

# MAINE STATE LEGISLATURE

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

**Volume I**

**First Regular Session**

December 3, 2008 – May 27, 2009

Pages 1-608

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE  
FIRST REGULAR SESSION  
29th Legislative Day  
Wednesday, April 15, 2009

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

Prayer by Reverend Kevin Bellinger, Bethel Alliance Church.  
National Anthem by Pinetree Academy Bell Ringers and Chorus, Freeport.  
Pledge of Allegiance.  
Doctor of the day, Michelle Labotz, M.D., Yarmouth.  
The Journal of yesterday was read and approved.

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**SENATE PAPERS**

The following Joint Resolution: (S.P. 537)

**JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF  
THE UNITED STATES AND THE UNITED STATES  
CONGRESS TO RAISE THE WEIGHT LIMIT ON INTERSTATE  
95**

WE, your Memorialists, the Members of the One Hundred and Twenty-fourth 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 United States Congress as follows:

WHEREAS, Interstate 95 in the State of Maine, which is part of the Dwight D. Eisenhower System of Interstate and Defense Highways and is governed by the Federal-Aid Highway Act of 1956, is central to Maine's commerce and industry; and

WHEREAS, the weight limit on the Interstate Highway System is set at 80,000 pounds by the Federal-Aid Highway Act of 1956 and consequently by Maine statute, yet the State of Maine has a 100,000-pound limit on its secondary roads, which does not match the national limit; and

WHEREAS, the Federal Government has given the State of Maine an exemption, which allows for a 100,000-pound limit, from the 80,000-pound limit to the last 5 miles of the Maine Turnpike and Interstate 95, and this exemption matches the limit for the rest of the State; now, therefore, be it

RESOLVED: That We, your Memorialists, on behalf of the people we represent, take this opportunity to request that the United States Congress allow the State of Maine a 100,000-pound limit on all of the Interstate Highway System in Maine and that the United States Congress review this request when the Highway Bill comes up for reauthorization; 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.

Came from the Senate, **READ** and **ADOPTED**.  
**READ** and **ADOPTED** in concurrence.

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Bill "An Act To Provide Additional Unemployment Benefits and Make Statutory Revisions in Accordance with the American Recovery and Reinvestment Act of 2009" (EMERGENCY)  
(S.P. 541) (L.D. 1454)

Committee on **LABOR** suggested and ordered printed.

Came from the Senate, under suspension of the rules and **WITHOUT REFERENCE** to a Committee, the Bill **READ TWICE** and **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-63)**.

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

**Senate Amendment "A" (S-63)** was **READ** by the Clerk and **ADOPTED**.

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

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

Representative **SYKES**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I am just curious. This bill is apparently going without reference to a committee and it is stimulus money. I remember distinctly the Chief Executive saying that all stimulus money would be vetted through committees, and I am wondering why this is not done with this particular bill.

The **SPEAKER**: The Chair recognizes the Representative from Sanford, Representative Tuttle.

Representative **TUTTLE**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This bill extends benefits and unemployment under the American Recovery and Investment Act. It is very important that we do pass this bill because, if we don't pass it by the end of the week, those unemployment funds will run out for a number of individuals in this state.

The reason why we are doing it in this manner is that we have to sort of speed up the process, if we don't, and our unemployed in the state will not receive their benefits. There is an estimated \$27 to \$38 million available for Maine's approximately 9,900 laid off workers about to exhaust up to 59 weeks of unemployment benefits; \$28.2 million of federal incentive funds. If all of these changes had been in place in 2008, we estimate that the total cost of unemployment trust fund would have increased; the benefits paid would have been approximately \$146,000. The cost would be less during periods of lower unemployment.

All I can say is that it is very important that we do pass this bill. We have a number of people who are unemployed. The situation is the worst I have seen in 30 years and, because of the nature of that, there is a reason why we are doing it in this manner, Representative Sykes.

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Senate Amendment "A" (S-63)** in concurrence.

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Bill "An Act To Modify Child Support Enforcement Procedures and Requirements"

(S.P. 543) (L.D. 1459)

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

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

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Bill "An Act To Increase Opportunities for Commercial Tracks and Agricultural Fairs"

(S.P. 542) (L.D. 1458)

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

**REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** in concurrence.

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**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

Bill "An Act To Provide Equitable Property Tax Relief To Maintain Traditional Communities"

(H.P. 1015) (L.D. 1463)

Sponsored by Representative PERCY of Phippsburg.

Committee on **TAXATION** suggested and ordered printed.

**REFERRED** to the Committee on **TAXATION** and ordered printed.

Sent for concurrence.

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

**ORDERS**

On motion of Representative CASAVANT of Biddeford, the following Joint Order: (H.P. 1016)

**ORDERED**, the Senate concurring, that Bill, "An Act Regarding Construction and Excavation near Burial Sites," H.P. 97, L.D. 113, and all its accompanying papers, be recalled from the legislative files to the House.

**READ.**

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

Representative **CASAVANT**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. It is probably appropriate that this bill dealing with a cemetery has to be recalled from the dead. This has been the most unusual bill that I have ever submitted, not that I have submitted a lot, but it has been strange. It has been assigned to the wrong committee. They had a public hearing at the wrong committee, had a workshop at the wrong committee; got assigned to the right committee, had a workshop at the right committee, came up with a solution, bill got killed and, all of the sudden, we had a new problem.

Essentially what it is, is this: There is a family in Cape Porpoise, Kennebunkport, that has to connect to a sewer line. Their system malfunctioned, the state ordered them to fix it, the house—it is an old house by the water—is surrounded by two cemeteries, ledge and wetlands. There are no options. State law, the way it reads, simply says that a community cannot give a variance to that situation. Strangely enough, where the cemetery lies and where their sewer line has to go, there is supposed to be a 25 foot buffer. Where the sewer line would go is 23 feet. There already is a waterline within that buffer zone. The town's cemetery association says its okay by us, the city manager says its okay by us, the majority of the State and Local Committee says its okay by us, but according to state law it can't be done.

So what I have to do, why I am asking your indulgences here and asking for your support because we need a two-thirds vote, is to allow it to go back to the State and Local Committee, where I will have to amend it to make a specific bill that fits this scenario with a sunset, because the only opposition was that they did not want to open this up to abuse. Because in the past, apparently, there has been a lot of abuse regarding cemeteries—people have dug too close, had desecrated graves—and that's not what the intent of this is at all. It is just to allow some individuals to connect to an existing sewer line because, as I said, they have no option. So that is what I am asking of you today. Thank you very much.

Representative CURTIS of Madison **REQUESTED** a roll call on **PASSAGE**.

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 China, Representative Cotta.

Representative **COTTA**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. On Representative Casavant's discussion about the exception to the bill, I sit on the State and Local Government Committee and we have in the current statute that was passed in the last session, there is relief available from the town should they choose to use it. Further, there is access, but apparently there is a property dispute between neighbors. On that level, I don't think this body has a standing in there, nor is it really their fight. There are solutions available. The proposal in this bill is not one of them, nor do I feel it is appropriate. Thank you.

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

Representative **CASAVANT**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. The problem is the language itself. The town manager of Kennebunkport, Larry Mead, insists—insists that the language is too vague for it to allow him to grant permission to this, even though he isn't for it. Maine Municipal Association, which reviewed it, said the same thing and they wrote the bill for me in conjunction with Larry Mead. So again, we have a family that is stuck—and, again, I don't like the idea of opening things up for just one family and so forth, but the idea is you have a family that is ordered by the state to connect or do something. There are no options except the sewer line. They can't cross anybody's land because the neighbors won't let them. They just have to go their existing driveway, which incidentally is also within the 25 foot right of way, because that law apparently was set up after this waterline paving was done, so all they are asking for is to allow a sewer line which will be not invasive in terms of the cemetery itself. It is 23 feet away from the nearest gravestone. Yes, it is a local issue, but the only avenue for solution is for us to allow the State and Local Government Committee to set up a new law, with specifics, to grant them that right to connect. Otherwise, I don't know, their property is useless. What can you do with property if you can't connect a sewer line? Thank you.

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

Representative **SCHATZ**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I rise to support this request. My good friend, Representative Cotta, has said that there was some discussion as to whether there are other avenues to remedy this. My feeling, and being in the same meetings, is that all of those avenues were indeed explored and no longer available. I think it would be the fair thing to do and the proper thing to do to refer it back as the Representative has asked us to do, and take that look at it and go forward from there. I think that is the prudent thing to do. Thank you, Madam Speaker.

On motion of Representative PIOTTI of Unity, **TABLED** pending **PASSAGE** and later today assigned. (Roll Call Ordered)

**SPECIAL SENTIMENT CALENDAR**

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

**Recognizing:**

Mary Russell Foss, of Madison, on the celebration of her 104th birthday. Mrs. Foss was born on July 9, 1904 and grew up on a farm in East Madison. She started teaching at the age of 16 and taught 3 students in a one-room school house for 4 years at Pleasant Ridge in Bingham. She married Henry Foss in 1931, and they were married for more than 58 years. She enjoyed hunting and fishing. At the age of 100, Mrs. Foss wrote her memoirs. At the age of 101, Mrs. Foss was presented with the Boston Post Cane. She is very active in the community as a member of the Madison Senior Citizens and the East Madison Historical Society. Mrs. Foss plays bingo and eats out with friends several times a week. She loves life and everything it has to offer, especially gardening, crossword puzzles, visiting the local animal shelter and shopping weekly with friends. We extend our best wishes to Mrs. Foss;

(HLS 226)

Presented by Representative CURTIS of Madison.  
Cosponsored by Senator MILLS of Somerset.

On **OBJECTION** of Representative CURTIS of Madison, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

The **SPEAKER**: The Chair recognizes the Representative from Madison, Representative Curtis.

Representative **CURTIS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise in honor of the oldest citizen of the Town of Madison, and probably the oldest citizen of Somerset County. Mary Foss is a recipient of the Boston Post Cane, of which she says I am not ready to give up just yet. Mary Foss, better known around town as Aunt Mary, is one of those people who just loves life. She recognizes the fact that God grants each of us one day at a time. Aunt Mary has accepted each day that she has been given as a gift from God that must be shared with others. Her busy social life, after she has completed her housework, her yard work and her chores, keeps her days filled with being and doing with people.

Her biggest complaint today is that she can't find anyone her age to play with. Aunt Mary shares one event where she got frustrated from having to play with a younger person: At her 100th birthday celebration, there was a young man there who asked her to dance with him. After dancing for some time, the young man said to Aunt Mary, could we sit for a spell so I can catch my breath. That young man was none other than the Honorable John Richardson, former Speaker of the Maine House, who is also here today to honor this remarkable woman. Thank you Aunt Mary, for sharing this day, your 38,251st day of living with us.

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

**Recognizing:**

Technical Sergeant (Ret.) Malcolm O. Peck, of Jefferson, who received the prestigious Charles Taylor Award from the Federal Aviation Administration for "fifty years of dedicated service to aviation maintenance." This award is named after the engine mechanic for the Wright Brothers, Charles Taylor, who was the first aviation mechanic in powered flight. Mr. Peck's name will be added to the honor roll book at the Federal Aviation Administration building at the Smithsonian Institute in Washington, D.C. His aviation experience began when he worked on his father's plane at the age of twelve. He earned his

first pilot's license at the age of 21. Mr. Peck's life work has been in auto repair and body work at his garages in Waldoboro and Jefferson since 1952. He began repairing airplanes during these years at his garage in Jefferson. He and his wife, Ginny, own an airstrip, hangar and several planes they have rebuilt together. Mr. Peck, now 73, also served in the Maine Air National Guard 101st in Bangor for 20 years, retiring as an Airframe Maintenance Technical Sergeant in 1978. We acknowledge Mr. Peck's longtime commitment to aviation and his dedicated service to aviation maintenance and to his State and Nation. We send him our congratulations on his receiving this high honor;

(HLS 227)

Presented by Representative BURNS of Whiting.  
Cosponsored by Senator TRAHAN of Lincoln, Representative PIEH of Bremen, Representative MILLER of Somerville.

On **OBJECTION** of Representative BURNS of Whiting, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

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

Representative **BURNS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. We can't talk Aunt Mary and we don't intend to, but it is with great pleasure that I cosponsor the special sentiment for Malcolm Peck. Mr. Peck, who was known as Mac by almost everyone that knows him, has been my friend since my early teens. As with most teenage boys in my era, automobiles were one of my passions. It was just natural that I should spend a lot of my spare time at a place like Mac's Garage in Jefferson, where cars were repaired and made to look like new by one of the best mechanics and auto body people in the State of Maine. Mac would help me and many other young men, learn to take care of our cherished vehicles, and also taught us some very valuable skills that we would take in to adulthood.

Over the years, he also taught me a lot of life's lessons, some of which I have agreed not to talk about here today. One thing I did learn from him, however, was how to treat people. He always told me, and more importantly he demonstrated to me, that if you treat people right they will do the same to you. There were many occasions where I saw him do just that, whether it was with a young person with their first vehicle and very little money for repairs, or a senior citizen trying to make their high mileage vehicle last them as long as possible. Mac's generosity to the community also extended to the use of his privately owned and maintained airstrip behind his garage, which was used both by private citizens and also the state. Both the Maine Forest Service and Maine Warden Service have used that facility for over 40 years.

When I learned about Mac's aviation award last month, I thought that it would be a great opportunity to recognize one of the people in our community that gives of themselves to their neighbors and their community without any fanfare. These are the people that make our communities good places to live. It is my honor to help to recognize Malcolm Peck and his lovely wife Ginny today. Thank you.

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

**Recognizing:**

Ronald A. Sailor, of Portland, for extraordinary dedication and support to Maine veterans during his service in the Maine Air National Guard and the American Legion in several positions of leadership for more than 4 decades. Mr. Sailor served 32 years in the Maine Air National Guard, attaining the rank of Colonel and serving tours of duty as Chief of Staff, Public Affairs Officer and Director of Operations and Training. He holds the aeronautical rating of Master Navigator. Following his service in the Maine Air National Guard, Mr. Sailor held several leadership positions in the American Legion's Department of Maine. As the Orono Post 84 Commander, the Penobscot County Vice Commander, the Department of Maine Commander and, finally, as the Department of Maine Adjutant for 10 years, Mr. Sailor has created a legacy of excellence. His singular dedication to the State of Maine and our veterans will have a permanent impact on the American Legion and generations of servicemen and servicewomen and he exemplifies the best traditions and motivation to service in our State;

(HLS 231)

Presented by Representative JOHNSON of Greenville.  
 Cosponsored by Senator ALFOND of Cumberland, Senator BRANNIGAN of Cumberland, Representative ADAMS of Portland, Representative LOVEJOY of Portland, Representative STUCKEY of Portland, Representative RUSSELL of Portland, Representative HASKELL of Portland, Representative HARLOW of Portland, Representative HINCK of Portland, Representative COHEN of Portland, Representative CLARK of Millinocket, Representative WATSON of Bath, Representative CROCKETT of Bethel, Representative DAVIS of Sangerville, Representative WEAVER of York, Representative COTTA of China.

On **OBJECTION** of Representative JOHNSON of Greenville, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

The **SPEAKER**: The Chair recognizes the Representative from Greenville, Representative Johnson.

Representative **JOHNSON**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Ron Sailor isn't with us today, this is a surprise to him and we plan to present it to him on the 24th on the occasion of his retirement as the adjutant for the American Legion Department of Maine. But I want to tell everyone that this is a truly great soldier: 32 years in the Air National Guard, culminating his service as the chief of staff; past commander for the Orono post; past vice commander of Penobscot County; past commander of the Department of Maine and ten years the adjutant. The adjutant in the American Legion serves as one of two fulltime professional employees for the legion so, in essence, he runs the legion on a day to day basis, so the 25,000 members of the American Legion and the hundreds and thousands of dollars that they donate to charities every year, to things like the Children's Miracle Network, scholarships for our youth, the Maine Blind Camp, and the Beal House are all influenced by that individual work on a daily basis. In addition, we are all aware of things like legion baseball and the oratorical contests, and the various patriotic events that happen around our state. He has also been an active lobbyist, on both the state and national level, for veterans' rights and benefits over an extended period of time. He is having his retirement going away party at the Orono post on Friday, and there will be hundreds of people there to send him off on his retirement. He is a truly exceptional person and I am sure will appreciate this sentiment on behalf of the people of Maine. Thank you very much.

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

**Recognizing:**

My Sister's Keeper, a small grass roots mentoring ministry focusing on the complex needs of women transitioning from jail back into mainstream society, on its service to the community and the people of Maine. Founded 10 years ago by Myrna Cook of the Cape Elizabeth United Methodist Church, the ministry is committed to make mentoring a major component of the church's mission work. It is affiliated with the Maine Council of Churches and is composed of volunteer mentors. The organization works collaboratively with the Cumberland County Jail, social service agencies and faith communities to ensure a smooth transition for women in corrections back to community life. There are now more than 15 churches in the greater Portland area actively working with My Sister's Keeper and members are mentoring approximately 20 women in transition annually and have helped over 56 women in 2008. We extend our congratulations on the dedicated commitment of My Sister's Keeper and send our best wishes for future success;

(HLS 236)

Presented by Representative DILL of Cape Elizabeth.  
 Cosponsored by Representative EBERLE of South Portland, Senator BLISS of Cumberland.

On **OBJECTION** of Representative DILL of Cape Elizabeth, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

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

Representative **DILL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise today and speak with great admiration and gratitude for the mentors who make up My Sister's Keeper. Every day in this building, we are asked to provide critical services to the people of the State of Maine, and every day, as legislators, we are disappointed and saddened that our state government resources can't address the overwhelming needs. Just one of the areas where we fall short is that critically important time in some women's lives, immediately upon getting out of jail.

My Sister's Keeper, on a volunteer basis without state funding, provides simple and yet profoundly important needs of this vulnerable population, such as clothing, shampoo, transportation to medical appointments and job interviews, and the very valuable gift of friendship. We are a people who value and believe in redemption. My Sister's Keeper reminds us of the human potential for compassion, hope and what is good about living in community with one another, and for that I am especially grateful, especially today, and I thank you.

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

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

**UNFINISHED BUSINESS**

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

Expression of Legislative Sentiment Recognizing the Telstar Regional High School Girls' Ski Team, winners of the 2009 Class C Alpine State Championship

(HLS 147)

TABLED - March 25, 2009 (Till Later Today) by Representative CROCKETT of Bethel.

**PENDING - PASSAGE.**

The **SPEAKER**: The Chair recognizes the Representative from Bethel, Representative Crockett.

Representative **CROCKETT**: Thank you, Madam Speaker. Madam Speaker, distinguished members of the House, the rest of us. Today we are graced with a presence of a great group of young ladies from Telstar Regional High School, the Alpine Ski Team. The commitment to excellence, dedication they demonstrated in winning the Class C State Championship for Alpine Skiing is indicative of the very best that Maine has to offer. I expect to be back here again next year recognizing them for the feat. They are graduating only one senior and they have a three time state champion on the team, so we'll see you again next year. Thank you.

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

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**REPORTS OF COMMITTEE**

**Divided Report**

Majority Report of the Committee on **NATURAL RESOURCES** reporting **Ought Not to Pass** on Resolve, To Require the Department of Environmental Protection To Amend Its Rules for Hydropower Projects To Require a Detailed Cost-benefit Analysis

(S.P. 272) (L.D. 723)

Signed:

Senators:

GOODALL of Sagadahoc  
SIMPSON of Androscoggin

Representatives:

BOLDUC of Auburn  
KNAPP of Gorham  
MARTIN of Eagle Lake  
EBERLE of South Portland  
DUCHESNE of Hudson  
WALSH INNES of Yarmouth  
WELSH of Rockport

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-51)** on same Resolve.

Signed:

Senator:

SMITH of Piscataquis

Representatives:

HAMPER of Oxford  
EDGECOMB of Caribou  
AYOTTE of Caswell

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

**READ.**

Representative **DUCHESNE** of Hudson moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned.

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Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass** on Resolve, Regarding Legislative Review of Portions of Chapter 182:

Formula for Distribution of Funds to Child Developmental Services Regional Sites, a Major Substantive Rule of the Department of Education (EMERGENCY)

(H.P. 68) (L.D. 78)

Signed:

Representatives:

SUTHERLAND of Chapman  
FINCH of Fairfield  
CASAVANT of Biddeford  
WAGNER of Lewiston  
LOVEJOY of Portland  
NELSON of Falmouth  
RICHARDSON of Carmel

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-94)** on same Resolve.

Signed:

Senators:

ALFOND of Cumberland  
SCHNEIDER of Penobscot  
WESTON of Waldo

Representatives:

RANKIN of Hiram  
McFADDEN of Dennysville

**READ.**

On motion of Representative **SUTHERLAND** of Chapman, the Majority **Ought to Pass** Report was **ACCEPTED**.

The Resolve was **READ ONCE** and was assigned for **SECOND READING** Thursday, April 16, 2009.

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Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass** on Bill "An Act Authorizing Colleges and Universities To Regulate Public Safety on Their Campuses"

(H.P. 365) (L.D. 520)

Signed:

Senator:

ALFOND of Cumberland

Representatives:

SUTHERLAND of Chapman  
FINCH of Fairfield  
CASAVANT of Biddeford  
WAGNER of Lewiston  
LOVEJOY of Portland  
NELSON of Falmouth  
RANKIN of Hiram  
RICHARDSON of Carmel

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

Signed:

Senator:

WESTON of Waldo

Representative:

JOHNSON of Greenville

**READ.**

Representative **SUTHERLAND** of Chapman moved that the House **ACCEPT** the Majority **Ought to Pass** Report.

Representative CURTIS of Madison **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass** Report.

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

On motion of Representative PIOTTI of Unity, **TABLED** pending the motion of Representative SUTHERLAND of Chapman to **ACCEPT** the Majority **Ought to Pass** Report and later today assigned. (Roll Call Ordered)

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought Not to Pass** on Bill "An Act To Promote Fuel Conservation by Allowing the Use of Mini-trucks on Public Ways" (H.P. 606) (L.D. 875)

Signed:

Senators:

DAMON of Hancock  
 PERRY of Penobscot  
 GOOLEY of Franklin

Representatives:

MAZUREK of Rockland  
 HOGAN of Old Orchard Beach  
 PEOPLES of Westbrook  
 CAREY of Lewiston  
 BROWNE of Vassalboro  
 ROSEN of Bucksport

Minority Report of the same Committee reporting **Ought to Pass** on same Bill.

Signed:

Representatives:

THERIAULT of Madawaska  
 HARLOW of Portland  
 THOMAS of Ripley  
 CEBRA of Naples

**READ.**

Representative MAZUREK of Rockland moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative CURTIS of Madison **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**: The Chair recognizes the Representative from Caswell, Representative Ayotte.

Representative **AYOTTE**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I just wanted to speak momentarily on this bill. The reason I submitted this particular bill, LD 875, was on behalf of the farmers and the people of Aroostook County and considering the long distance that they have to travel between towns. What it is basically, before I go into detail, it is a mini truck, it has a body on it to carry parts; there is also a minivan. A lot of the farmers and people up there needed something that was inexpensive, considering the price of gasoline, to go into town and get parts for their tractors or parts for around the farm and implements of that nature. The mini truck does have a catalytic converter, it has seatbelt, it has all of the safety features of a regular sized pickup. It does, however, get 65 miles to the gallon, as I mentioned. I think it would be very necessary and very economical for the people of Aroostook County. I would urge all of you to vote in favor of the passage of this bill instead of an Ought Not to Pass. Thank you.

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

Representative **MAZUREK**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This is one of many bills the Transportation Committee has heard this year on this type of vehicle. The problem with them is that they are a good idea, there is no question. Low speed vehicles, this type of vehicle certainly would save gas. The problem is that most of them don't meet the federal safety standards. Many of them are intended for off road use, for golf courses, farms, communities, or estates. What we have done and what I have done is I have asked a various group of people—the State Police, the Attorney General's Office, the Department of Transportation—to look at this problem, because every year we get the same amount of bills, over and over and over, and every year the committee has to turn them down because of the same reasoning. The State Police oppose them, the Attorney General's Office opposes them, they don't meet safety standards. So what I have asked is that they come back in the near future, next year, to look at the laws governing and the regulations governing this type of vehicle. Once we get a handle on what we can't allow on our roads, then that would be the time for a piece of legislation like this. Thank you very much.

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. 23**

**YEA** - Adams, Beaudette, Beaudoin, Beck, Berry, Blanchard, Blodgett, Boland, Bolduc, Briggs, Browne W, Bryant, Butterfield, Cain, Carey, Casavant, Cohen, Connor, Cornell du Houx, Crockett P, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Eves, Finch, Flaherty, Flemings, Flood, Gilbert, Hanley, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kaenrath, Kent, Knapp, Kruger, Lajoie, Legg, Lovejoy, MacDonald, Martin JR, Martin JL, Mazurek, Miller, Morrison, Nelson, Nutting, Pendleton, Peoples, Percy, Perry, Pieh, Pilon, Piotti, Plummer, Priest, Rankin, Richardson D, Rosen, Rotundo, Sanborn, Schatz, Shaw, Sirois, Smith, Stevens, Stuckey, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Wheeler, Willette, Wright, Madam Speaker.

**NAY** - Austin, Ayotte, Beaulieu, Bickford, Burns, Campbell, Cebra, Chase, Clark H, Clark T, Cotta, Crafts, Cray, Curtis, Cushing, Davis, Edgecomb, Fitts, Fletcher, Gifford, Giles, Greeley, Hamper, Harvell, Johnson, Joy, Knight, Langley, Lewin, McCabe, McFadden, McKane, McLeod, Millett, Nass, O'Brien, Peterson, Pinkham, Prescott, Richardson W, Robinson, Sarty, Saviello, Strang Burgess, Sutherland, Sykes, Theriault, Thibodeau, Thomas, Tilton, Weaver.

**ABSENT** - Celli, Cleary, Crockett J, Fossel, Goode, Magnan, Pratt, Russell, Tardy.

Yes, 91; No, 51; Absent, 9; Excused, 0.

91 having voted in the affirmative and 51 voted in the negative, with 9 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-78)** on Bill "An Act To Establish the Crime of Motor Vehicle Violation Resulting in Death"

(H.P. 329) (L.D. 441)



Signed:

Senators:

GERZOFKY of Cumberland  
NUTTING of Androscoggin  
DAVIS of Cumberland

Representatives:

HASKELL of Portland  
LAJOIE of Lewiston  
SCHATZ of Blue Hill  
BURNS of Whiting  
WHEELER of Kittery  
MAGNAN of Stockton Springs

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

Signed:

Representatives:

HANLEY of Gardiner  
GREELEY of Levant  
PLUMMER of Windham  
SYKES of Harrison

**READ.**

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

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

Representative **SYKES**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This bill would impose up to a \$5,000 fine and a four year suspension of your license if there is a fatality and you have committed a traffic violation. I oppose this bill and I would like to spend a couple of seconds here to tell you why. First of all, all traffic fatalities are reviewed by the District Attorney. If there is negligence, recklessness, the appropriate charge is made. This bill actually represents, in my opinion, a significant change in policy by this Legislature. You violate a traffic law; you can be charged and fined up to \$5,000 and a four year suspension of your license. That means if you are 28 mph in a 25 mph zone and a young child runs out in front of your vehicle and is killed, you could be charged with a civil violation. In the same situation, if you have an expired inspection sticker, that is a traffic violation, you could be charged. The bill doesn't take into account anything about age, physical condition; there are a lot of conditions here that it doesn't speak to at all. You might say, well the District Attorney would never charge someone in that situation, that they would charge appropriately and I have a lot faith in our district attorneys. I certainly realize that in the case of a fatality and a grieving family, the District Attorney is under extreme pressure to do something. If we are going to fine someone that amount of money or take away their license, we need to make sure that they are responsible for their actions. There is a void here, a terrible void. What is absent in this bill is a nexus, a connection that the traffic violation caused the crash, and it is not there. There is none. Folks, please be careful of this bill. Thank you.

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

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

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

Representative **HASKELL**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. This bill, like many bills that come to our committee, is not a particularly easy one. You are always balancing the difference between the perpetrator of some of these types of vehicular accidents and the victims, and what we heard from were victims here, during the course of this testimony, about the fact that there were accidents which caused a death for which the district attorney was not able to go forward or did not wish to go forward with a felony, Class A Vehicular Manslaughter charge, and absent being able to go forward with the Class A felony, there was no provision left for the DA to charge those individuals.

The types of situations that were talked about during the committee hearing were those where a young man and his girlfriend were riding in a car and he was going too fast, and he went around a corner too fast. He was not drunk; it was not in the middle of the night. He went around the corner too fast. The car rolled and she was killed. The District Attorney did not bring charges of vehicular manslaughter; however, the family was surprised that there was absolutely nothing after that decision. There was no way in which to sanction that driver or for that matter and this is what the victim's family had asked for, to impose a period of community service for that young man. They felt as though that might be a valuable thing for the individual to be able to understand the gravity of the crime and to be able to pay back, so the enhancements to our criminal justice system will allow a judge to make that decision. That doesn't mean he has to fine them \$5,000, it means he can fine them \$5,000. It doesn't mean that he has to provide community service or that he has to remove the license, this says up to four years. It could be, depending upon the circumstances, this gives the DA and the judge the opportunity to find some intermediate sanction in these cases where a death has occurred. Thank you, Madam Speaker.

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

Representative **BURNS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I find myself supporting the Majority Ought to Pass on this bill. I believe that there is a void in the law presently, and this is an attempt and I think it is a commonsense approach to addressing that void. The difference between what we truly know to be an accident and what is gross negligence and results in a manslaughter charge, this is the area in between, and we have a misnomer when we think about the term accident. An accident means that things happen without any causation. This addresses the issue whether it is causation, but it doesn't rise to that level, if you will, of gross deviation or gross negligence. There is a nexus or a causation in the law that this would be interpreted by, in Title 17-A. The state must prove that the driver committed the infraction while operating the vehicle, cause of death of the other motorist, the court is required to apply the causation standard, Title 17-A, which means the state must prove that the accident resulting in a death would not have occurred but for the conduct of the defendant operating the vehicle. So this excludes things like an expired inspection sticker or something that probably we are all guilty of, rolling through a stop sign, things like that. This is to address the issue where people disregard the safety of others and themselves and they, on a regular basis, they will exceed the speed limit, they will drive to the left of a curve, they will talk on the phone when they should be paying attention, and you put these things together and you have a disregard for other people's safety. This, as I said before, I believe is a commonsense approach to a gap and it strikes a balance in the law that doesn't exist now. Thank you.

The SPEAKER: The Chair recognizes the Representative from Vassalboro, Representative Browne.

Representative **BROWNE**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Again, proponents of this say it could result in a four year suspension, it could result in a \$5,000 fine, it doesn't have to, this has to have some judgment on the behalf of the magistrates. Unfortunately, this is a more common occurrence than we would hope. Again, I have been here two or three terms, and it has been before us each term. The family of the victims, understandably, feel there is no consequence, and as you have heard some of the things they are after, they aren't vindictive but they just think there should be some consequence. I think these terrible tragedies, I think that awareness should be brought, and I am supporting this measure. Thank you.

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

Representative **SYKES**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. If I could quote for you folks the testimony of the Maine State Police: We respectfully suggest that there should be a clear nexus between the violation and the cause of death. They may well be a void in the law, but there is a terrible void in this bill. Again, be careful.

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

Representative **DAVIS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I probably have gone to as many fatal accidents as anyone in this body has. Dealing with death is never easy. Never, never is it easy. It is emotional, to say the very least, there is huge pressure put on people, all kinds of foolish things can happen when you are dealing with somebody that has passed on, dealing with relatives, loved ones. I agree with my colleague from Whiting. There is a void in the law, and I signed on as a cosponsor of this bill because I believe there is a void in the law. However, I don't think this bill is void.

This is a civil violation. The preponderance of evidence is what is needed to accomplish a conviction in the civil violation. The bar is lower, much lower than it is with a regular crime, where the evidence has to be proved beyond a reasonable doubt. These are serious penalties and they should be. Someone has died, there is a grieving family. There should be serious penalties. But before the guilty is guilty, they have to be found guilty. A civil violation makes it much easier to find a person guilty than does a regular crime. Years ago, there was a crime called death by violation, where, if a person committed a traffic offense and a death resulted, then they would be charged with the crime of death by violation. When I signed on, I thought probably that was coming back. It did not come back. Instead we wound up with this civil violation. Think about your rights, think about the right of due process, the right to keep your property, the right to make the government prove—make the government prove—that you in fact are guilty. Thank you very much, Madam Speaker.

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

Representative **CROCKETT**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. When I brought this bill forward, Representative Davis is absolutely correct, it was a much stricter bill. But like many bills that we bring forward, after great committee work and great cooperation between the prosecutor and the district attorney and many others, this bill that is before you now is to fill a gap that we have. We found that there were a number of instances that have taken place in the past where someone was killed and the district

attorney could not bring a charge. This bill will fill that gap. It may not be as much as some of us would have liked, but it does fill the gap, and it will allow the district attorney, the district attorneys in all of our counties that we all have respect for, to bring the necessary charges. I don't think any of us feel that the district attorney will bring a charge for something that isn't needed, but I think that the parents that have had their child killed will be pleased to be able to see that something is done, that maybe the person that committed the crime will be able to go out and will go in to some schools and will speak to this offense and will save another life. Thank you.

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

Representative **PLUMMER**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. In committee, we listened to a great deal of extremely emotional testimony from grieving families. It makes you want to reach out and do something. But I caution you. This something is brought with unintended consequences and we will be back here dealing with them in another session. Thank you.

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

Representative **CHASE**: Thank you, Madam Speaker. May I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative **CHASE**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I thought it was answered, but I don't think it has. Through this bill, in this bill is there a definite connection to the violation and the death so that there is an obvious nexus is what they want to call that? Secondly, will this open the door so that if they were convicted in this much easier way of conviction, that a person can then be sued for everything they own?

The SPEAKER: The Representative from Wells, Representative Chase has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Haskell.

Representative **HASKELL**: Thank you very much, Madam Speaker. I think the first question is a harder question for me to answer. The second question, we haven't made any changes in what is currently available to people as civil remedies. This just provides another opportunity for charging them so that perhaps they might not have to go to the civil route, but it would not preclude them from going there. Those rights still remain intact.

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

Representative **SYKES**: Thank you, Madam Speaker. The State Police testified there is not nexus, no connection between the traffic violation causing the crash.

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

Representative **BURNS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I will try to answer the first part of that question, if I can. As I understand it, LD 441, as amended, will require a causation factor or a nexus between the crime. There has to be a causation by that particular infraction that is committed, that actually caused the accident. That is the language, and it will be guided under Title 17-A, section 33, in MSRA. Thank you.

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

Representative **RUSSELL**: Thank you, Madam Speaker. May I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative **RUSSELL**: Thank you, Madam Speaker. I would like to ask anyone what the fines and the outcomes are for someone who has been convicted of drunk driving and actually killed someone in the process. I hope that was clear.

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

Representative **HASKELL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. In response to the question, if that individual has been determined to be guilty of vehicular manslaughter, that is a Class A felony charge, which carries all of the Class A penalties.

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

**ROLL CALL NO. 24**

YEA - Adams, Beaudette, Beaudoin, Beck, Berry, Blanchard, Blodgett, Bolduc, Briggs, Browne W, Bryant, Burns, Butterfield, Cain, Campbell, Carey, Casavant, Chase, Cohen, Connor, Crockett P, Dill, Dostie, Duchesne, Eaton, Eberle, Eves, Finch, Flaherty, Flood, Giles, Harlow, Haskell, Hayes, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kent, Knapp, Knight, Kruger, Lajoie, Legg, Lovejoy, MacDonald, Magnan, Martin JR, Mazurek, McCabe, Miller, Morrison, Nutting, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Piotti, Priest, Rankin, Rosen, Rotundo, Sanborn, Schatz, Sirois, Smith, Stevens, Stuckey, Sutherland, Theriault, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Wheeler, Willette, Wright, Madam Speaker.

NAY - Austin, Ayotte, Beaulieu, Bickford, Boland, Cebra, Clark H, Clark T, Cornell du Houx, Cotta, Crafts, Cray, Crockett J, Curtis, Cushing, Davis, Driscoll, Edgcomb, Fitts, Fletcher, Fossel, Gifford, Gilbert, Greeley, Hamper, Hanley, Harvell, Hill, Johnson, Joy, Kaenrath, Langley, Lewin, Martin JL, McFadden, McKane, McLeod, Millett, Nass, Nelson, Pinkham, Plummer, Prescott, Richardson D, Richardson W, Robinson, Russell, Sarty, Saviello, Shaw, Strang Burgess, Sykes, Tardy, Thibodeau, Thomas, Tilton, Weaver.

ABSENT - Celli, Cleary, Flemings, Goode, Pratt.

Yes, 89; No, 57; Absent, 5; Excused, 0.

89 having voted in the affirmative and 57 voted in the negative, with 5 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-78)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, April 16, 2009.

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Bill "An Act Requiring Assisted Living Facilities To Provide Automated External Defibrillator Availability"

(H.P. 411) (L.D. 573)

Signed:

Senators:

BRANNIGAN of Cumberland  
MARRACHÉ of Kennebec  
MILLS of Somerset

Representatives:

PERRY of Calais  
PETERSON of Rumford  
JONES of Mount Vernon

SANBORN of Gorham  
JOY of Crystal  
LEWIN of Eliot  
STUCKEY of Portland  
EVES of North Berwick

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-90)** on same Bill.

Signed:

Representatives:

CAMPBELL of Newfield  
STRANG BURGESS of Cumberland

Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the Majority **Ought Not to Pass** Report.

**READ.**

Representative PERRY of Calais moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

On further motion of the same Representative, **TABLED** pending her motion to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned.

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on Bill "An Act To Clarify the Qualifications for the Position of State Archivist"

(H.P. 488) (L.D. 705)

Signed:

Senators:

SIMPSON of Androscoggin  
COURTNEY of York  
JACKSON of Aroostook

Representatives:

CLARK of Easton  
HARVELL of Farmington  
KAENRATH of South Portland  
WILLETTE of Presque Isle  
SCHATZ of Blue Hill  
HAYES of Buckfield  
BEAUDETTE of Biddeford

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-75)** on same Bill.

Signed:

Representatives:

BOLAND of Sanford  
COTTA of China

**READ.**

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

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought Not to Pass** on Bill "An Act To Amend the Speed Limits for Low-speed Vehicles"

(H.P. 625) (L.D. 907)

Signed:

Senators:

DAMON of Hancock

PERRY of Penobscot  
GOOLEY of Franklin

Representatives:

MAZUREK of Rockland  
HOGAN of Old Orchard Beach  
PEOPLES of Westbrook  
THERIAULT of Madawaska  
HARLOW of Portland  
CAREY of Lewiston  
BROWNE of Vassalboro  
CEBRA of Naples  
ROSEN of Bucksport

Minority Report of the same Committee reporting **Ought to Pass** on same Bill.

Signed:

Representative:

THOMAS of Ripley

**READ.**

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

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Seven Members of the Committee on **NATURAL RESOURCES** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (H-70)** on Bill "An Act To Change the Classification of Certain Waters of the State"

(H.P. 266) (L.D. 330)

Signed:

Senators:

GOODALL of Sagadahoc  
SIMPSON of Androscoggin  
SMITH of Piscataquis

Representatives:

KNAPP of Gorham  
MARTIN of Eagle Lake  
EBERLE of South Portland  
DUCHESNE of Hudson

Three Members of the same Committee report in Report "B" **Ought to Pass as Amended by Committee Amendment "B" (H-71)** on same Bill.

Signed:

Representatives:

HAMPER of Oxford  
EDGEComb of Caribou  
AYOTTE of Caswell

Two Members of the same Committee report in Report "C" **Ought to Pass as Amended by Committee Amendment "C" (H-72)** on same Bill.

Signed:

Representatives:

WALSH INNES of Yarmouth  
WELSH of Rockport

**READ.**

Representative DUCHESNE of Hudson moved that the House **ACCEPT** Report "A" **Ought to Pass as Amended**.

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

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Six Members of the Committee on **STATE AND LOCAL GOVERNMENT** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (H-77)** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Elect 2 Senators from Each County and To Increase the Senate Term from 2 to 4 Years

(H.P. 574) (L.D. 838)

Signed:

Representatives:

WILLETTE of Presque Isle  
HAYES of Buckfield  
COTTA of China  
CLARK of Easton  
HARVELL of Farmington  
SCHATZ of Blue Hill

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

Signed:

Senators:

SIMPSON of Androscoggin  
COURTNEY of York  
JACKSON of Aroostook

Representatives:

KAENRATH of South Portland  
BOLAND of Sanford  
BEAUDETTE of Biddeford

**READ.**

Representative BEAUDETTE of Biddeford moved that the House **ACCEPT** Report "B" **Ought Not to Pass**.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** Report "B" **Ought Not to Pass** and later today assigned.

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**CONSENT CALENDAR**

**First Day**

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

(S.P. 164) (L.D. 461) Bill "An Act To Adopt Amendments to the Uniform Interstate Family Support Act" Committee on **JUDICIARY** reporting **Ought to Pass**

(S.P. 390) (L.D. 1026) Bill "An Act Concerning Mercury-added Button Cell Batteries" Committee on **NATURAL RESOURCES** reporting **Ought to Pass**

(S.P. 25) (L.D. 66) Bill "An Act To Amend Maine's Endangered and Threatened Species List by Removing the Bald Eagle" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-44)**

(S.P. 51) (L.D. 132) Bill "An Act To Clarify Hunting, Fishing and Trapping Laws for Youth" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-46)**

(S.P. 93) (L.D. 276) Bill "An Act To Protect the Integrity of the State's Carbon Dioxide Budget Trading Program and Auction Process and To Provide Allocations to the Energy and Carbon Savings Trust Fund" (EMERGENCY) Committee on **UTILITIES**

**AND ENERGY reporting Ought to Pass as Amended by Committee Amendment "A" (S-42)**

(H.P. 418) (L.D. 580) Bill "An Act Concerning the Automatic Dissolution of Certain Marriages" (EMERGENCY) Committee on **JUDICIARY** reporting **Ought to Pass**

(H.P. 486) (L.D. 703) Bill "An Act Regarding Claims for Civil Perjury" Committee on **JUDICIARY** reporting **Ought to Pass**

(H.P. 635) (L.D. 917) Bill "An Act To Prevent the Unauthorized or Deceptive Use of the Names of Financial Institutions" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass**

(H.P. 377) (L.D. 532) Bill "An Act To Clarify Allowable Practices Concerning Maine Farm Wineries" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-96)**

(H.P. 498) (L.D. 715) Bill "An Act To Enable the Use of Credit Cards for Governmental Transactions" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-100)**

(H.P. 505) (L.D. 722) Bill "An Act To Manage Risks Associated with Surface Uses on Public Water Supplies" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-99)**

(H.P. 530) (L.D. 779) Bill "An Act To Require Closed-captioning for Certain Political Advertisements" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-97)**

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

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(S.P. 325) (L.D. 856) Bill "An Act To Ensure the Availability of Supplemental Educational Loans" (EMERGENCY) Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-62)**

On motion of Representative SUTHERLAND of Chapman, was **REMOVED** from the First Day Consent Calendar.

The Unanimous Committee Report was **READ**.

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

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**CONSENT CALENDAR  
Second Day**

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

(S.P. 26) (L.D. 67) Bill "An Act To Protect Beaches in Maine's State Parks" (EMERGENCY) (C. "A" S-38)

(S.P. 151) (L.D. 407) Resolve, To Change the Uses for Funds for Conservation Programs (EMERGENCY) (C. "A" S-39)

(S.P. 263) (L.D. 688) Bill "An Act To Equalize Annuity and Structured Settlement Annuity Benefits with Life Insurance under the Maine Life and Health Insurance Guaranty Association" (C. "A" S-40)

(S.P. 350) (L.D. 928) Bill "An Act To Permit the Landing of Dragged Crabs as Bycatch" (EMERGENCY) (C. "A" S-41)

(H.P. 239) (L.D. 299) Resolve, Regarding Legislative Review of Portions of Chapter 4: Water-based Fire Protection Systems, a Major Substantive Rule of the Office of the State Fire Marshal (EMERGENCY)

(H.P. 481) (L.D. 698) Bill "An Act To Allow School Budget Validation Referenda To Be Held on a Saturday" (EMERGENCY)

(H.P. 593) (L.D. 862) Bill "An Act To Improve the Health of Maine Citizens and Safety of Pedestrians"

(H.P. 840) (L.D. 1215) Bill "An Act To Correct Administrative Procedures Regarding the Dental Care Access Credit" (EMERGENCY)

(H.P. 30) (L.D. 35) Bill "An Act To Require Municipalities To Enforce the Collection of the State Excise Tax on Motor Vehicles, Aircraft and Watercraft Owned by Maine Residents and Registered outside the State" (C. "A" H-73)

(H.P. 75) (L.D. 91) Bill "An Act To Fund the Maine Downtown Center" (C. "A" H-91)

(H.P. 158) (L.D. 193) Bill "An Act To Amend the Laws Governing Tournament Games" (C. "A" H-84)

(H.P. 198) (L.D. 252) Bill "An Act Regarding the Transfer of Nursing Facilities" (C. "A" H-89)

(H.P. 280) (L.D. 373) Bill "An Act To Facilitate Lactation at the Workplace by New Mothers" (C. "A" H-83)

(H.P. 297) (L.D. 401) Bill "An Act Creating a Probationary Period for County Corrections Officials" (C. "A" H-81)

(H.P. 311) (L.D. 423) Bill "An Act To Provide a Safe Sleeping Environment for Children with Disabilities To Enable Them To Remain in Their Homes" (C. "A" H-88)

(H.P. 343) (L.D. 481) Bill "An Act To Allow the Department of Corrections To Certify Community Intervention Programs" (C. "A" H-79)

(H.P. 345) (L.D. 483) Bill "An Act To Improve the Service of Protection from Harassment and Protection from Abuse Orders and the Collection of Restitution by the Department of Corrections" (C. "A" H-82)

(H.P. 369) (L.D. 524) Bill "An Act To Provide Assistance to Family Members, Friends and Neighbors Who Provide Home Health Care for Senior Citizens" (C. "A" H-87)

(H.P. 384) (L.D. 539) Bill "An Act To Amend the Laws Governing the Allowable Uses of Tax Increment Financing Funds" (C. "A" H-93)

(H.P. 404) (L.D. 566) Bill "An Act To Amend the Petroleum Market Share Act" (C. "A" H-69)

(H.P. 508) (L.D. 749) Resolve, Directing the Department of Education To Take Measures To Assist Blind and Visually Impaired Students (C. "A" H-95)

(H.P. 542) (L.D. 793) Bill "An Act To Improve Juvenile Correctional Services" (C. "A" H-80)

(H.P. 580) (L.D. 844) Bill "An Act To Reduce Costs for Customers of Northern Maine Consumer-owned Utilities" (C. "A" H-85)

(H.P. 688) (L.D. 1000) Bill "An Act To Amend the Provision Creating the Long-term Care Partnership Program" (EMERGENCY) (C. "A" H-86)

(H.P. 704) (L.D. 1029) Bill "An Act To Authorize Municipalities To Protect the Habitability of Rental Housing during Heating Fuel Emergencies" (EMERGENCY) (C. "A" H-76)

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** or **PASSED TO BE ENGROSSED as Amended** and sent for concurrence. **ORDERED SENT FORTHWITH.**

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

**UNFINISHED BUSINESS**

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, had

preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

SENATE REPORT - **Ought to Pass as Amended by Committee Amendment "A" (S-22)** - Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Extend the Season for Training Hunting Dogs"

(S.P. 57) (L.D. 171)

- In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-22)**.

TABLED - April 7, 2009 (Till Later Today) by Representative CLARK of Millinocket.

PENDING - **ACCEPTANCE OF COMMITTEE REPORT**.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-22)** was **READ** by the Clerk and **ADOPTED**.

The Bill was assigned for **SECOND READING** Thursday, April 16, 2009.

Resolve, Regarding Legislative Review of Portions of Chapter 61: State Board of Education Rules for Major Capital School Construction Projects, a Major Substantive Rule of the Department of Education (EMERGENCY)

(H.P. 69) (L.D. 79)

TABLED - April 8, 2009 (Till Later Today) by Representative PIOTTI of Unity.

PENDING - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-49)**.

Representative BEAUDETTE of Biddeford **PRESENTED House Amendment "A" (H-68) to Committee Amendment "A" (H-49)**, which was **READ** by the Clerk.

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

Representative **BEAUDETTE**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I offer this amendment to address a question of fairness. I will try to be as concise as I can, but I need to give you a little bit of background information first.

Last session, a resolve was passed to support a model of consolidated and integrated secondary and postsecondary school, a unique design, and the concept is to try and on one campus as much as can possibly be done, put a variety of aspects into one school design. That would include vocational high school, 9-12, an aspect of incorporating the community college system, an aspect of incorporating the University of Maine system. That resolve then allowed for the Department of Education to come up with an interim methodology to rate applications for constructing such a school. The ratings were done and the two primary competing projects, that being the Great Works project in Sanford and the Many Flags project in a combination of Thomaston and Rockland, actually would include a consolidation of Rockland Regional High School and Georges Valley High School, were the two leading candidates. When the rating was done based on these interim rules, the Sanford proposal was rated five points higher on a scale of 100 than the Many Flags School. Subsequent to that, the Many Flags supporters appealed that decision and, in the cross process of that appeal, it was determined that a new round would be put in place to evaluate competing projects. The appeal was, at least initially, to review the scoring aspect, but it became essentially a do over. In a parallel process, the Education Committee worked on LD 79, and within LD 79 there is some language which puts a little bit more weight on physical presence as opposed to virtual presence, and what I mean by that is that the community college

system and the University of Maine system would have at least a virtual presence in each of these schools. But it is clear from both the community college system and the University of Maine system that there is at least initially no money and therefore, little desire at this point, to try and build some bricks and mortar in order to have an actual physical presence on either of these campuses. So the question of fairness comes in to play where Sanford was reviewed on this interim scale, so to speak, they did receive the highest school, and now, as proposed by the Committee Amendment to LD 79, that this would essentially be thrown out and a new system would go forward. Because of the amendment, it weights it a little more towards having the physical presence as opposed to the virtual presence, which would be to the detriment of the Sanford project, and then, in theory at least anyway, Sanford would be less competitive in this new round. Now Sanford has already looked at the possibility, or I should say the prospect, of having this very forward looking, very constructive project. It's worked with local businesses—Hussey Seating, Pratt & Whitney, the Portsmouth Naval Shipyard, Saco Defense—to try to come up with a four year vocational high school model, similar to what you would see in Massachusetts, so that those students who are better geared to a vocational education as opposed to what I guess I would call a liberal arts education for lack of a better word to use, that they would have the possibility of being trained, then go directly into some very, very good paying and solid jobs. So what my amendment asks to do is to return the rating system to the interim rating system, thereby preserving Sanford's higher score in this evaluation that was conducted, and I would appreciate your support for my amendment. Thank you, Madam Speaker.

Representative SUTHERLAND of Chapman moved that **House Amendment "A" (H-68) to Committee Amendment "A" (H-49) be INDEFINITELY POSTPONED**.

The SPEAKER: The Chair recognizes the Representative from Chapman, Representative Sutherland.

Representative **SUTHERLAND**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. First of all, there are no applications in the pipeline anywhere and, frankly, we all know there is no money anywhere. So that being said, for more than at least two years that I was involved with the Education Committee previously, there was a piece of legislation carefully worked on over a long period of time to provide for an innovative pilot project that would do two major things: It would provide the very best in career and technical education for students, it would provide an opportunity for high schools to collaborate and to be located tighter, it would provide for business to provide training opportunities, and it would provide for a high education presence, all of which would greatly enhance education in the region and also economic development opportunities, because many economic development professionals will tell you that having a higher education facility is very important when businesses are looking to find a place to expand. The Education Committee unanimously passed that piece of legislation last year, and both bodies in this Legislature passed it unanimously. The State Board of Education was asked to draw up provisional rules and there was an emergency preamble on this piece of legislation, so they moved quickly and put it out to applications and, as my colleague pointed out, three different districts in this state applied and so forth. When the Education Committee came back in January, we had to review the rules as they were major substantive rules, read them through and said, wait a minute, this is not what we voted on last spring. It was very clear if one goes back to read the original resolve that a facility was looked for, nobody was asking anyone to build new facilities, but a presence had to be there. Those of

us who were returnees on the committee, absolutely, not a problem; we absolutely said this is not the intent of the legislation and the committee agreed with us. We did compromise so that certainly the use of new technologies was encouraged. There is a lot of education that is available on the web, so various technologies, all of this would be used. But I suggest to you that it is very difficult for a high school or a community college to teach a plumbing class over the internet, or to teach an electrical class without having a foot on the ground, to steal a remark. So I encourage you to vote against this amendment and go back to the Committee Amendment which, in effect, puts forth rules that are the rules that this Legislature intended to establish. Thank you.

The SPEAKER: The Chair recognizes the Representative from Acton, Representative Nass.

Representative **NASS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise in opposition of having this bill indefinitely postponed. For 17 years, I was part of the faculty of Sanford Vocational School. I taught students who struggled with traditional learning styles, materials presented in science and math classes appeared to be unconnected to them. Many of the teachers felt the same way. Somehow we had to reach out to these students in a new and innovative way, teaching them skills for a new trade, thus, plans for the Great Works project began, where students would have integrated learning of subject matter, where we could make use of the partners—and you have heard how many partners we obtained—and the schools of higher learning could all be united in school to include postsecondary education. Sanford was not alone in this effort. The sending schools of Wells, York, Noble, Massabesic, Acton, and Kittery were willing to give up their student count so that this could be possible for their students. Plans were made, money spent, and we entered into the competition for this innovative school. We entered the competition and won with the highest score, but what happened? There we were ahead, the games in the last quarter, we're ahead and winning, and we won and suddenly the rules changed. The losing team, Many Flags, said time out, change the rules. Suddenly, the rules changed to physical presence on campus was needed instead of a virtual presence and the plans under which the Great Works applied. This was done in committee; it voided the Great Works project. I strongly disagree that plumbing cannot be taught online. The basics of the course can be taught online, virtually, and then lab work held elsewhere. We are willing to give laptops to our students, as we know technology is the answer, not building when money is tight, then why would we insist on a physical presence and not a virtual presence to cut costs of building a new innovative school?

Yesterday, we heard President Fitzsimmons talk about the loss of jobs and high unemployment in York County. There is a great need for training skilled workers in an innovative school, in an area that certainly would be helped in training students to enter vocational fields. Madam Speaker, Ladies and Gentlemen of the House, I ask you to vote against the proposed motion. When the great reporter comes to tell about the game, he did not tell who won or lost but how the game was played. Great Works won fair and square, and I ask you to follow me in my vote. Thank you.

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

Representative **BOLAND**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise also to ask you to vote against this motion. I would say to you that having all of these businesses involved in supporting the Great Works project—Portsmouth Naval Shipyard, Pratt & Whitney,

Hussey Seating, Karen Engineering, Saco Defense, General Dynamics, Hancock Lumber, Lavalley Lumber; I believe there are others, but those are the only ones I could remember—they put in many, many days and hours and time to help bring a certain model to the table. The rules under which these schools competed were promulgated by the Department of Education and were accepted by the schools to compete. Part of that was allowing for a virtual presence. When we met with Commissioner Gendron to ask her about some of these matters, we asked where that came from, and she said through her discussions with the universities and community colleges, she was made clear that they would not commit to a physical presence anywhere, and so she certainly under today's present conditions, even though they have been present at the Sanford location up and through January of this year we've had that in that area. But the Commissioner of Education was very careful to try to make this a fair way to move an innovative project forward, and so included the option of a virtual presence as a possibility, from our own experience in Sanford with the Great Works School, we also know that from our discussions with the schools. Again, even though we have enjoyed a physical presence also of many years, my son participated in college level courses there. Times are such that we need to think this way. In any event, those were the rules under which the schools competed, those were the rules under which the Great Works project was awarded the first slot, and it was only after it was seen who won that there was a request to change the rules and that is what we have now. Now the AG's Office said that we have to choose from the applicants that were there at the end of the year and, thus, when we go and make a rule change that eliminates one of them, the winning school, then there is only one school left, the one that did not get the higher score. So this sends a pretty bad message to the business community, who has been counting on the fairness of the Legislature, and this regards those businesses. They were all saying then, because I participated in many of these meetings, that we have jobs that we need filled now, and we cannot fill them, we need to have these people trained now, big employers, and they are offering apprenticeships, equipment, all sorts of support to get this moving forward. So I think it is kind of a betrayal of trust to change the rules after the fact, and I would just ask that this committee amendment does not formalize the Department of Education rules; it changes the rules under which everyone competed, and even though the committee amendment allows for some virtual learning, some distance learning, it requires a physical presence, and I think that we all know that that is not something we could expect to tie the university system to. So I would ask that you let Representative Beaudette's motion stand and not defeat it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Strang Burgess.

Representative **STRANG BURGESS**: Thank you, Madam Chair, fellow members of the House. I rise in support of the motion before you, which is the motion to Indefinitely Postpone, and I offer my apologies to my fellow Representatives from the greater Sanford area. I was on the Education Committee last session, and I was one of the 13 people that gave this bill a unanimous Ought to Pass Report that then gave birth and sent that bill through both of these chambers, unanimously, and I would like to just talk briefly about the intent and what we were trying to do.

Those of you who were here last session heard me talk, and many of you have been in committee meetings with me, one of my pet things is that we duplicate ourselves in so many places and we just build all of these things, so I am always talking about less duplication and I'll use that big "c" word, which is not cancer

but consolidation, and say that we have to start thinking. Well, working with the Education Committee for the last two years really put my head into the amazing thing that we have built the most phenomenal number of schools, they are almost everywhere and that is a great thing, but it is also where if you were to just pull back a little bit and I am going to point to my area, Cumberland, Yarmouth, and Falmouth, and Cumberland, we have, those three towns have fabulous school systems. We are most fortunate. But each of our school systems, the school campus, the school buildings, we are less than about a mile from each of us, it is like a triangle, and when you kind of step back and think about that, you go, wow, you know there are all of these facilities. So these folks came forward with the idea that we need to start thinking regionally, the mid-coast area needs to build some new schools, and what if they all really worked together and focused and got everybody building, if we really needed to build it, make sure that it is physically located in an area that they can all sort of share facilities and then, gee whiz, from a student's perspective and early college, so that instead of building these wonderful schools and then a mile down the street building a community college or whatever, which we all can see these examples around the state, this was an idea. Then, they said, could you kind of centralize through the building, then you'll have been involved in your school budgets and you know that school construction projects are prioritized and the thing that goes on the list, and this was saying, it's kind of a horse of a different color, it needs to be kind of over here on the side. So that's that intent. It was meant to be about physical and fiscally responsible to do that. So that was the intent and it is probably where maybe we were so focused on what it was obvious to us that we were doing that it certainly was not to exclude internet. Gosh knows that is huge, distance learning and businesses, absolutely, and I don't see how that this bill staying, back to the original intent, would do anything to hurt the great plans that have been put together for Sanford. It sounds like some great stuff, and you've got the businesses working and you're talking about grants and all of that. I would like to think there is certainly nothing that is going to prevent that, but this particular bill was aimed at the physical plant issues and we have them, we have them all across the state, and trying to get it back into that thinking, so whatever happened is most unfortunate. Through the rules making, the Education Committee got back in here, they tried to correct that, get things back on target. So I would ask that you support this year's standing Education Committee that gave us a 12-1 support, and you have a motion on the floor to Indefinite Postpone and would urge your support. Thank you.

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

Representative **MAZUREK**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I speak in support of the Indefinite Postponement for a number of reasons. I have heard a lot of good reasons on both sides; however, last year, in this very chamber, we passed a resolution by a unanimous vote with the concept of the Many Flags, where the innovative 9-16 approach to education. Yesterday, in this very House, we heard an education report talk about the importance of community colleges. If you look at the State of Maine and you place community colleges there, you'll find a large doughnut hole in the mid-coast area. That particular area does not have access to a community college. I know from personal experience. My daughter, last year, had to travel all the way to Fairfield every day to go to Kennebec Valley Community College. We heard how important education is, how important community colleges are, how important voc schools are. We are talking about the integrity of the Maine State Legislature in upholding what they did last

year. LD 79 simply upholds our statement from last year. I asked you, if you look at the original bill and then you look at the rules that are drafted; you will see that the committee has upheld what those rules state. I would like to also ask that the Clerk read the report for the committee.

Representative **MAZUREK** of Rockland **REQUESTED** that the Clerk **READ** the Committee Report.

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

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Perry.

Representative **PERRY**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I just want to explain something, if that is at all possible. What we are talking about is a major substantive rule, and what a major substantive rule is, is that the committee had said that this rule, after it is made, has to come back to the committee to be approved and what we are getting as a result of this rule is the rule being brought back and the committee has said this is what we interpret the rule is, and it is a rule we are talking about, not the process. That's all I want to say.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Kruger.

Representative **KRUGER**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. This is my first occasion to speak before this body, and it is fitting that the issue is of great importance to the people of the mid-coast region. We heard yesterday of the fine work done by our community colleges and, as Representative Mazurek just reported, the people from Thomaston, Rockland and thereabouts have to travel more than an hour to attend classes at the Kennebec Valley Community College, which is our nearest option. We've also heard the 123rd Legislature voted unanimously for this new education model, and I stand to request that we vote yes to Indefinitely Postpone Representative Beaudette's motion, and thank you.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Edgecomb.

Representative **EDGECOMB**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This initiative was brought forth by the Many Flags in the mid-coast area, and they put many hours of work in this legislation and they re-crafted it and amendments were offered, and, because of their work, it was done with them primarily in mind; therefore, I will be voting in favor of the Indefinite Postponement.

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Giles.

Representative **GILES**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise in support of the indefinite motion to postpone. I live in a neighboring county, I live in Waldo County, and I think sometimes the coastal/mid-coastal area gets thought of, well gee, we've got a lot because we've seen property values rise, and boy, we're the gold coast and ain't it great, but it's not always that way. I do live in a community that doesn't have a Many Flags concept, but we are the beneficiary of a company that built for our community something called the Hutchinson Center, where the University of Maine offers campus courses. Now it is not the same model as what was brought forth out of Knox County, but it was innovative, and it has since, through some changes in ownership of the original company, MBNA, that had it built, it has now been gifted through Bank of America to the university. I use this as an example because our region has experienced the same challenges as the Knox County area has for many years. It was always an hour or an hour and a half drive for many people to pursue some level of higher education, and I know, as they say in the movie, if you build it they will come, when they built the



Hutchinson Center, it gave us a local place for educational courses to be offered, and they now have enrollment of over 1,000 students per semester. So I support the work that the committee has done, this is nearly a unanimous report, and would also follow the light of those who have spoken in support of it. Thank you.

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

Representative **BOLAND**: Thank you, Madam Speaker. I am sorry to rise a second time, but I just wanted to clarify something on this, is that this isn't about whether or not different areas of the state need to have different kinds of facilities. It is about whether we are going to change the rules after the decision is made. It is not about who is more worthy because they need something, we need facilities all over the state and that is a given.

The other thing that I wanted to clarify is that in this one campus proposal, even though the Great Works project proposes a virtual presence because they know the colleges and universities have no intention of being physically present. All the education takes place in one place, in one location, on one campus. There is a provision for offices for the colleges and universities to use to meet with the students, to counsel them, to give direction, and there are incubation centers for the businesses, also, to be present. It also is a model where there may be a new school or it might just be some new construction together with some improvements and upgrades of the existing facility. So there is no intention to have students anywhere but all in one place learning, right there, where they can get their academics and their career courses. It is still one campus. When the rule was given to provide for a virtual presence, meaning distance learning as an integral piece, it was, after consultation with the colleges and universities, as the only thing that they could actually agree to at that time. Now at the Great Works School, we currently turn away hundreds of students each year because there is such a great need. So we've got businesses saying there is a great need and please train our people, we've got student being turned away and what do we do, we tuition them to New Hampshire. So we can argue where there is greater need. Sanford has the highest unemployment rate in the state, the highest foreclosure rate in the state, so you can make those arguments. But in this case, we are talking about are we going to change the rules after the fact and then require that only the applications that were submitted before be permitted, in which case not allowing any changes to the applications. So you change the rules, but you don't make any allowance for people who competed under those rules to make changes accordingly to their proposals. I just wanted to clarify on those points. Thank you.

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

Representative **VALENTINO**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise today to oppose the motion to Indefinitely Postpone. I have been listening to the debate with great care. I am from York County, but I am not from the Sanford area, and I hear proposals and arguments on both sides. To me, it seems like the arguments that I've heard really has nothing to do with the educational rules, it has to do more with two different areas competing against each other, and these are the arguments that I have been hearing today. I hear that there is a doughnut hole in the mid-coast, that they don't have a community college, that they need this, that this is important for the mid-coast region. I hear all of these things. I come back; they also mentioned the integrity, the integrity of the Legislature, of what we passed two years ago. I ask you this:

What about the integrity of the Legislature? What about the integrity of the Department of Education? Who went and submitted these proposals, and had people come back and put their proposals according to those rules? What about the integrity when we actually award a contract to somebody, only to have the decision appealed, and then after the decision is appealed, there has been no reporting the scoring come out? What about the integrity now that we are changing the rules and that we are saying that no one else can apply under the new rules and no one can amend the application under the new rules? Where is the integrity on that, that you don't scrap everything and open it up? What I see here on these arguments is only a mid-coast against two areas of the state competing for a school, two areas that both need a school; one with the highest foreclosure rates in the state, one that does not have a community college. But if you are voting for the integrity, then vote for what the Department of Education submitted to these two schools, and these two schools came back with their proposals and one won and one didn't, and now we are going to change the rules midstream so that the one who lost can win, and I don't think that is what the integrity of this Legislature is about. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rockport, Representative Welsh.

Representative **WELSH**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I would like to support the motion to Indefinitely Postpone. This bill is not about the merit of two wonderful communities; it is really about expressing the intent of the original bill, which did include and was intended to include a physical presence on a campus of a secondary institution. I support, also, the remarks of Representative Strang Burgess. As a newcomer to this body, I think, we, who are new here, as well as those who have been here for many years, need to not redo bills that have formerly been supported, especially with such a strong majority, and I urge us to support this motion to Indefinitely Postpone. Thank you.

Representative TUTTLE of Sanford **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-68) to Committee Amendment "A" (H-49)**.

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 Sanford, Representative Tuttle.

Representative **TUTTLE**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I would ask that you would support Representative Beaudette's amendment on LD 79 and defeat the Indefinite Postponement motion by Representative Sutherland, so that we might create an equal playing field and not change the rules in midstream. Now, five years ago, I sponsored LD 1532, legislation before the Education Committee to assist the Great Works Career and Technical School in Sanford. It passed unanimously by the Education Committee, was signed into law five years ago. It says the initiative provides onetime funding for the Sanford Vocational Center to work jointly with affiliated school administrative units, to research and develop programming for a regional career in technical education center. It was a hard financial year, and we even won \$5,000 from the Appropriations Committee to start this process. It was the idea of a member of my school board and our superintendent of schools, based upon a successful model that had been used in other parts of the country. Two years ago, then Representative Rector, now Senator Rector from Thomaston, did the same thing for his area called Many Flags. The two proposals, as you've heard here today, along with another one, were submitted to the Maine Department of

Education in December. After review, the Commissioner of Education, Susan Gendron, told Sanford school officials that the Sanford proposal had received the top score. In the meantime, the Education Committee was asked to make changes to LD 79, in order to assure the consistency with the legislative intent, which we did support. Now Representative Beaudette's amendment, LD 68, mirrored the language of the original resolution to create a new, innovative school model and approve them on a February 9th, with all parties in agreement. Madam Speaker, Men and Women of the House, evidently, some members of the Education Committee do, do much more than that. The resulting amendment, which is the Majority Report, was crafted to assure that the outcome, in favor of Many Flags, one campus, was the one and only one to be chosen, so the fix was in.

In all my years of service, I have never seen anything done like this before. I guess I've seen it, but in most cases it hasn't really done very much good for the people of Maine. My question is where are we going to get all of this money to do this? The state is facing a \$250 million shortfall, maybe more. Where are we going to get the money to do this? What we have done in Sanford is that we've worked in collaboration with the University of Southern Maine in Springvale, the York County Community College in Wells, Pratt & Whitney, the Kittery Naval Shipyard, and the Sanford Regional Vocational Center to create a virtual campus of many sites, not just one. The Majority Report calls for existing applications for the project to be frozen and reviewed under new rules so that no one else can apply under the new rule; no one can amend their application under the new rule. So because the Many Flags claimed all instruction would be on one site, on a new single campus, the Many Flags project would have to be chosen. The Sanford Regional Vocational Center has a long history, as has been mentioned today, of vocational training and excellence. We provide training for most schools in York County, west of the Maine Turnpike. We have hundreds of students now that need this training. As has been mentioned before, we have the highest unemployment in the state. We have the most foreclosures of any town or city in the state. I have whole neighborhoods in my district that are being foreclosed on now. We appoint better rules, and we have done our homework. This would be a godsend to our community during hard economic times. So I am asking for you to create an equal playing field by adopting this amendment, and do the right thing and don't change the rules in midstream. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Finch.

Representative **FINCH**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I am about to use perhaps the most overused cliché on this floor, namely, I have not intended to speak on this bill, and I had not, and I am speaking very carefully and choosing my words very carefully. I was a member of the Education Committee in the 123rd and worked on the original bill, and I am a current member of the Education Committee that adopted, by a 12-1 vote, what we have here.

My district isn't affected one way or the other by this. We don't have Great Works or Many Flags, we don't even have great flags or many works in my district, but I want to assure the members of this body that, at least in my case and I believe my fellow committee members, we acted honorably and did what we felt was right. We passed a bill last session, again, unanimously, as you have heard which called for rulemaking. These were to be major substantive rules. Those major substantive rules were to come back to our committee. That happens all of the time in

this body. We pass legislation with a particular intent and, then, when we get those rules back, the first question we ask is did these rules or do these rules comply with the intent of the legislation. In the judgment of 12 of the 13 members of our committee, they did not, and that is why we made the changes that you see here. I am not in the position and I never have asked that people support my position, follow my light or any of those other clichés; I simply wanted to speak for myself in that I hope, as always, I voted for what I thought was right. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-68) to Committee Amendment "A" (H-49). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 25**

YEA - Ayotte, Berry, Blodgett, Briggs, Browne W, Bryant, Burns, Cain, Campbell, Carey, Cebra, Clark H, Clark T, Cohen, Crafts, Cray, Crockett J, Crockett P, Curtis, Cushing, Davis, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Edgecomb, Finch, Fitts, Flemings, Fletcher, Flood, Fossel, Gifford, Giles, Hamper, Harvell, Haskell, Hayes, Hinck, Innes Walsh, Johnson, Jones, Kruger, Lajoie, Langley, Lovejoy, MacDonald, Magnan, Martin JL, Mazurek, McCabe, McFadden, McKane, McLeod, Miller, Millett, Nelson, Nutting, O'Brien, Peoples, Percy, Perry, Peterson, Pieh, Pinkham, Piotti, Plummer, Prescott, Priest, Rankin, Richardson D, Richardson W, Robinson, Rosen, Russell, Sarty, Schatz, Sirois, Smith, Stevens, Strang Burgess, Stuckey, Sutherland, Sykes, Tardy, Thibodeau, Tilton, Treat, Wagner R, Watson, Webster, Welsh, Willette, Madam Speaker.

NAY - Adams, Austin, Beaudette, Beaudoin, Beaulieu, Beck, Bickford, Blanchard, Boland, Bolduc, Butterfield, Casavant, Chase, Connor, Cornell du Houx, Cotta, Eves, Flaherty, Gilbert, Greeley, Hanley, Harlow, Hill, Hogan, Hunt, Joy, Kaenrath, Kent, Knapp, Knight, Legg, Lewin, Martin JR, Morrison, Nass, Pendleton, Rotundo, Sanborn, Saviello, Shaw, Theriault, Thomas, Trinward, Tuttle, Valentino, Wagner J, Weaver, Wheeler, Wright.

ABSENT - Celli, Cleary, Goode, Pilon, Pratt, Van Wie.

Yes, 96; No, 49; Absent, 6; Excused, 0.

96 having voted in the affirmative and 49 voted in the negative, with 6 being absent, and accordingly **House Amendment "A" (H-68) to Committee Amendment "A" (H-49) was INDEFINITELY POSTPONED.**

Subsequently, **Committee Amendment "A" (H-49) was ADOPTED.**

The Resolve was assigned for **SECOND READING** Thursday, April 16, 2009.

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An Act To Facilitate the Removal of Dams That Pose a Hazard to Public Safety and the Installation and Repair of Fishways

(S.P. 112) (L.D. 348)

(C. "A" S-21)

TABLED - April 14, 2009 (Till Later Today) by Representative PIOTTI of Unity.

PENDING - **PASSAGE TO BE ENACTED.**

Subsequently, on motion of Representative PIOTTI of Unity, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

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**REPORTS OF COMMITTEE**

**Divided Report**

Majority Report of the Committee on **NATURAL RESOURCES** reporting **Ought Not to Pass** on Bill "An Act To Create a Statute of Limitations for Oil Discharge Violations"

(H.P. 683) (L.D. 991)

Signed:

Senators:

GOODALL of Sagadahoc  
SIMPSON of Androscoggin  
SMITH of Piscataquis

Representatives:

HAMPER of Oxford  
BOLDUC of Auburn  
KNAPP of Gorham  
MARTIN of Eagle Lake  
EBERLE of South Portland  
DUCHESNE of Hudson  
WALSH INNES of Yarmouth  
WELSH of Rockport

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-98)** on same Bill.

Signed:

Representatives:

EDGECOMB of Caribou  
AYOTTE of Caswell

**READ.**

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

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

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On motion of Representative RICHARDSON of Carmel, the House adjourned at 12:25 p.m., until 10:00 a.m., Thursday, April 16, 2009.