System for the Fiscal Year Ending June 30, 2006" (EMERGENCY)

H.P. 34 L.D. 31  
(C "A" H-29)

Bill "An Act To Require Valid Identification for All Purchases of Liquor"

H.P. 73 L.D. 77  
(C "A" H-28)

**READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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**ENACTORS**

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

**Act**

An Act To Limit Terms for Members of the State Board of Education

H.P. 186 L.D. 247

**PASSED TO BE ENACTED** and having been signed by the President was presented by the Secretary to the Governor for his approval.

Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**House Paper**

Bill "An Act To Strengthen the Animal Welfare Laws"  
H.P. 1036 L.D. 1473

Comes from the House, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed.

On motion by Senator **NUTTING** of Androscoggin, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed, in concurrence.

On motion by Senator **MAYO** of Sagadahoc, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed, in concurrence.

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Out of order and under suspension of the Rules, the Senate considered the following:

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Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**House Paper**

Bill "An Act To Update the Membership of Certain Professional Licensing Boards"

H.P. 1034 L.D. 1471

Comes from the House, **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed.

On motion by Senator **HOBBS** of York, **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed, in concurrence.

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act To Amend the Laws Governing the Rural Medical Access Program"

H.P. 1035 L.D. 1472

Bill "An Act To Establish a Simplified Package of Health Care Insurance Affordable by All"

H.P. 1038 L.D. 1475

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

On motion by Senator **SULLIVAN** of York, **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed, in concurrence.

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Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**House Paper**

Bill "An Act To Create the Maine Merit Scholarship Program"

H.P. 1032 L.D. 1469

Comes from the House, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed.

On motion by Senator **MITCHELL** of Kennebec, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed, in concurrence.

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Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**House Paper**

Bill "An Act To Require That Corporations Be Operated in a Manner That Does Not Adversely Affect the Public Interest"

H.P. 1037 L.D. 1474

Comes from the House, **REFERRED** to the Committee on **JUDICIARY** and ordered printed.

On motion by Senator **HOBBS** of York, **REFERRED** to the Committee on **JUDICIARY** and ordered printed, in concurrence.

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Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act To Protect the Public from Secondhand Smoke"

H.P. 1031 L.D. 1468

Bill "An Act To Repeal Certificate of Need as It Applies to Hospitals, Ambulatory Surgical Units and Physician Offices"

H.P. 1043 L.D. 1487

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

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Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act To Give Retirement Credits to Judges Who Have Served in the Legislature"

H.P. 1033 L.D. 1470

Bill "An Act To Amend the Law Allowing Legislative Staff To Unionize"

H.P. 1042 L.D. 1486

Come from the House, **REFERRED** to the Committee on **LABOR** and ordered printed.

On motion by Senator **STRIMLING** of Cumberland, **REFERRED** to the Committee on **LABOR** and ordered printed, in concurrence.

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Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act To Limit the Hours of Operation at Certain Gambling Establishments"

H.P. 1030 L.D. 1467

Resolve, To Publicize the Odds of Winning a State Lottery  
H.P. 1041 L.D. 1485

Come from the House, **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed.

On motion by Senator **GAGNON** of Kennebec, **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed, in concurrence.

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Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**House Paper**

**Pursuant to Public Law  
Joint Standing Committee on Natural Resources**

The **Joint Standing Committee on Natural Resources**, pursuant to Public Law 2001, chapter 605, section 5 asked leave to report that the accompanying Bill "An Act To Amend the Law Governing Spill Prevention Control and Countermeasure Regulation of Oil Storage Facilities"

H.P. 1029 L.D. 1466

Be **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218.

Report **READ** and **ACCEPTED**, in concurrence.

On motion by Senator **COWGER** of Kennebec, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218, in concurrence.

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Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**House Paper**

**Pursuant to Statute  
Department of Environmental Protection, Bureau of Air Quality**

The **Department of Environmental Protection, Bureau of Air Quality**, pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 127: New Motor Vehicle Emission Standards, a Major Substantive Rule of the Bureau of Air Quality (EMERGENCY)

H.P. 1028 L.D. 1465

Be **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218.

Report **READ** and **ACCEPTED**, in concurrence.

On motion by Senator **COWGER** of Kennebec, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218, in concurrence.

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Out of order and under suspension of the Rules, the Senate considered the following:

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **TRANSPORTATION** on Bill "An Act To Make Additional Allocations from the Highway Fund and Other Funds for the Expenditures of State Government and To Change Certain Provisions of State Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2005" (EMERGENCY)

H.P. 533 L.D. 738

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-46)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-46)**.

Report **READ** and **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-46) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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## ORDERS OF THE DAY

### Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (3/15/05) Assigned matter:

Bill "An Act To Lower the Cost of and Streamline the Legislative Process"

S.P. 431 L.D. 1252

Tabled - March 15, 2005, by Senator **SCHNEIDER** of Penobscot

Pending - **REFERENCE**

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

On motion by Senator **NUTTING** of Androscoggin, Bill and accompanying papers **INDEFINITELY POSTPONED**.

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later (3/22/05) Assigned matter:

HOUSE REPORTS - from the Committee on **TRANSPORTATION** on Resolve, To Require That the Department of Transportation Install a Traffic Light in West Enfield

H.P. 164 L.D. 213

Majority - **Ought Not to Pass** (10 members)

Minority - **Ought to Pass** (3 members)

Tabled - March 22, 2005, by Senator **GAGNON** of Kennebec

Pending - motion by Senator **DAMON** of Hancock to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE** (Roll Call Ordered)

(In House, March 17, 2005, the Minority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED**.)

(In Senate, March 22, 2005, Reports **READ**.)

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Plowman.

Senator **PLOWMAN:** Thank you, Madame President. We were in the middle of debating this the other day so I'd like to bring people back up to speed. This is a bill that has come to us because the Department of Transportation has said that there is not enough traffic through this intersection to warrant a light. Unfortunately, the danger posed here is enough to warrant a light. The approach to this intersection is blind. You can't see who is coming. You can't see that there is even going to be an intersection for quite a bit. It is one of the main thoroughfares. It is the route that our school buses take to take children to school every day, 180 days a year. For 180 days a year those children are at risk because we have not taken into account anything more than population. There is danger. There are circumstances. I just think that this is the time where we are supposed to act because the rule disallows everything else. It's brought to us because the situation is greater than the rule. I would ask that you remember this when you are deciding because, personally, the next person that is killed there, when I read their name in the newspaper, I will remember that we had the chance to save their life and we didn't. I would urge that you reject the Ought Not to Pass motion and that we put a little safety where it belongs. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you, Madame President. I rise again, also, urging you to reject the motion. This is a dangerous intersection. I actually had discussed this with the membership at the town offices, gotten reports from them about whether or not the communities believed that there was a real danger. They believe, the people who travel these intersections, that this is very much needed. I would like to remind this body that we had one of our colleagues who was nearly killed at this intersection, Representative Richard Blanchard. I would strongly recommend that we allow a traffic light to be put at this intersection. Thank you, Madame President.

**THE PRESIDENT:** The Chair recognizes the Senator from Piscataquis, Senator Davis.

Senator **DAVIS:** Thank you, Madame President. I would very briefly like to reaffirm what my colleagues from Penobscot have told the Senate this morning. I go back 35 years in law enforcement. It's no secret to anyone in law enforcement in that part of the state that this is a terrible intersection. It has claimed the lives of people before. I know that it can be said that every community in Maine has one of these intersections. I would only counter that by saying that the department has known about this

for 35 years, that I know about, and nothing has happened. I think it's time something does happen. Thank you very much.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Madame President. I hope that folks will vote for the pending motion. This is a situation where we're faced here in the Senate with dealing with specific traffic lights at specific intersections in the State of Maine. It sounds as though there may be an issue with the policy of how DOT determines where traffic lights ought to go and what the standards are. That is inappropriate, I think, for the Legislature to decide. If we are going to start deciding which corners in the State of Maine are going to have traffic lights, which individuals in the State of Maine are going to have liquor licenses, what individuals in the State of Maine are going to have fishing licenses, and those types of issues as opposed to the broader policy issues, which is what it sounds like this is really about. I know nothing about this intersection. I know nothing about the emotions surrounding this. I am concerned about the precedent that we set here. When somebody needs a traffic light and they get denied at a local level or denied by DOT or some other organization, whether it be a traffic light or stop sign or crosswalk or whatever it might be, that they can then come to the Legislature and the Legislature will then override all of the systems that we have in place to say that this is better in this particular situation. I think we have procedures for this and a process for this. If there is something flawed with the process, which it sounds like there might be, appropriately there should be action for that. I would support any type of order that would require that the Department of Transportation look at that process. To start going through each intersection in the State of Maine, I think, we would be, what is the expression we've used before, on a slippery slope, camel's nose under the tent, or whatever it may be. I hope that you will support the pending motion. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Plowman.

Senator **PLOWMAN:** Thank you, Madame President. I would like to make a tabling motion that we table all accidents, injuries, and death that may occur at this intersection until the committee of jurisdiction has time to act on this matter. If we could do that then I would be very comfortable in waiting for an agency to step up and save lives. As you know, I can't make that motion, but that is basically what we're asking here. That's wrong. We can't control that. All we can control is safety factors. I'd be willing to work on the issue too, but tell that to the next person who gets a knock at the door from a police officer and they have to hear, 'Your son, daughter, wife, husband just died because there is not enough people in this area using that road.' I don't think we can do that. I don't want to be the face behind the next death.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President and members of the Senate. Let me just give you a little history of a community in my area that felt the need for some sort of a traffic light. In this instance they were referring to a blinking light. Working with them

now, they will be paying for it because the Department of Transportation felt it was not warranted. The municipality is coming up to the plate and they intend to pay for the cost. The law does not prevent the community, in this case, from paying for it if they believe so strongly that there is a need for it and they don't meet the standard presently established by the Department of Transportation. If that is the case, and I don't know it to be, either one of those communities or collectively could actually pay for it, as is what is going to happen in my district.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Hancock, Senator Damon to Accept the Majority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#26)**

**YEAS:** Senators: BARTLETT, BRENNAN, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, PERRY, ROTUNDO, SAVAGE, STRIMLING, SULLIVAN, TURNER, THE PRESIDENT - BETH G. EDMONDS

**NAYS:** Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, NUTTING, PLOWMAN, RAYE, ROSEN, SCHNEIDER, SNOWE-MELLO, WESTON, WOODCOCK

**ABSENT:** Senator: BROMLEY

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **DAMON** of Hancock to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED.**

Ordered sent down forthwith for concurrence.

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The Chair laid before the Senate the following Tabled and Later (3/22/05) Assigned matter:

Bill "An Act To Reestablish the Milk Handling Fee"  
H.P. 996 L.D. 1432

Tabled - March 22, 2005, by Senator **NUTTING** of Androscoggin

Pending - **REFERENCE**

In House, March 22, 2005, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed

On motion by Senator **NUTTING** of Androscoggin, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed, in concurrence.

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The Chair laid before the Senate the following Tabled and Later (3/23/05) Assigned matter:

NOMINATION - of Walter J. Simcock of Waterville for appointment to the State Liquor and Lottery Commission

Tabled - March 23, 2005, by Gagnon of Kennebec

Pending - **CONSIDERATION**

(In Senate, March 23, 2005, Communication (S.C. 112) from the Committee on **LEGAL AND VETERANS AFFAIRS, READ and ORDERED PLACED ON FILE.**)

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Madame President and men and women of the Senate. I generally would not stand for nominees but I do have to speak very highly of Mr. Simcock. He has been a citizen of Waterville for most of his life and has been a true hero to most of us who have lived in the area in terms of being a businessman and in terms of being a citizen. He really exemplifies what it is to be a citizen of a community, having participated in so many organizations, particularly the Boys and Girls Club up there and many other organizations. He is always the person who is there when anyone has a specific need or problem. He is a successful businessman, now in his retirement. He's a man who needs to be kept busy because he has so much to offer. I would really encourage that we accept the unanimous report of the committee. Thank you.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **LEGAL AND VETERANS AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 122<sup>nd</sup> Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#27)**

YEAS: Senators: None

NAYS: Senators: ANDREWS, BARTLETT, BRENNAN, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: BROMLEY

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Walter J. Simcock** of Waterville for appointment to the State Liquor and Lottery Commission was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

**THE PRESIDENT:** The Chair is pleased to recognize in the rear of the chamber Walter J. Simcock of Waterville. Would he please rise and accept the greetings of the Maine Senate.

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Senate at Ease.

Senate called to order by the President.

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Senator **DAVIS** of Piscataquis was granted unanimous consent to address the Senate off the Record.

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Senator **MITCHELL** of Kennebec was granted unanimous consent to address the Senate off the Record.

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Senator **BRENNAN** of Cumberland was granted unanimous consent to address the Senate off the Record.

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Senator **DAVIS** of Piscataquis was granted unanimous consent to address the Senate off the Record.

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On motion by Senator **BRENNAN** of Cumberland, **ADJOURNED**, pursuant to the Joint Order, to Monday, March 28, 2005, at 10:00 in the morning.