

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
44th Legislative Day
Tuesday, May 26, 2009

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

Prayer by Reverend Doctor David Anderman, First Congregational Church, Waterville.

National Anthem by Hannah Jabar and Libby Mazzeo, Waterville.

Pledge of Allegiance.

Doctor of the day, Katherine Pope, M.D., Cumberland Foreside.

The Journal of Thursday, May 21, 2009 was read and approved.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act To Promote Youth Hunting License Sales"

(H.P. 865) (L.D. 1246)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-276) in the House on May 18, 2009.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-276) AS AMENDED BY SENATE AMENDMENT "A" (S-191)** thereto in **NON-CONCURRENCE**.

On motion of Representative CLARK of Millinocket, the House voted to **RECEDE AND CONCUR**.

COMMUNICATIONS

The Following Communication: (S.P. 564)

**STATE OF MAINE
124TH MAINE LEGISLATURE**

May 21, 2009

Sen. Troy Dale Jackson

Senate Chair, Joint Standing Committee on Labor

Rep. John L. Tuttle, Jr.

House Chair, Joint Standing Committee on Labor

124th Legislature

Augusta, ME 04333

Dear Senator Jackson and Representative Tuttle:

Please be advised that Governor John E. Baldacci has withdrawn his nomination of Sophia Wilson

for appointment to the Maine Workers' Compensation Board, pursuant to Title 3 M.R.S.A. §154.

This nomination is currently pending before the Senate.

Sincerely,

S/Elizabeth H. Mitchell

President of the Senate

S/Hannah M. Pingree

Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **LABOR**.

READ and **REFERRED** to the Committee on **LABOR** in concurrence.

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

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Statute

Representative DUCHESNE for the **Joint Standing Committee on Natural Resources** on Bill "An Act to Amend Mercury Standards for Air Emission Sources"

(H.P. 1035) (L.D. 1482)

Reporting **Ought to Pass** pursuant to the Maine Revised Statutes, Title 38, section 585-B, subsection 6.

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

The Bill was **READ ONCE** and was assigned for **SECOND READING** Wednesday, May 27, 2009.

Divided Reports

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-162)** on Bill "An Act To Repeal the Informed Growth Act"

(S.P. 83) (L.D. 242)

Signed:

Senator:

COURTNEY of York

Representatives:

BROWNE of Vassalboro

WILLETTE of Presque Isle

HAYES of Buckfield

HARVELL of Farmington

CLARK of Easton

COTTA of China

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

Signed:

Senators:

SIMPSON of Androscoggin

JACKSON of Aroostook

Representatives:

BOLAND of Sanford

BEAUDETTE of Biddeford

KAENRATH of South Portland

SCHATZ of Blue Hill

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

READ.

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

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

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-347)** on Bill "An Act To Reimburse Debra Bilodeau for Her Expenses Incurred in Connection with Her Petition for Appointment as a Foster Parent"

(H.P. 275) (L.D. 368)

Signed:

Senators:

SULLIVAN of York

PLOWMAN of Penobscot

Representatives:

CORNELL du HOUX of Brunswick
 PINKHAM of Lexington Township
 TRINWARD of Waterville
 TUTTLE of Sanford
 NASS of Acton
 RUSSELL of Portland

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

Signed:

Senator:

GOODALL of Sagadahoc

Representatives:

BEAULIEU of Auburn
 VALENTINO of Saco
 FITTS of Pittsfield
 CAREY of Lewiston

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-347)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Wednesday, May 27, 2009.

CONSENT CALENDAR

First Day

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

(H.P. 1012) (L.D. 1460) Resolve, Regarding Legislative Review of Portions of Chapter 41: Special Restrictions on Pesticide Use, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control (EMERGENCY) Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass**

(H.P. 623) (L.D. 905) Resolve, To Require the State To Consult with the City of Hallowell prior to the Sale of Certain Real Property (EMERGENCY) Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-358)**

(H.P. 633) (L.D. 915) Bill "An Act To Update and Clarify Statutes Related to or Administered by the Department of Public Safety" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-357)**

(H.P. 694) (L.D. 1006) Bill "An Act To Create the Probate and Trust Law Advisory Commission" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-349)**

(H.P. 745) (L.D. 1078) Bill "An Act To Strengthen Sustainable Long-term Supportive Services for Maine Citizens" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-351)**

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

(H.P. 274) (L.D. 353) Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing

Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2010 and June 30, 2011" (EMERGENCY) Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-350)**

On motion of Representative CAIN of Orono, was **REMOVED** from the First Day Consent Calendar.

The Unanimous Committee Report was **READ** and **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-350)** was **READ** by the Clerk.

On motion of Representative CAIN of Orono, **TABLED** pending **ADOPTION of Committee Amendment "A" (H-350)** and later today assigned.

CONSENT CALENDAR

Second Day

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

(S.P. 170) (L.D. 467) Bill "An Act To Exempt School Administrative District 12, School Union 37 and School Union 60 from the Laws Requiring School Administration Consolidation" (EMERGENCY) (C. "A" S-186)

(S.P. 184) (L.D. 488) Bill "An Act To Address an Inequity in the Judicial Retirement System" (C. "A" S-174)

(S.P. 265) (L.D. 690) Bill "An Act Concerning Domestic Violence and Firearms" (C. "A" S-181)

(S.P. 322) (L.D. 853) Bill "An Act To Encourage Maine Residents To Attend Medical School and Practice in Maine" (C. "A" S-178)

(S.P. 361) (L.D. 978) Bill "An Act To Extend the Jurisdiction of the Commission on Governmental Ethics and Election Practices to the Executive Branch" (C. "A" S-173)

(S.P. 428) (L.D. 1156) Bill "An Act To Amend the Laws Governing the Recycling of Televisions" (C. "A" S-170)

(S.P. 432) (L.D. 1184) Bill "An Act To Improve the Process for Recovering Personal Property and for Filing Actions Involving Consumer Credit" (C. "A" S-175)

(S.P. 438) (L.D. 1190) Bill "An Act To Amend the Motor Vehicle Laws" (C. "A" S-176)

(S.P. 452) (L.D. 1219) Bill "An Act To Correct Inequities for Certain Maine Community College System Employees in the Maine Public Employees Retirement System" (C. "A" S-183)

(S.P. 504) (L.D. 1388) Bill "An Act Regarding the Licensing Fees for Certain Professional Programs" (C. "A" S-171)

(S.P. 510) (L.D. 1391) Bill "An Act To Amend the Laws Governing Emergency Management" (C. "A" S-182)

(S.P. 513) (L.D. 1429) Bill "An Act To Strengthen the Workplace Smoking Laws and Other Laws Governing Smoking" (C. "A" S-177)

(S.P. 524) (L.D. 1440) Bill "An Act To Clarify the Purpose of the Notice Requirement of Land Taking by the Department of Transportation" (C. "A" S-184)

(H.P. 331) (L.D. 443) Bill "An Act To Increase the Jurisdictional Limit for Small Claims" (C. "A" H-335)

(H.P. 471) (L.D. 657) Bill "An Act To Allow the Award of Court Costs or Attorney's Fees in Protection from Harassment Actions" (C. "A" H-336)

(H.P. 601) (L.D. 870) Bill "An Act To Improve Transportation for Veterans" (C. "A" H-342)

(H.P. 653) (L.D. 950) Bill "An Act To Amend the Maine Estate Tax" (C. "A" H-334)

(H.P. 717) (L.D. 1042) Bill "An Act To Continue To Reduce Mercury Use and Emissions" (C. "A" H-346)

(H.P. 824) (L.D. 1200) Bill "An Act To Streamline the Process for Court-ordered Mental Health Examinations in Criminal Cases" (C. "A" H-337)

(H.P. 887) (L.D. 1268) Bill "An Act To Update the Site Location of Development Laws" (C. "A" H-339)

(H.P. 888) (L.D. 1269) Bill "An Act To Clarify the Laws Regarding Significant Groundwater Wells" (C. "A" H-340)

(H.P. 959) (L.D. 1369) Bill "An Act To Amend the Charter of the Clinton Water District" (C. "A" H-338)

(H.P. 1007) (L.D. 1455) Bill "An Act To Establish the Maine Fuel Board" (C. "A" H-345)

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

BILLS IN THE SECOND READING

Senate as Amended

Bill "An Act To Improve the Use of Data from the Controlled Substances Prescription Monitoring Program"

(S.P. 494) (L.D. 1359)

(C. "A" S-125)

House as Amended

Bill "An Act Relating to Interference with Navigation on Inland Waters"

(H.P. 303) (L.D. 415)

(C. "A" H-304)

Bill "An Act To Increase the Safety of Maine State Troopers"

(H.P. 963) (L.D. 1373)

(C. "A" H-322)

Bill "An Act To Implement the Recommendations of the PE4ME Planning and Oversight Team"

(H.P. 983) (L.D. 1407)

(C. "A" H-343)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the Senate Paper was **PASSED TO BE ENGROSSED as Amended** in concurrence and the House Papers were **PASSED TO BE ENGROSSED as Amended** and sent for concurrence. **ORDERED SENT FORTHWITH.**

Bill "An Act To Authorize a General Fund Bond Issue To Fund Energy Efficiency Investments for Maine's Future"

(H.P. 1034) (L.D. 1481)

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

On motion of Representative TARDY of Newport, was **SET ASIDE.**

On motion of Representative PIOTTI of Unity, **TABLED** pending **PASSAGE TO BE ENGROSSED** and later today assigned.

Bill "An Act To Provide for the Safe Collection and Recycling of Mercury-containing Lighting"

(H.P. 675) (L.D. 973)

(C. "A" H-341)

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

On motion of Representative CAMPBELL of Newfield, was **SET ASIDE.**

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended.**

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

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

ROLL CALL NO. 107

YEA - Adams, Austin, Beaudette, Beaudoin, Beaulieu, Beck, Berry, Bickford, Blanchard, Blodgett, Bolduc, Briggs, Browne W, Bryant, Burns, Butterfield, Cain, Campbell, Carey, Casavant, Cebra, Celli, Chase, Clark H, Clark T, Cleary, Connor, Cornell du Houx, Cotta, Crafts, Cray, Crockett J, Crockett P, Curtis, Davis, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Edgecomb, Eves, Finch, Fitts, Flemings, Fletcher, Flood, Fossel, Gilbert, Giles, Goode, Greeley, Hamper, Harlow, Harvell, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Johnson, Jones, Kent, Knapp, Knight, Kruger, Lajoie, Langley, Lewin, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, McFadden, McKane, Miller, Millett, Morrison, Nass, Nelson, Nutting, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Pinkham, Piotti, Plummer, Pratt, Prescott, Priest, Rankin, Richardson D, Richardson W, Robinson, Rosen, Rotundo, Russell, Sanborn, Sarty, Saviello, Schatz, Shaw, Sirois, Smith, Stevens, Strang Burgess, Stuckey, Sutherland, Sykes, Tardy, Theriault, Thibodeau, Thomas, Tilton, Treat, Trinward, Valentino, Van Wie, Wagner J, Wagner R, Watson, Weaver, Welsh, Wheeler, Willette, Wright, Madam Speaker.

NAY - Ayotte, Gifford, Joy, McLeod.

ABSENT - Boland, Cohen, Cushing, Flaherty, Hanley, Kaenrath, Legg, Tuttle, Webster.

Yes, 138; No, 4; Absent, 9; Excused, 0.

138 having voted in the affirmative and 4 voted in the negative, with 9 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-341)** and sent for concurrence. **ORDERED SENT FORTHWITH.**

ENACTORS

Emergency Measure

An Act To Clarify and Update the Laws Related to Life and Health Insurance

(H.P. 821) (L.D. 1180)

(C. "A" H-288)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 138 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act To Amend the Charter of the Addison Point Water District

(H.P. 920) (L.D. 1317)

(C. "A" H-296)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 137 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act To Amend the Laws Governing Licensed Financial Service Providers

(H.P. 930) (L.D. 1326)
(C. "A" H-284)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 133 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Portions of Chapter 101: Establishment of the Capital Investment Fund, a Major Substantive Rule of the Governor's Office of Health Policy and Finance

(H.P. 777) (L.D. 1122)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 135 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Portions of Chapter 120: Release of Data to the Public, a Major Substantive Rule of the Maine Health Data Organization

(H.P. 987) (L.D. 1411)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 140 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Portions of Chapter 101: MaineCare Benefits Manual, Chapter III, Section 21, Home and Community Benefits for Members with Mental Retardation or Autistic Disorder, a Major Substantive Rule of the Department of Health and Human Services, Office of MaineCare Services

(H.P. 988) (L.D. 1412)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 141 voted in favor of the same and 1 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

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

Acts

An Act To Ensure Public Access to Records Relating to Public Contracts for Personal Services

(H.P. 454) (L.D. 640)
(C. "A" H-292)

An Act To Amend the Composition of the Maine Commission on Domestic and Sexual Abuse

(S.P. 289) (L.D. 742)
(C. "A" S-166)

An Act Relating to Self-insurance

(H.P. 692) (L.D. 1004)
(C. "A" H-287)

An Act To Amend the Statute of Limitations under the Maine Human Rights Act

(H.P. 763) (L.D. 1108)
(C. "A" H-293)

An Act To Provide Limited Immunity for Road Association Directors, Commissioners and Volunteers

(H.P. 910) (L.D. 1307)
(C. "A" H-294)

An Act To Promote Consumer Fairness in Tax Refund Anticipation Loans

(H.P. 944) (L.D. 1343)
(C. "A" H-285)

An Act To Amend the Aquaculture Laws

(H.P. 977) (L.D. 1398)
(C. "A" H-278)

An Act To Make Technical and Supervisory Amendments to the Laws Governing Banking and Consumer Credit

(H.P. 985) (L.D. 1409)
(C. "A" H-289)

An Act To Clarify and Strengthen the State's Motor Vehicle Laws

(S.P. 530) (L.D. 1445)
(C. "A" S-167)

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

Resolves

Resolve, Directing the Study of a Potato Variety Demonstrating Resistance to the Colorado Potato Beetle

(H.P. 395) (L.D. 557)
(C. "A" H-275)

Resolve, To Require the Office of Employee Health and Benefits To Report on Its Demonstration Project To Provide Access to Fitness Programs for State Employees

(H.P. 689) (L.D. 1001)
(C. "A" H-286)

Resolve, To Assist Artists, Art Galleries and Art Dealers

(S.P. 396) (L.D. 1062)
(C. "A" S-160)

Resolve, To Direct the Maine Children's Growth Council To Study the Connections between Higher Education and Early Childhood Education

(H.P. 736) (L.D. 1069)
(S. "A" S-169 to C. "A" H-221)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

An Act To Allow a Court To Award Attorney's Fees in Successful Freedom of Access Appeals

(S.P. 254) (L.D. 679)
(C. "A" S-135)

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

On motion of Representative PIOTTI of Unity, was **SET ASIDE**.

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

An Act To Prevent Predatory Marketing Practices against Minors

(S.P. 431) (L.D. 1183)
(C. "A" S-161)

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

On motion of Representative BERRY of Bowdoinham, was **SET ASIDE**.

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

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

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

ROLL CALL NO. 108

YEA - Adams, Austin, Ayotte, Beaudette, Beaudoin, Beaulieu, Beck, Berry, Bickford, Blanchard, Blodgett, Bolduc, Briggs, Browne W, Bryant, Burns, Butterfield, Cain, Campbell, Carey, Casavant, Cebra, Celli, Chase, Clark H, Clark T, Cleary, Cohen, Connor, Cornell du Houx, Cotta, Crafts, Cray, Crockett J, Crockett P, Curtis, Davis, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Edgecomb, Eves, Finch, Fitts, Flaherty, Flemings, Fletcher, Flood, Fossel, Gifford, Gilbert, Giles, Goode, Greeley, Hamper, Harlow, Harvell, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Johnson, Jones, Joy, Kent, Knapp, Knight, Kruger, Lajoie, Langley, Lewin, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, McFadden, McKane, McLeod, Miller, Millett, Morrison, Nass, Nelson, Nutting, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Pinkham, Piotti, Plummer, Pratt, Prescott, Priest, Rankin, Richardson D, Richardson W, Robinson, Rosen, Rotundo, Russell, Sanborn, Sarty, Saviello, Schatz, Shaw, Sirois, Smith, Stevens, Strang Burgess, Stuckey, Sutherland, Sykes, Tardy, Theriault, Thibodeau, Thomas, Tilton, Treat, Trinward, Valentino, Van Wie, Wagner J, Wagner R, Watson, Weaver, Welsh, Wheeler, Willette, Wright, Madam Speaker.

NAY - NONE.

ABSENT - Boland, Cushing, Hanley, Kaenrath, Legg, Tuttle, Webster.

Yes, 144; No, 0; Absent, 7; Excused, 0.

144 having voted in the affirmative and 0 voted in the negative, with 7 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Resolve, Requiring Rulemaking by the Maine Health Data Organization in Consultation with the Maine Quality Forum Regarding Clostridium Difficile and Methicillin-resistant Staphylococcus Aureus

(H.P. 662) (L.D. 960)
(C. "A" H-280)

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

On motion of Representative BERRY of Bowdoinham, was **SET ASIDE**.

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

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

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

ROLL CALL NO. 109

YEA - Adams, Austin, Ayotte, Beaudette, Beaudoin, Beaulieu, Beck, Berry, Bickford, Blanchard, Blodgett, Bolduc, Briggs, Browne W, Bryant, Burns, Butterfield, Cain, Campbell, Carey, Casavant, Cebra, Celli, Chase, Clark H, Clark T, Cleary, Cohen, Connor, Cornell du Houx, Cotta, Crafts, Cray, Crockett J, Crockett P, Curtis, Davis, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Edgecomb, Eves, Finch, Fitts, Flaherty, Flemings, Fletcher, Flood, Fossel, Gifford, Gilbert, Giles, Goode, Greeley, Hamper, Harlow, Harvell, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Johnson, Jones, Joy, Kent, Knapp, Knight, Kruger, Lajoie, Langley, Lewin, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, McFadden, McKane, McLeod, Miller, Millett, Morrison, Nass, Nelson, Nutting, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Pinkham, Piotti, Plummer, Pratt, Prescott, Priest, Rankin, Richardson D, Richardson W, Rosen, Rotundo, Russell, Sanborn, Sarty, Saviello, Schatz, Shaw, Sirois, Smith, Stevens, Strang Burgess, Stuckey, Sutherland, Sykes, Tardy, Theriault, Thibodeau, Thomas, Tilton, Treat, Trinward, Valentino, Van Wie, Wagner J, Wagner R, Watson, Weaver, Welsh, Wheeler, Willette, Wright, Madam Speaker.

NAY - Robinson.

ABSENT - Boland, Cushing, Hanley, Kaenrath, Legg, Tuttle, Webster.

Yes, 143; No, 1; Absent, 7; Excused, 0.

143 having voted in the affirmative and 1 voted in the negative, with 7 being absent, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Thursday, May 21, 2009, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (10) **Ought Not to Pass** - Minority (3) **Ought to Pass as Amended by Committee Amendment "A" (H-61)** - Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Transfer the Operation of the Fort Knox State Historic Site to the Friends of Fort Knox"

(H.P. 354) (L.D. 509)

TABLED - April 9, 2009 (Till Later Today) by Representative PIEH of Bremen.

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

Representative **CELLI** of Brewer **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 Brewer, Representative Celli.

Representative **CELLI**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This legislation did not come out the way I wished it would have. It was entirely my fault. My illness prevented me from doing it the way I wanted to. I had discussed this proposal with the Chief

Executive and he was firmly behind it, but I was unable to follow up with him because I actually probably spent more time in the hospital, and so I was not able to roll out this bill the way I wanted to.

The SPEAKER: Will the Representative please defer. Just a reminder to all members: Our rules require us to not refer to the actions of either the other body or the man who sits on the second floor, so his actions or his motives or anything else. I ask the Representative to proceed and keep that in mind.

The Chair advised all members that it is inappropriate to refer to the potential action of the office of the executive or the other body in order to influence the vote of the House.

Representative **CELLI**: Thank you, Madam Speaker. There are a lot of misconceptions about this legislation. One is that we are giving this property over to the Friends of Fort Knox. We are not. We are giving them the managerial part of this state park. It is still operated by Conservation, Parks and Lands. It still must follow the rules and guidelines of Conservation, Parks and Lands. It cannot change its fees; it cannot hold events without their permission; they cannot do anything at that state park without their permission.

Some of the other misconceptions are that there will be a loss of jobs. There is only one full-time position and, since I asked that this go into effect in 2010, that one position has the option of taking retirement or transferring to one of the many open positions that are available.

Why is this bill good? It will save the state approximately \$150,000 a year. It will give the Friends of Fort Knox, through gates fees, another \$40,000 a year to put towards the maintenance of that fort, and that fort requires a lot of maintenance. They are putting in \$65,000 to \$70,000 a year right now just in re-mortaring the fort so that bricks won't fall on people's heads. That's all this bill does, so it's a no-brainer. We've been told we've got to look in every corner for savings, we've got to work with outside entities to take over processes that this state can no longer afford to do. I will say that this will happen regardless of how this body votes, it's already in the works. Now, what I ask is that the Legislature, the House, get on board with everyone else, vote no on this piece of legislation. All you're doing by voting no is saying, yeah, we can save the state some money and we can make that fort even better by putting more of their funds into it. That's all you're doing by that vote. So I ask that you surprise me and vote no on this divided report. Thank you.

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 good Representative from Brewer and his comments regarding the fort. I am a cosponsor of this bill. Many of you had opportunity to travel along beautiful Penobscot Bay and along the river, you will find that the fort is a very beautiful spot in the river and it is uniquely been very well supported by the Friends of Fort Knox, from a local volunteer standpoint, for many, many years. This volunteer group has committed itself to the historic preservation of this site, to the education among our schools and local community of the value and historical significance that Fort Knox has had for this state for many years, and I can think of no better way to support a local group, particularly one that's going to save the state significant dollars in a time of very, very tight budget constraints, and I would highly recommend that we support Representative Celli and his efforts to work with this group and turn the park over to the Friends of Fort Knox. Thank you.

The SPEAKER: The Chair recognizes the Representative from Stockton Springs, Representative Magnan.

Representative **MAGNAN**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I represent this district, which includes the fort and the observatory and the bridge. I know, as a disclaimer, I know numbers of people who are friends and have been friends of the fort. I have never been on that board, I'd like to make sure you understand that, but I do know the people and I do know both sides, and I know the inseamer who has been the director of the fort for a number of years and has, through his efforts, moved that fort along beautifully. However, it is an interesting concept. There has been a lot of privatization done in the last few years, number of years, but I'm not sure that this is the place or the time for this. I don't think Maine needs to do this. It's a wonderful state park and kudos to the Friends; however, the Friends did have a very serious problem a number of years ago, not too long ago actually, in which they divided in half and it was brought to litigation and there were a lot of hard feelings and lot of other things happened at that time, and so my concern is that I would prefer to see the Friends of Fort Knox do up a two year business plan outlining what kinds of activities they would undertake, how they would have the people who work with them and how they would pay them, because our state workers are getting a, hopefully, a living wage, and we'd like to think that they would do that for theirs. But the other piece of it is with a two year plan, it would show a commitment and also a succession in case other problems came up within the membership of the organization, because it's not really incorporated or anything, it's a group of volunteers working hard. They have done wonderful work, but this is not the time to do this serious involved change. I think they should keep working under their present contract and show us another two years of excellent leadership in that area. I got the brochure the other day and I'll be attending any number of things at the fort, but I would like to think that we could work with them, with their contract, and give them two more years to show outstanding leadership, and then if they want to come back in the 125th, maybe we could think about it. Thank you. I vote no.

The SPEAKER: The Chair recognizes the Representative from Alna, Representative Fossel.

Representative **FOSSEL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I've been in the business of historic preservation for 34 years. This is a very common procedure and, as everything I can figure out about this group, they're ready for this. I presume that any contract with this group—and there will be a contract—will cover the items that have been presented or such a process would not happen. So I urge you to support Representative Celli on this bill. Thank you.

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

Representative **CELLI**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I wanted to apologize to the Representative from Stockton Springs, because I was not able to discuss this with her the way I wanted to, once again, because of my illness. I'm not very eloquent today, but you have to remember I drove in from Massachusetts General Hospital at one o'clock in the morning and still think some of the drugs that they were pumping into me are still taking effect. The group did have problems a couple of years ago, and I was at the forefront of trying to resolve those issues. There were issues dealing with illegalities and moral issues and they had to be taken care of and they were. The Friends, at that time, had \$90,000 in their bank account. The group that was removed spent it down in that year to \$17,000, and the first year that the new board took over, we had the account back up to \$107,000. It

took us seven years before that to get to that point. We have a very strong board and our membership is now twice what it was two years ago when that trouble occurred.

Also, I wish to let everyone know that the Minority Report, which I hope will be able to come up if the vote goes right, stipulates that this is a two year trial period and that's something that I really requested because, that way, if it doesn't work, we can go right back.

As far as the pay, we have a contract right now with DOT—we, I say we, I'm a member of the Friends of Fort Knox; I'm no longer a board member, I resigned that position for conflict of interest—but we already have a contract with DOT, we run the elevator and the observatory. We pay our employees more than what the state would pay, and it's retired people, it's college kids looking for summer jobs. Also, all of these employees, just like the ones that run the observatory, will be trained by the state. I go through the training every year by the state and act as a utility infielder in case someone gets sick, which is usually me, but that way they can call on me and we don't have to shut down the observatory, because we always have to have two people there. Once again, we have done, I think, everything possible to cover all the bases on this issue. It's just a matter of saving money. Thank you.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative McCabe.

Representative **McCABE**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I rise today in support of the pending motion. I do know a little bit about running a park. The other hat that I wear when I'm not here is actually manning a day use park that is actually state owned land, leased by the Town of Skowhegan and Canaan, and then run by Lake George Corporation which is a nonprofit. I found this legislation to be very interesting when introduced, I was very receptive to the pending legislation, but I just did not see the support by the Friends group, nor did I see the support by the people in that area. In talking with the good Representative, you know in other concerns that her constituents had, I felt that I couldn't support this legislation at this time.

Fort Knox is truly the crowned jewel of Maine historic sites. I first went to Fort Knox back in 1996 for a day of service and found the fort to be an amazing place. The Friends group has done amazing work over the years. I actually spent time this weekend reading the Friends' newsletter, and I thought that they'd been able to do some amazing things under their current circumstances. I think the Friends of Fort Knox will continue to do an amazing job and will continue to do an amazing job without this legislation. So I urge you to support the pending motion.

The SPEAKER: The Chair recognizes the Representative from Bremen, Representative Pieh.

Representative **PIEH**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I want to commend the Representative from Brewer, Representative Celli, who has worked hard on this when he has been here. I do rise in support of the pending motion. This has not been done before in this state. Folks mentioned Montpelier. I was here when that happened. Montpelier is not a historic site, it was done at the request of the department and the Friends of Montpelier, so it had the complete support. This did not have the support of the department. It had testimony at the work session, because they weren't at the public hearing, from the Friends of Fort Knox that they were neither for nor against.

I will also support the good Representative's efforts that are going on through the Executive to come to a memorandum of understanding and agreement, which will give them a lot of the things that they have asked for, without ending a person's

position. If that position is ended in two years, it's going to be very hard in our economic times to create a new position, so please be aware of that. If this person moves over into a vacant position, that will not be saving the state funds, it will be just another job that we're saving money on right now that won't be saved. So I do ask you to support the pending Ought Not to Pass Report. Thank you.

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'll rise quickly here I wanted to speak though a second time, again, in support of Representative Celli's efforts on this. One thing, too, I think that you've got to keep in mind that it's a nonprofit organization, which the Friends are. They have the ability to raise funds, to draw support from the local community, which includes businesses and other people that wouldn't necessarily donate to the State of Maine for something like this. So I think their ability to sustain and manage this on an ongoing basis is certainly going to be a great opportunity for them, great opportunity for us, and I think the fact that we built this in with a two-year look back on how this went, it gives us very good protection on the state side to see if we can invest in this local group and let them proceed with the management of the park. Thank you.

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. 110

YEA - Adams, Beaudette, Beck, Berry, Blodgett, Boland, Briggs, Bryant, Butterfield, Cain, Carey, Clark H, Cleary, Cohen, Connor, Cornell du Houx, Crockett P, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Eves, Finch, Flaherty, Flemings, Gilbert, Goode, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kent, Lajoie, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, Miller, Morrison, Nelson, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Piotti, Pratt, Priest, Rankin, Rotundo, Russell, Sanborn, Schatz, Shaw, Smith, Stevens, Stuckey, Sutherland, Theriault, Treat, Trinward, Van Wie, Wagner J, Wagner R, Watson, Welsh, Wheeler, Willette, Wright, Madam Speaker.

NAY - Austin, Ayotte, Beaudoin, Beaulieu, Bickford, Blanchard, Bolduc, Browne W, Burns, Campbell, Casavant, Cebra, Celli, Chase, Clark T, Cotta, Crafts, Cray, Crockett J, Curtis, Cushing, Davis, Edgecomb, Fitts, Fletcher, Flood, Fossel, Gifford, Giles, Greeley, Hamper, Harvell, Johnson, Joy, Knapp, Knight, Kruger, Langley, Lewin, McFadden, McKane, McLeod, Millett, Nass, Nutting, Pinkham, Plummer, Prescott, Richardson D, Richardson W, Robinson, Rosen, Sarty, Saviello, Sirois, Strang Burgess, Sykes, Tardy, Thibodeau, Thomas, Tilton, Valentino, Weaver.

ABSENT - Hanley, Kaenrath, Legg, Tuttle, Webster.

Yes, 83; No, 63; Absent, 5; Excused, 0.

83 having voted in the affirmative and 63 voted in the negative, with 5 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Change the Schedule for Redistricting

(H.P. 176) (L.D. 211)
(C. "A" H-143)

TABLED - May 13, 2009 (Till Later Today) by Representative BEAUDETTE of Biddeford.

PENDING - **PASSAGE TO BE ENGROSSED.**

Representative BEAUDETTE of Biddeford moved that the House **INDEFINITELY POSTPONE** the RESOLUTION and all accompanying papers.

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

Representative **BEAUDETTE**: Thank you, Madam Speaker. This bill received a unanimous report out of the State and Local Government Committee. It deals with moving up redistricting of the legislative districts from 2013 to 2011. Unfortunately, because of that timing, 2011 is in the Biennium Budget that we are currently debating now, the fiscal note being \$485,000. We attempted to see if there might be some federal funds that would be available to offset the cost of redistricting in 2011; they are not available. We looked at the idea of possibly moving redistricting to 2012 because that is an election year; that makes it also impossible to do. The desire of the committee basically was to try and move redistricting up to a period of time that's in alignment with most of the other states, but because of the situation that presents itself fiscally, the sponsor of the bill agrees that the bill should be killed and, therefore, I've made this Indefinite Postponement motion.

Subsequently, the RESOLUTION and all accompanying papers were **INDEFINITELY POSTPONED** and sent for concurrence.

Bill "An Act Pertaining to the Possession of Animal Fighting Paraphernalia"

(H.P. 151) (L.D. 186)

- In House, Majority (10) **OUGHT NOT TO PASS** Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY READ** and **ACCEPTED** on April 8, 2009.

- In Senate, Minority (3) **OUGHT TO PASS AS AMENDED** Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "B" (S-137) in NON-CONCURRENCE.**

TABLED - May 20, 2009 (Till Later Today) by Representative PIEH of Bremen.

PENDING - Motion of same Representative to **RECEDE** and **CONCUR.**

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. I urge you strongly to reject the Recede and Concur motion, which is on the floor right now. What's happened with this bill since the last time we discussed it here in the House is it has been amended to add a section which would indicate that if you had the paraphernalia to build an animal fighting pit, that that would be a crime. So this bill creates a new crime, a new Class D crime, and it would mean that if you were with the intention of having a dogfight, had the material to produce an animal fighting pit, that that would be a crime. The problem that I have with that is that it is very difficult to define what that material may be. We already have a very strong felony law about animal fighting or the intention of animal fighting in the State of Maine. However, if this new law went into effect, if you had the material for an animal fighting pit, you might be convicted of a crime, and what is the material for an animal fighting pit? Well in general, as I understand, these pits are set

up very quickly; it's nothing that's in place for any length of time with engraved invitations, come to an animal fight. These are things that folks have in the back of their truck. It might be 4 x 4's to create the pit; it might be some pieces of plywood. Well, gee, if I was going to have a raised bed garden, I might have some 4 x 4's and a couple of pieces of plywood as well. So the material to create a pit is not specific to that animal fight, it's something that many of us might have for any variety of reasons, and so I'm urging you to reject the Recede and Concur and go on to accept our prior report here in the House, which was Ought Not to Pass on the animal paraphernalia bill.

The SPEAKER: The Chair recognizes the Representative from Sabattus, Representative Dostie.

Representative **DOSTIE**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I rise to ask you to please support Representative Pieh's Recede and Concur motion. *The Portland Phoenix* did an article in September of 2008 called "Fight Club". In the article, the Auburn animal control officer stated as saying that he has pulled dead discarded dogs from the Androscoggin River and from the woods, and this was in 2008. They all had something in common: they have very distinctive scars and open wounds around the muzzle and shoulders, and, also, it says that the animal control officers across the state and throughout New England are organizing. There is strong evidence that these fights are going on in the state and that the problem is only getting worse as professionals are leaving Massachusetts or Maine, so please follow my light. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bremen, Representative Pieh.

Representative **PIEH**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I like to rise on different subjects you know, every day. Dog fighting is, as the good Representative mentioned, a problem, it's hard to investigate; it's hard to find proof of it. When the bill was before us before, there were things in it called dog fighting paraphernalia, such as two inch dog collars, and it was mentioned that someone might want to wear that themselves or someone might want to put it on their gorgeous dog as they walk the city streets, and what happened in the other body is that was changed to a dog fighting pit, and I would just like to read to you, it's not about the plywood in your pickup truck and I completely respect the good Representative from Portland, I'd rather go up against her than a lot of people here because she's my friend, but it does say that knowingly possesses, manufactures, ships, transports or delivers a fighting pit and has to be intended for use as a fighting pit. Now I'm not a lawyer and there are many lawyers in this body that might correct me, but I would say that intent, you have to prove it. It's not like the potential to, it's not like when I build a pen for my goats it could be used for a dog fighting pit. It's the intent, so that's something very different. They also changed the felony, they graded it down. All the questions that we had and that we were challenging, or that you were challenging the last time we had this bill have been changed, and it is the opinion of the Commissioner of Public Safety that this will help them in their ongoing investigations of dog fighting in this state. I encourage you to support the Recede and Concur, and I would request a roll call.

Representative PIEH of Bremen **REQUESTED** a roll call on the motion to **RECEDE** and **CONCUR.**

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

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

Representative **WAGNER**: Thank you, Madam Speaker. I rise also in support of Recede and Concur and second many of the things that the Representative from Bremen has stated. This is an issue, to a great extent, that is symbolic. We need to prevent animal fighting from taking a hold here in Maine. Having a few bits of clapboard or whatever that may be used for a fighting pit, that is going to be hard to prove, but, if the threat is there, this is the opportunity for the animal control officers for the law enforcement people to put the clamps on any budding animal fighting here in the State of Maine. Thank you, Madam Speaker.

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. I want to add a couple of pieces of information. A prior speaker mentioned this article called "Fight Club" that was in the newspaper, and I want to read you just a couple of brief quotes from that article: The first is from a gentleman by the name of Lieutenant Alan Borgal, who is the Animal Rescue League's, one of Boston's top cops around animal rescue, and he says "You have excellent laws, but there needs to be better reporting and better training." Also in that article, Donald Harper, who is Biddeford's animal control officer and the state director of the 150-member Maine Animal Control Association, indicates here, and I won't read all of his quote, but part of his quote is "We've got some of the best animal protection laws in the country, but enforcement is lacking." I want to let you know that if there's money to be spent here, and this will cost money, a Class D crime is up to a year and \$2,000 fine, if we're going to spend some money, I'd much rather spend it on enforcement and investigation than on a new crime. Thank you very much.

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

Representative **HARVELL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. While I realize that Michael Vick was released from prison last week. I don't believe he has any intentions of moving to Maine, because his probation will not allow it. This bill is, as the former Representative just said, about enforcement. We already have a law on the books. It's just a feel good bill and it won't go to solving the problems. The dogs that are being thrown in the Androscoggin River, they're having these fights at this point already. There is no indication that this bill would be able to locate where these are taking place, so I urge you not to support it.

The **SPEAKER**: The Chair recognizes the Representative from Bremen, Representative Pieh.

Representative **PIEH**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. Just to let you know that there was a fiscal note on the original bill, but there is not a fiscal note now on the bill. Thank you.

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

Representative **PLUMMER**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. In the Criminal Justice Committee, we spent a great deal of time with the issue of animal fighting. I personally spent a great deal of time, and I learned a couple of things during this: One is, as has already been stated, we have very strict laws in Maine already against animal fighting. I spent time talking with police departments and animal control officers in various parts of the state. I came to the conclusion that there is really no evidence that animal fighting is occurring in the State of Maine, and I acknowledge that there were bodies of dogs found, but they could not investigate and connect this with any fighting. I don't want to promote animal

fighting, but it's not happening in Maine. I understand the Representative who said, well, it's symbolic. Well, I guess if we want to do something symbolic, we can pass another law, but this is a law that is not needed. Thank you, Madam Speaker.

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 guess we all understand how more than two people can sit and hear the same testimony and come up with different conclusions, indeed, that's what's happened in the Criminal Justice Committee, and, as a result, I would support the Recede and Concur motion. I do feel that there's enough evidence, and I use that term in terms of it's anecdotal, but it's strong enough for us to be preemptive in our behavior and support the pending motion. Thank you, Madam Speaker.

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

Representative **SYKES**: Thank you, Madam Chair. Madam Chair, Ladies and Gentlemen of the House. If we accept this amendment, we are going to put in the books something that is confusing, a definition that is going to cause us some difficulty. I have four grandchildren; I have a porta crib at my house. Could that porta crib be a fighting pit? Well, under the definition, I feel it could be. Let's defeat the Recede and Concur and go to Insist. Thank you.

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

ROLL CALL NO. 111

YEA - Adams, Ayotte, Berry, Bickford, Blodgett, Boland, Bolduc, Campbell, Celli, Connor, Cornell du Houx, Cray, Dill, Dostie, Eaton, Eves, Finch, Flaherty, Flemings, Giles, Harlow, Hill, Hinck, Hunt, Innes Walsh, Kaenrath, Kent, Knight, MacDonald, Miller, Morrison, Pendleton, Pieh, Pilon, Pratt, Rankin, Rotundo, Russell, Schatz, Sirois, Smith, Stevens, Strang Burgess, Stuckey, Sutherland, Treat, Trinward, Valentino, Wagner R.

NAY - Austin, Beaudette, Beaudoin, Beaulieu, Beck, Blanchard, Briggs, Browne W, Bryant, Burns, Butterfield, Cain, Carey, Casavant, Cebra, Chase, Clark H, Clark T, Cleary, Cotta, Crafts, Crockett J, Crockett P, Curtis, Cushing, Davis, Driscoll, Duchesne, Eberle, Edgecomb, Fitts, Fletcher, Flood, Fossel, Gifford, Gilbert, Goode, Greeley, Hamper, Harvell, Haskell, Hayes, Hogan, Johnson, Jones, Joy, Knapp, Kruger, Lajoie, Langley, Lewin, Lovejoy, Magnan, Martin JR, Martin JL, Mazurek, McCabe, McFadden, McKane, McLeod, Millett, Nass, Nelson, Nutting, O'Brien, Peoples, Percy, Perry, Peterson, Pinkham, Piotti, Plummer, Prescott, Priest, Richardson D, Richardson W, Robinson, Rosen, Sanborn, Sarty, Saviello, Shaw, Sykes, Tardy, Theriault, Thibodeau, Thomas, Tilton, Van Wie, Wagner J, Watson, Weaver, Welsh, Wheeler, Willette, Wright, Madam Speaker.

ABSENT - Cohen, Hanley, Legg, Tuttle, Webster.

Yes, 49; No, 97; Absent, 5; Excused, 0.

49 having voted in the affirmative and 97 voted in the negative, with 5 being absent, and accordingly the motion to **RECEDE** and **CONCUR FAILED**.

Subsequently, on motion of Representative **HASKELL** of Portland, the House voted to **ADHERE**.

Bill "An Act To Allow a Municipality To Grant a Variance for the Construction of a Parking Structure for a Person with a Permanent Disability"

(H.P. 811) (L.D. 1172)
(C. "A" H-299)

TABLED - May 20, 2009 (Till Later Today) by Representative PIOTTI of Unity.

PENDING - **PASSAGE TO BE ENGROSSED.**

On motion of Representative COTTA of China, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION.**

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-299)** was **ADOPTED.**

The same Representative **PRESENTED House Amendment "A" (H-344)** to **Committee Amendment "A" (H-299)** which was **READ** by the Clerk.

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. The amendment that I'm offering to the amendment for 1172, it essentially says the bill, that you may or may not be totally familiar with, it's allowing communities to grant variances for people with handicaps to build structures in the northern climate. What my amendment does, it simply says that when the individual with a permanent disability moves, that the structure must be removed, and the purpose of that is the variance and the standards in the Maine law for percentage of coverage is an environmental issue, per setback. This simply, what it does, it grants the accommodation for the individual with the disability, but yet, at the same time, when it's no longer required, this amendment simply says it has to be removed, and that is, again, it can be a multitude of setback, percentage of coverage and a lot of other issues, and so I think we should grant the accommodation but, once it's no longer needed, it should be removed. Thank you, Madam Speaker.

Representative **BEAUDETTE** of Biddeford moved that **House Amendment "A" (H-344)** to **Committee Amendment "A" (H-299)** be **INDEFINITELY POSTPONED.**

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. This was a 12-1 vote in the committee. We did talk about the aspect of having a temporary structure as opposed to one that could be permanent. The committee rejected that argument feeling that it was unwieldy and very difficult to, not to enforce, but it just seemed unreasonable. We want to make sure that municipalities have the most flexibility as far as their zoning and their zoning appeals, and we'd like to leave this essentially to local control. Thank you, Madam Speaker.

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. This bill, its origins have gone over the last three years, I guess. It involves an individual who was permanently disabled in an accident a number of years ago. I tried to bring the bill forward a couple of years ago and the language was a little bit too convoluted, and so, over the summer, I streamlined the language with some help from Biddeford's Zoning Board of Appeals, ran it by MMA first, MMA agreed with the language and we represented it to the State and Local Government Committee. The language in the original bill already allows municipalities to have limitations built into their decision. In other words, if they grant a

variance to an individual who is disabled to construct a garage attached, you have to understand this could be attached to the original home, the local zoning board of appeals can put limits such as that the variance is only allowed while the house is occupied by that individual or while a person is disabled. If anything changes in that particular status, then the variance disappears, so I see no real reason for this amendment. I should also note that the language of the original bill makes sure that it is aesthetically pleasing in that there has to be a foundation and firm walls and so forth, instead of some temporary structure that is tent-like or whatever it happens to be. And lastly, this is about home rule. It allows the local zoning board of appeals to make the decision on what to do. It's not a carte blanche; you have to do that, it's an option. Thank you very much.

Representative COTTA of China **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-344)** to **Committee Amendment "A" (H-299).**

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

The **SPEAKER:** A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-344) to Committee Amendment "A" (H-299). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 112

YEA - Adams, Beaudette, Beaudoin, Beck, Berry, Blanchard, Blodgett, Boland, Bolduc, Briggs, Browne W, Bryant, Butterfield, Cain, Campbell, Carey, Casavant, Celli, Clark H, Clark T, Cleary, Cohen, Connor, Cornell du Houx, Crockett P, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Eves, Finch, Flaherty, Flemings, Gilbert, Goode, Harlow, Haskell, Hill, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kaenrath, Kruger, Lajoie, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, Miller, Morrison, Nelson, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Piotti, Pratt, Priest, Rankin, Rotundo, Russell, Sanborn, Schatz, Shaw, Sirois, Smith, Stevens, Stuckey, Sutherland, Theriault, Treat, Trinward, Valentino, Van Wie, Wagner J, Wagner R, Watson, Welsh, Wheeler, Willette, Wright, Madam Speaker.

NAY - Austin, Ayotte, Beaulieu, Bickford, Burns, Cebra, Chase, Cotta, Crafts, Cray, Crockett J, Curtis, Cushing, Davis, Edgecomb, Fitts, Fletcher, Flood, Fossel, Gifford, Giles, Greeley, Hamper, Harvell, Johnson, Joy, Knapp, Knight, Langley, Lewin, McFadden, McKane, McLeod, Millett, Nass, Nutting, Pinkham, Plummer, Prescott, Richardson D, Richardson W, Robinson, Rosen, Sarty, Saviello, Strang Burgess, Sykes, Tardy, Thibodeau, Thomas, Tilton, Weaver.

ABSENT - Hanley, Hayes, Kent, Legg, McCabe, Tuttle, Webster.

Yes, 92; No, 52; Absent, 7; Excused, 0.

92 having voted in the affirmative and 52 voted in the negative, with 7 being absent, and accordingly **House Amendment "A" (H-344)** to **Committee Amendment "A" (H-299)** was **INDEFINITELY POSTPONED.**

Subsequently, **Committee Amendment "A" (H-299)** was **ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-299)** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (H-323)** - Minority (5) **Ought Not to Pass** - Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Establish a Model Dating Violence Prevention Policy"

(H.P. 760) (L.D. 1105)

TABLED - May 21, 2009 (Till Later Today) by Representative SUTHERLAND of Chapman.

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

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. Just a couple of points of clarification on this bill: Previously, it indicated that the vote was 8 in favor, 5 opposed. That was in error. We had a clerical substitute that day and actually the vote was 10 in favor and 2 opposed. Representative Finch and Representative Richardson had both indicated that they were on the Majority with the amendment. The amendment that's before you asks that it replaces the bill with a resolve, it asks the Department of Education to review its policies regarding teacher training and student education on the topic of dating violence, and it asks them to review what school districts are doing around the state and simply to report back to the committee next March. So it changes it to a resolve and it was a 10-3 vote.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-323)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Wednesday, May 27, 2009.

CONSENT CALENDAR

First Day

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

(H.P. 52) (L.D. 59) Bill "An Act To Amend the Laws Governing the Confidentiality of Correctional Facility Plans" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-362)**

(H.P. 649) (L.D. 946) Bill "An Act To Reverse the Effects of Grant v. Central Maine Power, Inc. on Workers' Compensation" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-359)**

(H.P. 936) (L.D. 1332) Bill "An Act To Continue Coverage of Oil Clean-up Costs and Improve Administration of the Ground Water Oil Clean-up Fund" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-360)**

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

REPORTS OF COMMITTEE

Divided Reports

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-356)** on Bill "An Act Relating to Industrial Hemp"

(H.P. 798) (L.D. 1159)

Signed:

Senator:

NUTTING of Androscoggin

Representatives:

PIEH of Bremen

SMITH of Monmouth

PERCY of Phippsburg
PRATT of Eddington
CRAY of Palmyra
KENT of Woolwich
EDGECOMB of Caribou
McCABE of Skowhegan
GIFFORD of Lincoln

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

Signed:

Senator:

SHERMAN of Aroostook

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-356)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Wednesday, May 27, 2009.

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought Not to Pass** on Bill "An Act To Establish the Maine Fire Protection Services Commission Length of Service Award Program"

(H.P. 1020) (L.D. 1466)

Signed:

Senators:

GERZOFSKY of Cumberland

NUTTING of Androscoggin

DAVIS of Cumberland

Representatives:

HASKELL of Portland

SCHATZ of Blue Hill

PLUMMER of Windham

BURNS of Whiting

MAGNAN of Stockton Springs

SYKES of Harrison

WHEELER of Kittery

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-348)** on same Bill.

Signed:

Representatives:

HANLEY of Gardiner

LAJOIE of Lewiston

GREELEY of Levant

READ.

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

Majority Report of the Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-354)** on Bill "An Act To Clarify Standards by Which Game Wardens May Stop All-terrain Vehicles"

(H.P. 244) (L.D. 308)

Signed:

Senators:

BRYANT of Oxford
JACKSON of Aroostook

Representatives:

CLARK of Millinocket
EBERLE of South Portland
McLEOD of Lee
CRAFTS of Lisbon
SAVIELLO of Wilton

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-355)** on same Bill.

Signed:

Senator:

TRAHAN of Lincoln

Representatives:

BRIGGS of Mexico
SHAW of Standish
DAVIS of Sangerville
SARTY of Denmark

READ.

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

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

Majority Report of the Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-353)** on Resolve, To Conduct an Updated Study of the Feasibility of Establishing a Single-payor Health Care System in the State

(H.P. 690) (L.D. 1002)

Signed:

Senators:

BOWMAN of York
ALFOND of Cumberland
McCORMICK of Kennebec

Representatives:

TREAT of Hallowell
PRIEST of Brunswick
BEAUDOIN of Biddeford
BECK of Waterville
GOODE of Bangor
LEGG of Kennebunk
MORRISON of South Portland
FOSSEL of Alna
RICHARDSON of Warren

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

Signed:

Representative:

WEAVER of York

READ.

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

The Resolve was **READ ONCE**. **Committee Amendment "A" (H-353)** was **READ** by the Clerk and **ADOPTED**. The Resolve was assigned for **SECOND READING** Wednesday, May 27, 2009.

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act To Require the Teaching of Acadian History as Part of Maine History"

(S.P. 121) (L.D. 357)

Signed:

Senators:

ALFOND of Cumberland
SCHNEIDER of Penobscot
WESTON of Waldo

Representatives:

SUTHERLAND of Chapman
FINCH of Fairfield
JOHNSON of Greenville
LOVEJOY of Portland
McFADDEN of Dennysville
NELSON of Falmouth
RANKIN of Hiram
RICHARDSON of Carmel
WAGNER of Lewiston

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-199)** on same Bill.

Signed:

Representative:

CASAVANT of Biddeford

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

READ.

On motion of Representative SUTHERLAND of Chapman, the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

Majority Report of the Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought Not to Pass** on Bill "An Act Regarding the Purchase of Fish for Stocking Inland Waters"

(S.P. 241) (L.D. 667)

Signed:

Senators:

BRYANT of Oxford
JACKSON of Aroostook
TRAHAN of Lincoln

Representatives:

EBERLE of South Portland
WHEELER of Kittery
BRIGGS of Mexico
SHAW of Standish
McLEOD of Lee
SARTY of Denmark
CRAFTS of Lisbon

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

Signed:

Representatives:
CLARK of Millinocket
DAVIS of Sangerville
SAVIELLO of Wilton

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

On motion of Representative CLARK of Millinocket, the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

CONSENT CALENDAR
First Day

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

(S.P. 268) (L.D. 693) Bill "An Act To Clarify the Status and Benefits of Employees of the Child Development Services System" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-189)**

(S.P. 284) (L.D. 737) Bill "An Act To Require the State To Provide Bonita Rogan with Health Insurance Benefits" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-190)**

(S.P. 305) (L.D. 791) Bill "An Act To Prohibit Furnishing a Place for Minors To Use Illegal Drugs" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-193)**

(S.P. 509) (L.D. 1390) Resolve, Directing the State Tax Assessor To Adjust the State Valuation for the Town of Topsham (EMERGENCY) Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-188)**

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

(S.P. 490) (L.D. 1355) Bill "An Act To Make Permanent the Allowance of Certain Commercial Vehicles between the Calais Border Crossing and Baileyville" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-192)**

On motion of Representative MARTIN of Eagle Lake, was **REMOVED** from the First Day Consent Calendar.

The Unanimous Committee Report was **READ**.

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

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

Representative **BOLAND**: Thank you, Madam Speaker. Had I been present for votes Number 107, 108 and 109, I would have voted yes. Thank you.

The House recessed until 4:00 p.m.

(After Recess)

The House was called to order by the Speaker.

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 Thursday, May 21, 2009, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

SENATE DIVIDED REPORT - Majority (7) Ought Not to Pass - Minority (6) Ought to Pass as Amended by Committee Amendment "A" (S-187) - Committee on TAXATION on Bill "An Act To Create a Scholarship Granting Organization Tax Credit" (S.P. 465) (L.D. 1284)

- In Senate, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

TABLED - May 21, 2009 (Till Later Today) by Representative WATSON of Bath.

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

Subsequently, the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

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

HOUSE DIVIDED REPORT - Majority (7) Ought to Pass as Amended by Committee Amendment "A" (H-354) - Minority (5) Ought to Pass as Amended by Committee Amendment "B" (H-355) - Committee on INLAND FISHERIES AND WILDLIFE on Bill "An Act To Clarify Standards by Which Game Wardens May Stop All-terrain Vehicles" (H.P. 244) (L.D. 308)

Which was **TABLED** by Representative CLARK of Millinocket pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-354)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Wednesday, May 27, 2009.

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

CONSENT CALENDAR
First Day

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

(H.P. 39) (L.D. 44) Bill "An Act To Require Transmission Lines To Be Placed Underground near Certain Facilities" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-369)**

(H.P. 68) (L.D. 78) 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) Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "B" (H-374)**

(H.P. 646) (L.D. 943) Bill "An Act To Reduce Lung Cancer Rates in Maine" Committee on **LEGAL AND VETERANS**

AFFAIRS reporting Ought to Pass as Amended by Committee Amendment "A" (H-365)

(H.P. 711) (L.D. 1036) Bill "An Act To Amend the Education Laws Regarding the State Board of Education's Degree-granting Authority, the Appeal of a School Board's Decision To Discharge a Superintendent, the Telecommunications Education Access Fund and Certain Definitions and Programs" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-373)**

(H.P. 861) (L.D. 1242) Bill "An Act To Streamline the Regulatory Process for Commercial Building Construction Projects" (EMERGENCY) Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-368)**

(H.P. 1019) (L.D. 1464) Bill "An Act To Amend Licensing, Certification and Registration Requirements for Health Care Providers and Other Facilities" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-364)**

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

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH** with the exception of matters being held.

REPORTS OF COMMITTEE
Divided Reports

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-372)** on Bill "An Act To Allow Veterans and Active Duty Military Members To Qualify for In-state Tuition"

(H.P. 752) (L.D. 1090)

Signed:

Senators:

ALFOND of Cumberland
WESTON of Waldo

Representatives:

CASAVANT of Biddeford
WAGNER of Lewiston
NELSON of Falmouth
RANKIN of Hiram
McFADDEN of Dennysville
JOHNSON of Greenville

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

Signed:

Representatives:

SUTHERLAND of Chapman
FINCH of Fairfield
LOVEJOY of Portland
RICHARDSON of Carmel

READ.

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

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

Majority Report of the Committee on **NATURAL RESOURCES** reporting **Ought to Pass** on Bill "An Act To Require State-owned Solid Waste Disposal Facilities To Demonstrate a Public Benefit"

(H.P. 518) (L.D. 759)

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 Not to Pass** on same Bill.

Signed:

Representatives:

EDGECOMB of Caribou
AYOTTE of Caswell

READ.

On motion of Representative DUCHESNE of Hudson, the Majority **Ought to Pass** Report was **ACCEPTED**.

The Bill was **READ ONCE** and was assigned for **SECOND READING** Wednesday, May 27, 2009.

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-375)** on Bill "An Act To Clarify the Municipal Jurisdiction of a Portion of Saco Bay"

(H.P. 774) (L.D. 1119)

Signed:

Senators:

SIMPSON of Androscoggin
JACKSON of Aroostook
COURTNEY of York

Representatives:

BOLAND of Sanford
BROWNE of Vassalboro
WILLETTE of Presque Isle
HAYES of Buckfield
BEAUDETTE of Biddeford
COTTA of China
CLARK of Easton
KAENRATH of South Portland
SCHATZ of Blue Hill

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

Signed:

Representative:
HARVELL of Farmington

READ.

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

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

Majority Report of the Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-370)** on Bill "An Act To Protect the Right To Use Solar Energy"

(H.P. 62) (L.D. 73)

Signed:
Senator:
HOBBINS of York

Representatives:
BLANCHARD of Old Town
FLAHERTY of Scarborough
HINCK of Portland
ADAMS of Portland
WAGNER of Lyman
VAN WIE of New Gloucester

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-371)** on same Bill.

Signed:
Senators:
BOWMAN of York
SHERMAN of Aroostook

Representatives:
THIBODEAU of Winterport
DOSTIE of Sabattus
FLETCHER of Winslow
FITTS of Pittsfield

READ.

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

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

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

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

HOUSE REPORT - **Ought to Pass as Amended by Committee Amendment "A" (H-350)** - Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2010 and June 30, 2011" (EMERGENCY)

(H.P. 274) (L.D. 353)

Which was **TABLED** by Representative CAIN of Orono pending **ADOPTION** of **Committee Amendment "A" (H-350)**.

Representative CAIN of Orono **PRESENTED** **House Amendment "E" (H-408)** to **Committee Amendment "A" (H-350)**, which was **READ** by the Clerk.

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

Representative **CAIN**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. This amendment is truly a technical amendment and, if you were to look at the summary, you would see it's so technical it barely fills part of a page. This clarifies four items in the previously printed budget, which you've had on your desk. That document is a very long document and I'd like to commend particularly the staff of the Office of Fiscal and Program Review and the Revisor's Office for their hard work. As they have continued to review and edit it, they found four technical clarifications, which I am making in this amendment.

The first clarifies the transfers made under Part RRR are being made to the General Fund. We had allowed the transfer, but not directed where it would go to.

Number two, it corrects the total number of members on the Task Force on the Sustainability of the Dairy Industry. The committee worked with members of the Ag Committee to increase the number of that commission to 19 by adding two additional members; however, we did not correct the language that listed the total numbers of members on that committee.

The third piece is that it corrects the allocation amounts for revenue-sharing programs based upon available revenues. The amounts you saw in the document, as original printed, were understated, so these correct and increase those allocations.

Number four, it eliminates position counts added in error for limited-period positions authorized under the American Reinvestment and Recovery Act that we will have for our state government.

I am very proud that this is the only amendment and these are the only four technical corrections that I bring before you on behalf of the entire Appropriations Committee today. We've journeyed on a very long process, since January, with LD 353. I'm glad to be bringing it to share it with all of you tonight. This is the only amendment, Madam Speaker, that I will be supporting this evening to the document, because it is brought forward on behalf of the entire Appropriations Committee and represents literally finishing off the bow on the entire package that is LD 353, which I present before you today. Thank you, Madam Speaker.

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

Representative **MILLET**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I would just like to briefly concur with the remarks of the good chair from Orono, Representative Cain. I think she's adequately explained the four points within in this committee amendment, and I think it reflects well on both the process that she observed and the product, because we have before us a 805 page bill, and we have only these four technical items that got overlooked in the process. So I highly concur with her comments, thank her for her leadership and urge your support of this amendment.

Subsequently, **House Amendment "E" (H-408)** to **Committee Amendment "A" (H-350)** was **ADOPTED**.

Representative MCFADDEN of Dennysville **PRESENTED** **House Amendment "A" (H-377)** to **Committee Amendment "A" (H-350)**, which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Dennysville, Representative McFadden.

Representative **McFADDEN**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Today there are 143 non-complying school districts that are being penalized on their 279's. Five towns have not submitted a plan to the commissioner to regionalize. Nearly 40 units are exempt from the law. The 143 non-complying units have followed the proper steps according to law, but citizens have voted no in the referendum vote. Most have determined the cost to reorganizing is greater than the assessed penalties. Some have merged with private and special deals, while others are not as fortunate.

In my District there was a proposed RSU which would have consisted of one SAD, two School Unions and one municipality. The proposed new district had the student population and all requirements were met, but citizens voted "No" in the referendum vote.

Today the two school unions and one municipality have formed their own AOS, but they can't apply to the commissioner because they are just under the legal student population count for an AOS. These three Units have hired one Superintendent where before there were three. The three share services, transportation and purchasing, but now they are being penalized while doing the right thing, because they don't have that slack in student population.

Two important points are geography and demographics which can't be changed. What is the law costing the towns around the state? The \$36.5 million reductions in GPA in the 123rd Legislature; the 5% for Sp. Ed., Transportation and Maintenance; and also the \$27,000,000 curtailment money, which has been replaced through this stimulus.

The state savings in GPA was passed on to the locals. Don't forget that \$75 million is siphoned off GPA under miscellaneous costs and used in the DOE, so the \$75,000,000 GPA to districts is closer to \$888,000,000.

Now municipalities are losing on revenue sharing and a \$3,000 reduction in homestead exemptions. Now add the increased property valuations, especially on water front property and the penalties for non-complying units. What does these added dollars in property taxes do to LD #1? It just ups, ups, ups property taxes completely. So, Ladies and Gentlemen of the House, please do the right thing and support this amendment. Thank you Madam Speaker.

Representative **CAIN** of Orono moved that **House Amendment "A" (H-377) to Committee Amendment "A" (H-350) be INDEFINITELY POSTPONED.**

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

Representative **CAIN**: Thank you, Madam Speaker. I'd like to thank the good Representative from Dennysville for bringing this issue forward, but I would only say, Madam Speaker, that we need to look at today's Calendar, to Unfinished Business Item #4, Item #5 and Notice #3, to know that we are only just beginning the important discussion and debate that this Legislature will and should have around the very difficult issues facing our state in regards to school district reorganization.

The school district reorganization process we are going through may have had its roots in the budget process two years ago, as presented by the Chief Executive, but this session we have worked very hard to leave such matters to the Education Committee. In the budget, we have included only those items related to school district reorganization that the Education Committee requested us to do so. That includes, related to the penalties, exempting those units who voted yes, who's partners voted no, for penalties in the upcoming fiscal year and the parking of the penalties. I am personally looking forward to the upcoming debate on such issues, and I would request support for

my Indefinite Postponement motion. Thank you, Madam Speaker.

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. With all due respect to the Appropriations Committee, I think they did a lot of hard work and heavy lifting, but they only solved half of the problem. As Representative McFadden stated, there are 143 non-conforming units that are getting penalized for no reason. I'd like to give you kind of a snapshot of what the impact is on one such school district.

This is an extraordinary school district in a section of Maine that has a difficult economic circumstance. The superintendent of schools sent in a letter to the commissioner asking for her support on the January 29th, and followed that up with a letter to the Appropriations Committee, the Education Committee, and the Speaker and the President of the Senate. Basically what he has described in his situation, and it is SAD 4 we're talking about, they've been a leader in reorganization for many years. They've closed community schools in Abbot, Cambridge, Sangerville and Wellington in order to be efficient. These difficult decisions have always been made with students' interests and educational interests in the forefront. SAD 4 spends a higher percentage on instruction than four of the six schools exempt from the reorganization, because they were determined to be highly efficient. SAD 4 spends less per pupil than 34 of the 35 units that were exempt from reorganization due to their size. SAD 4 students will be penalized by reductions in services because citizens voted the wrong way in the eyes of the state government, even though voting the right way proved to be more costly. What should the citizens of those communities do?

SAD 4 spends less per pupil than all the school systems that have thus far voted to reorganize. SAD 4 is in an impoverished area of Maine. Unfortunately, Piscataquis County, where they reside, has overtaken Washington County, Somerset County and Aroostook County as having the highest unemployment in the state. Despite all of this, we are still able to provide students and staff with state of the art, one-on-one technology experience. They've been a leader in one-on-one laptops for several years now, they offer free and reduced lunch to every student in the district, and provide excellent instruction due to the skill level and dedication of the teachers, and I would point out that one of the finalists for Educator of the Year this year is from SAD 4.

These are extraordinary times. We have an opportunity to right this wrong now. Now some people have said these people knew the rules when they started. That doesn't make the rules right. In anybody's mind, somebody that votes in contradiction to their citizens' tax bill and their students' education is not doing the wrong thing. They stood up and did the right thing, and they should not be penalized for it. Please consider this amendment very seriously. Just because we don't want to have any amendment to this budget is not a good reason to not right a wrong. Thank you.

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. First off, I'd like to say that I'm very proud to be a citizen of SAD 4, and I'm also very proud to have been the chairman of that school board for five years. They voted wrong under the eyes of those in authority, here in our state capital. They didn't capitulate, they didn't comply. They showed their independence, perhaps, at least in my mind, the independence that God gave us all. Those that did not capitulate to the south of us, just a little ways to the

south of us, they voted positively, and, at their very first meeting, folks, the very first RSU, they voted to create the position of assistant superintendent at the tune of \$85,000 a year. So much for the savings in this matter. Madam Speaker, I ask for a roll call on this motion.

Representative DAVIS of Sangerville **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-377) to Committee Amendment "A" (H-350)**.

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

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-377) to Committee Amendment "A" (H-350). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 113

YEA - Adams, Beaudette, Beaudoin, Beck, Berry, Blanchard, Blodgett, Boland, Bolduc, Briggs, Bryant, Butterfield, Cain, Campbell, Carey, Casavant, Cleary, Cohen, Connor, Cornell du Houx, Crockett P, Dill, Dostie, Duchesne, Eaton, Eberle, Eves, Flaherty, Flemings, Gilbert, Goode, Hanley, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kaenrath, Kent, Kruger, Lajoie, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, Miller, Millett, Morrison, Nelson, Nutting, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Piotti, Priest, Rankin, Rotundo, Russell, Sanborn, Shaw, Sirois, Smith, Stevens, Strang Burgess, Stuckey, Sutherland, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Welsh, Wheeler, Wright, Madam Speaker.

NAY - Austin, Ayotte, Beaulieu, Bickford, Browne W, Burns, Cebra, Celli, Chase, Clark H, Clark T, Cotta, Crafts, Cray, Crockett J, Curtis, Cushing, Davis, Edgecomb, Finch, Fitts, Fletcher, Flood, Fossil, Gifford, Giles, Greeley, Hamper, Harvell, Johnson, Joy, Langley, Lewin, McFadden, McKane, McLeod, Nass, O'Brien, Pinkham, Plummer, Pratt, Prescott, Richardson D, Richardson W, Robinson, Rosen, Sarty, Saviello, Schatz, Sykes, Tardy, Theriault, Thibodeau, Thomas, Tilton, Weaver, Willette.

ABSENT - Driscoll, Knapp, Knight, Legg, Webster.

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 **House Amendment "A" (H-377) to Committee Amendment "A" (H-350) was INDEFINITELY POSTPONED**.

Representative CLARK of Millinocket **PRESENTED House Amendment "C" (H-394) to Committee Amendment "A" (H-350)**, which was **READ** by the Clerk.

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

Representative **CLARK**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. First of all, I want to thank the Appropriations Committee for their extremely hard work they put in, and, secondly, I'd like to thank the Revisor's Office for putting together an amendment in yeoman's time. From ten o'clock this morning till now, I had two amendments. You can see one was pretty lengthy.

Third, I'd like to thank Inland Fisheries and Wildlife Committee for the hard work that they put in, putting together a budget in committee. For three and a half plus weeks we worked tirelessly downstairs trying to come up with a budget to make it easier for the sports men and women of the State of Maine, for they haven't got to really dig that deep down in their pocket. I think you all understand the sportsmen of the State of Maine got hit extremely hard in this budget, as well as a lot of other departments, but this one here was extremely hit hard. We worked tirelessly, long

hours on preparing a budget, trying to put together some minor fee increases. In looking at the budget over the weekend, it's been told to me, if we pass this budget, you're going to have an awful hole in two years. Well, I can tell you right now, Men and Women, if you look in the budget, there's going to be a lot of holes down the road in two years, not only IF & W. If you talk about a rainy day account, the carrying account in Inland, Fisheries and Wildlife exceeding \$700,000 plus dollars, the committee wanted to take some of the money, a little over \$300,000, and soften the blow for the sportsmen here in the State of Maine who hunt and fish and trap or whatever they may do, men and women, so we took some of the carrying account. To me, it is raining into the Department of Inland, Fisheries and Wildlife. We needed the revenue. We cannot keep going to the men and women or the sportsmen of the State of Maine asking for a fee increase. This will give us a two year look down the road of what we're going to do to fund the department. It balances the budget over those two years. Yes, we will have a hole, I admit that. I think every department ought to admit there is going to be holes in their budget, not only in the budget of IF & W. I feel a little guilty putting this amendment in at the eleventh hour, but I can tell you right now, Men and Women of the House, the committee we represent went tireless hours in trying to put together something to make it appropriate for the people you represent back home. I hope when you vote today, and I ask for a roll call, you vote in favor of this amendment. Thank you very much, Men and Women.

Representative CLARK of Millinocket **REQUESTED** a roll call on the motion to **ADOPT House Amendment "C" (H-394) to Committee Amendment "A" (H-350)**.

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

Representative CAIN of Orono moved that **House Amendment "C" (H-394) to Committee Amendment "A" (H-350) be INDEFINITELY POSTPONED**.

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

Representative **CAIN**: Thank you, Madam Speaker. This amendment essentially reverts back to an earlier version of the IF & W budget as it came before us in the Appropriations Committee. In fact, it's one of several additions of the budget that came back to us, because the Inland Fisheries and Wildlife Committee worked so very hard. But the bottom line is that all of the policy committees worked very hard to help the Appropriations Committee build LD 353 as it sits before you now. We all know how hard this work is and have all shared in pieces of it to arrive at the balanced budget today. The IF & W Committee did work especially hard on their portion of the budget, working between the resources of the General Fund and their carrying account, but the bottom line is that the numbers just didn't quite work when they came back to us in the final versions, and so the IF & W Committee Report was treated exactly the same way as all of the other reports that came back to us with holes or with areas that still needed work in order to fit them into the puzzle that is the big budget. We worked hard to honor the spirit of the work of the IF & W Committee, but changes had to be made in order to fit the IF & W budget into the rest of the budget that's on your desk.

I would like to especially thank the Representative from Eagle Lake, Representative Martin, and the Representative from Winthrop, Representative Flood, for their work in working on the IF & W budget, in order to fit in to LD 353. So again, thank you to the IF & W Committee for their hard work. I look forward to working with them on future budgets and future work with the Appropriations Committee and the IF & W Committee, as I do

with all policy committees, and I request that all members please support the motion to Indefinitely Postpone. Thank you, Madam Speaker.

Representative DAVIS of Sangerville **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "C" (H-394) to Committee Amendment "A" (H-350)**.

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

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "C" (H-394) to Committee Amendment "A" (H-350). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 114

YEA - Adams, Beaudette, Beaudoin, Berry, Blanchard, Blodgett, Boland, Bolduc, Browne W, Bryant, Butterfield, Cain, Campbell, Carey, Casavant, Celli, Cleary, Cohen, Connor, Cornell du Houx, Crockett P, Curtis, Dill, Dostie, Duchesne, Eaton, Eberle, Eves, Flaherty, Flemings, Flood, Gilbert, Giles, Goode, Harlow, Haskell, Hayes, Hinck, Hunt, Innes Walsh, Jones, Kaenrath, Kent, Kruger, Lajoie, Langley, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, Miller, Millett, Morrison, Nelson, Nutting, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Pinkham, Piotti, Pratt, Priest, Rankin, Robinson, Rosen, Rotundo, Russell, Sanborn, Schatz, Sirois, Smith, Stevens, Strang Burgess, Stuckey, Sutherland, Tardy, Theriault, Tilton, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Weaver, Welsh, Willette, Wright, Madam Speaker.

NAY - Austin, Ayotte, Beaulieu, Beck, Bickford, Briggs, Burns, Cebra, Chase, Clark H, Clark T, Cotta, Crafts, Cray, Crockett J, Cushing, Davis, Edgecomb, Finch, Fitts, Fletcher, Fossel, Gifford, Greeley, Hamper, Hanley, Harvell, Hill, Hogan, Johnson, Joy, Lewin, McFadden, McKane, McLeod, Nass, Plummer, Prescott, Richardson D, Richardson W, Sarty, Saviello, Shaw, Sykes, Thibodeau, Thomas, Wheeler.

ABSENT - Driscoll, Knapp, Knight, Legg, Webster.

Yes, 99; No, 47; Absent, 5; Excused, 0.

99 having voted in the affirmative and 47 voted in the negative, with 5 being absent, and accordingly **House Amendment "C" (H-394) to Committee Amendment "A" (H-350)** was **INDEFINITELY POSTPONED**.

Representative CLARK of Millinocket **PRESENTED House Amendment "D" (H-395) to Committee Amendment "A" (H-350)**, which was **READ** by the Clerk.

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

Representative **CLARK**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I hope you accept this friendly amendment to the budget. We worked hard at trying to come up with another little compromise. It does not affect the budget, it keeps everything in tact. Money wise, it does not unravel the fabric. What it does is on outboard motor registration, there was a \$5 increase across the board. I feel that's a little bit too much and what we want to do is, 50 horse or less, there would be no increase. Anything about 50 horse will be \$5 increase, and that keeps the money and it keeps everything the same that it was in the original budget, it just gives the sportsmen a little bit more break on the other end, Madam Speaker. When the vote is taken, I request for a roll call.

The same Representative **REQUESTED** a roll call on the motion to **ADOPT House Amendment "D" (H-395) to Committee Amendment "A" (H-350)**.

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

Representative CAIN of Orono moved that **House Amendment "D" (H-395) to Committee Amendment "A" (H-350)** be **INDEFINITELY POSTPONED**.

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

Representative **CAIN**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. The issue of fees is a very sensitive one in all areas of state government, and all of the fees that are in the budget have been carefully thought out by many policy committees, including the Inland Fisheries and Wildlife Committee and the Appropriations and Financial Affairs Committee, therefore, I do not believe this is an appropriate timing for this particular fee, and I would ask support for a motion to Indefinitely Postpone.

Representative DAVIS of Sangerville **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "D" (H-395) to Committee Amendment "A" (H-350)**.

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

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "D" (H-395) to Committee Amendment "A" (H-350). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 115

YEA - Adams, Beaudette, Beaudoin, Beck, Berry, Bickford, Blanchard, Blodgett, Boland, Bolduc, Briggs, Browne W, Bryant, Butterfield, Cain, Campbell, Carey, Casavant, Cleary, Cohen, Connor, Cornell du Houx, Crockett P, Curtis, Dill, Dostie, Duchesne, Eaton, Eberle, Eves, Flaherty, Flemings, Flood, Gilbert, Giles, Goode, Hamper, Hanley, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kaenrath, Kent, Kruger, Lajoie, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, Miller, Millett, Morrison, Nelson, Nutting, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Pinkham, Piotti, Priest, Rankin, Richardson D, Richardson W, Robinson, Rotundo, Russell, Sanborn, Schatz, Sirois, Smith, Stevens, Strang Burgess, Stuckey, Sutherland, Tardy, Tilton, Treat, Trinward, Valentino, Van Wie, Wagner J, Wagner R, Watson, Welsh, Willette, Wright, Madam Speaker.

NAY - Austin, Ayotte, Beaulieu, Burns, Cebra, Celli, Chase, Clark H, Clark T, Cotta, Crafts, Cray, Crockett J, Cushing, Davis, Edgecomb, Finch, Fitts, Fletcher, Fossel, Gifford, Greeley, Harvell, Johnson, Joy, Langley, Lewin, McFadden, McKane, McLeod, Nass, Plummer, Pratt, Prescott, Rosen, Sarty, Saviello, Shaw, Sykes, Theriault, Thibodeau, Thomas, Tuttle, Weaver, Wheeler.

ABSENT - Driscoll, Knapp, Knight, Legg, Webster.

Yes, 101; No, 45; Absent, 5; Excused, 0.

101 having voted in the affirmative and 45 voted in the negative, with 5 being absent, and accordingly **House Amendment "D" (H-395) to Committee Amendment "A" (H-350)** was **INDEFINITELY POSTPONED**.

Representative PRATT of Eddington **PRESENTED House Amendment "F" (H-411) to Committee Amendment "A" (H-350)**, which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Eddington, Representative Pratt.

Representative **PRATT**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. Many of the amendments that you're going to hear today, in terms of amending the budget, are asking for money or saying, hey, we need this to do what we want to do. What I offer you today, everyone here in this House, is \$70,000, and I ask every single person here in this House what you'd like to do with that \$70,000,

because I guarantee there's not a person here in this House who would say there's not something in this budget that I would like to see \$70,000 spent on. I guarantee you. I am offering this up: \$70,000.

Currently, right now, and my personal opinion is there's probably more than this, but in our little bit of time that we had digging around, the State of Maine spends over, according to OFPR, \$70,000 on bottled water. I'm asking you folks right now, seriously, when we are asking the Legislature to say, hey, we're going to back off our COLA, we don't need that, but we're asking state employees to put money in towards their insurance, and we're asking a lot of very heavy duty cuts that I think people here, some have issues with. I'm offering you \$70,000 for a luxury item. Does the state need to be spending \$70,000 on bottled water? I'll ask you this. We did a bunch of digging. Some folks came up with an \$82,000 number, some folks came up with a bunch of other money, but OFPR would say we have \$70,000 that we're spending in bottled water. Do you think right now, in these times that we're talking about and all of these cuts and these cuts to programs, that you think the state should be spending \$70,000 on bottled water?

I'm not kidding myself. I know the good Representative from Orono is going to stand up and we're going to move Indefinite Postponement on this, and I'm not convinced that I'm going to succeed in this, but I ask you to think about it, because if there is \$70,000 in bottled water, do we honestly believe that we have done all the due diligence that we need to say, hey, have we found the savings that we need to find? We have some great water in the State of Maine. We're very lucky. So many other states don't have what we have. You can open the tap here in Augusta or in Waterville or in Bangor or in my neck of the woods, back home in Eddington, and you get good water right out of the tap, alright? So why on God's green earth are we spending \$70,000 on bottled water? How many pitchers, how many ice machines could you buy for \$70,000? With what we're dealing with right now, I understand people are going to laugh and they're going to joke and say, Come on, Pratt, are you kidding me; why are you wasting my time on \$70,000 worth of bottled water? But I'm telling you, I talked about it earlier, this water issue is not going away, and if we bury our heads in the sand and say don't worry about it, everything's going to be fine, then I think you're kidding yourself, and \$70,000 is \$70,000. At this point, I'd say it's a pretty frivolous waste of taxpayer dollars, considering all the stuff that we're doing right now with cutting \$590 million out of the budget, and, if I haven't asked for it yet, I'd ask for a roll call, and I'd appreciate anyone here who believes spending \$70,000 on bottled water while we're hitting some very important government programs to vote with me. Thank you very much for your time.

Representative PRATT of Eddington **REQUESTED** a roll call on the motion to **ADOPT House Amendment "F" (H-411) to Committee Amendment "A" (H-350)**.

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

Representative CAIN of Orono moved that **House Amendment "F" (H-411) to Committee Amendment "A" (H-350) be INDEFINITELY POSTPONED**.

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

Representative CAIN: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I do appreciate the sentiment of this amendment, and I know that all issues surrounding all bottled water in general are immersed in intense debate during this very legislative session. The truth is that some members of the Appropriations Committee worked very hard to see if adopting an amendment like this one was practical, but the

truth is that it is not. So while I greatly appreciate that the good Representative from Eddington, my friend, Representative Pratt, is offering us a \$70,000 deal tonight, the bottom line is that, really without a lot of further work and careful consideration, there are too many potential unintended consequences with support of this amendment, for example, where there might be state buildings where the tap water is unsafe to drink, or, for many of our workers who are out in the field working in the hot sun, where we cannot simply install a drinking fountain wherever we would like. It is for those reasons that I would ask support of the Indefinite Postponement motion. Thank you, Madam Speaker.

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

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

The SPEAKER: The Representative may pose his question.

Representative **ROBINSON**: Thank you, Madam Speaker. How much did it cost the people of Maine to draft this amendment and to print it?

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

The Chair recognizes the Representative from Scarborough, Representative Flaherty.

Representative **FLAHERTY**: Thank you, Madam Speaker. Having lived in an area that did not have great water, I will tell you the truth: We have great water in the taps of Maine. The reality is that we have \$70,000, which we'd save right here, right now, if we vote for this amendment. So I will ask you to vote for this amendment to save a lot of money from the state budget. The reality is we've got great water in Maine from the tap and not from the bottle. Thank you, Madam Speaker.

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

Representative **CELLI**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This is a great amendment: save \$70,000 over the biennium. I offered legislation this morning that would have save \$300,000 over the biennium. Perhaps we all need to get out priorities straight on what we're trying to do here. Our goal is to give the best possible services to the people in the State of Maine with the least amount of money, and there shouldn't be any party politics going on here. That should be our number one goal and what we strive to succeed at.

Representative PRATT of Eddington **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "F" (H-411) to Committee Amendment "A" (H-350)**.

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

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "F" (H-411) to Committee Amendment "A" (H-350). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 116

YEA - Beaudette, Beck, Berry, Blanchard, Blodgett, Bolduc, Briggs, Browne W, Bryant, Burns, Butterfield, Cain, Campbell, Casavant, Chase, Clark T, Cleary, Cohen, Connor, Cotta, Crockett J, Crockett P, Curtis, Cushing, Dill, Dostie, Duchesne, Eaton, Eberle, Edgecomb, Eves, Finch, Fitts, Flemings, Fletcher, Flood, Gilbert, Goode, Hamper, Hanley, Harvell, Haskell, Hill, Hogan, Hunt, Innes Walsh, Jones, Kaenrath, Kruger, Lajoie, Langley, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McKane, McLeod, Miller, Millett, Nelson, Nutting, Peoples, Percy, Perry, Pieh, Pilon, Pinkham, Piotti, Priest,

Rankin, Richardson W, Robinson, Rotundo, Russell, Sanborn, Sarty, Shaw, Sirois, Smith, Stevens, Strang Burgess, Sutherland, Tardy, Theriault, Thomas, Tilton, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Welsh, Willette, Madam Speaker.

NAY - Adams, Austin, Ayotte, Beaudoin, Beaulieu, Bickford, Boland, Cebra, Celli, Clark H, Cornell du Houx, Crafts, Cray, Davis, Flaherty, Fossel, Gifford, Giles, Greeley, Harlow, Hayes, Hinck, Johnson, Joy, Kent, Lewin, McCabe, McFadden, Morrison, Nass, O'Brien, Pendleton, Peterson, Plummer, Pratt, Prescott, Richardson D, Rosen, Saviello, Schatz, Stuckey, Sykes, Thibodeau, Wagner R, Watson, Weaver, Wheeler, Wright.

ABSENT - Carey, Driscoll, Knapp, Knight, Legg, Webster.

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

97 having voted in the affirmative and 48 voted in the negative, with 6 being absent, and accordingly **House Amendment "F" (H-411) to Committee Amendment "A" (H-350) was INDEFINITELY POSTPONED.**

Representative CROCKETT of Augusta **PRESENTED House Amendment "G" (H-415) to Committee Amendment "A" (H-350)**, which was **READ** by the Clerk.

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. I want to first join others and say thank you to the Appropriations Committee members for their many long hours of hard work. These are terrible times, not only for Maine but for other states, and we know that many states are in far worse financial condition than we are. That still doesn't make it any less painful to make some of the cuts we're making in this budget. I'm certainly pleased that we were able to restore at least some funding that had been proposed to be cut. I think, for the most part, we have spread the sacrifice. I do think our municipalities have been hit hard, harder than I would liked to have seen, but with the stimulus money we were able to help the local schools to alleviate some of those cuts.

The one area that I have real concern with are the cuts we are proposing to our state workers. I live in an area that has a number of families working for state government. This weekend, I heard from a single woman, who told me she can barely afford to keep a roof over her head and an automobile on the road. She tells me state workers work for less money than the private sector and they depend on their benefit packages. She reminded me that in order to survive in Maine we need not only groceries and gas, but we need to heat our homes and that's a tremendous cost in Maine. With the loss of payment from shutdown days, she feels she will not be able to pay any portion of her medical insurance, and she told me about the hardship of freezing the merit increases on top of the shutdown days.

Another couple I know both work for state government and, because of this, they will be hit twice as hard. They will both be hit by the suspension of longevity pay, as well as requirements to contribute to their health insurance, and shutdown days. To get by, this couple is making plans to give up their internet service, drop their newspaper subscription, cut out visits to local restaurants, and cut back on repairs to their home. Now, to me, this means that my local businesses will suffer more than they are now. Our local restaurants won't have as many state workers drop in for lunch or dinner; our local hardware store, our local paint store, our local sandwich shops are all going to be hit by these cuts to state workers. I don't think that it's fair to hit businesses in my community simply because our area is near state government.

I just can't see how anyone feels it's fair to take away a longevity payment that someone has been getting for a number

of years. To me, that's not freezing or suspending. To me, that's a taking. These workers have built their home budgets around these longevity payment increases that they have received and their families plan on this money. That's not a future raise that they might or might not get, that's pay that they have had in their paychecks. Now for the next two years that longevity payment will no longer be in their paychecks. I can tell you that if someone was entitled to get a longevity payment during the next two years, that it might be necessary to freeze that until the two years are up and then the economy will hopefully be better. I think most people understand not getting a new increase, but it takes away the longevity payment they get now, and it's simply wrong. State workers work hard and serve Maine people well, and through the years they have negotiated to get the benefits they have now. With any negotiation, there is a give and a take. To get their health benefits, they gave up something; probably that was a pay increase. Now we are not giving them the opportunity to negotiate what they will give up. We're saying take it or leave it, when we cut their pay, give them shutdown days and make them pay for health insurance. I say we can and we should do better by our loyal state workers. We need to let their unions negotiate the cuts that will reach the bottom line that we need for our state budget.

This amendment simply changes the suspension of longevity payments to apply only to those employees who are newly eligible for payments or eligible for an increase in longevity pay for the period of July 1, 2009 to June 30, 2011, and the amendment takes the offset for the costs by reducing their reimbursement limit under the BETR program to 88 percent of the 2009 and 2010 figures. I ask for your support. Thank you.

Representative CAIN of Orono moved that **House Amendment "G" (H-415) to Committee Amendment "A" (H-350) be INDEFINITELY POSTPONED.**

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

Representative CAIN: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. State employees are hard working. State employees are the people who keep the vital services that people in Maine depend on from our government going and operating every single day. The package of proposals relating to state employees in LD 353 was a difficult one to craft. We worked hard to make it as equitable as possible and to recognize that the impact on lower, middle and higher paid workers is different, but it is a package. Shutdown days, merit and longevity pay, health insurance, wellness programs, none of these proposals, none of these decisions were taken lightly. In fact, some of them evolved quite intensely in the last several days of the budget. I think it's safe to say that this portion of the budget took up more energy and more time for the Appropriations Committee and those involved in negotiating this budget, because of the human impact of this particular area. No one on our committee and I would hope that no one in this Legislature takes this package of proposals lightly. I know that I certainly don't, and I do not take for granted the hard work of state employees throughout Maine on any given day.

In regards to longevity pay and, in fact, to merit pay as well, I would draw members' attention to Committee Amendment "A" to LD 353, page 731, Section SSS-4, lines 35 to 42. This is the section that relates to the "freezing" of merit and longevity pay for the next two years. The last line of this section is the most important, in my opinion. It reads: These savings may be replaced by other Personal Services savings by agreement of the State and the bargaining agents representing state employees. That means that these areas are areas that could possibly be part of collective bargaining; they could possibly be part of a

discussion, within available resources, that various bargaining agents could have with the administration. But none of it is easy; it's not supposed to be. None of this budget has been easy. But this particular part is part of a package trying to, again, address points of equity and address disparity in earnings for various state employees. It was not taken lightly, it was not done in a flip motion; in fact, it was done and redone and clarified several times. I am hopeful that merit and longevity, both, will have an opportunity to be reinstated sometime during this upcoming biennium, should resources be available, and that is why it's important that members consider part SSS-4.

Finally, I just want to reiterate that this is a package. It's part of the bigger package of the budget, but particularly the pieces relating to state employees were done with a lot of thought, with a lot of heartache and with a lot of careful consideration, and I look forward to continued work in this Legislature to continue to allow as many opportunities as possible for state employees to thrive in the State of Maine. That being said, Madam Speaker, I ask for support for the Indefinite Postponement motion.

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

Representative MILLETT: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I want to concur with the motion that's been made by the House Chair and agree with her comments, but take this brief opportunity to share my thoughts regarding the motivation and the approach taken by Representative Crockett. I concur with her concern, and I have wrestled with this issue all weekend long, when I learned for the first time that the package that deals with state employee reductions, while it was negotiated over the weekend of the 13th through the 18th and appeared before our committee in the closing day and the language occurred late in the evening, it was not my understanding nor my intent to make the longevity suspension retroactive. When I learned of this, I began to look at the impact of some of the lower waged employees in our state service, and I learned a lot over the weekend and I learned more today. I had proposed an amendment very similar to this one and a method to pay for it, albeit, at a high cost. I learned today that the maximum cost to the Executive Branch employees, covered by collective bargaining, is 50¢ per hour, when applying the retroactivity proposal. That's a lot of money for a lot of hardworking people, and I sincerely hope that the sentence, which the House Chair referred to you and read literally to you, will be taken to heart by the administration and the employee bargaining agents in the course of bargaining so as to minimize the impact on our lower wage employees.

Throughout our discussions of collective bargaining and the impact of this \$33.8 million package, I particularly have gone out of my way to be very careful not to talk about influencing the collective bargaining process, and I will try very seriously not to do that tonight. I do want the process to work. I do think there is an impact here that ought to be addressed, I hope the parties at the table will do so, and I express that only as a hope. I do not want my comments to be expressed in any way as indicating legislative intent. This has been a very difficult choice. I agreed not to offer my amendment after serious conversations with the administration, assuring me that the collective bargaining process is seen by them as the proper vehicle for providing whatever regress can be afforded within the limits of our resources. So with heavy heart, I support the motion, even though my amendment would have accomplished a similar outcome with a different funding source. Again, I hope that we can all acknowledge that there is pain and suffering in this budget for everyone. Here, we are attempting to spread the pain and to do so in a fair way and I hope the collective bargaining process will

provide some regress to those who are most aggrieved.

The SPEAKER: The Chair recognizes the Representative from Mount Vernon, Representative Jones.

Representative JONES: Thank you, Madam Speaker. Madam Speaker, Members of the House. I stand in support of Representative Crockett's amendment to reduce the impact of the budget cuts on state workers. I think we all read the concerning articles in our newspaper this weekend about the impact that this will have on our state workers' families, particularly those that have two members of the family working in state positions. I've heard from a number of them about not losing their longevity pay. Some state workers have served in their position for 15 to 20 years and have earned this longevity pay. Just to reiterate, again, they're getting 20 shutdown days, they're cancelling their merit pay, and they're paying for part of their health insurance premiums.

I have a 70 year old state worker in my district who is a janitor. His salary is not high, he has an ill wife, and he is paying \$4,000 a year for her health insurance premium. These cuts, plus the additional insurance he's going to be paying on his own insurance, is very hard for him to absorb. He has put many years into state service, he's not able to retire because of his family situation, and I think he deserves that longevity pay.

I recommend that we support this amendment and that, if it doesn't pass, we give serious consideration of working through the bargaining process to try to find the resources to support longevity pay for state workers. Thank you very much.

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

Representative BLODGETT: Thank you, Madam Speaker. Madam Speaker, Members of the House. I also rise in support of Representative Crockett's amendment. I also appreciate all of the hard work that is done by Appropriations. I'm new here, so I also appreciate that nothing is perfect, mostly me. But when I understood that the longevity pay that they have already earned, they're not going to get, I don't think that that is the right thing to do. For the two years, yes this makes sense, this is what we're doing, but what they have already earned. Merit was not taken away, what they had already earned, and I don't believe longevity should be retro either. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Thank you, Madam Speaker. Madam Speaker, Members of the House. This was a difficult area that we dealt with. Actually, we went home finally on a Friday night because on that issue, because we hadn't reached a consensus between the parties, and that's parties within the parties as well, not only for cross political parties. So one of the things that I was concerned about was that, and I'm always concerned about when we go over the weekend because sometimes things tend to get progressively worse and, in this instance, in my opinion, it did. At one point through the negotiations and discussion, not only did we keep longevity in, but we had also kept in the steps and that would have resulted in the 5 percent across the board cut to state employees. That was rejected over the weekend and this is the plan that came forth, and the net result of that, in my opinion, made it worse for state employees. The one thing that is a blessing from what we have, that the Representative from Waterford pointed out, is the language we have in the budget which clearly allows the administration to go back and negotiate that with the unions, and this allows the flexibility so that when money comes in to the picture that this will be one of the first items that will be discussed by the administration with the union. We don't want to get involved in the middle of collective bargaining, but unfortunately

that's where we were. So much as I hate to do it, I think, well, I know that we have no choice but to Indefinitely Postpone this amendment and wait for a better day.

On motion of Representative CAIN of Orono **House Amendment "G" (H-415) to Committee Amendment "A" (H-350) was INDEFINITELY POSTPONED.**

Representative MARTIN of Eagle Lake **REQUESTED** a roll call on the motion to **ADOPT Committee Amendment "A" (H-350) as Amended by House Amendment "E" (H-408)** thereto.

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

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Adoption of Committee Amendment "A" (H-350) as Amended by House Amendment "E" (H-408) thereto. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 117

YEA - Adams, Beaudette, Beaudoin, Beaulieu, Beck, Berry, Bickford, Blanchard, Blodgett, Boland, Bolduc, Briggs, Browne W, Bryant, Burns, Butterfield, Cain, Campbell, Carey, Casavant, Cebra, Celli, Clark H, Cleary, Cohen, Connor, Cornell du Houx, Cotta, Cray, Crockett J, Crockett P, Curtis, Cushing, Dill, Dostie, Duchesne, Eaton, Eberle, Eves, Flaherty, Flemings, Flood, Fossel, Gilbert, Giles, Goode, Greeley, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kaenrath, Kent, Kruger, Lajoie, Langley, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, Miller, Millett, Morrison, Nass, Nelson, Nutting, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Piotti, Pratt, Priest, Rankin, Richardson D, Robinson, Rosen, Rotundo, Russell, Sanborn, Sarty, Schatz, Shaw, Sirois, Smith, Stevens, Strang Burgess, Stuckey, Sutherland, Tardy, Tilton, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Welsh, Wheeler, Willette, Wright, Madam Speaker.

NAY - Austin, Ayotte, Chase, Clark T, Crafts, Davis, Edgecomb, Finch, Fitts, Fletcher, Gifford, Hamper, Hanley, Harvell, Johnson, Joy, Lewin, McFadden, McKane, McLeod, Pinkham, Plummer, Prescott, Richardson W, Saviello, Sykes, Theriault, Thibodeau, Thomas, Weaver.

ABSENT - Driscoll, Knapp, Knight, Legg, Webster.

Yes, 116; No, 30; Absent, 5; Excused, 0.

116 having voted in the affirmative and 30 voted in the negative, with 5 being absent, and accordingly **Committee Amendment "A" (H-350) as Amended by House Amendment "E" (H-408)** thereto was **ADOPTED**.

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

Representative **TARDY** of Newport **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended by Committee Amendment "A" (H-350) as Amended by House Amendment "E" (H-408)** thereto.

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

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Passage to be Engrossed as Amended by Committee Amendment "A" (H-350) as Amended by House Amendment "E" (H-408) thereto. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 118

YEA - Adams, Beaudette, Beaudoin, Beaulieu, Beck, Berry, Bickford, Blanchard, Blodgett, Boland, Bolduc, Briggs, Browne W, Bryant, Burns, Butterfield, Cain, Campbell, Carey, Casavant, Cebra, Celli, Clark H, Cleary, Cohen, Connor, Cornell du Houx, Cotta, Cray, Crockett J, Crockett P, Curtis, Cushing, Dill, Dostie,

Duchesne, Eaton, Eberle, Eves, Flaherty, Flemings, Flood, Fossel, Gilbert, Giles, Goode, Greeley, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kaenrath, Kent, Kruger, Lajoie, Langley, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, Miller, Millett, Morrison, Nelson, Nutting, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Piotti, Pratt, Priest, Rankin, Richardson D, Robinson, Rosen, Rotundo, Russell, Sanborn, Schatz, Shaw, Sirois, Smith, Stevens, Strang Burgess, Stuckey, Sutherland, Tardy, Theriault, Tilton, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Welsh, Wheeler, Willette, Wright, Madam Speaker.

NAY - Austin, Ayotte, Chase, Clark T, Crafts, Davis, Edgecomb, Finch, Fitts, Fletcher, Gifford, Hamper, Hanley, Harvell, Johnson, Joy, Lewin, McFadden, McKane, McLeod, Nass, Pinkham, Plummer, Prescott, Richardson W, Sarty, Saviello, Sykes, Thibodeau, Thomas, Weaver.

ABSENT - Driscoll, Knapp, Knight, Legg, Webster.

Yes, 115; No, 31; Absent, 5; Excused, 0.

115 having voted in the affirmative and 31 voted in the negative, with 5 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-350) as Amended by House Amendment "E" (H-408)** thereto and sent for concurrence. **ORDERED SENT FORTHWITH.**

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

HOUSE DIVIDED REPORT - Majority (12) **Ought to Pass as Amended by Committee Amendment "A" (H-375)** - Minority (1) **Ought Not to Pass** - Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Clarify the Municipal Jurisdiction of a Portion of Saco Bay"

(H.P. 774) (L.D. 1119)

Which was **TABLED** by Representative **PIOTTI** of Unity pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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. This issue came before the State and Local Government Committee during the 123rd Legislature. It is essentially a question of boundary between the City of Saco and the Town of Old Orchard Beach. In the 123rd, we had a resolve to send the two communities to talk to one another and try to come up with a consensus solution between the two communities, and, in fact, we even invited the cities of Biddeford and the Town of Scarborough to engage in a conversation about boundaries within the Saco Bay. The parties came back to the 124th Legislature, or I should say the State and Local Government Committee of the 124th, and did not come back with a resolution. Consequently, this bill came forward and the State and Local Government Committee, by a 12-1 vote, reported Ought to Pass on this bill. The amendment that is included with this Ought to Pass Report is to make sure that the two islands, Bluff and I can't remember the name of the other islands, the two islands that have been previously under the jurisdiction of the City of Saco would remain with the City of Saco. Again, as I said before, the committee vote was 12-1, and I would urge passage of this bill. Thank you very much.

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 currently before us. This has been something that's been going on for many years now and I absolutely applaud the good Representative from Old Orchard Beach. Actually, two years ago, I sat side by side with him in State and Local and thought this was great because Saco had really tried to do something that I was objecting to was to put a marina right smack in front of Old Orchard Beach and their pier, and I didn't feel any municipality had the right to do that to another one. Things have changed a little bit for me, though, this session. I appreciate all of the work that State and Local Government has done, but I must vote against this, mainly because of a compensation issue with the lines being changed and there is no compensation going towards Saco, but thank you very much. I would like to ask for a roll call on this issue.

Representative VALENTINO of Saco **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 Saco, Representative Pilon.

Representative **PILON**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I, too, oppose this motion. The City of Saco worked very diligently with the City of Old Orchard Beach in trying to find a compromise, but, to no avail, we were not able to come to a meeting of the minds, so the City of Saco came to the State House and came before the State and Local Government Committee, tried to work out some kind of a compromise and, as Representative Beaudette indicated, the committee voted, I believe it's 12-1, out of committee. But we tried to come to an agreement with the City of Saco outside of the State House, but then we could never get the City of Old Orchard Beach to engage in a working arrangement with us. So we've never been able to work out an equitable solution, and we believe we should be compensated for the movement of the lines. I also will not support this motion. Thank you very much.

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. Just to clarify my lapse of memory, the other island is Stratton Island. Also a clarification on the request for Saco to be reimbursed for the movement of the boundary: This is not a land boundary, it is a water boundary. The bill came before the committee because of a desire of a developer to develop a marina off the coast of Old Orchard Beach. There was a private and special law that was passed that moved the—I should go a step back, if you'll bear with me for a moment. When Old Orchard Beach separated from Saco in the 19th century, the boundary of Saco and Old Orchard Beach was set parallel to the coastline going across Old Orchard Beach, which is very unusual. I don't think there are any other boundary situations like that in the state. In a couple subsequent private and special laws, the boundary was moved out at 500 feet the first time and then to 1,000 feet the second time to allow Old Orchard Beach to have jurisdiction on the pier at Old Orchard Beach, which of course goes out into the water and went beyond that original boundary. So we're talking about a water boundary movement as opposed to an actual land boundary, so the committee felt that any discussion of reimbursement did not seem like an argument that held water, if you would pardon the pun. Thank you.

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

Representative **HOGAN**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This issue was brought by me three years ago upon the movement by Saco, which is four miles away from Old Orchard Beach, roughly, to build a marina right in front of our shores. They did not consult us, they did not ask us, they just felt that they owned the bay and they had a right to do that.

It wasn't very long into this bill that the Attorney General's Office came forward and quickly shed the real light on this and that is that the state owns the water to the low water mark everywhere. It also said that Saco had absolutely no right to enter into a contract with this developer to build a marina. So this changed the whole dynamics of what we were talking about, now we were looking at jurisdiction, so that's what this bill does. It moves the boundary line, which we have; we went through legislation; it was, as Representative Beaudette said, it was through a special and private law; it moves the boundary line out so that we have jurisdiction over our own fate. It doesn't make sense that a community on either side, three or four miles away, whatever it may be, should come over and have a say in how you run your life, and this is basically what it was.

The bulk of our assessment lies upon the beach, whether it be motels, whether it be condominiums, that's what we have to protect. But the fact that we have the law on our side and the Attorney General, as well as the Conservation Department, the Department of Submerged Lands also, in conjunction with the Attorney General said the state owns the water, nobody else. This is where we are. We need this to continue on with our life in Old Orchard Beach. We need this for the protection of our shores and community. We're a tourist destination. We spent millions and millions of dollars, to that end, to be a tourist destination and this would do great harm to us if this went south, if this went sour, and it could very easily if we do not have the jurisdiction of the water in front of us. So that's what it is. Thank you.

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

Representative **HARVELL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I also sit in State and Local Government, and I certainly am not from the coastal area of Saco, as Farmington is a bit inland. The reality is, in 1883, as we heard, Old Orchard Beach asked to be formed out of Saco. If I was from Saco, I would be very worried that any time an issue shows up into this House, they are the losers. This is the third occasion that the state is being asked to set this boundary between these towns. They had to ask for 500 feet from Saco originally, we learned. Why is it that Old Orchard Beach is having to ask something from Saco unless there is an understanding that the jurisdictional nature of it is from Saco? Now we all understand the development that was going to take place and the Attorney General did clearly identify that, when she was saying, you know what, try to build something out there, you don't have the area but the issue is one of jurisdiction. In 1978, the original pier was destroyed. When the pier was destroyed a new pier was built. Old Orchard Beach then needed 1,000 feet. They came to Saco to ask them for an additional 500 feet. Why are they having to ask for something that they are now claiming was already within their jurisdiction? To me, the issue is absolutely clear that that jurisdictional area within the area, going back to the Massachusetts Bay Colony, remains within Saco and, at the minimum, there should be at least compensation for that area. Otherwise, the next time that there's an issue with Saco

that shows up here, Saco's going to be wondering what's it going to cost me now.

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

Representative **BROWNE**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Old Orchard Beach, as everybody knows, relies on its scenic beach and its related businesses, the tourism industry, as its chief economic driver. The State and Local Committee heard arguments from both communities and voted almost unanimously in favor of Old Orchard Beach. Communities, two or three or four miles away, should not be able to dictate what goes on in state owned waters and the submerged land off another community. There is no annexation here. According to the Attorney General, Saco didn't and doesn't own anything. So please vote for some common sense here and support the pending motion. 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 also rise in support of the pending motion. As you've heard, it was a 12-1 Report and a discussion that lasted over two sessions, the 123rd and now the 124th, and it was clear that the information presented led us to establish a boundary that, I think, is standard when you come to coastal communities. There's hardly any, if any, that have this kind of deviation from the type of a town line that we have now made possible for Old Orchard Beach. I think that this should prevent any future claims or any future discussions, and it supports the economy, the industry and the people of Old Orchard Beach and now not need to worry at all, and life should go very beautifully and people will get their suntans. Thank you, Madam Speaker.

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, too, speak in support of this motion. I've been a real estate title examiner for 30 years, and I looked at it just strictly from the legal description point of view. When Old Orchard Beach was established, the point of beginning to run a description goes west, south, east, north. The starting point was given as the corner of Saco and the town on the opposite side of Old Orchard Beach, Scarborough. The corner was on the shore at the low water mark, and it went west and south and east to the water and by the water back to the point of beginning, which basically establishes that Saco did not own anything into the water from that point. Just going back far enough, you can find things like that, and I always say that's why the Native Americans won their claim back a number of years, because they found evidence. We asked the Attorney General, the Assistant Attorney General from the office, who has responsibility for this, if he agreed with that interpretation of the description and he said he did. So I think between one thing and another that we had a lot of reason to feel secure on this decision.

Also, I really think Old Orchard Beach, if they had wanted to, could have pushed the point and asked to have jurisdiction over the islands that exist within those boundaries, but they didn't. They chose to let Saco continue to have jurisdiction over them. 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. Clearly, if this bill were to fail, it would be devastating to Old Orchard

Beach. As was mentioned, clearly it's a tourist based industry and to have something offshore, I think, would be devastating. It would be as if, for example, one of you were to look out, maybe this evening after you get out of here, your front door window or something like that and you look at the street and all of the sudden your neighbor puts something right in front of your house, even though the street was essentially owned by the city. But I do have a suggestion: Based on what we've been voting on, it would be great if we had canned fishing off the coast of Old Orchard Beach. Thank you very much.

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

Representative **PILON**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Just to clarify the Representative from Old Orchard Beach's comment, the land underneath the ocean is owned by the state. The state controls the land underneath the ocean, so they have jurisdiction underneath the water. Thank you.

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. 119

YEA - Adams, Austin, Ayotte, Beaudette, Beaudoin, Beaulieu, Beck, Berry, Bickford, Blanchard, Blodgett, Boland, Bolduc, Briggs, Browne W, Bryant, Burns, Butterfield, Cain, Campbell, Carey, Casavant, Cebra, Clark H, Clark T, Cleary, Cohen, Connor, Cornell du Houx, Cotta, Cray, Crockett J, Crockett P, Curtis, Cushing, Dill, Dostie, Duchesne, Eaton, Eberle, Edgecomb, Eves, Finch, Fitts, Flaherty, Flemings, Flood, Fossil, Gifford, Gilbert, Giles, Goode, Greeley, Hamper, Hanley, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Johnson, Jones, Kaenrath, Kent, Kruger, Lajoie, Lewin, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, McFadden, McKane, McLeod, Miller, Millett, Morrison, Nass, Nelson, Nutting, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pinkham, Piotti, Plummer, Pratt, Prescott, Priest, Rankin, Richardson D, Richardson W, Robinson, Rosen, Rotundo, Russell, Sanborn, Sarty, Schatz, Shaw, Sirois, Smith, Stevens, Strang Burgess, Stuckey, Sutherland, Sykes, Tardy, Theriault, Thibodeau, Thomas, Tilton, Treat, Trinward, Tuttle, Van Wie, Wagner J, Wagner R, Watson, Weaver, Welsh, Wheeler, Willette, Wright, Madam Speaker.

NAY - Chase, Davis, Fletcher, Harvell, Joy, Langley, Pilon, Saviello, Valentino.

ABSENT - Celli, Crafts, Driscoll, Knapp, Knight, Legg, Webster.

Yes, 135; No, 9; Absent, 7; Excused, 0.

135 having voted in the affirmative and 9 voted in the negative, with 7 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-375) was READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Wednesday, May 27, 2009.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH** with the exception of matters being held.

On motion of Representative PERRY of Calais, the House adjourned at 6:10 p.m., until 9:00 a.m., Wednesday, May 27, 2009 in honor and lasting tribute to William E. "Billy" Townsend, of Calais and Marilyn A. Murray, of East Millinocket.