

# MAINE STATE LEGISLATURE

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

**Volume II**

**First Regular Session**

May 28, 2009 – June 12, 2009

**Second Regular Session**

January 6, 2010 - March 23, 2010

Pages 609-1214

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE  
FIRST REGULAR SESSION  
46th Legislative Day  
Thursday, May 28, 2009

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

Prayer by Reverend Lynne Josselyn, New England Conference of the United Methodist Church (retired).

National Anthem by Honorable Leila J. Percy, Phippsburg and Honorable George Hogan, Old Orchard Beach.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

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### SENATE PAPERS

#### Non-Concurrent Matter

Bill "An Act To Exempt Military Pensions from Income Tax"  
(H.P. 161) (L.D. 196)

Majority (9) **OUGHT NOT TO PASS** Report of the Committee on **TAXATION READ** and **ACCEPTED** in the House on May 21, 2009.

Came from the Senate with the Minority (4) **OUGHT TO PASS AS AMENDED** Report of the Committee on **TAXATION READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-332)** in **NON-CONCURRENCE**.

The House voted to **INSIST**.

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### COMMUNICATIONS

The Following Communication: (H.C. 193)

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

May 26, 2009

Hon. Millicent M. MacFarland

Clerk of the House

2 State House Station

Augusta, ME 04333

Dear Clerk MacFarland:

Pursuant to my authority under Title 38, §343-D, I am pleased to appoint Michael Rioux of Durham to the Pollution Prevention Advisory Commission.

If you have any questions regarding this appointment, please feel free to contact me.

Sincerely,

S/Hannah M. Pingree

Speaker of the House

**READ** and **ORDERED PLACED ON FILE**.

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The Following Communication: (S.P. 566)

**STATE OF MAINE**  
**124TH MAINE LEGISLATURE**

May 26, 2009

Sen. Dennis S. Damon

Senate Chair, Joint Standing Committee on Marine Resources

Rep. Leila J. Percy

House Chair, Joint Standing Committee on Marine Resources

124th Legislature

Augusta, ME 04333

Dear Senator Damon and Representative Percy:

Please be advised that Governor John E. Baldacci has withdrawn his nomination of Sean Mahoney for appointment to the Marine Resource Advisory Council, pursuant to Title 3 M.R.S.A. §154.

This nomination is currently pending before the Joint Standing Committee on Marine Resources.

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 **MARINE RESOURCES**.

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

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### SPECIAL SENTIMENT CALENDAR

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

#### Recognizing:

Camp Sunshine, of Casco, for its 25 years of dedicated service to seriously ill children and their families. Camp Sunshine is nestled in the tranquil natural beauty of Sebago Lake. For 17 years, Dr. Larry Gould and Anna Gould, owners of Point Sebago Resort, donated the resort's facilities and personnel for the camp's operation. Due to an increase in demand for the camp's services, Dr. Gould and Anna Gould donated 23 acres to build a permanent facility in June 2001. Camp Sunshine is a year-round retreat that provides respite and support and the opportunity to feel hope and joy to children with life-threatening illnesses and their immediate families. The camp is currently the only program in the nation that aids in lightening the impact of a life-threatening illness on the entire immediate family and not just the child with the illness. Families attend Camp Sunshine free of charge. We extend our appreciation to and recognize the insight and compassion of the camp's founders, Dr. Larry Gould and Anna Gould, who truly are Maine's beacon of light;

(HLS 400)

Presented by Representative PERRY of Calais.

Cosponsored by Senator BRANNIGAN of Cumberland, Senator MARRACHÉ of Kennebec, Senator MILLS of Somerset, Representative JONES of Mount Vernon, Representative EVES of North Berwick, Representative PETERSON of Rumford, Representative SANBORN of Gorham, Representative STUCKEY of Portland, Representative LEWIN of Eliot, Representative CAMPBELL of Newfield, Representative JOY of Crystal, Representative STRANG BURGESS of Cumberland, Representative SOCTOMAH of the Passamaquoddy Tribe, Senator DIAMOND of Cumberland, Representative CEBRA of Naples.

On **OBJECTION** of Representative PERRY of Calais, was **REMOVED** from the Special Sentiment Calendar.

**READ**.

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

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### REPORTS OF COMMITTEE

#### Divided Reports

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on Bill "An Act To Restore the Historical Town Boundary between Harpswell and Brunswick"

(H.P. 986) (L.D. 1410)

Signed:  
Senators:  
    SIMPSON of Androscoggin  
    JACKSON of Aroostook  
    COURTNEY of York

Representatives:  
    BROWNE of Vassalboro  
    WILLETTE of Presque Isle  
    BEAUDETTE of Biddeford  
    COTTA of China  
    CLARK of Easton  
    HARVELL of Farmington  
    KAENRATH of South Portland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-417)** on same Bill.

Signed:  
Representatives:  
    BOLAND of Sanford  
    HAYES of Buckfield  
    SCHATZ of Blue Hill

**READ.**

On motion of Representative PIOTTI of Unity, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

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Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act To Enhance the Shielding of Journalists' Sources"

(H.P. 564) (L.D. 828)

Signed:  
Senators:  
    BLISS of Cumberland  
    HASTINGS of Oxford

Representatives:  
    PRIEST of Brunswick  
    DILL of Cape Elizabeth  
    CLEARY of Houlton  
    HILL of York  
    KRUGER of Thomaston  
    STEVENS of Bangor  
    NASS of Acton  
    BEAULIEU of Auburn  
    CROCKETT of Bethel

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

Signed:  
Senator:  
    HOBBINS of York

Representative:  
    BRYANT of Windham

Representative MITCHELL of the Penobscot Nation - of the House - supports the Majority **Ought Not to Pass** Report.

**READ.**

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

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Seven Members of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** report in Report "A" **Ought Not to Pass** on Bill "An Act To Require That a Majority of the Members of the Maine Land Use Regulation Commission Reside in the Commission's Jurisdiction"

(H.P. 361) (L.D. 516)

Signed:  
Senator:  
    BRYANT of Oxford

Representatives:  
    SMITH of Monmouth  
    PERCY of Phippsburg  
    PRATT of Eddington  
    McCABE of Skowhegan  
    KENT of Woolwich  
    O'BRIEN of Lincolnville

Three Members of the same Committee report in Report "B" **Ought to Pass** on same Bill.

Signed:  
Senator:  
    SHERMAN of Aroostook

Representatives:  
    GIFFORD of Lincoln  
    EDGECOMB of Caribou

Two Members of the same Committee report in Report "C" **Ought to Pass as Amended by Committee Amendment "A" (H-387)** on same Bill.

Signed:  
Senator:  
    NUTTING of Androscoggin

Representative:  
    PIEH of Bremen

**READ.**

Representative SMITH of Monmouth moved that the House **ACCEPT** Report "A" **Ought Not to Pass**.

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

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

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

(S.P. 101) (L.D. 337) Bill "An Act Regarding Emergency Involuntary Admission of a Participant in the Department of Health and Human Services' Progressive Treatment Program to a State Mental Institute"

(S.P. 133) (L.D. 391) Bill "An Act To Amend the Law Concerning Adverse Possession"

(S.P. 554) (L.D. 1479) Bill "An Act Relating to Biomass Gasification"

(S.P. 75) (L.D. 225) RESOLUTION, Proposing an Amendment to the Constitution of Maine To Ensure Protection of

Funding of Certain Programs Administered by the Department of Inland Fisheries and Wildlife (C. "A" S-201)

(S.P. 346) (L.D. 924) Bill "An Act To Clarify the Taxability of Promotional Credits in the State Gaming Laws" (C. "A" S-205)

(S.P. 397) (L.D. 1063) Bill "An Act To Provide Consumer Disclosures and Protect Consumer Options in Life Insurance" (C. "A" S-200)

(S.P. 500) (L.D. 1384) Bill "An Act To Clarify Apportionment of Benefits for Multiple Work Injuries" (C. "A" S-203)

(S.P. 502) (L.D. 1386) Bill "An Act Pertaining to Response Costs Incurred by the Department of Environmental Protection under the Waste Motor Oil Disposal Site Remediation Program" (C. "A" S-204)

(H.P. 97) (L.D. 113) Bill "An Act Regarding Construction and Excavation near Burial Sites" (C. "A" H-416)

(H.P. 378) (L.D. 533) Bill "An Act To Establish a State-controlled Casino" (C. "A" H-391)

(H.P. 473) (L.D. 659) Bill "An Act To Remove the Sales Tax on Watercraft" (C. "A" H-398)

(H.P. 667) (L.D. 965) Bill "An Act To Establish Annual Reporting for Genetically Engineered Crops" (C. "A" H-385)

(H.P. 674) (L.D. 972) Resolve, Regarding Legislative Review of Portions of Chapter 28: Notification Provisions for Outdoor Pesticide Applications, a Major Substantive Rule of the Board of Pesticides Control (EMERGENCY) (C. "A" H-384)

(H.P. 729) (L.D. 1054) Bill "An Act To Promote Economic Development in the Greater Portland Region" (C. "A" H-378)

(H.P. 805) (L.D. 1166) Bill "An Act To Implement the Recommendations of the Ad Hoc Task Force on the Use of Deadly Force by Law Enforcement Officers Against Individuals Suffering From Mental Illness" (C. "A" H-413)

(H.P. 818) (L.D. 1179) Bill "An Act To Create a Post-judgment Mechanism To Provide Relief for a Person Whose Identity Has Been Stolen and Falsely Used in Court Proceedings" (C. "A" H-409)

(H.P. 845) (L.D. 1225) Bill "An Act To Amend the School Funding Formula Regarding School Administrative Units That Are Eligible for the Minimum State Share of Their Total Allocation" (EMERGENCY) (C. "A" H-404)

(H.P. 848) (L.D. 1228) Resolve, To Direct Action on Health Disparities of the Passamaquoddy Tribe and Washington County (EMERGENCY) (C. "A" H-403)

(H.P. 851) (L.D. 1231) Bill "An Act To Protect the Long-term Viability of Island Lobster Fishing Communities" (C. "A" H-401)

(H.P. 862) (L.D. 1243) Bill "An Act To Amend Operating After Suspension Laws by Creating an Infraction Alternative for Certain Kinds of Operating After Suspension" (C. "A" H-412)

(H.P. 884) (L.D. 1265) Bill "An Act Regarding Low-profit Limited Liability Companies" (C. "A" H-410)

(H.P. 894) (L.D. 1275) Bill "An Act To Implement the Recommendations of the Criminal Law Advisory Commission" (C. "A" H-376)

(H.P. 976) (L.D. 1397) Bill "An Act To Allow Efficient Health Insurance Coverage" (C. "A" H-393)

(H.P. 989) (L.D. 1413) Resolve, To Implement Select Recommendations of the Joint Select Committee on Future Maine Prosperity (EMERGENCY) (C. "A" H-379)

(H.P. 992) (L.D. 1416) Bill "An Act To Update Terms and Make Changes in Child Care and Transportation Benefits under the Temporary Assistance for Needy Families Program" (C. "A" H-405)

(H.P. 995) (L.D. 1419) Bill "An Act To Implement Respectful Language Amendments" (C. "A" H-402)

(H.P. 1013) (L.D. 1461) Resolve, Regarding Legislative Review of Portions of Chapter 3: Maine Clean Election Act and

Related Provisions - Matching Funds and Property and Equipment, a Major Substantive Rule of the Commission on Governmental Ethics and Election Practices (EMERGENCY) (C. "A" H-392)

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

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(S.P. 532) (L.D. 1447) Bill "An Act Clarifying the Manner in Which a Person's Alcohol Level Is Determined under Maine Law" (C. "A" S-202)

On motion of Representative HASKELL of Portland, was **REMOVED** from the Second Day Consent Calendar.

The Unanimous Committee Report was **READ**.

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

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(H.P. 953) (L.D. 1363) Bill "An Act To Establish and Promote Statewide Collaboration and Coordination in Public Health Activities and To Enact a Universal Wellness Initiative" (C. "A" H-407)

On motion of Representative PERRY of Calais, was **REMOVED** from the Second Day Consent Calendar.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-407)** was **READ** by the Clerk and **ADOPTED**

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

Representative PERRY of Calais **PRESENTED House Amendment "A" (H-436)**, which was **READ** by the Clerk.

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

Representative **PERRY**: Thank you, Madam Speaker. This amendment simply changes the composition of the Statewide Public Health Board to remove the fiscal note by taking legislators off it. This statewide board also reports to the Health and Human Services Committee on an annual basis, as well as the Advisory Council and Health Systems Development, and feel that that will be sufficient of the work that they do. Thank you.

Subsequently, **House Amendment "A" (H-436)** was **ADOPTED**.

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-407)** and **House Amendment "A" (H-436)** and sent for concurrence.

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

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**BILLS IN THE SECOND READING**

**Senate as Amended**

Bill "An Act To Amend the Department of Health and Human Services' Progressive Treatment Program"  
(S.P. 105) (L.D. 341)  
(C. "A" S-197)

**House as Amended**

Bill "An Act To Repeal the Requirement That Alien Big Game Hunters Be Accompanied by Guides Licensed by the State"  
(H.P. 199) (L.D. 253)  
(C. "A" H-396)

Bill "An Act To Clarify Land Use Regulation in Unorganized and Deorganized Townships"  
(H.P. 301) (L.D. 413)  
(C. "A" H-383)

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.

Bill "An Act To Ensure the Effectiveness of Critical Incident Stress Management Teams"  
(H.P. 964) (L.D. 1374)

Was reported by the Committee on **Bills in the Second Reading** and **READ** the second time.  
On motion of Representative HASKELL of Portland, was **SET ASIDE**.

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

Bill "An Act To Enhance Fund-raising Opportunities by Certain Nonprofit and Fraternal Organizations"  
(H.P. 567) (L.D. 831)  
(C. "A" H-389)

Was reported by the Committee on **Bills in the Second Reading** and **READ** the second time.  
On motion of Representative TRINWARD of Waterville, was **SET ASIDE**.

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

**ENACTORS**

**Emergency Measure**

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

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 134 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**Emergency Measure**

An Act To Encourage Maine Residents To Attend Medical School and Practice in Maine

(S.P. 322) (L.D. 853)  
(C. "A" S-178)

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 Implement the Recommendations of the Right To Know Advisory Committee  
(H.P. 823) (L.D. 1199)  
(C. "A" H-314)

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

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. 139 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 Create the Hancock Pond Water District  
(H.P. 921) (L.D. 1318)  
(C. "A" H-303)

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.

**Acts**

An Act To Permit the Use of a Common Flue for Oil and Solid Fuel Burning Equipment  
(H.P. 46) (L.D. 53)  
(H. "A" H-317 to C. "A" H-173)

An Act To Modify the Informed Growth Act  
(H.P. 336) (L.D. 448)  
(C. "A" H-232)

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

An Act To Clarify the Maine Uniform Building and Energy Code  
(H.P. 466) (L.D. 652)  
(C. "A" H-301)

An Act To Streamline Health Care Services in Maine by Allowing Certified Nurse Practitioners and Certified Nurse Midwives To Verify Medical Papers and Records (H.P. 478) (L.D. 695) (C. "A" H-315)	(S.P. 510) (L.D. 1391) (C. "A" S-182)
An Act To Provide for an Expiration Date for Certain Harassment Notices (H.P. 528) (L.D. 777) (C. "A" H-315)	An Act To Strengthen the Workplace Smoking Laws and Other Laws Governing Smoking (S.P. 513) (L.D. 1429) (C. "A" S-177)
An Act To Fully Implement the Legislative Intent in Prohibiting Offensive Place Names (H.P. 546) (L.D. 797) (C. "A" H-312)	An Act To Clarify the Purpose of the Notice Requirement of Land Taking by the Department of Transportation (S.P. 524) (L.D. 1440) (C. "A" S-184)
An Act To Amend the Laws To Ensure Equity in the Judicial Retirement Program (H.P. 650) (L.D. 947) (C. "A" H-313)	An Act To Assist Maine Workers and Businesses in Succeeding in a Changing Economy (H.P. 1025) (L.D. 1474) (C. "A" H-321)
An Act To Amend the Laws Governing Liquor Liability and Licensing (H.P. 673) (L.D. 971) (C. "A" H-325)	Reported by the Committee on <b>Engrossed Bills</b> as truly and strictly engrossed, <b>PASSED TO BE ENACTED</b> , signed by the Speaker and sent to the Senate.
An Act To Amend the Laws Governing the Recycling of Televisions (S.P. 428) (L.D. 1156) (C. "A" S-170)	<hr/> <b>Resolves</b>
An Act To Amend the Election Laws (H.P. 808) (L.D. 1169) (C. "A" H-311)	Resolve, To Establish a Working Group Concerning Domestic Violence and Firearms (S.P. 265) (L.D. 690) (C. "A" S-181)
An Act To Improve the Process for Recovering Personal Property and for Filing Actions Involving Consumer Credit (S.P. 432) (L.D. 1184) (C. "A" S-175)	Resolve, To Encourage Regional Energy Conservation and Renewable Energy Initiatives (H.P. 626) (L.D. 908) (C. "A" H-308)
An Act To Amend the Motor Vehicle Laws (S.P. 438) (L.D. 1190) (C. "A" S-176)	Resolve, Directing the Commission on Governmental Ethics and Election Practices To Develop Recommendations for Ethical Standards for the Executive Branch (S.P. 361) (L.D. 978) (C. "A" S-173)
An Act Regarding Volunteer Lobbyists (H.P. 835) (L.D. 1210) (C. "A" H-310)	Resolve, To Promote Cogeneration of Energy at Maine Sawmills (H.P. 719) (L.D. 1044) (C. "A" H-302)
An Act To Promote Youth Hunting License Sales (H.P. 865) (L.D. 1246) (S. "A" S-191 to C. "A" H-276)	Resolve, To Develop a Watercraft Safety Education Plan (H.P. 829) (L.D. 1204) (C. "A" H-274)
An Act To Generate Savings by Changing Public Notice Requirements (H.P. 890) (L.D. 1271) (C. "A" H-330)	Resolve, to Create a Working Group on the Prevention, Diagnosis and Treatment of Concussive Head Injuries in Student-athletes (H.P. 903) (L.D. 1300) (C. "A" H-319)
An Act To Adopt the Interstate Compact on Educational Opportunity for Military Children (H.P. 928) (L.D. 1324) (C. "A" H-318)	Resolve, Directing the State Planning Office To Prepare a Reorganization Plan (H.P. 916) (L.D. 1313) (C. "A" H-329)
An Act To Streamline Ratemaking for Consumer-owned Water Utilities (H.P. 950) (L.D. 1349) (C. "A" H-320)	Resolve, Regarding the Maine State Cultural Building in Augusta (H.P. 1033) (L.D. 1480)
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)	Reported by the Committee on <b>Engrossed Bills</b> as truly and strictly engrossed, <b>FINALLY PASSED</b> , signed by the Speaker and sent to the Senate.
An Act To Restore Game Sanctuary Status for Certain Lands in the Town of Orrington (H.P. 961) (L.D. 1371)	<hr/>
An Act To Simplify Maine's Accountancy Laws (H.P. 962) (L.D. 1372) (C. "A" H-307)	An Act Regarding the Licensing Fees for Certain Professional Programs (S.P. 504) (L.D. 1388) (C. "A" S-171)
An Act To Amend the Laws Governing Emergency Management	Was reported by the Committee on <b>Engrossed Bills</b> as truly and strictly engrossed. On motion of Representative TARDY of Newport, was <b>SET ASIDE</b> .

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. 125**

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

**NAY** - Austin, Ayotte, Beaulieu, Bickford, Burns, Cebra, Chase, Clark H, Clark T, Cotta, Crafts, Cray, Crockett J, Curtis, Cushing, Davis, Edgecomb, Fitts, Fletcher, Fossel, Gifford, Hamper, Harvell, Johnson, Joy, Knapp, Knight, Langley, Lewin, McFadden, McKane, McLeod, Nass, Nutting, Pinkham, Plummer, Prescott, Richardson W, Robinson, Rosen, Sarty, Saviello, Shaw, Sykes, Theriault, Thibodeau, Thomas, Tilton, Weaver, Willette.

**ABSENT** - Beaudette, Briggs, Carey, Celli, Cornell du Houx, Kent, Russell.

Yes, 94; No, 50; Absent, 7; Excused, 0.

94 having voted in the affirmative and 50 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.

**UNFINISHED BUSINESS**

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

Expression of Legislative Sentiment Recognizing Lee Academy as the recipient of the prestigious 2009 International Innovator of the Year award

(HLS 255)

**TABLED** - April 28, 2009 (Till Later Today) by Representative CURTIS of Madison.

**PENDING - PASSAGE.**

The **SPEAKER**: The Chair recognizes the Representative from Lee, Representative McLeod.

Representative **McLEOD**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I am proud to rise today in honor of Lee Academy, which was founded in 1845, and it was founded as a Lee normal school. What do you suppose was normal back in 1845? This was one of 80 such schools in the state and there are currently 10 left today. In order to survive in today's world, Headmaster, Mr. Bruce Lindberg, has adopted a business strategy, and that model includes about 80 boarding students from 16 states, 25 different countries and plans to open satellite schools in China, Korea and other Asian nations. Lee Academy also serves for a local high school for several towns, including Lee, Springfield, Winn, Topsfield, Vanceboro, Princeton and other area towns. Lee Academy runs

a \$3.2 million budget, which includes 29 teachers, 8 ed techs and 21 support staff. Mr. Lindberg is at the University of Maine in Orono today receiving the prestigious International Innovator of the Year award, presented by Governor Baldacci. Congratulations to Mr. Lindberg and all who has made this model work, and I wish it continued success. Thank you, Madam Speaker.

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

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

Bill "An Act To Allow Voters To Choose Ongoing Absentee Voter Status"

(H.P. 129) (L.D. 150)

(C. "A" H-182)

- In House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-182)** on April 30, 2009.

- In Senate, **FAILED OF PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-182)** in **NON-CONCURRENCE**.

**TABLED** - May 21, 2009 (Till Later Today) by Representative TRINWARD of Waterville.

**PENDING - FURTHER CONSIDERATION.**

Representative TRINWARD of Waterville moved that the House **INSIST**.

Representative VALENTINO of Saco **REQUESTED** a roll call on the motion to **INSIST**.

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 Valentino.

Representative **VALENTINO**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I realize the bill has been changed into a resolve for a pilot program. I still feel the pilot program, even though it's covering two to three years in ongoing absentee status, when you're sending out ballots to people, especially people who have post office boxes and other things, sending out a ballot, I believe we should allow everybody who's qualified to vote, but I don't think we should just be sending votes out to people who register for an ongoing ballot all of the time. I think that people should have to go down and get the ballot, every year or every two years, to vote on it, and we shouldn't be mailing them in the mail. It's very important that ballots are placed in the hands of people who actually have them and not just being sent. A lot of people move and, especially if you do it in a very large city, people are always moving in and out. I'm not going to debate it, but I just feel very strongly that we should not be sending ballots on an ongoing basis. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Waterville, Representative Trinward.

Representative **TRINWARD**: Thank you, Madam Speaker. This is a bill that came before our committee that was turned into a pilot study. It would allow communities to opt into this program if they chose. There are clerks who are interested in this. It has been very successful in other communities. What it would allow people to do is people that vote absentee on a regular basis would be able to sign up with the clerk, let the clerk know this and there will be a specific form that they would fill out, and then the clerk, rather than sending them the request for an absentee ballot, would mail them their ballot at the election. It would allow for when there would not be a forwarding component to this, so if they were no longer at that address, the clerk would receive their ballot back, and many clerks felt that this is another way to help



them, cleaning up their lists and working with their lists. It has been very successful in many of the states where they've tried it, and we had several clerks that were interested in running a pilot program for the next few years and to report back to the Legal and Veterans Affairs, whether they found misuse or difficulty with people moving in and out. So I ask you to support this vote and follow my light.

Representative FITTS of Pittsfield moved that the House **RECEDE AND CONCUR**.

The same Representative **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**: 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. 126**

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

**NAY** - Adams, Beaudoin, Beck, Berry, Blodgett, Boland, Bolduc, Bryant, Butterfield, Cain, Carey, Casavant, Clark H, Cleary, Cohen, Connor, Crockett P, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Eves, Finch, Flaherty, Flemings, Gilbert, Goode, Hanley, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kaenrath, Kent, Kruger, Lajoie, Legg, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, Miller, Morrison, Nelson, O'Brien, Peoples, Percy, Perry, Peterson, Pieh, Piotti, Pratt, Priest, Rankin, Rotundo, Sanborn, Sirois, Smith, Stevens, Stuckey, Sutherland, Theriault, Treat, Trinward, Tuttle, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Wheeler, Willette, Wright, Madam Speaker.

**ABSENT** - Beaudette, Briggs, Celli, Cornell du Houx, Russell. Yes, 61; No, 85; Absent, 5; Excused, 0.

61 having voted in the affirmative and 85 voted in the negative, with 5 being absent, and accordingly the motion to **RECEDE AND CONCUR FAILED**.

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

Representative **SYKES**: To say the least, Madam Speaker, I'm confused. Would you explain what's going on?

The **SPEAKER**: Absolutely. The Representative from Waterville, Representative Trinward, had made a motion to Insist, and then the Representative from Pittsfield made a motion to Recede and Concur, which trumps the motion to Insist. We had a roll call on the Recede and Concur motion, but there was still a standing roll call order on the Insist motion, so we are about to take a second roll call on the Insist motion. Those in favor of the motion to Insist will vote yes, those opposed will vote no. Is the House ready for the question?

A roll call having been previously ordered, the pending question before the House is to Insist. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 127**

**YEA** - Adams, Beaudoin, Beck, Berry, Blodgett, Boland, Bolduc, Bryant, Butterfield, Cain, Carey, Casavant, Clark H, Cleary, Cohen, Connor, Crockett P, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Eves, Finch, Flaherty, Flemings,

Gilbert, Goode, Hanley, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kaenrath, Kent, Kruger, Lajoie, Legg, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, Miller, Morrison, Nelson, O'Brien, Peoples, Percy, Perry, Peterson, Pieh, Piotti, Pratt, Priest, Rankin, Rotundo, Sanborn, Sirois, Smith, Stevens, Stuckey, Sutherland, Theriault, Treat, Trinward, Tuttle, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Wheeler, Willette, Wright, Madam Speaker.

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

**ABSENT** - Beaudette, Briggs, Celli, Cornell du Houx, Russell. Yes, 85; No, 61; Absent, 5; Excused, 0.

85 having voted in the affirmative and 61 voted in the negative, with 5 being absent, and accordingly the House voted to **INSIST**.

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

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**HOUSE DIVIDED REPORT** - Majority (11) **Ought Not to Pass** - Minority (2) **Ought to Pass as Amended by Committee Amendment "A" (H-324)** - Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Allow the Importation of Wine into the State for Individuals through Specific Ports of Entry" (H.P. 911) (L.D. 1308)

**TABLED** - May 21, 2009 (Till Later Today) by Representative **TRINWARD** of Waterville.

**PENDING - ACCEPTANCE OF EITHER REPORT.**

Representative **TRINWARD** of Waterville moved that the House **ACCEPT** the Minority **Ought to Pass as Amended Report**.

The **SPEAKER**: The Chair recognizes the Representative from Waterville, Representative Trinward.

Representative **TRINWARD**: Thank you, Madam Speaker. My committee this year had the hearing on three different wine by mail bills. I selected to support this bill for a specific number of reasons. The current law now prohibits the direct shipment of wine or any alcoholic beverage to consumers in the state, whether it comes from an in-state or out-of-state entity that manufactures, distributes or sells wine. This bill would allow for consumers to order wine directly from an in-state or out-of-state winery for delivery and pick-up at a registered shipment outlet. What this would allow is for you to order your wine on the Internet and then to go to a specific site that you had agreed on during your ordering process. It could be your local wine shop; it could be your local package store. You would go there and you would pick up your wine at this particular site.

The reason that I supported this bill was that Maine operates with a three tier system. The three tier system is that we have the out-of-state producer or distributor that sells their spirits, alcohol, beer or wine products to a wholesaler, which is the second tier, and the wholesaler delivers these products to the retailer. This allows for the state entities to be governed by the State of Maine, to follow the state rules and regulations, for the state to have access to these records by dealing specifically with

the Maine wholesaler. It also allows for the face-to-face sales, which is an integral part of the three tier system. This bill that I supported honors the three tier system by honoring the retailer and the face-to-face system. I would ask you to support this bill. I think it's a good compromise for the wine by mail. Thank you.

The SPEAKER: The Chair recognizes the Representative from Pittsfield, Representative FITTS.

Representative **FITTS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. We did have three wine bills and there are two left on our Calendar. This is an 11-2 Ought Not to Pass Report, and I will shortly ask the Clerk to read that report. But this issue with this bill is that nobody wants to do it. The grocers don't want it, they came in against it. Our good chair and a couple of people were for it. And for that reason, I would ask that we move or vote this motion down so that we can move on to the Majority Report and, after this bill has been put to bed, can deal with the better of the wine shipping bills, which is a national standard, which is a bill that people will use, and we aren't just going through the motions of appearing to pass a direct shipping bill.

The SPEAKER: For what purpose does the Representative rise?

Representative **WEBSTER**: Thank you, Madam Speaker. I raise a question regarding the germane nature of the comments.

On **POINT OF ORDER**, Representative WEBSTER of Freeport asked the Chair if the remarks of Representative FITTS of Pittsfield were germane to the pending question.

The SPEAKER: The Chair will just remind members that we are debating the bill in front of us. The Representative may proceed.

The Chair reminded Representative FITTS of Pittsfield to stay as close as possible to the pending question.

Representative **FITTS**: Absolutely, Madam Speaker, and I appreciate that reminder. I feel like I was speaking about this bill, because nobody will use it. Thank you, Madam Speaker, and I would ask for the Clerk to read the Committee Report.

Representative FITTS of Pittsfield **REQUESTED** that the Clerk **READ** the Committee Report.

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

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

Representative **PERRY**: Thank you, Madam Speaker. I am rising in support of the Minority Ought to Pass as Amended Report. Alcohol is one of our greatest abused substances. It costs this state significant money for treatment, lost work time. Also, underage drinking is a campaign that this state has been on for several years now. One of the things that we have looked at in doing this is where alcohol is advertised and how it is displayed. One of the things that we've been working with, even in our area, is that the wine aisles are right across from the cereal aisles, and that gives a message that alcohol is available.

The SPEAKER: For what purpose does the Representative rise?

Representative **FITTS**: A Point of Order, Madam Speaker. I question the germaneness of this discussion. Thank you.

On **POINT OF ORDER**, Representative FITTS of Pittsfield asked the Chair if the remarks of Representative PERRY of Calais were germane to the pending question.

The SPEAKER: The Chair would just remind members to debate the bill in front of us. The Representative may proceed.

The Chair reminded Representative PERRY of Calais to stay as close as possible to the pending question.

Representative **PERRY**: The point I am making is that the ability to order wine is something I would not do. I enjoy wine myself. The fact that it goes to a point of entry, that there is some

safeguard so you know that you are selling it to somebody who has an appropriate age, I think, is a good safeguard, and I really do support the Minority Ought to Pass Report and ask that you vote in that direction.

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

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

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Webster.

Representative **WEBSTER**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I rise in support of this legislation. It is the legislation that I submitted to this committee of jurisdiction. There has been a long series of legislation since I've been here in the House for five years, a number of bills attempting to find some solution regarding the interest of good people across the State of Maine, who wish to be able to get select wines delivered to them. My legislation was a compromise between the Substance Abuse Services Commission, members and industry and people who wish to have wine imported into the state. It was crafted to be a balanced approach, and I'd like to speak to the reasons for that and how that balance was achieved. I first wish to, however, thank my good friend from Ellsworth regarding reminding us all to remain germane to the topic at hand.

In addition to a three tier system for distribution of alcohol in this state, there is another three-legged stool that this state has relied upon as a good policy. That three-legged stool has proven the best strategy for addressing the issue of substance abuse and underage drinking. The three legs are control access, insure enforcement and address social norms. The concern regarding direct shipment has to do with the concern regarding access and enforcement. There have certainly been enough instances across the country where fraternities or off campus houses have ordered wine and had that shipped directly to that location for parties, and that should be a concern to all of us as adults regarding how we wish to control the access of alcohol for underage drinking.

Another concern that we should have is that there are certain types of alcohol and certain types of systems for delivery of alcohol that the State of Maine does not allow. They are dangerous, they are designed purely to create an immediate alcoholic buzz or high that is dangerous to the individual. With open shipping to homes, there is no way of controlling the kinds of alcohol that will be distributed to homes and the assurance that the person receiving it should legally receive the alcohol. So in terms of access, one of the important legs on the stool is face-to-face assurance that the person getting alcohol is of a legal age. Another reason that we organized this compromise bill was that without assurance that sales tax was paid, we will lose revenue, and third is that, without it going through a retail outlet, there is no way of getting the sticker on the bottle that assures that it will be recycled and that there will be a deposit paid on it.

There are a number of benefits to the legislation that I propose and a number of small businesses have said to me that they would be interested in the benefits that would accrue to them. This helps small businesses because, if wine is shipped to any location that legally can sell wine, then that retailer, that small business has an opportunity to interact with the person interested in purchasing wine. It might mean that the person who is purchasing the wine gets an opportunity to find out about wines in that store that are comparable. It might mean that the retail outlet might decide to start carrying the wine that the individual is interested in. It promotes small business. The other benefit is

that, by allowing this legislation, we will allow our wineries in the State of Maine to be able to ship out of state, because of the reciprocal nature of the law.

I'd like to talk just a minute about the licensing component. In my legislation, there is a fee for individuals or for companies that want to ship to the State of Maine. That fee would be paid and the taxes would be paid to the State of Maine by places like [cheapwine.com](http://cheapwine.com) as well as [connoisseurswine.com](http://connoisseurswine.com). But in addition to that, something we hadn't really noted initially but we found out later, was that there is in the law currently an item called farm wineries and, for \$50, any farm winery in the country can ship into the State of Maine. However, my bill, the bill that we are discussing now, would allow those fine wineries, which do not exceed 50,000 gallons a year, to ship into the State of Maine. They're not allowed to ship directly to an individual's home, they must ship to a retailer; therefore, this allows a lower threshold for people who are interested in buying just a few bottles of select wine. It means that these fine wineries across the country will be able to ship wines to the State of Maine for the individuals. Without that provision, without having a retail outlet, those small wineries, which is of course the intent of this bill, those small wineries will not be able to ship into the State of Maine because they're not allowed to ship directly to someone's home.

Madam Speaker, some would say that it's best or great to be able to ship directly to your house. Would I like to do that? Sure, I'd like to do that; however, I don't think that we as legislators and as adults should be making decisions regarding this kind of issue based on convenience or preference. I believe that we should be making decisions based on good policy, and there is a long history of good policy. Control access, insure enforcement and address social norms. Some people would say that no one would be interested in purchasing wine such as this, but I would say to you that, in fact in the last time we debated this, a year ago, I brought up on my laptop Smoking Loon, I think it was, \$8.49 a bottle, plus free shipping for a case. Someone handed me, after a recent debate, a photocopy of something for \$1.95 a bottle from [cheapwine.com](http://cheapwine.com) or from [cheapcigar.com](http://cheapcigar.com), another \$2.50 for some sort of a rosé. The wine is out there and it can be gotten and people are going to order it for the wrong purpose. I just don't think that we as adults and as policymakers should be saying, well, they're going to get it anyhow from their friend, so what the heck. Why create an additional barrier of responsibility? I think it's our job. To summarize, this is going to be helpful for small business, it insures face-to-face contact, it insures the collection of taxes, it insures the bottle recovery is paid, and it is good policy. Thank you, Madam Speaker.

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

Representative **RUSSELL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This is a policy decision that we really need to take seriously. There are two policy decisions here: One is do you want to allow the shipping of wine? Do you want to have the opportunity to import wine that, if you go to a winery somewhere in the rest of the country or out of the country and you want to make sure that you have an opportunity to capture that bottle one more time, do you want that opportunity, and that in of itself is an important policy choice. Do we want to open up wine shipping all together? I certainly am in favor of that, because I think that there are folks out there who are wine connoisseurs, who would like to have access to very distinctive bottles of wine that we just do not have the capacity to have access to here in Maine.

The other piece is how do you want to do that, and there are other opportunities coming down the pipe that would change this opportunity and change this public policy in a very concrete way

that has been done in 39 other states. As a committee member, I'd like to point out that this had an 11-2 vote in opposition, which is why the Minority Ought to Pass vote has been put forth.

Now in terms of the idea of increasing access to alcohol, it wasn't that long ago that I was under 21, and I am neither going to say, Madam Speaker, whether or not I was interested in having access to some grapes that were probably not fresh from Shaw's. But were I in that position and were I interested in having some grapes that had been fermented for extended periods of time, I probably was not interested in having those grapes two, three, four, five days from now, Madam Speaker. I think that I was more interested in having them four, five, six minutes later, at which point, I might have or might not have asked for an opportunity to have access to those. This is not for underage drinkers. This is not for people who are looking to go have a party next door. This is for people who genuinely want access to wine that is not available in our state, that is not available through our traditional three tier system. So I would ask that you not support this bill, that you follow my light on that and that you consider supporting another policy choice that would provide access in a responsible way, that would allow the United States Postal Service to card, and if you can't trust your mail to get where it's going, that's a decision you have to make under your own accord, Madam Speaker, but I would ask that you reconsider this and vote Ought Not to Pass on the pending motion and join the majority, the overwhelming majority of the committee who did so as well.

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. This is a bad small business bill. How many of us have small corner stores in our district? Probably most of us and these small businesses contribute to our communities, these are our family owned businesses, they rely on selling wine as a part of their revenue. They sell lottery tickets, they contribute to our communities, they support little league, they support the boy scouts and, by now, this bill is going to take away a revenue source from them. This is another nail in the coffin. That's why I can't support this bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Webster.

Representative **WEBSTER**: Thank you, Madam Speaker. I rise again very briefly to cover two very quick items that I neglected to mention: One, well I actually did mention, is that one of the reasons that this will work for those small wineries is that because small farm wineries producing less than 50,000 gallons a year, because our state has a vehicle for them to get a license for \$50, this will be more successful than it could be in other states. Currently, for instance, and in my bill, there is a fee of \$100 that is required for any shipper who wants to ship into the state. Lowering the threshold of \$50 will make it easier for those small wineries that, really, if you go to a winery and want to buy three bottles or five bottles or a case of wine, where's the profit if you have to pay \$100, if you're the wine shipping location, where's the profit if you have to pay \$100 to ship your first case? So lowering the threshold is going to be successful.

The other item I'd like to mention briefly, if I might, Madam Speaker, is to recommend that, in the future, that in addition to selecting individuals from the Health and Human Services Committee to serve on a Substance Abuse Services Committee, that the Speaker recommend that individuals from the Legal and Veterans Affairs, that directly is related to alcohol, that they have members of the Substance Abuse Services Commission. I think that those of us who have served on that commission have had

our heads turned around regarding the issue of alcohol, alcohol abuse, underage drinking, and the efforts and the policies that have been put in place in this state, in order to make sure that we're not in silos and that we're more consistent. Thank you, Madam Speaker.

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

**ROLL CALL NO. 128**

YEA - Adams, Berry, Boland, Bolduc, Bryant, Cain, Carey, Cleary, Crockett P, Dostie, Flaherty, Flemings, Gilbert, Harlow, Haskell, Kent, Legg, Martin JL, McCabe, Miller, Percy, Perry, Pieh, Piotti, Pratt, Priest, Rankin, Rotundo, Stuckey, Sutherland, Theriault, Treat, Trinward, Tuttle, Webster, Welsh, Wheeler, Wright, Madam Speaker.

NAY - Austin, Ayotte, Beaudoin, Beaulieu, Beck, Bickford, Blanchard, Blodgett, Browne W, Burns, Butterfield, Campbell, Casavant, Cebra, Chase, Clark H, Clark T, Cohen, Connor, Cornell du Houx, Crafts, Cray, Crockett J, Curtis, Cushing, Davis, Dill, Driscoll, Duchesne, Eaton, Eberle, Edgecomb, Eves, Finch, Fitts, Fletcher, Flood, Fossel, Gifford, Giles, Goode, Greeley, Hamper, Hanley, Harvell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Johnson, Jones, Joy, Kaenrath, Knapp, Knight, Kruger, Lajoie, Langley, Lewin, Lovejoy, MacDonald, Magnan, Martin JR, Mazurek, McFadden, McKane, McLeod, Millett, Morrison, Nass, Nelson, Nutting, O'Brien, Pendleton, Peoples, Peterson, Pilon, Pinkham, Plummer, Prescott, Richardson D, Richardson W, Robinson, Rosen, Russell, Sanborn, Sarty, Saviello, Schatz, Shaw, Sirois, Smith, Stevens, Strang Burgess, Sykes, Tardy, Thibodeau, Thomas, Tilton, Valentino, Van Wie, Wagner J, Wagner R, Weaver, Willette.

ABSENT - Beaudette, Briggs, Celli, Cotta, Watson.

Yes, 39; No, 107; Absent, 5; Excused, 0.

39 having voted in the affirmative and 107 voted in the negative, with 5 being absent, and accordingly the Minority **Ought to Pass as Amended Report was NOT ACCEPTED.**

Subsequently, the Majority **Ought Not to Pass Report was ACCEPTED** and sent for concurrence.

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HOUSE DIVIDED REPORT - Majority (9) **Ought to Pass as Amended by Committee Amendment "A" (H-366)** - Minority (4) **Ought Not to Pass** - Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Increase Consumer Choice for Wine"

(H.P. 696) (L.D. 1008)

TABLED - May 27, 2009 (Till Later Today) by Representative TRINWARD of Waterville.

PENDING - **ACCEPTANCE OF EITHER REPORT.**

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

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Webster.

Representative **WEBSTER**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I now can speak regarding what I consider to be bad policy promoted in this bill. I have already mentioned that we have policies in this state that restrict the kinds of alcohol that can be shipped directly to your house, where about, if we were to pass this, to begin to throw that out the door, and I think we should be darned concerned about that. Would I, as I said before, like to have the convenience of having wine shipped to my house? Sure. But do I think it's good policy to allow that open access, to not only wine

but kinds of alcohol that will be shipped directly to the house, that we consider dangerous and harmful and not legal in this state? I think not. Should we start to throw out one of the legs of that stool, which is the ability to do face-to-face recognition that someone is legally able to buy that alcohol? I think we should not. Should we make it more difficult to enforce the laws that we craft here by having direct shipment and therefore no control over the port of entry for alcohol? I think not. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Walsh Innes.

Representative **WALSH INNES**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I ask for your indulgence in hearing the merits of this bill today. I am aware that for many of you, the concept of direct shipment of wine is not new, and you have heard many floor arguments for and against this in previous sessions. Well, there's a reason this bill keeps coming back, and that's because the people of Maine want this bill to pass.

I may be the sponsor of this bill, but I want to give huge credit to the good Representative from Pittsfield, Representative Stacey Fitts, who has been a champion of this bill since day one of the session. Representative Fitts worked with me to make this bill better than the one from last session, and we made changes to further restrict the chances of the shipments getting into the hands of minors. Many of you are aware that direct wine shipments are already happening sporadically, and illegally, in Maine, and with the passing of this bill, we will be able to better regulate those transactions as well as bring additional tax revenues into the State.

Here are the facts of this bill: It establishes a license to allow for the direct shipment of wine to consumers homes. The license allows certain in-state and out-of-state wineries to ship up to 12 cases of wine annually to recipients who are 21 years of age or older. The direct shipper or 3rd-party carrier contracted by the shipper must be shown proof of age in a photo id in order to make a delivery. Wine shipments must be conspicuously labeled that they contain alcohol and may be delivered only to a person 21 years of age or older. The bill requires that a direct shipper is required to pay all applicable taxes, including excise and premium taxes on wine. The bill establishes reporting requirements for direct shippers and lists specific penalties for specific violations of laws governing the direct shipment of wine.

This pro-consumer legislation would offer Maine adult wine consumers a significant increase in wine choices, and bring increased sales tax revenues into our State.

Fewer wineries and fewer distributors now control a larger than ever portion of the wine market, making it increasingly difficult for small wineries to distribute their wines, and wine consumers to be able to purchase their favorite wines. Restrictions on e-commerce often are driven more by the desire to protect established businesses than to protect consumers.

Thirty-eight states have passed similar legislation, recognized by the U.S. Supreme Court and supported by state alcohol regulators, consumers, and the Federal Trade Commission.

I have heard from my constituents who have visited wineries in other states only to be frustrated by the fact that these wineries were unable to ship the wine they wished to purchase directly to their homes.

The goal of this bill is to augment, not replace, the three-tier system with limited, regulated wine shipments from wineries and retailers to consumers.

Maine wine consumers will continue to buy their wine at local retail stores. More than 98% of all wine sales in this country occur in local retail markets. There are, however, Maine

consumers who will on occasion want to order special wines and have those wines delivered directly to their homes. In my research, I found the following recent statement in which the Federal Trade Commission, before the Subcommittee on Commerce, Trade, and Consumer Protection, concluded:

"The staff report concludes that consumers could reap significant benefits if they had the option of purchasing wine online from out-of-state sources and having it shipped directly to them. Consumers could save money, choose from a much greater variety of wines, and enjoy the convenience of home delivery. Indeed, in states that are litigating the constitutionality of direct shipping bans, several courts have found that the bans deprive the state's consumers of lower prices and greater variety.

In addition, many states appear to have found means of satisfying their tax and other regulatory goals that are less restrictive than an outright ban. These states generally report few or no problems with shipments to minors or with tax collection."

New Hampshire has had similar legislation for the last 8 years, and they brought in over \$500,000 in tax revenues from direct shipments last year, an increase of over 24% from the previous year. The great thing is that their retail sales also increased. The bill has a positive fiscal note, of close to \$100,000 each year in additional revenues to our state.

I believe Maine is missing a great opportunity to generate incremental tax revenues, provide choice for Maine Consumers and support artesian agriculture at the same time.

I ask you all to follow my green light, and vote yes to support the motion of Ought to Pass as Amended. Thank you, Madam Speaker.

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 for several reasons. One is that is was a divided report on this. This issue has come up for the last five years. We have talked about. Each time it has been voted down on that. The importation and transportation of malt liquor and wine is currently now allowed in the State of Maine. A person may apply to the commission for a permit to receive, for personal use and not for resale, a shipment of malt liquor or wine from another state. They just have to be 21 years of age and it has to be limited to malt liquor or 2.4 gallons a month or wine of 2.4 gallons per month also, so that allows people to do "beer of the month" or "wine of the month" type clubs. So it is allowed now, as long as you get a permit.

The other thing is, is that it was also stated that this is wine now. We've seen this in other bills as far as wine tasting. It goes to wine tasting, it goes to beer tasting, which now goes to distilled spirits tasting, and if we open this door up then it will also open it up, I think, for other things maybe down in the future. I want to also read from the testimony from Blacksmith's Winery, and he testified neither for nor against this bill at it. When we talk about small wineries, it says:

"The first section of LD 1008 specifically allows farm wineries to ship wine out of state, as long as we comply with the laws of those states, which have many regulations. This action has been and they felt that this action in 1008 was brought primarily by the Wine Institute, a California organization funded by large and medium California wineries. This bill is for their benefit. Analysis by me and other local farm wineries, Maine farm wineries, have found that compliance with all those individual permit laws is virtually impossible for a small winery. Under these conditions, I would prefer the current situation with the existing three tier system and proven controls. This bill increases the cost to small

wineries in Maine, requiring additional permitting and additional increases." So this was one from a small winery in the State of Maine, who felt that this would actually hurt him for competition.

The other thing is testimony from the Maine Grocers Association, and basically, in this economy—and this is the same argument I have given for five years when I have stood and opposed this bill—the current system provides Maine people with access to a wide variety of wine options. We currently offer over 4,000 wine labels. The companies in the existing system of wine distributors and retailers operate bricks and mortar businesses here in the State of Maine, like the members of the Maine Grocers Association. They employ Maine people; they pay Maine property taxes and are active in communities. None of those are true of out of state wine sellers, who would be shipping wine to Maine via the internet, and to quote, that was from the Maine Grocers Association. I think in this economy, I do not want to hurt my local stores.

The last quote would be from Lieutenant Bowler of the Maine State Police and his testimony before our committee, who said this bill is unenforceable and internet purchases are simply a two-way honor system between the buyer and the seller.

I also want to note that there was no fiscal note on this for addition to public safety officers, and I'm wondering how we are going to comply with all of this if we allow that in. Therefore, I will be voting no. Thank you.

Representative SHAW of Standish **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 Pittsfield, Representative Fitts.

Representative FITTS: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Well, we've heard some of what people think this bill isn't, but I will tell you what it is. It will allow an individual to purchase wine from a winery out of state, not from [wine.com](http://wine.com), not from the *Wall Street Journal's* Wine of the Month, none of that, because those individuals would not be licensable under the way this bill is drafted. It is specifically targeted at wineries that people would visit while they were on vacation, or hear about from their friends, or have a bottle of at a dinner, or any of those varieties of ways that people find out about a variety of wine. So don't be confused by some of the negative comments about how people would acquire what they would want to have in their homes.

Now, as far as access by youth, this bill has very strong enforcement provisions in it. It goes as far as to say if someone is found in violation by delivering wine to somebody underage, they face up to a \$5,000 fine. That's a lot worse than what happens at your local grocer when people underage buy. I've got one still underage and, believe me, I know full well that his access has nothing to do with whether he could get it online or not. His access comes from a variety of friends and even possibly a relative that could provide. You know, that's an issue, but it's not the issue in this bill. That situation is going to go on, it was going on when I was in high school and we have to continue to be very stringent in our effort to prevent youth access. This bill has strong provisions for that. But more than anything else, it is about the farm wineries in Maine. Because of the pesky little issue in the Constitution, the Commerce Clause, we can't sell from our wineries here because we don't allow other wineries to sell in. This takes care of that. That's it, plain and simple. That's what brought the bill forward and the fact that one winery came forward to speak neither for nor against this bill is because, honestly, that winery thinks they've found a loophole in our

existing laws. That loophole is being examined now by the Department of Public Safety to determine whether or not it's accurate. This bill takes care of that and makes it moot. I have no problem with our wineries being able to sell to states and abide by those states' laws. That's something that the other states have to deal with, but what we have to do is move forward and status quo is not working. So I appreciate the indulgence of the House on wine day, and I did want to say that I appreciate the fact that I do get confused from my good seatmate, now and then, because we are almost twins. Thank you, Madam Speaker.

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. Once again, this is a bad small business bill. We're going to allow people to buy wine from away, ship it in, take the revenues away from our small stores that are trying to make a living, and take those revenues away from those small stores that are selling lottery tickets, beer, wine, sandwiches, but, oh no, we're not going to buy any wine from them because we're buying it from away, and we can't do that. We're just going to not buy wine from them anymore, we're going to go online and buy wine. So that's okay, and all of the sudden the stores are going to start closing because it's another nail in the coffin, but that's okay, we need to buy designer wine now and designer beer. So I can't support this, Madam Speaker. Thank you.

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

Representative **CAREY**: Thank you, Madam Speaker. I want to speak briefly to this bill. First, I'll just say briefly that I am uncomfortable with this bill because of what the implications it would have for the three tier system. I want to address, also, one of the arguments that's being brought forth. The farm wineries, it's a good connotation, it's usually a small business, often a family, and who doesn't want to be wandering around the hillsides on a sunny day, and that's kind of what it brings to mind for me, and I'd love to go to Napa Valley and mail back some wine, I think that would be great. But the policy decision that I'm going to make, as a Maine Representative, is not for the California wineries and this is their bill. This is the bill that they came forward and said this is the bill that we brought forward in, I think it was 18 or 27, it was a large number of other states, this is our bill, we think it's a great idea. I'm sure they do, I'm sure it is. But what I care about are the small businesses in our area. Yes, there are only about 8,000 labels, only 8,000 types of wine that can be bought in Maine, and there are many, many more, and I am sure I would like most of the ones that are out there and would like to get them as well. But what will also happen, we cannot prevent the importation of any of those 8,000 labels that are here, whether they're niche wineries or whether they're mass production screw top wineries. There's no reason that those can't be sent through the mail and arrive at our doorsteps, and that's one more reason why our citizens won't be going to our businesses and that's another reason why I'm uncomfortable with this bill. 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. We live in a state of 1.3 million people. There are over 298 million consumers that are outside this state. If we restrict our access to these markets, we do so at our own peril. L.L.Bean has a major internet sales system to the rest of the country. The logic that we are using to restrict this for businesses just implies that we think economics is a zero sum game at the end of the day. It is not.

We sit 400 miles from the economic center of the planet and why we aren't opening up our access to these markets is ludicrous.

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

Representative **RUSSELL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise, again, in support of this bill which, as Representative Walsh Innes pointed out, has strong bipartisan support. We have a 9-4 Ought to Pass motion on this, and there was a lot of work that went into making sure that the majority of the folks in the committee were comfortable with it. As I pointed out, this is strong model legislation; there are 39 other states that do this. As Representative Fitts pointed out, there is strict enforcement. The United States Postal Service is ready and waiting to do this. They desperately need the business as well, and I think that that's another incentive to do this.

But I also, as most people know, work in a small family-run store at the top of Munjoy Hill and we sell wine. It's a very small, limited selection. I do not buy my exquisite wine from there. I do happen to love the grape in all of its forms. But our business is largely beer and cigarettes. Wine is a very small selection, and it's because we don't carry a big sizable collection and we don't have access to some of the wines that most people in my district would certainly love to see join our hill, but the fact of the matter is this bill is designed, has been put forth, because there is a population of people who genuinely want to buy wine that they don't have access to here.

Madam Speaker, if people want to buy it and we want to earn the sales tax revenue off of it, I think that that's a good thing. Anything that we can do to increase the revenue to our state is a net positive. I don't believe that this is going to impact small businesses, because this is not designed for the average every day person who just is going to go up the street and buy wine. There has to be a real relationship between the manufacturer and the individual for that individual to even, I think, consider shipping it. If I want wine, I really want it for dinner and I'm not going to wait for a long period of time, generally speaking. But if there's a good bottle of wine that I don't have access to here in the state, I'm not opposed to ordering it. I order a lot of things online that I wouldn't otherwise order, because I like the convenience of having it come to my home, but this isn't about that. This is about getting access to wines that you would not otherwise have access to. No disrespect for the grocers, but I get really board with the wine that's there. I'd like to be able to branch out, but I don't have the opportunity to do that. I don't have the opportunity to be able to see the different types of varietals that are available, and this model is model legislation, has strict enforcement capacity. As Representative Fitts pointed out, if you screw up and sell it to a minor, you get a much heftier fine, and the majority of the committee did work hard to support this bill with broad bipartisan support. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Trinward.

Representative **TRINWARD**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I rise to speak very briefly again on the current policy regarding the distribution of beer and wine and liquor in the State of Maine, the three tier system, which has been the policy in place since the 1800's. The system provides the wide range of consumer choice, but most importantly, it still provides a protection against illegal distribution or sale of alcoholic beverages. If this legislation passes, it would provide what we call in our committee a carve out. A fellow legislator asked me do we have any carve outs, have we provided any other carve outs in this legislation, in the three tier system, and the answer to that is, yes, we have created other

carve outs. However, our other carve outs have been very specifically targeted towards small Maine businesses. We have created carve outs to help Maine businesses become more successful. We've created carve outs for the wineries, the small farm wineries. We've created carve outs for the brewery of vodka. We have created a carve out for the distribution and breweries for the small pubs and the brewpubs, and we just recently created another carve out for the growlers. But all of those carve outs benefit local, small businesses in the State of Maine. The benefit of this particular carve out would not be for the businesses in the State of Maine. You can make an argument, large or small, however you choose to see it, that it could be to the detriment of some of the small businesses in the State of Maine. So again, I will be voting against this measure. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Watson.

Representative **WATSON**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I've done something I rarely do, we all rarely do: I actually read this bill during the course of the debate. A couple of things stand out to me. First of all, when you go online to order your \$50 box or case of wine, you have no way of knowing whether or not the business at the other end of the net has filed its \$200 application fee with the State of Maine to allow it to converse with you. I don't see how there's any enforcement built into this act with regard to that step alone. I'm also very concerned about the collection of sales, excise and premium taxes, which, again, we are relying on an out of state winery to do and then remit to the State of Maine after they've paid their \$200 application fee for the right to do so.

I also note, while it may not be a major problem, it just wrangles me; there is no bottle deposit on this. So all this business we generate from out of state, I guess those bottles are going to end up on landfills because you're not going to be able to refund them. I was absent and I apologize, I was absent for the vote on the previous bill. I think that offered a better solution. At least it brought people in to our local stores, and I can't see how this one will. I'm afraid I will be opposing the present motion. 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 wasn't going to speak on this, but it just seems to me that we've suffered through a really tough budget situation, trying to explain to our constituents why we need to do what we're doing. In this economy, do we really want to go back to our home towns and do all of our handwringing with them, and then also say that we passed a bill that negatively affects the economy in their local area, their small stores and small businesses? We also, I think, need to be kind of a model, if you will, to our communities, because if we make a vote here that doesn't respect the fact that we really, particularly in these times, need to support our small businesses and local jobs, then we're really saying that we're willing to accommodate the convenience desire of some and really at the cost of the larger community.

As for small stores, I have one near my house, I'm sure we all do, and that small store has suffered with the long ago changes so that you could shop on Sundays in the big markets, the Shaw's and Hannafords, that take a lot of their business. One of the things that they've done, and I know of another one in Newfield, for instance, that also does, has actually built up this little niche of having nice select wines that they can tell their customers about as a way to help them try to survive in the

community, and it's very valid and it's been very helpful to them. These local stores have had enough struggles, as Representative Pilon has pointed out, and this really adds to it. I'd also like to point out that there are many people in the State of Maine who do not have cars, they're not able to get in a car and go to a large supermarket, and they really depend on these smaller stores. So for those reasons, I would ask you to consider voting no on this. Thank you.

The SPEAKER: The Chair recognizes the Representative from Pittsfield, Representative Fitts.

Representative **FITTS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I just want to point out that the experience in the states that allow direct shipping is totally opposite of what some of the arguments that I've heard here today. In fact, New Hampshire's wine sales are constantly rising at their stores, and they've had this in effect for eight years. That same effect has happened state by state across the country, because what you create for those people who choose to use direct shipping is a more educated and more interested consumer, and that more interested consumer tends to go to those wine shops, tends to shop more for wine, and therefore it actually helps those small businesses, it doesn't harm them. So don't be too quick to find the negative in what is a positive marketing. The fact that this comes from those who are experts in the wine industry shouldn't be a surprise to anybody. There are 38 states that are doing this. I've heard 37, I've heard 39. Some have said that we would be the 38th. The reason there is confusion to that is some states have small nuances that are different from what the model bill does. This is essentially the free the grapes bill. If you go online, [freethegrapes.com](http://freethegrapes.com), you will see generally most of the provisions that are in here, and it's fairly standard state to state. That's another advantage, because those businesses that will choose to use this know what the rules are going in. It also helps those businesses here in Maine that would choose to use this to ship out of the state to know that there is some uniformity across the country to also market. That's all there is to it. So I appreciate the tolerance, again, of the House and look forward to the vote. Thank you.

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

Representative **MARTIN**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I rise in support of the motion Ought to Pass as Amended on this bill. I just wanted to address one thing: We're talking a lot about supporting small business and what I hear in this debate, as a former dotcom business owner, I started up a small dotcom, the free enterprise market of being able to find a market, develop a product and figure out a way to sell it to meet a need of the people who want to buy that. To me, it just makes sense that we're not talking about there is suddenly going to be a huge flood in the State of Maine, where everybody is no longer going to buy a bottle wine at their local grocery store or their local shop. We're talking about, because, first of all, the wines are going to be a lot cheaper if you buy it locally than if you have to order it online. We're talking about very specialty, niche markets and, to me, the arguments of how we're going to collect the sales tax and how we're going to monitor this and all of this, then we could use that same argument for every business that does business online. There's a lot of businesses that a lot of us shop for our products for. We have the choice to go to our local store to buy that product, or we might get a better deal online. I think that, you know, in my mind, this just makes sense.

A second point that I'd like to make is we're talking about adults buying a product that is legal for sale. We're not talking about illegal products or paraphernalia or anything like that.

We're talking about adults being able to choose whether they'd like to have a nice cabernet for a special dinner that they're having, or they'd like to give a nice bottle of wine to a friend's wedding. So I just want us to be cautious when we're talking about this rationale and talking about business that we need to recognize that the electronic world of electronic commerce is already here and we're already doing it, and we need to find ways to help Maine join that market and to help our wineries here compete with the wineries out there and let our wineries also sell out of state, because you know what, there are probably a lot of people in other states who'd like to collect the wines that are produced here for samples and may even give those away as gifts as well. So I encourage everybody to support this motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Prescott.

Representative **PRESCOTT**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. LD 1008 is "An Act To Increase Consumer Choice for Wine." This bill is about consumer choice, plain and simple. Freedom to buy what you want, when and where. You the citizen get to decide. So this is about your constituents, what choices they desire and our ability to give Maine people that choice to decide for themselves. So please listen to what your constituents are asking for. The residents of Topsham want this bill to pass and they would like to decide for themselves, and I will be supporting this bill for them. Thank you, Madam Speaker.

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 just wanted to emphasize the consumer choice. Right now, we have over 6,000 labels that are available in the State of Maine. If there is not a label available, there is a possibility you can go down to your convenience store and they can get that to come in for you. Sometimes it's difficult to get the specialty one that you want, but there is a choice there.

I also wanted to just emphasize just one thing about adults buying legal products. If that argument holds on this, then I think the argument should hold on other legal products. Right now, we should allow them to distill spirits. We don't allow certain spirits into the State of Maine. The Liquor and Lottery Commission has to approve every bottle that comes in to see whether or not it's offensive or if it's appealing to youth. Cigarettes. There is a lot of money in cigarettes and we should be allowed to have cigarettes. It's a legal product in the State of Maine, and I know when I was in Florida with my sister, she packed her bag full. She doesn't live in Maine though, but she stuffed her suitcase because they are \$3 a pack down there and she's paying almost \$9 a pack in the state where she lives. So if we say this is about choice and we're all adults and we should all be able to get anything we want to because we're an adult, then let's open it up to cigarettes, let's open it up to distilled spirits, let's open it up to everything else, because, I'm sure, if you can't find out of 6,000 different wines in the State of Maine the one you like, then we are really prohibiting you and we are violating your right because you can't get something that's 6,001.

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

Representative **TUTTLE**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. Like the previous 25 speakers, I have nothing new to add on this issue, so let's quit whining and vote on this issue. Thank you, Madam Speaker.

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. 129

YEA - Austin, Ayotte, Beaudoin, Beaulieu, Beck, Berry, Bickford, Blanchard, Blodgett, Bolduc, Browne W, Bryant, Butterfield, Cain, Campbell, Casavant, Cebra, Chase, Clark H, Clark T, Cleary, Cohen, Connor, Cornell du Houx, Cotta, Crockett J, Curtis, Davis, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Edgecomb, Eves, Fitts, Flemings, Fossel, Gilbert, Giles, Goode, Greeley, Hamper, Harlow, Harvell, Hayes, Hinck, Hunt, Innes Walsh, Johnson, Jones, Joy, Kaenrath, Knapp, Lajoie, Langley, Legg, Lewin, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, McCabe, McKane, Miller, Millett, Morrison, Nass, Nutting, O'Brien, Pendleton, Peoples, Percy, Peterson, Pieh, Pinkham, Piotti, Plummer, Prescott, Priest, Rankin, Richardson D, Richardson W, Robinson, Rosen, Russell, Sanborn, Sarty, Saviello, Schatz, Shaw, Sirois, Smith, Stevens, Strang Burgess, Sutherland, Sykes, Thomas, Tilton, Treat, Van Wie, Wagner R, Weaver, Willette, Madam Speaker.

NAY - Adams, Boland, Burns, Carey, Crafts, Cray, Crockett P, Finch, Flaherty, Fletcher, Flood, Gifford, Haskell, Hill, Hogan, Kent, Knight, Kruger, Mazurek, McFadden, McLeod, Nelson, Perry, Pilon, Pratt, Rotundo, Stuckey, Tardy, Theriault, Thibodeau, Trinward, Tuttle, Valentino, Wagner J, Watson, Webster, Welsh, Wheeler, Wright.

ABSENT - Beaudette, Briggs, Celli, Cushing, Hanley.

Yes, 107; No, 39; Absent, 5; Excused, 0.

107 having voted in the affirmative and 39 voted in the negative, with 5 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-366)** was **READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Friday, May 29, 2009.

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

Expression of Legislative Sentiment recognizing Camp Sunshine, of Casco.

(HLS 400)

Which was **TABLED** by Representative PERRY of Calais pending **PASSAGE.**

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

Representative **PERRY**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I entered this sentiment really in conjunction with the Health and Human Services Committee and Representative Cebra, from Naples, whose district Camp Sunshine is in. Camp Sunshine, founded by Larry and Anna Gould has provided respite for seriously ill children and families for 25 years. The camp gives children and their families a time to connect with other children and families who are going through the same struggle.

Dr. Larry and Anna Gould decided to offer a program for children with serious illnesses after watching a TV program on a camp for children with cancer. They worked with the chief of pediatric oncology at Children's Hospital in Boston and offered a pilot family camp for 43 sick children and their families to be their guests for a week in June 1984.

When fathers at the end of the week thanked Dr. Gould for the week while hugging him and crying, he and Anna knew that this was a very special program. They continued to offer the program, at no charge to the families, expanding to four weeks a year, two weeks



in early June and two weeks in late September. Demand for services far exceeded capacity, and a permanent facility, built on 23 acres donated by Anna and Larry was opened in June 2001.

Camp Sunshine offers sessions for learning about specific chronic illnesses, lectures by specialists, as well as support and bereavement groups. Larry and Anna Gould have been instrumental in providing this respite for children and families. They have each received awards for their generosity and commitment to children with serious illnesses and their families.

I would like to thank Larry and Anna Gould for being here today, and I offer my sincerest thanks to them for their hard work, dedication and compassion and for their enduring gift of love and caring.

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

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

**UNFINISHED BUSINESS**

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

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)

TABLED - May 26, 2009 (Till Later Today) by Representative PIOTTI of Unity.

PENDING - **PASSAGE TO BE ENACTED.**

On motion of Representative SYKES of Harrison, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION.**

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

On further motion of the same Representative, the rules were **SUSPENDED** for the purpose of **FURTHER RECONSIDERATION.**

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-135)** was **ADOPTED.**

The same Representative **PRESENTED House Amendment "A" (H-380)** to **Committee Amendment "A" (S-135)** which was **READ** by the Clerk.

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

Representative **SYKES**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. When an individual makes a request for freedom of information or freedom of access to a governmental agency, this bill would state that if the agency acts in bad faith, they are responsible for the attorney fees. The amendment, as I just presented, is a request from several of my towns and their town attorney that would extend that issue of paying for the cost if you lose the case, if you do it in bad faith, to the plaintiff, to the person that brings that request. It simply is what's good for the goose is good for the gander. Madam Speaker, I request a roll call.

Representative SYKES of Harrison **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-380)** to **Committee Amendment "A" (S-135).**

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

Representative **PRIEST** of Brunswick moved that **House Amendment "A" (H-380)** to **Committee Amendment "A" (S-135)** be **INDEFINITELY POSTPONED.**

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

Representative **PRIEST**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. The purpose of this bill is to encourage towns and school districts in the state to comply with the Freedom of Information Act. There are already sanctions against lawyers who bring frivolous or bad faith actions. The court has the ability to take sanctions against them, to fine them and to take other actions against their professional career, so that situation is already taken care of.

So why are we talking about this amendment? Well, this amendment has the affect of discouraging people from trying to bring actions against towns, the city or the state, when they refuse to give records that they should give. Remember, this requires a showing of bad faith. That means there's not a mistake. That means it's a deliberate attempt to withhold something, which this Legislature has again and again and again said you should not withhold. We require, as you well know, training for all public officials on the Freedom of Information Act. We think it's important; we believe it's important; we think it's important to the running of good government. This amendment, unfortunately, is an unfriendly amendment to that situation, it is not needed, and I urge you to uphold my light to Indefinitely Postpone it. Thank you.

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

Representative **CROCKETT**: Thank you, Madam Speaker. It is rare that I will ever be in opposition to anything the good Representative from Harrison comes up with. But in this particular instance, I have to concur with the Representative from Brunswick. The simple fact is the committee took the original bill. We agreed that it was too much of a burden on municipalities. We raised the standard so bad faith would be included, we brought the stakeholders together, we built a consensus, we got a unanimous report on this, and we discussed Representative Sykes' proposal. It's a loser pays, it's very similar to what the British do. But we determined that it would undermine the transparency that we try to encourage as a state government. We achieve this by the unanimous consent of the entire committee. I will stand with the Representative from Brunswick on this issue. Thank you.

Representative **TARDY** of Newport **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-380)** to **Committee Amendment "A" (S-135).**

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-380) to Committee Amendment "A" (S-135). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 130**

YEA - Adams, Beaudoin, Beck, Berry, Blanchard, Blodgett, Boland, Bolduc, Bryant, Cain, Campbell, Carey, Clark H, Cleary, Connor, Cornell du Houx, Crockett J, Crockett P, Dostie, Driscoll, Duchesne, Eaton, Eberle, Eves, Finch, Flaherty, Flemings, Flood, Gilbert, Goode, Hanley, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kaenrath, Kent, Kruger, Lajoie, Legg, 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, Richardson D, Rotundo, Russell, Sanborn, Schatz,

Shaw, Sirois, Smith, Stevens, Stuckey, Sutherland, Tardy, Theriault, Thomas, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Wheeler, Willette, Wright, Madam Speaker.

NAY - Austin, Ayotte, Beaulieu, Bickford, Browne W, Burns, Casavant, Cebra, Chase, Clark T, Cohen, Cotta, Crafts, Cray, Curtis, Davis, Edgecomb, Fitts, Fletcher, Fossel, Gifford, Giles, Greeley, Hamper, Johnson, Joy, Knapp, Knight, Langley, Lewin, McFadden, McKane, McLeod, Millett, Nass, Nutting, Pinkham, Plummer, Prescott, Richardson W, Robinson, Rosen, Sarty, Saviello, Strang Burgess, Sykes, Thibodeau, Tilton, Weaver.

ABSENT - Beaudette, Briggs, Butterfield, Celli, Cushing, Dill, Harvell.

Yes, 95; No, 49; Absent, 7; Excused, 0.

95 having voted in the affirmative and 49 voted in the negative, with 7 being absent, and accordingly **House Amendment "A" (H-380) to Committee Amendment "A" (S-135) was INDEFINITELY POSTPONED.**

Subsequently, **Committee Amendment "A" (S-135) was ADOPTED.**

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-135).**

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

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

(S.P. 490) (L.D. 1355)

- In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-192).**

TABLED - May 26, 2009 (Till Later Today) by Representative MARTIN of Eagle Lake.

PENDING - **ACCEPTANCE OF COMMITTEE REPORT.**

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

The Bill was **READ ONCE.** **Committee Amendment "A" (S-192) was READ** by the Clerk and **ADOPTED.**

The Bill was assigned for **SECOND READING** Friday, May 29, 2009.

HOUSE DIVIDED REPORT - Majority (7) **Ought to Pass as Amended by Committee Amendment "A" (H-370)** - Minority (6) **Ought to Pass as Amended by Committee Amendment "B" (H-371)** - Committee on **UTILITIES AND ENERGY** on Bill "An Act To Protect the Right To Use Solar Energy"

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

TABLED - May 26, 2009 (Till Later Today) by Representative HINCK of Portland.

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

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Fletcher.

Representative **FLETCHER**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I must begin by commenting that we've had quite a morning. First, we feed the grape and now we're on to freeing the clothesline, and I do think it's a serious matter, but I just felt that I had to say. I'm sorry. It was a poor joke.

The Majority Report, which is before us, prohibits private property owners and homeowners associations from exercising

their ownership rights to determine if they want solar collectors or clotheslines on their property. While it may be appropriate to prevent towns and cities from passing ordinances that unreasonably restrict the installations on people's residential property, I must say the infringement on individual property owner's rights to decide if they want these devices on their property has serious unintended consequences, which, unfortunately, I'm afraid that we will be hearing about in the years to come. I would ask you to consider rejecting the pending motion and looking at what might be a more viable option that is also included in the bill. It's an important distinction, because the Majority Report crosses that line infringing on private property owners' rights to decide what they want to have on their property. I hope you agree that private property owners should have that right to determine if they want solar collectors and clotheslines to be installed on their property or their property that they rent. The condo owners are going to have the same issue. If people decide to purchase a property and part of that is a desire not to have clotheslines on the front lawn, I think that's a right that they pay for when they choose. I would go on to say, as well, that if any homeowners association decided that they wanted to change a restriction, it's within their authority to do that. When the vote is taken, Madam Speaker, I request a roll call. Thank you.

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

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

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

Representative **HINCK**: Thank you, Madam Speaker. Madam Speaker, Members of the House. I, too, would like to tie this to wine to keep your interest, but I can't make the connection. This bill is about solar energy. In a couple of weeks we are going to adjourn, come heck or high water, it happens every time, even though it looks unlikely, we will be within a couple of weeks of the days of peak energy use in the State of Maine. By in large they occur in the dead of summer, when the thermometer gets about as high as it ever gets in Maine, and the temperature creeps up and we maximize the use of our energy resources here, that's approximately 2,200 megawatts of power, and the whole system is straining, the whole system is straining up and down the east coast. Some other things happen then. The worst plants that we have get turned on. I think, for example, of Wyman Station. Don't worry; I'm not speaking out of school here. The owner of Wyman Station does not speak that highly of this unit. It delivers 610 megawatts of power at full use, but we seldom use it. It's old, it's inefficient, it's polluting. At the time of peak energy use, Wyman Station comes on in Yarmouth. Now, as you probably know, I live in Portland. You might think that the polluting power at Wyman Station particularly bothers me. It really doesn't because, typically speaking, we're upwind. Wyman Station sends the particulates and the soot going downwind, down the coast, down east, all the way to Washington County. Some of the worst things happen at that time in our power system. Not only do we run a risk of maxing it out, we also have health emergencies. As many as 1,600 people, during the worst times of ozone pollution, check into hospitals with emergency procedures because of obstructed air. It's a big problem to asthmatics.

You know, ironically one of the solutions to this is rather simple: solar power. Some of it is still seen by some us as exotic and that would be the solar panels. Increasingly they are cropping up in Maine, and there is a good reason why they crop up in Maine: we actually have a high solar index. It surprises

people. Due to the number of clear days that we have in much of Maine, it's a good place for solar energy. The solar index is better here than it is in states south of us, all the way down to Virginia. Many people are starting to use solar energy, it saves them money. It happens to be good at just the worst time in the season in the year for our power system. At that same time, wind power frequently doesn't deliver very much. Of course, some ways of using solar power are not solar panels, but rather simple clotheslines.

Now there would be no reason for this bill because people can make their own choices about whether or not they want to have solar power or clotheslines, or can they? The fact is that an innovation, largely from away, has taken hold not only across the country but also in Maine, and that's restrictions that go into deeds for community associations and condo associations that, all too typically, have a prohibition against the use of solar power, specifically solar panels and also clotheslines. This stuff is boilerplate. I'm willing to guarantee no one in Maine actually thought of it. I think it cropped up in places like Boca Raton and Scarsdale, New York and Malibu. People didn't want to see laundry in places like that and it became common. The belief is that if you see laundry or if solar panels appear and there wasn't uniformity in your association, it would hurt the property values. To the extent that there is any validity in that, the only reason why it would, would be if you could go across the street and escape it or you can go down the street and escape it. If there's a statewide provision then there is not a problem on property values and a number of states have realized that and caught up. I'm very thankful to say the State of Arizona did it awhile ago, probably more important in Arizona than it is in Maine I would conceive. If Arizona converts to solar energy, they can actually help the country take care of its energy independence problems. The State of Maine is not quite that fortunate. All we can do is save ourselves a little money and ease the strain on our energy system and reduce polluting power plants. But the question has been raised whether or not you would have any interest in impeding the covenants and restrictions that appear in some of these associations. I think there might have been a misimpression created earlier. My bill here, LD 73, does not require that anybody tolerate anything on their own property that they don't want, rather it allows somebody who owns property to put a solar device, a solar panel on it. They have to be the owner. If it's common property, they have no right to do it. If they own the property, under this law, they can put a solar panel up. There's a small twist and that is that when it comes to clotheslines, somebody who leases property, rents property can put a clothesline up under this bill, LD 73. So, in that case, they would be the lessor. They couldn't put a clothesline up on property they don't lease, they couldn't put it up on common property, they couldn't put it up anywhere that they wouldn't be allowed to for any other reason. So that's the simple basis of the bill and it is designed to overcome the restrictions and covenants conditions, the CCRs that condo associations and neighborhood associations sometimes have.

Do we ever do that in any other context? The answer is yes, and I haven't yet, in discussing this for a number of months, run into anybody who's disagreed when it's been done before, at least in some instances. The one that is probably best known is not too long ago in this country these same kinds of documents had prohibitions on who could be sold property or who could own property in an association. What they might say that is that the only people of color allowed into the association were people who came there to work: the gardens, the maids. They wouldn't allow, under those agreements, people to own property in the association. Fortunately, it was earlier in the century that that

started to drop away. It originally started to drop away under the same basis that my bill is predicated and that is the public good, the public interest. Eventually a U.S. Supreme Court made those kinds of provisions illegal. It comes up at other times, for example, restrictions on ham radio towers and ham radio operators, not in all cases, but in cases where the person who wants to have a ham radio is actually providing an emergency service for the neighbors or for just themselves, and, once they can demonstrate that, it has typically been found to be in the public interest. There's been other instances where restrictions on displays of any kind have been set aside in the interest of people being able to put up religious displays that they have across on their door, a menorah or something like that. These covenants and restrictions are not sacrosanct; they don't have to be held as the highest law in the land. I don't think they should be set aside casually. I do think, in the year 2009, given our energy circumstance and where we find ourselves, it's not just in the interest of the individual owner that we use solar power when we can. It's in the interest of all of us. But over and beyond that, just take your average Maine citizen who is having a hard time paying their bills and feels that they would like to save the money that they would save by hanging their laundry outside. Is there any reason why they shouldn't be able to do that?

Now the bill does include exceptions. If it would create any public safety hazard or an exception for aesthetic reasons, but it requires that the person who would restrict solar power based on aesthetic reasons present a reasonable alternative. I don't feel I need to go into more detail on that. I would say that such measures in the interest of the public fit right in with what a legislature can and should do. It has always been the Legislature's job to protect the public health, safety and welfare. More recently, we've become aware of the pressing need to support the development and use of renewable resources and distributed energy to become energy independent, to get away from our reliance on fossil fuel, and, in that interest, I would hope you would join me in supporting this bill. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Thibodeau.

Representative THIBODEAU: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. First, I appreciate the good Representative from Portland bringing forward this bill, and certainly we debated it longer and harder in Utilities and Energy than many others that were brought forward. It was certainly interesting conversation. Simply put, I don't think anybody here on either side of the report were opposed to solar energy in any way. It just came down to a debate between personal property rights and solar energy rights and the promotion of that technology. Personally, I wouldn't live in a development that had such a covenant. Yet individuals that choose to build a development, for whatever reason, may choose to put a covenant on their deeds, deed restrictions that do not allow for clotheslines, communities with golf courses, things of that nature, and I just think it goes a little beyond our scope of authority or not our authority, but it goes beyond what we should be promoting here as a state to put this restriction on.

I guess the other problem that I had is landlords. Now many of us either own apartment buildings or know people that do and that real estate belongs to the individual, the landlord, and if he rents that out by the month, in most cases, I'm not sure that it's really good policy for us to be dictating to them that they will make provisions to provide a place for a clothesline. They may or may not have that ability and, if they do and choose not to, that's between them and their tenant, at least that's the way I feel about it. I guess I would request that we have the Clerk read the Committee Report. Thank you.

Representative THIBODEAU of Winterport **REQUESTED** that the Clerk **READ** the Committee Report.

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

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

Representative **FLAHERTY**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. As I see many folks' eyes glazing over, I want to remind that this is a simple debate, it's a simple issue: Do you want to help the advancement of solar energy usage in this state or not? We are putting into place with this bill, and I thank the Chairman, this is my Chairman, Representative Hinck, for bringing it forward to helping to ensure that people in this state have a right to use solar energy. There is certainly progress in this country, in this state, towards the usage of renewable energies and this bill is simply a great addition to that movement.

In our committee, the issue broke down really, as Representative Thibodeau mentioned, over renters. Do renters have a right to be able to use solar energy, clotheslines, on a property that they're paying for if they want to reduce their own energy bills, and I stand up as a renter and for those people who are and say that we have a right to choose to use energy within our property that we do not own but we do pay for, that if we want to reduce our energy consumption, the use of clotheslines, then we absolutely should. So my friends, please look at this issue as an issue of progress as we get better and better in this state and the use of solar energy gets more and more prevalent, we should be doing all that we can to prevent people, municipalities or whatnot, from prohibiting those of us who choose to reduce our own energy and our carbon footprint from doing so. Thank you, Madam Speaker.

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. My good friend from Scarborough has a very good point; however, he's the lessee and not the lessor. So it's the lessor, or the owner of the property, that should either give him the ability or the permission to put a solar panel or a windmill or some kind of apparatus on top of the house, and he or she should not take the position of just plopping one of those items on top of the lessor's house. However, LD 73 does have a few flaws.

One is, when people move into these association communities, obviously they know that there are certain limitations in these communities. They've received a property disclosure; they know there are deed restrictions; there are association declarations; they've obviously read the association declarations, they know there are rules and regulations. Sometimes in these association communities, there is a monthly association fee. Those fees go to pay for obviously those common areas and the common areas are the rooftops. The homeowner doesn't own the rooftop, that's a common area. So if the homeowner is living in the unit, the rooftop where he or she might want to put a solar panel or attach to the side of the building a clothesline, he or she has to go the association and say I want to attach a clothesline to the building. They have to go to the board, get permission to do that, so that's something that has to go before the association in these communities. Some of these communities are 55 years and older, so these are under the rules and regs or the association documents or declarations.

Do they have an impact; do clotheslines have an impact on property values? Yes they do, yes they do. I'm a real estate broker, I've been in the industry for over 20 years, and they do have an impact on values. These association restrictions also have termination dates and some of the homeowners in gated

communities or some streets or associations, these restrictions have a life, they do run out at some time. So the rule and regs say that you can't have clotheslines in the community, but these rules and regs do have a life, they do run out. The builder or the contractors put these rules and regs in, no clotheslines, no cars parked in the driveway that don't have four tires on them. You know, a homeowner has a car, he is working on the car, it's under repair. These rules and regs go away after 10 years.

As far as the lessor versus the lessee, the lessor, the owner of the unit, renting to a lessee in a homeowners association environment, again, has to go before, in some cases, the association and let them know that we have a renter/rentee relationship, get permission from the association that we have a tenant in the property, and they sometimes have to get permission from the association that they do have a certain tenant in the property. So I won't be able to support this because of the regs and the association declaration provision, and they do have a negative impact on property values. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Boothbay, Representative MacDonald.

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

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

Representative **MacDONALD**: We've been insidiously reading the bill and its amendments and I find myself confused as to the major difference between the Minority and Majority Report, and I ask if there's anyone in the House who can give us a concise definition of the difference between the two. Thank you, Madam Speaker.

The **SPEAKER**: The Representative from Boothbay, Representative MacDonald has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Winslow, Representative Fletcher.

Representative **FLETCHER**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I'll let you be the judge to see if this is concise and cogent. The major distinction between the two reports is the simple extension of the Majority Report to say that private property owners cannot impose restrictions on the installation of solar devices. Both the Minority and the Majority Report have the condition that a municipality or town cannot have unreasonable restrictions on the installation of solar devices. So the distinction is private property rights and that owner's ability to determine if those devices are appropriate for that property. Thank you.

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

Representative **HINCK**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. The prior speakers have given me the opportunity to clarify a couple of points and I'd like to do that as briefly as I can. I think it's very important to point out there appears to be a confusion that my good friend the Representative from Saco, Representative Pilon, appears to understand the bill to allow somebody who owns property in a condo association to fix solar devices on common property. That is not the case. The bill very explicitly says there is a right to install and use solar devices, a solar energy device on residential property owned by that person. It is only on the property owned by that person. If the roof is common, then this law would not change anything. If the roof is owned by the person who bought into the association, then they would have the right to put a solar panel on it. Again, there is a difference with the lessor. The lessor doesn't get affected in regards to solar panels. Someone who's a renter, unfortunately, who wants to invest and put solar panels on the roof of a place they rent, does not gain any rights under this bill. However, clotheslines would

be afforded under this bill to someone who rents property, but only the part that they rent, and if it's common, if it's the landlord's property not being rented by the lessor, then the lessor doesn't gain any rights under this bill.

The distinction between the Majority and the Minority Report, there was a commercial years ago so I think I'm going to lose half of the members right away, and the punch line was "where's the beef?" and that can be asked of the Minority Report. The Minority Report purports to support solar rights. I think that's because of all of us are in favor of solar rights. But it doesn't actually, for the most part, affect anything that's currently going on. You see, it only applies to dictate or control policies of a municipality. As we were informed by Maine Municipal Association, and I tend to agree, there is no municipality anywhere in Maine that anyone knows that there are any restrictions on solar power. The real issue is condo associations and neighborhood associations and their CCRs, that is where the restrictions come in., and where, as it is true, that when somebody comes into an association, they sign into those restrictions. If any of you live under those restrictions, they are often pages long, many, many paragraphs. They have all kinds of details and all kinds of minutia and typically that does not control the decision of somebody moving in. They are no less a Maine homeowner than the rest of us, but many times they are surprised to discover paragraph 36, on page 7, doesn't allow them to use solar power as long as they live in that association, and that's where it comes down to. That was a legal term for this, adhesion contracts. They're not really freely negotiated. We're talking about contract rights, but it's not as though two parties equally sit down and work through these kinds of provisions. Instead, they're presented take it or leave it and, as I mentioned before, 50 years ago those provisions might have said you cannot sell your property to a person of color. It's 2009, we have a different issue in front of us and that's the issue of how we're going to grapple with a crisis in energy and how we're going to allow ordinary Maine citizens to save a few bucks. The clothes dryer is the second largest user of energy in every one of our houses, first is typically the refrigerator, and it amounts to a fair amount of money every year, and you would think that in the State of Maine, somebody who would like to find an alternative to using their clothes dryer would be able to do that, and we can make that happen. We won't be the first state to do it, we won't be the second, we won't even be in the top five. It's been done before and it seems to me it actually fits Maine more than it fits many other places, because we're really typically not the kind of fussy place that imposes these kinds of restrictions and sticks to them. I thank you.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Flaherty.

Representative **FLAHERTY**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I apologize for rising a second time, but I have to correct an issue that was brought up about condos. In fact, I raised this issue in committee. My district, which is a neighboring district to the Representative from Saco, has quite a number of condo associations. This was a major issue that we brought forward; we believe we took care of it. The simple fact that condo owners do not, as the Representative puts it, own the roof, they actually own the space between the walls. So this bill in itself and the committee amendment, the Majority Report, which we worked very hard and this committee worked this bill tirelessly throughout the session, took care of many of the issues that the condo owners, the condo associations, the people in my district and outside of my district, had brought to me. It in fact took me a little while to go along with this bill. Those members of committee will

remember I originally made an Ought Not to Pass motion on this bill. As a result of the work that we did, I have been brought along and am a strong supporter and I hope those of you in this chamber will look very favorably on the work that we did and vote Ought to Pass as Amended. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from New Gloucester, Representative Van Wie.

Representative **VAN WIE**: Thank you, Madam Speaker. I'd just like to raise one quick point which is the issue of prospectivity versus retroactivity. Originally the bill was retroactive and it would affect existing homeowner's association agreements. We took that out in committee and the whole idea of the bill is looking forward as people create new homeowners associations or subdivision associations that they would then be discouraged from including prohibitions to use solar equipments. So the idea, again, is to move this to an era where solar energy is an expected activity and that people would be able to make that economic choice and save themselves a few dollars or get themselves off of the dependence on oil. Thank you very much, Madam Speaker.

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

Representative **MacDONALD**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. My confusion has been cleared up, thank you. I'm going to support the Majority Ought to Pass. I believe that the major piece of it that I want to support is the ability of people in associations to be able to use clotheslines and people joke when they think a clothesline is a solar device, well it is. I rent a studio apartment and I give people a clotheslines rather than a clothes dryer, so that I and they can save energy and money using that form of solar energy. I urge you all to support the Majority Ought to Pass to include both clotheslines and solar equipment, appropriately just the clotheslines in the associations. As I read the bill, that's the difference between the two, and I urge you to support the Majority Ought to Pass. 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. 131

YEA - Beaudoin, Beck, Blanchard, Boland, Bolduc, Bryant, Butterfield, Cain, Casavant, Clark H, Cohen, Connor, Cornell du Houx, Driscoll, Duchesne, Eaton, Eberle, Eves, Finch, Flaherty, Flemings, Goode, Harlow, Haskell, Hayes, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kaenrath, Kent, Kruger, Lajoie, Legg, Lovejoy, MacDonald, Martin JR, Martin JL, Mazurek, McCabe, Miller, Morrison, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Piotti, Plummer, Pratt, Priest, Rankin, Rotundo, Russell, Sanborn, Sirois, Smith, Stevens, Stuckey, Theriault, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Wheeler, Willette, Wright, Madam Speaker.

NAY - Austin, Ayotte, Beaulieu, Bickford, Blodgett, Browne W, Burns, Campbell, Carey, Cebra, Chase, Clark T, Cleary, Cotta, Crafts, Cray, Crockett J, Crockett P, Curtis, Davis, Dostie, Edgecomb, Fitts, Fletcher, Flood, Fossil, Gifford, Gilbert, Giles, Greeley, Hamper, Hanley, Hill, Johnson, Joy, Knapp, Knight, Langley, Magnan, McFadden, McKane, McLeod, Millett, Nass, Nelson, Nutting, Pieh, Pilon, Pinkham, Prescott, Richardson D, Richardson W, Robinson, Rosen, Sarty, Saviello, Schatz, Shaw, Strang Burgess, Sykes, Tardy, Thibodeau, Thomas, Tilton, Weaver.

ABSENT - Adams, Beaudette, Berry, Briggs, Celli, Cushing, Dill, Harvell, Lewin, Sutherland.

Yes, 76; No, 65; Absent, 10; Excused, 0.

76 having voted in the affirmative and 65 voted in the negative, with 10 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-370)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 29, 2009.

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (H-372)** - Minority (4) **Ought Not to Pass** - Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Allow Veterans and Active Duty Military Members To Qualify for In-state Tuition"

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

TABLED - May 26, 2009 (Till Later Today) by Representative SUTHERLAND of Chapman.

PENDING - Motion of same Representative 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-372)** was **READ** by the Clerk and **ADOPTED**.

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

Representative CORNELL DU HOUX of Brunswick **PRESENTED** House Amendment "A" (H-421), which was **READ** by the Clerk and **ADOPTED**.

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-372)** and **House Amendment "A" (H-421)** and sent for concurrence.

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

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (H-363)** - Minority (5) **Ought Not to Pass** - Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Suspend Driver's Licenses of Persons Operating All-terrain Vehicles, Watercraft and Snowmobiles while Intoxicated"

(H.P. 495) (L.D. 712)

TABLED - May 27, 2009 (Till Later Today) by Representative HASKELL of Portland.

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

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

Representative **SYKES**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Operating under the influence, whether it's a motor vehicle or a recreational vehicle, an ATV or snowmobile or watercraft, is and continues to be a serious problem in our state. In fact, I heard one statistic say that this Friday or Saturday night, if you're driving down the road, one in ten vehicles coming towards you is likely an OUI. If we pass the Ought Not to Pass Minority Report, which by the way is bipartisan—this is not a partisan issue—a bipartisan 8-5 vote favoring the Ought to Pass as Amended, if we pass the motion before us, Ought Not to Pass, we're going to do absolutely nothing about impacting OUI on motor vehicles and recreational vehicles.

Now you'll hear some testimony probably that there's no relationship between driving an ATV and a motor vehicle. I would submit to you that there is a connection, in my mind, about driving a recreational vehicle and a motor vehicle while intoxicated, and it's an attitudinal relationship. Quite frankly, those people that do it have a complete disregard for Maine citizens. It's interesting to listen to some of the testimony from the folks in the Inland Fisheries and Wildlife that said of 241 convictions for operating a recreational vehicle under the influence, 57 percent of those people had a previous conviction for OUI on a motor vehicle, 60 percent were ATV, 48 percent were watercraft and 56 percent were snowmobile. They were convicted of operating under the influence on a recreational vehicle and they had a previous conviction, 57 percent of them, for operating under the influence in a motor vehicle.

What this bill would do, if we were to defeat the Ought Not to Pass and move on the Majority Report, is to require that, when sentencing, the court would have to look at whether or not these folks had a previous conviction, either in a motor vehicle or a recreational vehicle, and it would be counted as a second offense. Specifically, if you're convicted of operating under the influence in a motor vehicle and you had a previous conviction of a recreational vehicle OUI, it would be a second offense and the other way around. If you're convicted of an OUI in a motor vehicle and you have a conviction of a recreational vehicle, it would be a second offense. Quite frankly, I think we need to support solid policy that deters and holds people accountable for illegal and unsafe operation of a recreational vehicle and a motor vehicle while under the influence. I hope you'll defeat the Ought Not to Pass and move on to pass the amended version. Thank you.

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 would encourage you to support the Ought Not to Pass motion and the reason is because, while driving while intoxicated is a real issue on snowmobiles and watercraft and other recreational vehicles, I don't believe this is the right way to get at it. Over and over again, we have made attempts to use you're going to lose your driver's license as the deterrent for a number of other behaviors—I believe the prior speaker mentioned that this was attitudinal—and I think we ought not to use our driving regulations to try and change people's attitudes. What we need to do is to employ the sanctions which we currently have available to us, as opposed to creating this crossover sanction, which goes from the ATV recreational world over into the driving world. I believe that driving sanctions ought to be for inappropriate driving behaviors and not for behaviors in another realm. I would encourage you to support the Ought Not to Pass Report. I believe that the Department of Inland, Fisheries and Wildlife has a budget problem and if we were going to spend the kind of money that the fiscal note for this bill carries on enforcement, we could add another warden out there, we could add another opportunity for additional enforcement, which is I think where we need to put our resources and not into an additional crossover sanction. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Gray, Representative Austin.

Representative **AUSTIN**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Over the last 6 years as I have served the people of Gray, New Gloucester, North Yarmouth and Pownal, I have come to see the pride of place that our Maine people feel for their state. I have also had the opportunity through our Business Committee to hear

from business owners about the Gold Card standard our Maine people have in their work ethic. One which is known nationwide and how our businesses remain or come to Maine for our Quality of Place.

To me Pride of Place and Quality of Life go hand in hand. It is our brand; and a great part of this outstanding brand spins around our pristine outdoors and our all terrain, watercraft and snow machine recreational opportunities. Those which have contributed to making Tourism our leading industry.

When I considered this bill I had two predominant goals. First: oversight to support a higher degree of safety for our Maine people and our valued visitors while enjoying our waterways and trails and, through that, making a more serious benchmark of accountability on the part of operators regarding OUI. Secondly, assistance to the very thing you just heard mentioned, the stretched warden resources by providing a higher standard of more serious consequences if an operator is convicted of OUI.

As I did do my pre-working this bill getting signatures, a few colleagues commented that there is no correlation between the operation of recreational vehicles and on road motor vehicles. When drivers of all terrain, watercraft and snow machines "recreate outside" the law, that, to me, is a chosen behavior. That behavior of choice is not isolated to just off highway vehicles. Documented facts shared by the Colonel of the Warden Service verify that of, as you heard before and I think it bears hearing twice, of the last 241 convictions for recreational vehicle OUI, 138 of those or 57% of these folks made the same behavior choices and got behind the wheel on our public highways. So while this may seem to be focused strictly on IF&W law enforcement, this law, in my mind, could be an enhanced, comprehensive safety net against inappropriate behavior out on I-295, the Maine Turnpike, as well as in our beautiful, natural environment.

To the second point: Due to the stretched resources of the department, both in personnel and revenue streams, that added level of consequence to one's offense being notched up to a second offense if found to have a previous OUI conviction on any vehicle may be just enough of a deterrent, or let's just look at it prohibitively, an incentive to make drivers think twice before having another drink.

The Committee of Criminal Justice was thorough and we had three work sessions to allow this work to go forward. To me, it is a full Gold Card Safety Standard, and when it comes to OUIs, it would enforce a Zero Tolerance policy on all surfaces.

It is perplexing that one can arbitrate between surfaces on which these powerful motorized vehicles operate when they require the same kind of skill, attention, co-ordination and behavior choice to operate safely without the over consumption of alcohol to enjoy life and support life.

I would ask you to consider why we have laws and why law enforcement? To protect and preserve life. When an innocent life is lost due to the negligence of drivers operating under the influence of alcohol, does it matter to you, does it matter to families around you what surface the vehicle was on if the life is lost? Life should be the focus not the surface on which it was taken.

Dear Folks, in closing, let me share what I came on to in doing this work. It's the Warden's Motto: Honor, loyalty, compassion and trust.

As you consider this bill let me share my thoughts: Consider honor in safe behavior, loyalty to life and liberty, compassion for past victims of OUI abuse, and trust in our responsibility to demand appropriate OUI behavior consequences to protect the people of Maine and those who come here to visit.

Thank you for listening. Madam Speaker, I would ask that we have a roll call.

Representative AUSTIN of Gray **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **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 Whiting, Representative Burns.

Representative **BURNS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I'd like to address this bill also. I think this is a very, very serious problem that we're talking about here, and I think Representative Sykes did a very good job talking about the difference. I respect my committee chair's position on this, but I think we're missing the point. We're talking about a situation where people have a complete disregard for other people's safety. This bill with this amendment is an attempt to add a more serious punishment to the offense of driving all terrain vehicles in an intoxicated condition. There is a correlation. Those of us who have been involved in law enforcement over a career can tell you that there is a correlation between people who choose to operate motor vehicles or ATVS or boats or any other implement under the influence of liquor. Significant risk is imposed on other people without their consent, and this is an attempt to address that issue. I would strongly urge you to reject the Ought Not to Pass and to support the Committee Amendment "A".

I also would call your attention to a blue flyer that was passed out to you yesterday from a retired, 27 year game warden veteran, Lieutenant Mike Marshall, and more specifically to paragraph five. It's a very brief paragraph, but a very poignant mention of a man who was coming out of Grand Lake Stream under the influence of alcohol, struck another vehicle head on and took two people's lives. He had just come off the lake from snowmobiling. I think this is a good example of what goes on in the name of recreation and having a good time. You can recreate and you can have a good time without being intoxicated and without taking other people's lives. I would urge you to support the Committee Amendment "A". We just spent the last two hours talking about wine and talking about clotheslines. I think we need to take this bill very serious and vote to support Committee Amendment "A". Thank you very much for your time.

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. I realize that rising to speak for the position that I represent is not only taking on my lead in the Criminal Justice Committee, but it's also taking on my seatmate and I realize the danger in doing that. However, and I cannot agree with 57 percent of the people who were convicted of driving a recreational vehicle were also convicted of driving a motor vehicle, what that shows me is that we have a problem with people who consume alcohol and make very poor choices and I certainly believe those people should be held accountable, but I am still not making that connection between driving an all terrain vehicle and driving a motor vehicle. Consequently, I will support my House Chair of the Criminal Justice Committee and urge you to vote in favor of the motion that is currently in front of us. Thank you.

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

Representative **MAGNAN**: Thank you, Madam Speaker. Madam Speaker, honorable Members of the House. I also feel torn about going against, speaking against my chairs, because I've looked to them for guidance in this first year of my term here, but it is more than attitude. We have an incredibly bad problem

and it isn't being enforced because of simply, not because people don't want to enforce it, but there is not enough natural resources, people out there to cover the problem. The price is steep: Life is the price sometimes. When we talk about the fiscal note attached to it and we say well, it's really expensive, what is the price of a life? So we have to think about it, we have to factor that in. But the most important thing, a different point I'd like to bring up, is the power of the vehicles we're talking about. These vehicles have more power than my first car, which was an old Saab, three cylinder engine. I could get 50 or 60 miles per hour with that thing, but these can go 80 and 90 miles an hour, and they can be in control and they can be out of control, and I'm just as concerned about someone tearing along at 80 miles per hour on a snowmobile as I would be at 150 miles per hour on Route 95. These are not bass boat electronic motors, these are not dogsleds. These are high power equipment out there on well-groomed but not perfect trails with people involved, and so I find myself of enjoying the comradery of being on Representative Sykes and Representative Burns side. I think it's important that this bipartisan decision on Ought to Pass this will be upheld. I'm sorry, but if you're drunk—we can call it OUI, we can call it anything we like—if you're drunk and you're driving a high-powered vehicle, you should not have that license and there should be a penalty. 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 opposition to the current motion, and I would ask for a reading of the Committee Report please.

Representative **SCHATZ** of Blue Hill **REQUESTED** that the Clerk **READ** the Committee Report.

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

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

Representative **SHAW**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I also urge you to reject the Minority Ought not to Pass Report. As an operator of a boat, snowmobile and an ATV, there is one way where I can assure myself of not losing my license: that's by not operating my motor vehicles if I happen to be drunk. Thank you.

The SPEAKER: The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative **CAMPBELL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. If I lived over in Portland, which I don't, I live in Newfield, it's a very rural town and we have snowmobiles, we have all terrain vehicles and we have boats, plenty of lakes. As a matter of fact, the other night, some people from Massachusetts came up and got real drunk, four of them went out in a boat and the clown turned around and took off and wound up eight feet in a tree on an island, and one of the women on those boats is in serious condition. Representative Sykes, I believe up in his area, last year, someone from Massachusetts, again, came up, they think Maine is the way life should be, that you can do what you want, and killed people, cut a boat in half. If someone's looking for a connection, I don't think you have to be a rocket scientist, if you get drunk and drive a bicycle, you put your own self in jeopardy or someone else's. I ask everybody in this chamber to support the Majority vote and defeat the Minority vote. Thank you.

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'd just like to add a couple of additional pieces of information. First of all, it is

already illegal to operate your recreational vehicle under the influence of alcohol. It's clear. There are statutes, there are sanctions. They are very commensurate with those for driving. You get the same kind of fines, time in jail. And the other option that the Commissioner of Inland, Fisheries and Wildlife has is a license suspension. If any of you have ever dealt with folks around gun issues, you know that the first thing they say is "am I going to lose my hunting license?" Well, guess what? The Commissioner of Inland, Fisheries and Wildlife can remove your license; however, in 2008, there were 75 licenses removed by the Commissioner of Inland, Fisheries and Wildlife and only one of those was for operating a snowmobile with an OUI. I think that number could up.

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

Representative **WEAVER**: Thank you, Madam Speaker. I suspect you and I have made up our minds, don't you think?

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

Representative **SYKES**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Let's just make sure that we know what we're talking about here, because the title of bill, as you have it, is deceptive. The Majority Report will not suspend a driver's license per se from someone convicted of an OUI. What it does is to simply say that if you have a previous conviction of an OUI, either in a motor vehicle or in a recreational vehicle, not matter where you are, you are going to be treated by the court as a second offense, a previous case. If you are being sentenced for the conviction of an OUI in a recreational vehicle, an ATV, they look in your record; you've got a previous conviction for a motor vehicle. You will then be treated as a second offense under Title 12. You're not going to lose your driver's license. You're going to get an enhanced penalty as it is under Title 12. If you go the other way around, you may lose your license but you've already lost it for the first conviction.

Ladies and Gentlemen, the good Representative from Newfield, Representative Campbell, referenced the LaPointe accident on Long Lake: That gentleman killed two people, convicted of operating a watercraft under the influence. He had 35 motor vehicle convictions. These people don't care and it's time that we enhance the penalty for them. I know the good Representative from Portland, Representative Haskell, said that there are laws that take care of this. They're not enough.

The SPEAKER: The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative **CAMPBELL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. How about these people that come up from Massachusetts and kill people and maim them like the good Representative Sykes was just talking about and what I was talking about that happened last weekend in Shapleigh. How do these people get up here from Massachusetts? Are they drunk when they arrive and drunk when they leave? I mean doesn't the good Representative from Portland understand that they're driving these vehicles drunk, but they had to get here in the first place to do it?

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

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

The SPEAKER: The Representative may pose her question.  
Representative **RUSSELL**: Thank you, Madam Chair. I have just a clarification question, if you don't mind, for anyone who would be willing to answer. I presume that this is for going forward, but I just want to clarify if this is retroactive or not.



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

Representative **HASKELL**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. No.

The **SPEAKER**: The Chair recognizes the Representative from Gray, Representative Austin.

Representative **AUSTIN**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I had originally, in my testimony, to share one of the very reasons that prompted me to feel supportive of putting this bill in, and I decided not to mention it because it's been talked about a lot and I didn't want to overuse our views. But the accident on Long Lake, which happened and took the lives of two innocent people, was really sort of a turning point for me. You all know how involved I am with the Maine Wildlife Park in Gray, and every summer there is an open park day where everyone is welcome to come there free of charge. On the summer of that accident, IF&W was at the park, as they usually are, in full force—the diving team, the trapping, all of the different manners in which they help protect us out in our environment. I went into the diving trailer and I was able to see on a computer screen the intensive swath of the terrain underwater that was made by the diving team in that week that ensued after that very serious accident. It struck me what an incredible, this is not rescue, this is recovery, and how serious it was to find the bodies of those two people. Then it also struck me that there was the ensuing legal challenges in court and, while loss of life is the primary impact, it also came home to my thinking that these things cannot be expected, they cannot be planned for. A recovery situation, such as this, is in the magnitude of thousands and thousands of dollars in a budget which does not have a line item prepared for this type of extreme emergency situation. So that's why, on my behalf, it was a dual attempt at really, as I said, a real sincere complete safety policy and then the resources that we have that are limited and the terrible aftermath of that recovery, and then bringing the gentleman to justice. Thank you very much.

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

Representative **PLUMMER**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I don't see it as my role to defend drivers from Massachusetts or any other state, but I would like to point out, since those two examples have been used, this law, were it in effect, would have had absolutely no consequence for those people, because they are not licensed to drive in the State of Maine. Thank you.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Acceptance of the Minority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 132**

**YEA** - Berry, Bolduc, Bryant, Cain, Carey, Cleary, Cornell du Houx, Cotta, Driscoll, Duchesne, Flemings, Hanley, Harlow, Haskell, Hayes, Lovejoy, Martin JL, McKane, Nelson, Pendleton, Peoples, Percy, Pieh, Pinkham, Piotti, Plummer, Pratt, Priest, Russell, Stevens, Stuckey, Sutherland, Trinward, Valentino, Watson, Webster, Welsh, Wheeler, Wright, Madam Speaker.

**NAY** - Adams, Austin, Ayotte, Beaudoin, Beaulieu, Beck, Bickford, Blanchard, Blodgett, Boland, Browne W, Burns, Butterfield, Campbell, Casavant, Cebra, Chase, Clark H, Clark T, Cohen, Connor, Crafts, Cray, Crockett J, Crockett P, Curtis, Cushing, Davis, Dill, Dostie, Eaton, Eberle, Edgcomb, Eves, Finch, Fitts, Flaherty, Fletcher, Flood, Fossel, Gifford, Gilbert,

Giles, Goode, Greeley, Hamper, Harvell, Hill, Hinck, Hogan, Hunt, Innes Walsh, Johnson, Jones, Joy, Kaenrath, Kent, Knapp, Knight, Kruger, Lajoie, Langley, Legg, Lewin, MacDonald, Magnan, Mazurek, McCabe, McFadden, McLeod, Miller, Millett, Morrison, Nass, Nutting, O'Brien, Perry, Peterson, Prescott, Rankin, Richardson D, Richardson W, Robinson, Rosen, Rotundo, Sanborn, Sarty, Saviello, Schatz, Shaw, Sirois, Smith, Strang Burgess, Sykes, Thibodeau, Thomas, Tilton, Treat, Tuttle, Van Wie, Wagner J, Wagner R, Weaver, Willette.

**ABSENT** - Beaudette, Briggs, Celli, Martin JR, Pilon, Tardy, Theriault.

Yes, 40; No, 104; Absent, 7; Excused, 0.

40 having voted in the affirmative and 104 voted in the negative, with 7 being absent, and accordingly the Minority **Ought Not to Pass** Report was **NOT ACCEPTED**.

Subsequently, on motion of Representative **HASKELL** of Portland, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-363)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 29, 2009.

Bill "An Act To Amend the Laws Governing the Confidentiality of Correctional Facility Plans"

(H.P. 52) (L.D. 59)

**TABLED** - May 27, 2009 (Till Later Today) by Representative **HASKELL** of Portland.

**PENDING** - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-362)**.

Representative **HASKELL** of Portland **PRESENTED House Amendment "A" (H-449)** to **Committee Amendment "A" (H-362)**, which was **READ** by the Clerk.

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

Representative **HASKELL**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. This amendment is a product of the review of the Judiciary Committee of any bill that has a freedom of access component to it, so this simply has clarified that this language is consistent with the freedom of access laws and does not change the intent of the unanimous report of the committee.

Subsequently, **House Amendment "A" (H-449)** to **Committee Amendment "A" (H-362)** was **ADOPTED**.

**Committee Amendment "A" (H-362)** as **Amended by House Amendment "A" (H-449)** 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**.

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-362) as Amended by House Amendment "A" (H-449)** thereto and sent for concurrence.

**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

Bill "An Act To Stimulate the Maine Economy by Making Funds Available to First-time Home Buyers To Allow Them To Take Advantage of the Federal First-time Home Buyer Tax Credit" (EMERGENCY)

(H.P. 1036) (L.D. 1483)

Sponsored by Representative **CLEARY** of Houlton.

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

Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and ordered printed.  
**REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed.  
Sent for concurrence.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:  
Bill "An Act To Ensure the Effectiveness of Critical Incident Stress Management Teams"

(H.P. 964) (L.D. 1374)  
Which was **TABLED** by Representative HASKELL of Portland pending **PASSAGE TO BE ENGROSSED**.

Representative HASKELL of Portland **PRESENTED House Amendment "A" (H-448)**, which was **READ** by the Clerk and **ADOPTED**.

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-448)** and sent for concurrence. **ORDERED SENT FORTHWITH**.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:  
Bill "An Act To Enhance Fund-raising Opportunities by Certain Nonprofit and Fraternal Organizations"

(H.P. 567) (L.D. 831)  
(C. "A" H-389)  
Which was **TABLED** by Representative TRINWARD of Waterville pending **PASSAGE TO BE ENGROSSED as Amended**.

On motion of Representative FITTS of Pittsfield, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-389)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "A" (H-450)** to **Committee Amendment "A" (H-389)** which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Pittsfield, Representative Fitts.

Representative **FITTS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This amendment is quite simple. It would require an organization that would fall under this bill, that instead of a once a year filing would have to file per event, which changes the fiscal state of this bill dramatically and should allow it to be more properly considered. Thank you.

Subsequently, **House Amendment "A" (H-450)** to **Committee Amendment "A" (H-389)** was **ADOPTED**.

**Committee Amendment "A" (H-389)** as **Amended by House Amendment "A" (H-450)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-389)** as **Amended by House Amendment "A" (H-450)** thereto and sent for concurrence.

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

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. 189) (L.D. 235) Bill "An Act To Modify the Citizen Initiative Process" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-435)**

(H.P. 913) (L.D. 1310) Resolve, To Establish the Blue Ribbon Commission To Examine the Legal and Policy Implications of Groundwater Extraction (EMERGENCY) Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-434)**

(H.P. 926) (L.D. 1322) Bill "An Act To Amend Provisions of the Submerged Lands Law" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-428)**

(H.P. 970) (L.D. 1380) Bill "An Act To Amend the Maine Clean Election Laws Governing Gubernatorial Candidates" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-429)**

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

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

Representative **BUTTERFIELD**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. Had I been present for Roll Call No. 130 to LD 679, I would have voted yea.

**REPORTS OF COMMITTEE**  
**Divided Report**

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-227)** on Resolve, To Further Regulate the Use of Tanning Booths by Minors  
(S.P. 137) (L.D. 395)

Signed:

Senators:

BRANNIGAN of Cumberland  
MARRACHÉ of Kennebec  
MILLS of Somerset

Representatives:

PERRY of Calais  
PETERSON of Rumford  
SANBORN of Gorham  
JOY of Crystal  
CAMPBELL of Newfield  
LEWIN of Eliot  
STRANG BURGESS of Cumberland  
STUCKEY of Portland  
EVES of North Berwick

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

Signed:

Representative:

JONES of Mount Vernon

Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the Majority **Ought to Pass as Amended by Committee Amendment "A" (S-227)** Report.

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-227)**.

**READ.**

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

The Resolve was **READ ONCE**. **Committee Amendment "A" (S-227)** was **READ** by the Clerk and **ADOPTED**. The Resolve was assigned for **SECOND READING** Friday, May 29, 2009.

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**CONSENT CALENDAR**

**First Day**

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

(S.P. 109) (L.D. 345) Bill "An Act To Regulate the Rockweed Harvest in Cobscook Bay" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-225)**

(S.P. 188) (L.D. 489) Resolve, Regarding Continuity of Care in the Child Development Services System Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-232)**

(S.P. 198) (L.D. 503) Bill "An Act To Regulate Foreclosure Negotiators" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-216)**

(S.P. 223) (L.D. 608) Bill "An Act To Protect Electricity Consumers in Northern Maine" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-50)**

(S.P. 224) (L.D. 609) Bill "An Act To Amend the Laws Governing Involuntary Hospitalization Procedures When Both Commitment and Involuntary Treatment Are Sought" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-228)**

(S.P. 294) (L.D. 767) Bill "An Act To Promote Fairness and Protect Economic Development in Transportation Projects Undertaken by the State" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-213)**

(S.P. 401) (L.D. 1083) Bill "An Act Regarding the Payment of Medicare Parts B and D Premiums for Employees Eligible for Medicare" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-217)**

(S.P. 411) (L.D. 1100) Bill "An Act To Preserve Government Documents" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-207)**

(S.P. 412) (L.D. 1101) Resolve, To Understand and Assist in Efforts To Promote Science, Technology, Engineering and Math Education Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-208)**

(S.P. 417) (L.D. 1126) Bill "An Act To Limit the Scope of Miscellaneous Costs within the General Purpose Aid for Local Schools Appropriation" Committee on **EDUCATION AND**

**CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-209)**

(S.P. 423) (L.D. 1132) Bill "An Act To Establish the Maine Commission on Indigent Legal Services" (EMERGENCY) Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-233)**

(S.P. 461) (L.D. 1280) Resolve, To Provide a Program Model for Children with Autism Spectrum Disorder Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-210)**

(S.P. 487) (L.D. 1352) Bill "An Act To Exempt from Taxation Biodiesel Fuel Produced for Personal Use" (EMERGENCY) Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-224)**

(S.P. 493) (L.D. 1358) Bill "An Act To Implement Shared Decision Making To Improve Quality of Care and Reduce Unnecessary Use of Medical Services" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-218)**

(S.P. 496) (L.D. 1361) Bill "An Act To Amend the Laws Governing Direct Support Providers of Shared Living Residential Services" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-229)**

(S.P. 506) (L.D. 1403) Bill "An Act To Implement the Uniform Law Conference Suggested Updates to Article 1 of the Uniform Commercial Code" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-234)**

(S.P. 508) (L.D. 1405) Bill "An Act To Implement the Updates to Article 7 of the Uniform Commercial Code Suggested by the National Conference of Commissioners on Uniform State Laws" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-235)**

(S.P. 515) (L.D. 1431) Resolve, To Reform Public Retirement Benefits and Eliminate Social Security Offsets Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-230)**

(S.P. 520) (L.D. 1436) Bill "An Act To Create Economic Development in the State by Modernizing the State's Captive Insurance Laws" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-220)**

(S.P. 528) (L.D. 1443) Bill "An Act To Support the Center of Excellence for At-risk Students" (EMERGENCY) Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-211)**

(S.P. 547) (L.D. 1469) Bill "An Act To Ensure Fair Calculation of Severance Pay for Maine Workers" (EMERGENCY) Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-231)**

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

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The House recessed until 3:00 p.m.

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(After Recess)

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The House was called to order by the Speaker.

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

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

**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-427)** on Bill "An Act To Create Regulatory Exemptions for Poultry" (H.P. 709) (L.D. 1034)

Signed:

Senator:

SHERMAN of Aroostook

Representatives:

PIEH of Bremen  
PERCY of Phippsburg  
McCABE of Skowhegan  
PRATT of Eddington  
KENT of Woolwich  
O'BRIEN of Lincolnville  
EDGECOMB of Caribou  
GIFFORD of Lincoln  
CRAY of Palmyra

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

Signed:

Senator:

NUTTING of Androscoggin

**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-427)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 29, 2009.

Majority Report of the Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought Not to Pass** on Bill "An Act To Allow Hunting on Sundays on Certain Land" (H.P. 645) (L.D. 942)

Signed:

Senators:

BRYANT of Oxford  
TRAHAN of Lincoln

Representatives:

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

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-426)** on same Bill.

Signed:

Senator:

JACKSON of Aroostook

Representative:

SAVIELLO of Wilton

**READ.**

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

Majority Report of the Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-433)** on Bill "An Act To Expand Access to Oral Health Care" (H.P. 188) (L.D. 234)

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  
RICHARDSON of Warren  
FOSSEL of Alna

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

Signed:

Representative:

WEAVER of York

**READ.**

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

The Bill was **READ ONCE. Committee Amendment "A" (H-433)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 29, 2009.

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-425)** on Bill "An Act To Allow for a Dual Liquor License" (H.P. 681) (L.D. 989)

Signed:

Senator:

SULLIVAN of York

Representatives:

BEAULIEU of Auburn  
CORNELL du HOUX of Brunswick  
PINKHAM of Lexington Township  
VALENTINO of Saco  
TRINWARD of Waterville  
TUTTLE of Sanford  
FITTS of Pittsfield

CAREY of Lewiston  
RUSSELL of Portland  
NASS of Acton

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

Signed:  
Senators:  
PLOWMAN of Penobscot  
GOODALL of Sagadahoc

**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-425)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 29, 2009.

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Majority Report of the Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-424)** on Bill "An Act To Raise the Property Tax Exemption for Veterans"

(H.P. 60) (L.D. 71)

Signed:  
Senators:  
PERRY of Penobscot  
BLISS of Cumberland  
NASS of York

Representatives:  
WATSON of Bath  
LANGLEY of Ellsworth  
FLEMINGS of Bar Harbor  
CHASE of Wells  
KNIGHT of Livermore Falls  
SIROIS of Turner

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

Signed:  
Representatives:  
BRYANT of Windham  
CROCKETT of Augusta  
PILON of Saco  
VALENTINO of Saco

**READ.**

On motion of Representative BERRY of Bowdoinham, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

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Majority Report of the Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-422)** on Bill "An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2009-10" (EMERGENCY)

(H.P. 855) (L.D. 1235)

Signed:  
Senators:  
PERRY of Penobscot  
BLISS of Cumberland

Representatives:  
WATSON of Bath  
BRYANT of Windham  
LANGLEY of Ellsworth  
FLEMINGS of Bar Harbor  
CROCKETT of Augusta  
PILON of Saco  
CHASE of Wells  
VALENTINO of Saco  
KNIGHT of Livermore Falls  
SIROIS of Turner

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

Signed:  
Senator:  
NASS of York

**READ.**

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-422)** was **READ** by the Clerk.

Representative WATSON of Bath **PRESENTED House Amendment "A" (H-453)** to **Committee Amendment "A" (H-422)**, which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Bath, Representative Watson.

Representative **WATSON**: Thank you, Madam Speaker. This is a purely technical amendment to take care of some clerical errors. There is no substantive changes to the bill.

Subsequently, **House Amendment "A" (H-453)** to **Committee Amendment "A" (H-422)** was **ADOPTED**.

**Committee Amendment "A" (H-422)** as Amended by **House Amendment "A" (H-453)** 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**.

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (H-422)** as Amended by **House Amendment "A" (H-453)** thereto and sent for concurrence. **ORDERED SENT FORTHWITH**.

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Seven Members of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (H-430)** on Bill "An Act To Establish a Farmer's Rights in an Investigation of Intellectual Property Theft of Genetically Engineered Material"

(H.P. 827) (L.D. 1202)

Signed:  
Senators:  
NUTTING of Androscoggin  
BRYANT of Oxford  
SHERMAN of Aroostook

Representatives:  
PIEH of Bremen  
EDGECOMB of Caribou  
GIFFORD of Lincoln  
CRAY of Palmyra

Three Members of the same Committee report in Report "B" **Ought to Pass as Amended by Committee Amendment "B" (H-431)** on same Bill.

Signed:

Representatives:

PRATT of Eddington  
KENT of Woolwich  
O'BRIEN of Lincolnville

Three Members of the same Committee report in Report "C" **Ought to Pass as Amended by Committee Amendment "C" (H-432)** on same Bill.

Signed:

Representatives:

SMITH of Monmouth  
PERCY of Phippsburg  
McCABE of Skowhegan

**READ.**

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

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

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**Ought to Pass as Amended**

Report of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Improve the Maine Clean Election Act"

(S.P. 445) (L.D. 1197)

Reporting **Ought to Pass as Amended by Committee Amendment "A" (S-214).**

Came from the Senate with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-214) AS AMENDED BY SENATE AMENDMENT "A" (S-246)** thereto.

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

The Bill **READ ONCE. Committee Amendment "A" (S-214) READ** by the Clerk. **Senate Amendment "A" (S-246) to Committee Amendment "A" (S-214) READ** by the Clerk and **ADOPTED.**

**Committee Amendment "A" (S-214) as Amended by Senate Amendment "A" (S-246)** thereto **ADOPTED.**

The Bill was assigned for **SECOND READING** Friday, May 29, 2009.

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**Divided Reports**

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act To Allow Noncitizen Residents To Vote in Municipal Elections"

(S.P. 443) (L.D. 1195)

Signed:

Senators:

SULLIVAN of York  
PLOWMAN of Penobscot  
GOODALL of Sagadahoc

Representatives:

BEAULIEU of Auburn  
CORNELL du HOUX of Brunswick  
PINKHAM of Lexington Township  
VALENTINO of Saco

TRINWARD of Waterville  
TUTTLE of Sanford  
FITTS of Pittsfield  
CAREY of Lewiston  
NASS of Acton

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

Signed:

Representative:

RUSSELL of Portland

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

**READ.**

Representative TRINWARD of Waterville moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **RUSSELL:** Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This had a lot of controversy attached to it and you'll see that it's sort of a fool's game to try and expect that the rest of the House is going to vote me in voting in favor of this bill. But let me tell you a little story, Madam Speaker. A couple of months ago, I was working at my friendly neighborhood store and a gentleman walked in and he said "May I have some napkins?" Well, I looked at him, he was covered in blood from top to bottom. He had a hole the size of a bullet hole in his head, so much so that I thought that it was a bullet hole, save for the fact that he was standing there looking at me, and I said, "Sir, I think you need a few more things than napkins." So I called 911 and they picked him up and they took him to the hospital. As it turned out, someone had hit him in the head with a hammer. Someone he didn't know had picked up a hammer and had charged at him from the street. He happened to be black.

In Portland right now, we're having a very serious problem with racism. We have the word they, it has such tremendous consequences in connotations that I can't even begin to tell you what it means. They happen to be Somalis that live at the foot of my hill. They happen to be folks from out of the country, from Chad and Sudan, who are from out of the country. As the economics of our country and as our state have changed dramatically, people need a scapegoat and there has been a precipitous increase in violence, and part of the reason that we have had a precipitous increase in violence is because people need someone to blame for their own problems. Unfortunately, our immigrant community is at the heart of that, Madam Speaker. The reason that I am asking fellows of the House and the chamber to consider joining me in voting in favor of this bill is because everyone needs a voice at the table, and I can't even begin to tell you the level of anger that is swelling in the immigrant community, in my community right now, because of the violence that has occurred toward them and they don't have a voice at the table. They don't have an opportunity to make sure that their children are well educated and to have a voice at the table with that. They don't have an opportunity to have their voice heard at the city council in a way that actually has precedence.

Now, we had a stack this thick, like an inch thick, of people that said you've got to vote this down, please don't vote for this, this is unconstitutional, this flies in the face of our Constitution. That is the only reason I have heard today not to vote for this bill. On the contrary, every person in this chamber, not one person in this chamber has the right to vote. Not one person in this

chamber has the right to vote. We have the right to not be discriminated against based on race and class. We have the right to not be discriminated against. That is the only right that we have in the Constitution; therefore, this is not a constitutional issue. On the contrary, it should be determined entirely on the merits of whether or not you choose to engage people in their community in a productive manner. I'm sorry if folks feel that immigrant communities should not have access to their local municipalities, but I have sat here and heard countless times, from people around the state, saying please don't tell my community what it can and cannot do, and this bill allows individual communities, individual municipalities to make a choice about who they feel should have a voice at the table. While your community may not want to see this move forward, my community desperately needs this, because if we do not have a mechanism by which immigrant and other folks can have a voice at the table, a real voice, that they can vote and that they can maybe get people in office that will support their views and consider their views, we're going to be in some serious trouble. You can see, time and again, in the last three to four months, the precipitous rise in violence. So I am asking you to think about what would you do if this was your community and your community was facing significant racism, significant violence and it was otherwise a safe community. Would you reach out to those folks and make sure that everyone had a voice at the table? That's what I'm asking for today. I am not asking for your community to allow this. I am asking you to let my community allow this and allow my community to begin the healing that so desperately needs to happen right now. Thank you very much for your consideration.

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

Representative SYKES of Harrison **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.

On motion of Representative PIOTTI of Unity, **TABLED** pending the motion of Representative TRINWARD of Waterville to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned. (Roll Call Ordered)

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on Bill "An Act To Establish the Maine Science Advisory Board"

(S.P. 413) (L.D. 1102)

Signed:

Senators:

SIMPSON of Androscoggin  
JACKSON of Aroostook

Representatives:

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

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-237)** on same Bill.

Signed:

Senator:

COURTNEY of York

Representative:

CLARK of Easton

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

**READ.**

On motion of Representative PIOTTI of Unity, 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:

(H.P. 210) (L.D. 264) Bill "An Act To Amend the Surcharge for the E-9-1-1 System" (EMERGENCY) Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-437)**

(H.P. 844) (L.D. 1224) Bill "An Act Regarding the Operation of County Jails and the State Board of Corrections" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-439)**

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

### CONSENT CALENDAR

#### Second Day

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

(S.P. 109) (L.D. 345) Bill "An Act To Regulate the Rockweed Harvest in Cobscook Bay" (C. "A" S-225)

(S.P. 198) (L.D. 503) Bill "An Act To Regulate Foreclosure Negotiators" (C. "A" S-216)

(S.P. 223) (L.D. 608) Bill "An Act To Protect Electricity Consumers in Northern Maine" (C. "A" S-50)

(S.P. 224) (L.D. 609) Bill "An Act To Amend the Laws Governing Involuntary Hospitalization Procedures When Both Commitment and Involuntary Treatment Are Sought" (C. "A" S-228)

(S.P. 294) (L.D. 767) Bill "An Act To Promote Fairness and Protect Economic Development in Transportation Projects Undertaken by the State" (C. "A" S-213)

(S.P. 401) (L.D. 1083) Bill "An Act Regarding the Payment of Medicare Parts B and D Premiums for Employees Eligible for Medicare" (C. "A" S-217)

(S.P. 411) (L.D. 1100) Bill "An Act To Preserve Government Documents" (C. "A" S-207)

(S.P. 412) (L.D. 1101) Resolve, To Understand and Assist in Efforts To Promote Science, Technology, Engineering and Math Education (C. "A" S-208)

(S.P. 417) (L.D. 1126) Bill "An Act To Limit the Scope of Miscellaneous Costs within the General Purpose Aid for Local Schools Appropriation" (C. "A" S-209)

(S.P. 423) (L.D. 1132) Bill "An Act To Establish the Maine Commission on Indigent Legal Services" (EMERGENCY) (C. "A" S-233)

(S.P. 461) (L.D. 1280) Resolve, To Provide a Program Model for Children with Autism Spectrum Disorder (C. "A" S-210)

(S.P. 487) (L.D. 1352) Bill "An Act To Exempt from Taxation Biodiesel Fuel Produced for Personal Use" (EMERGENCY) (C. "A" S-224)

(S.P. 493) (L.D. 1358) Bill "An Act To Implement Shared Decision Making To Improve Quality of Care and Reduce Unnecessary Use of Medical Services" (C. "A" S-218)

(S.P. 496) (L.D. 1361) Bill "An Act To Amend the Laws Governing Direct Support Providers of Shared Living Residential Services" (C. "A" S-229)

(S.P. 506) (L.D. 1403) Bill "An Act To Implement the Uniform Law Conference Suggested Updates to Article 1 of the Uniform Commercial Code" (C. "A" S-234)

(S.P. 508) (L.D. 1405) Bill "An Act To Implement the Updates to Article 7 of the Uniform Commercial Code Suggested by the National Conference of Commissioners on Uniform State Laws" (C. "A" S-235)

(S.P. 515) (L.D. 1431) Resolve, To Reform Public Retirement Benefits and Eliminate Social Security Offsets (C. "A" S-230)

(S.P. 520) (L.D. 1436) Bill "An Act To Create Economic Development in the State by Modernizing the State's Captive Insurance Laws" (C. "A" S-220)

(S.P. 528) (L.D. 1443) Bill "An Act To Support the Center of Excellence for At-risk Students" (EMERGENCY) (C. "A" S-211)

(S.P. 547) (L.D. 1469) Bill "An Act To Ensure Fair Calculation of Severance Pay for Maine Workers" (EMERGENCY) (C. "A" S-231)

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.

(S.P. 188) (L.D. 489) Resolve, Regarding Continuity of Care in the Child Development Services System (C. "A" S-232)

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

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

The Resolve was **READ ONCE**. **Committee Amendment "A" (S-232)** was **READ** by the Clerk.

On motion of Representative SUTHERLAND of Chapman, **TABLED** pending **ADOPTION** of **Committee Amendment "A" (S-232)** and later today assigned.

## CONSENT CALENDAR

### First Day

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

(H.P. 982) (L.D. 1406) Bill "An Act To Transfer the Seed Potato Board to the Maine Potato Board" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-441)**

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

(H.P. 570) (L.D. 834) Bill "An Act To Provide for 2 Veteran Service Officer Positions" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-444)**

On motion of Representative TRINWARD of Waterville, 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.

(H.P. 874) (L.D. 1255) Bill "An Act To Amend Certain Laws Related to the Department of Agriculture, Food and Rural Resources" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-440)**

On motion of Representative PIEH of Bremen, 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-440)** was **READ** by the Clerk.

Representative PIEH of Bremen **PRESENTED** **House Amendment "A" (H-454)** to **Committee Amendment "A" (H-440)**, which was **READ** by the Clerk.

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. This is a housekeeping amendment. We had a section of the bill that dealt with confidentiality matters, which went to the Judiciary Committee and they wanted the language changed a little bit, so this is just changing that language. It doesn't change anything in the bill, just corrective. Thank you.

Subsequently, **House Amendment "A" (H-454)** to **Committee Amendment "A" (H-440)** was **ADOPTED**.

**Committee Amendment "A" (H-440)** as Amended by **House Amendment "A" (H-454)** thereto was **ADOPTED**.

The Bill was assigned for **SECOND READING** Friday, May 29, 2009.

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

HOUSE DIVIDED REPORT - Report "A" (7) **Ought Not to Pass** - Report "B" (3) **Ought to Pass** - Report "C" (2) **Ought to Pass as Amended by Committee Amendment "A" (H-387)** - Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Require That a Majority of the Members of the Maine Land Use Regulation Commission Reside in the Commission's Jurisdiction "

(H.P. 361) (L.D. 516)  
Which was **TABLED** by Representative SMITH of Monmouth pending her motion to **ACCEPT** Report "A" **Ought Not to Pass**.

Subsequently, Report "A" **Ought Not to Pass** was **ACCEPTED**.

On motion of Representative THOMAS of Ripley, the House **RECONSIDERED** its action whereby Report "A" **Ought Not to Pass** was **ACCEPTED**.

The same Representative **REQUESTED** a roll call on the motion to **ACCEPT** Report "A" **Ought Not to Pass**.

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 Ripley, Representative Thomas.

Representative **THOMAS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Think about something for a second: How would it be if we allowed



people from New Brunswick or New Hampshire to sit in the Maine House, to vote on the rules and regulations that we live under? I don't think any of us would like that. Then, think again, what would it be like if they had a majority? Yet, that's what we ask the people who live in the unorganized territories of the State of Maine to do. The people who make the rules, the regulations, it's called the Land Use Regulation Commission, the people who make those regulations, only two are required to live in the area that they're writing the rules for. I don't know about you, but I'm proud of the New England tradition of town meetings. I'm proud of local control. I think it works well. I think that when we sit down at a town meeting and we decide that the local ordinances and the taxes and the roads we're going to fix, that works well, Madam Speaker. I believe that we fought a revolution to get out from under control from away, that our founders, the founders of the United States, believed in self government, and yet the people who live in a large part of the State of Maine do not have self government. They have government that's imposed on them. How would it be if when your town had a local ordinance that you had to come to Ripley to have the hearing on that ordinance and everyone in the state was allowed to testify? I don't think the people on North Haven would be very happy to travel to Ripley, and they shouldn't be. Yet, when we were going to have hearings about land above Greenville, we held hearings in Portland. That's wrong. What this bill says is not all of those people have to come from the unorganized, just a majority. I think that all of the commissioners of the Land Use Regulation Commission should live in the area that they're regulating, and I don't think any of us would like it if people from other towns were writing rules that we had to live under, and I don't think any of us would like it if people from New Hampshire and New Brunswick were sitting in the Maine Legislature making laws that we had to live under. So I would urge that we reject this. There are two other committee reports and let's take a look at those, because the people in the unorganized deserve their change at self government too. 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 do agree with some of the comments that were made by my fellow Representative, and I would like to read the names of the towns where our current commission members actually reside: Starks, Millinocket, Newry, Rangeley Plantation, Medford, Winterville Plantation and Grand Lake Stream. These are not places south of Augusta; these are places either in the unorganized territory or on the fringes of the unorganized territory. I encourage you all to follow my light and go with the Majority Ought Not to Pass today. Thank you.

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

Representative **SMITH**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I understand the intent of this legislation, I just disagree with what it's trying to accomplish. I don't think this is the correct way to go about it. We had LURC day in the committee, we've had GMO day, we've had pesticides day and animal welfare day, but LURC day was by far the most intense that I've participated. The energy in the room was so angry that, frankly, I couldn't stay in the room and I listened from an adjoining room. People are angry and I understand that. There is a true divide in Maine, and I think in other places, between the people who work in the Maine woods and the people who recreate in the Maine woods. We need to deal with that, we're going to see it in other bills as well and we've seen it so far in earlier ones, but this bill is not the solution and

that's why we have a Majority Report Ought Not to Pass.

You received a handout earlier today. On one side it has a map, it's an 8 1/2 x 11, and that map shows what the Representative from Skowhegan outlined, the jurisdiction for LURC, Land Use Regulatory Commission, and the location of the people who reside, who serve on the board. On the other side you see the criteria in order to serve on LURC. There must be a connection to the unorganized territories. There are seven members. You must either reside in and work in the jurisdiction, or be a former resident or a former worker for at least five years, or have expertise in commerce and industry, fisheries and wildlife, forestry or conservation issues as they affect the commission's jurisdictions. Current law says that of those five categories, at least two have to currently reside. I think that's an appropriate balance and that's why I was with the Majority Report that is pending acceptance.

We did something to address the issue that's been raised. Unfortunately, in this body, some of the best work that we do is unanimous committee reports that go under the hammer with few people reading what they've done, so let me refresh your memory on what we did yesterday: We passed a bill that restates the purpose of LURC and adds not just the original language of the LURC being for the public interest and the public benefit and the good order of the people of Maine, but it actually adds language, and I'll quote, "for the benefit of property owners and residents of the unorganized and deorganized townships of the state" and adds the sentence that "the Legislature acknowledges the importance of these areas in the continued vitality of the state and to local economies." We addressed the issue yesterday in a unanimous report. In the impossible balance between the aesthetics and the working of the Maine woods, we've accomplished the work already.

Another point to be made is there is a way for representation to be as part of the self governing and that's that we, as the Legislature, weigh in on these appointments to LURC. They are proposed by the Chief Executive and they go through our committee, Agriculture, Conservation and Forestry Committee, for the nomination process and they are confirmed by the other body. These are not flat out appointments with no say from the people who represent the people of that area. With that, I'll ask you to support the pending motion, Ought Not to Pass. There is a real issue, there is real anger. We took huge steps yesterday to deal with that. This is not an appropriate mechanism. Thank you so much.

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. My good colleague, the Representative from Monmouth, is always hard to follow. She does a much better job at this than I do. A couple of points I would like to make, however, someone who lived in Portland their entire life could move up to the UT, spend a couple of years there and then be eligible to be on the LURC Board. To me, that doesn't make any sense, when folks who live one town away, an organized two away from the UT, who have lived there their whole life, who have worked there their whole life, I worry that we don't need to be dealing with this. I think they're well represented. I think that the UT should be represented, I think, to make sure there are two, and these people that live there now currently makes sense. Anybody in the UT, they can organize if they want to. They can. I worry that we're doing something here to pay each other on the back and make ourselves feel better, when that's not the real issue. I think you're absolutely right, I think Representative Smith is absolutely right, when there is some issues and there are some things we have to deal with the

way LURC deals with people in the UT, it didn't make sense to me, it didn't make sense to the committee that this was the way to go about it. Why is somebody who lives in Rangeley compared to Rangeley Plantation that much more worthy to serve on the LURC Board? If they've lived there their whole life, if they know that jurisdiction, why would we limit, why would we say we don't want that expertise there? So for those reasons and the ones that have already been said, I think the committee did a good job to say this isn't the way to fix the issue and I'm okay with the Ought Not to Pass Report. Thank you.

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. Just one correction: When they indicated the representative or the commissioner who is from Millinocket, that individual might have been from Millinocket, but I understand, as of about an hour ago, he hasn't lived there for quite a while. We're only asking for one additional commissioner, one additional commissioner that comes from the UT. Right now, it's two and five. At one time, it used to be three. Do your homework and check what happened in the past. I don't think we're asking for a lot: one additional to come out of the UT. A lot of times, I think we're missing the point. A third of my time, when I'm in the Maine Legislature, even at home, is correcting or working with my constituents on problems which happened with the UT through LURC. I think that balance will bring it back by adding another one on. A lot of people here have no clue, no idea even what takes place in the UT, even if you may raft there. A lot of us go through a lot when we lived there, believe me. You have no understanding what it's like unless you live in the UT. You might come from Portland and spend some time there, have a cottage there, live there, work there, play there. You know, there's a big difference. We're only asking one additional person to serve on that commission. It's not like we're trying to tip the scales one way or the other. There are still going to be four for wherever you want to pick them or ask of one additional one. I hope we don't go for the pending motion and go for the motion being as we're going to follow. Thank you very much, Madam Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Madawaska, Representative Theriault.

Representative **THERIAULT**: Thank you, Madam Speaker. I stand before you as a person who represents in the UT and I follow Representative Clark and I support what he says. Now basically what happens here, just as an example, in one of my areas there is a lake, Long Lake. There are three municipalities plus the UT. Where are all the problems? In the UT. Is it because of representation? I don't know for sure. But I do know that there are problems with respect to the fact that in many instances, it's a rule or a regulation, and when there is no place to appeal it, you appeal back to the board who denied you, and I would suspect that putting an extra person on there would be very helpful, so I would ask you to support that. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Wilton, Representative Saviello.

Representative **SAVIELLO**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I represent actually four unorganized territories out of Wilton. I represent the towns of Freeman, half of Salem, Washington and Perkins Townships, and I've also dealt with LURC quite a bit, as I spent a lot of my professional career in the unorganized territories.

Two questions I ask you as you make your decision on this, if you haven't already, ask your own planning board what their requirements are. How many of them have to live in town four

years? I don't think there are any of them that have to do that. The second question to ask you, and I do respect Representative McCabe's description of where these are, but picture your own planning board where the town adjacent to you can be on your planning board, not in your town but adjacent to it.

I do want to say this: I do really appreciate the committee, Representative Smith and others, for the work that they've done on this bill, because there is a problem out there. I can give you an example of a particular area for the same situation, one place gets approved in one month, one month because it deals with a local planning board. Same type of business, one year, 36 interveners later and maybe they have approval for the same type of development. We have a problem and we need to let those people who actually live there focus on that. Thank you very much, Madam Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Buckfield, Representative Hayes.

Representative **HAYES**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise with a bit of trepidation because I do not represent any people who live in the unorganized territory, except that I am a Representative in this body responsible for making decisions for the entire state. This issue piqued my interest this year and it's been a focus of my own professional development as a legislator, and, frankly, I am speaking to you about it because I can't defend the status quo with a straight face. It doesn't apply in any of the jurisdictions that I do represent. I represent four towns, organized towns. All four of my towns have planning boards. None of those planning boards include folks who do not reside in those communities. So, as I came to understand more about this, part of my education is realizing that the charge for the Land Use Regulation Commission is broader than the charge for the Buckfield Planning Board, and I understand that, so I can understand why it may not consist entirely of residents. What I don't understand is how increasing by one, from two to three, in a board of seven, the rest of us would feel somehow threatened, and that really is what concerned me about this particular piece of legislation. Is pretty close, close enough? Well, if you live pretty close to Buckfield, you can't be on the Buckfield Planning Board; you've got to live in Buckfield. If there are seven people on the Land Use Regulation Commission and one of the options, were we to defeat the pending motion that we might take up, would increase by one from two to three.

The **SPEAKER**: The Chair recognizes the Representative from Monmouth, Representative Smith, who will state her Point of Order.

Representative **SMITH**: I apologize, I have been sitting through several of these. We need to focus on the pending motion. There are two Minority Reports and it's a dance in how to address them and not address them, but we need to stick with the pending motion. I beg your pardon.

On **POINT OF ORDER**, Representative SMITH of Monmouth asked the Chair if the remarks of Representative HAYES of Buckfield were germane to the pending question.

The **SPEAKER**: The Chair would remind members to stick to the pending motion. There are two different reports with two different alternatives to the original bill, and so I would just remind members to follow that course of debate. The Representative may continue.

The Chair reminded Representative HAYES of Buckfield to stay as close as possible to the pending question.

Representative **HAYES**: Thank you, Madam Speaker. I accept the reminder. A few facts that I learned in my own investigation, in terms of my professional development: There are approximately 10.5 million acres in the unorganized territory;

there are a number of towns who choose to participate in plantations, that choose to participate in the UT; and there is a total population of more than 8,000 people. Within 8,000 people, I would suggest to you when they find more than two, we may yet decide on what that number would be, but we may be able to find more than two that are residents.

In the thought process and analyzing how we speak about this, I mean I am part of the tyranny of the majority, because the vast majority of us do not come from the unorganized territory. But I would suggest to you that we tend to practice what I've come to call a benevolent arrogance. It's okay for us to tell folks what to do, because we're right. But when other folks are telling us what to do, when they're from away, they're not right, and I would ask you to look at this from that perspective. Generally, if it doesn't work in our communities and we wouldn't find it acceptable, I would challenge you not to impose it upon others and defeat the pending motion, providing the opportunity for another option to be put before the body. I thank you very much for your attention.

The SPEAKER: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative **JOY**: Thank you, Madam Speaker. It does my heart good to see that there are more people who are now working toward something for the unorganized territories than myself and Representative Clark and, ahead of him, his son. For many years, we've been the lone voices on the side of the unorganized territories. Twice I have tried to establish a governance for them. I noticed that the places that are listed as where these people live, many of them are in plantations, and the plantations were completely overlooked when LURC was formed years ago, so they rolled them under the jurisdiction of LURC for their zoning. They can apply to do their own zoning, but many of them haven't because they've never been made aware of the fact that they can be applying for their own zoning, and many of them don't have the resources to do that, but we need to make sure. There are a lot of people living in the unorganized territories. They are very well educated people, they are very well trained, they have many professions and, certainly, would do a good job as the LURC commissioners. So, from that point of view, I'll stop right there, but it is very important that the citizens of the unorganized territories have representation from the unorganized territories and also have their own governance system. Thank you.

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

Representative **EDGEComb**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. It's pretty much been said, but I'll just try to make it brief in that Caribou has approximately 8, 400 citizens, and there are more citizens in unorganized territories than we have in Caribou and we have no problem filling school board, city councilors, appeals boards, hospital boards, recreation boards, there is plenty of talent in Caribou to fill these boards. I know that there is a great deal of interest in unorganized territories. They've expressed that to me, and yet, in the law, we only allow them, the law says that they must have at least two on the board, and there is far more talent in unorganized territories and we need to understand why there is some anger there and defeat the motion that's on the floor. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **CAREY**: I am wondering what, if we have any information about how many people, how difficult it has been to get people to serve on the LURC Board, what the expectations are for service and what any compensation is, if there is any.

The SPEAKER: The Representative from Lewiston, Representative Carey has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Wilton, Representative Saviello.

Representative **SAVIELLO**: Thank you, Madam Speaker. I'll answer the question in general terms. I have offered names up from the unorganized territories at least three times and those three names were never considered for a nomination, and they met these criteria easily, having lived there is some cases 20 years, some cases 15 years, and have all the professional experience that are there. There are people that are qualified. I think sometimes the question needs to be asked is are they qualified or do they share the division that someone wants to appoint them there.

Madam Speaker, one other question, I don't know if anybody has asked for the yeas and nays, but I would ask for that.

The SPEAKER: A roll call is in order.

The Chair recognizes the Representative from Monmouth, Representative Smith.

Representative **SMITH**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I just want to address a few of the issues that have been raised. You can understand the experience of spending an entire day on, I think, a half dozen bills to try to deal with this in different directions.

Let me address first, there was a statement made on the floor earlier that I felt was a bash against one of my committee members, that since some of us working rafting in the UT, therefore, we're qualified to weigh in, this is the dance that we all do. We are either not qualified enough and not worthy to weigh in on issues or we're too close and should step aside. This is the goldilocks syndrome. It's either too hot or too cold, rarely are issues just right, where you have just enough experience to have the expertise to offer without having a self interest. We do this dance every day. I think we all do it extremely well. This is a continuing example of that and I think it's unfortunate that those remarks are made. I, myself, worked in the unorganized territories for 13 years as a forester. I would qualify to serve on LURC under number two. I resided in Mattawamkeag, Lee, Lincoln and Lincoln Center, all of those are organized, so I wouldn't fit under number one. However, number five, as a licensed forester, I do have expertise and would qualify under that. We all have expertise that we offer in this chamber. It's the same with the folks who step forward and are willing to serve on LURC.

Let me also say that there are comparisons being made to towns, as though the unorganized territories were a town. The unorganized territories are around half of the mass of the State of Maine, 5 million acres. This is different than a normal town.

I will close, finally, by saying that if the people of the unorganized territories want representation, want to be involved in the planning board, we have a method for that: it's called organizing as a town. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Lincoln, Representative Gifford.

Representative **GIFFORD**: Thank you, Madam Speaker. I rise today, the first year I was here, we had several items come up before us in the Agriculture Committee, who's the oversight of LURC, and I believe that the testimony and stuff that we heard this year, that we definitely have some problems. I actually represent one of the unorganized territories, and I think in order to really have good oversight over a place, you should at least

live near one or in one. We definitely have some problems, and I thought that this was a good deal to get some representation from the unorganized territories and that's why I supported this.

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

Representative **MARTIN**: Thank you, Madam Speaker. Madam Speaker, Members of the House. Over the years, we've gone from two to zero, to three, to four, now back to two. The problem that you have is in part generated by the fact that we don't pay, we don't attract. It's very difficult to find people from the unorganized territories or from the plantations. We're paying, right now, \$55 a day. You may remember we tried to raise it to \$100 in the last session. This body chose, as I recall, to kill it. We could not get it through. That's one of our problems right now. Right now there be three openings that I can think of that are forthcoming and putting more burden on trying more people is going to make it even more difficult. If you live in an unorganized territory or near a territory and you have people who are qualified and would have an interest in serving on a planning board, this is the place to be. I'd encourage you to find those people, to give résumés to the Chief Executive, to make it possible. But our problem today is not whether or not we have two, three or four, it's finding people who are willing and committed to doing that, and just remember what they've been through for the past four years now, since the Moosehead projects have been going on, and the number of hours, and if you've seen the pages that they try to read just to get to knowing the facts about that project, it makes some of the BEP hearings small and minute compares to that. Frankly, more important than anything, is finding people who are willing to serve and qualified to serve in that position.

I've gone both ways on this one. As a matter of fact, in caucus, I was interested in going to the position of two people, I believe some of the Republican Caucus may be going in that direction, and then, I finally looked at the list, because the present list says two, but it also says that people can be an in organized towns but they qualify if they have lived in an unorganized territory or they used to live in a plantation. They would qualify under the other five positions. So that's where you are. I know I'm not giving you much direction, but, frankly, the Ought Not to Pass Report is as good as any.

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

Representative **THOMAS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I'd like to read to you the last sentence, it's on page 14 of the register, it's the qualifications for us, and I'd like to just read the last sentence, and it says: that person is a resident in the district which the candidate seeks to represent. Why should the qualifications to sit in this body be any different than the qualifications for any other body that's going to make rules and regulations that people have to live under? Thank you.

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

Representative **MARTIN**: Thank you, Madam Speaker. I cannot let that comment go. The Land Use Regulation Commission addresses projects throughout the state and the organized and in the plantations, but they do it for the people of Maine and not for a particular plantation or unorganized territory.

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. There are a couple of things I would like to address. LURC does not make rules and regs, okay? Every rule that has to come from LURC

has to come through this body. They are all major substantive, okay? Any change in law that's going to affect them has to come through this body. Every person who lives in the UT is represented here by a member in this body. So I appreciate the comments that have been made. Trust me, in our committee, we have struggled and will continue to struggle on LURC issues for quite some time. The fact that we're debating how many people are qualified or not qualified or who gets to be in and who doesn't, it's the wrong argument. There is only one person in this body who actually lives directly in the UT, 1 out of 151 and, correct me if I'm wrong, I believe that is the good Representative from Lexington Township. I don't think there is anybody else here who lives in the UT. Are you going to tell me that there aren't a couple of people in this body—the good Representative from Millinocket, Representative Clark; the good Representative from Wilton, Representative Saviello; the good Representative from Monmouth, Representative Smith—who might have something good to offer to that commission? This is not the argument to be having. The commission, as it stands now, and the way that it has been has some adequate representation. If you're going to tell me that the person who lives three feet from the Rangeley Plantation line, in Rangeley, an organized town, is somehow less qualified or is not looking out for the best interest of the UT, I disagree with that. I disagree with that. We shouldn't be limiting ourselves. I understand the representation issue, trust me. I'm a student of history, okay? The revolution means a lot to me, alright? But I worry that we're fighting the wrong battle right here, and there is going to be a lot of stuff coming down the pipe here in terms of LURC that deserves a lot more debate and a lot more thought than this. Do what you will. I'm never here to tell anybody here what they should or shouldn't do, but I question the fight on this, I really do. So people who own land in the UT, my family owns land in the UT. Does that mean I deserve a bigger say or a greater say than anybody else? There is a lot of issues here, there is a lot of issues we have to talk about. This is not the big one; this is not where the fight is. Thank you.

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

Representative **McFADDEN**: Thank you, Madam Speaker. I just have to weigh in on this a little bit, I have more information: 52 percent of the state is unorganized territory and most people don't understand the unorganized territory. As a matter of fact, I have 12 townships in my district. It's so vast it took me a full year before I could even find one of them, but I searched and searched and there was Township 9, and I found out it was down by Rob Eaton's district someplace.

Anyway, the unorganized territories, sometimes it's called the largest town in the state, and maybe in the world, because it's all one unit actually. The unorganized territory is run by the county commissioners. I heard someone say that there is no appeal for LURC. They can appeal to the county commissioners, because they operate it. The only thing the state operates is taxation and education, so we need to know those facts. We really need that extra seat from a person residing in the unorganized territory, because they understand the unorganized territory more than the people outside. I understand it a little bit, because I worked for the unorganized territory school system for quite a few years. I don't want to tell you how many, because then you'll catch up with me, my gray hairs and so forth and so on. But anyway, I fully support the Ought Not to Pass in this. We need one more person in the unorganized territory to serve on this board. Thank you, Madam Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of Report "A" Ought Not to Pass. All those in favor will vote yes, those opposed will

vote no.

**ROLL CALL NO. 133**

YEA - Adams, Beaudoin, Beck, Berry, Boland, Bolduc, Bryant, Butterfield, Cain, Carey, Casavant, Cleary, Cohen, Connor, Cornell du Houx, Duchesne, Eaton, Eberle, Eves, Flaherty, Flemings, Gilbert, Goode, Harlow, Haskell, Hill, Hinck, Hunt, Innes Walsh, Jones, Kaenrath, Kent, Kruger, Lajoie, Legg, Lovejoy, Magnan, Martin JR, Martin JL, Mazurek, McCabe, Miller, Morrison, Nelson, O'Brien, Pendleton, Percy, Perry, Peterson, Pilon, Piotti, Pratt, Priest, Rankin, Rotundo, Russell, Sanborn, Shaw, Smith, Stevens, Stuckey, Treat, Trinward, Valentino, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Wheeler, Wright, Madam Speaker.

NAY - Austin, Aoyote, Beaulieu, Bickford, Blanchard, Blodgett, Browne W, Burns, Campbell, Cebra, Chase, Clark H, Clark T, Cotta, Crafts, Crockett J, Crockett P, Curtis, Cushing, Davis, Dill, Dostie, Driscoll, Edgecomb, Finch, Fitts, Fletcher, Flood, Fossel, Gifford, Giles, Hamper, Hanley, Harvell, Hayes, Joy, Knapp, Knight, Langley, Lewin, MacDonald, McFadden, McKane, McLeod, Millett, Nass, Nutting, Peoples, Pieh, Pinkham, Plummer, Prescott, Richardson D, Richardson W, Robinson, Rosen, Sarty, Saviello, Schatz, Sirois, Strang Burgess, Sutherland, Sykes, Tardy, Theriault, Thibodeau, Thomas, Tilton, Tuttle, Weaver, Willette.

ABSENT - Beaudette, Briggs, Celli, Cray, Greeley, Hogan, Johnson.

Yes, 73; No, 71; Absent, 7; Excused, 0.

73 having voted in the affirmative and 71 voted in the negative, with 7 being absent, and accordingly Report "A" **Ought Not to Pass** was **ACCEPTED** and sent for concurrence.

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

Representative **WHEELER**: Alright, that trophy you see out back there that Jackson and Bryant had, we've got to get it back in the House here and June 14th is the tournament and it's at the Lakeside Motel where we meet and they furnish all of the equipment, the boats. All you have to do is bring warm clothes, raingear and that's it, and they furnish everything else. They furnish breakfast in the morning and lunch at noon. So we have to get that trophy back.

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

**UNFINISHED BUSINESS**

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

HOUSE DIVIDED REPORT - Majority (7) **Ought to Pass as Amended by Committee Amendment "A" (H-361)** - Minority (6) **Ought Not to Pass** - Committee on **JUDICIARY** on Bill "An Act To Base the Value of Eminent Domain Takings on Going Concern Value"

(H.P. 832) (L.D. 1207)

TABLED - May 27, 2009 (Till Later Today) by Representative **PRIEST** of Brunswick.

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

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 do want to stay germane to the bill, but this discussion we've just had is kind of a hard act to follow. So I will try to make the understanding of going concerned value as interesting as the discussion we've just had.

This bill before you, let me first at least just paint a little bit a picture of the Maine business community, at least as I view it: We are a small business state. Maine has over 140,000 small businesses, employing 65 percent of all Maine workers, according to the U.S. Small Business Administration Office of Advocacy. With that in mind, I brought forth this bill because I had seen a situation, not in my district, but over in my neck of the woods, as they say, that involved a family with a restaurant that was taken by eminent domain in this state about five years ago. This bill will do nothing to change what happened there and the family has not spoken to me about bringing this issue forward. But I brought it forward because what I saw then was a second generation business that was owned by a family, who had worked very hard running a restaurant, it was along the river, had a beautiful view, and it was taken through an eminent domain process. At the time—this is all public record—the family was paid about \$200,000 for the property, which they felt was not adequate and they proceeded through the courts on it and, just this past year, the state settled with them for \$750,000, plus the state incurred substantial legal costs as well.

So the reason I brought forth this bill is the property, that property or for businesses taken, the process for determining value is what is known as a fair market appraisal, which looks at the value of the real estate. What it does not take into consideration for a business owner though is the full value of that property, and the full value of a business property does include the real estate, it may include personal property, it may mean being the good name over the door that people come back here for. One of the most important things for that business is three words: location, location, location, and that, for that business, may be irreplaceable. So what I'm suggesting here, and this doesn't come up a lot in this state, fortunately, most times we don't have to take businesses, but when we do, what I am suggesting that we do through this legislation is to value the business based on what is known as a going concern value, which gives full value to the things I just mentioned. There is an established process for this, there are commercial appraisers out there who are licensed to provide that objective, analytical evaluation, and from the situation that I saw there, I know this bill carries a fiscal note with it because I've had conversations, this would impact the transportation budget to a certain degree that members within the department that spoke against the bill, I understand that they don't see this as a good way to go because they're concerned that they're going to be paying too much for property. But what I would put before you is that this could actually save the state money; it gives the business owner a second course, if you will, to choose; this is something the business owner had to request, it's not an automatic. So I see this, if I come back to my opening comments of Maine being a small business state, I see this as legislation that would help small business owners were they faced with this. I'm just going to read you a short comment that I made in closing from my testimony before the Judiciary Committee: When these things happen, a business has lost a source of income and employment, and I didn't even talk about the number of employees that may have lost jobs through that. They lose the opportunity to continue and, through the loss of the business location, the business owner has lost the income producing potential from that location for 10, 20, 30 years or more. The

governing body in an eminent domain proceeding has literally taken a lifetime of earnings from a business owner, a lifetime of earnings that includes providing for family members, sending kids to college, employing workers, donating to local community organizations and so much more. So I ask for you to consider defeating the Ought Not to Pass motion that's put before you, so that future business owners facing the loss of their property may receive adequate compensation to successfully relocate and continue in a business for many years to come. Madam Speaker, I request the yeas and the nays when the vote is taken. Thank you.

Representative GILES of Belfast **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **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 Brunswick, Representative Priest.

Representative **PRIEST**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. This is an interesting proposition obviously. We studied it thoroughly in the Judiciary Committee, it has some appeal obviously. But if you look at the research, only three states out of the 50 in this country use business evaluation as part of their eminent domain proceedings. One of those states is the great State of California, which has used it for 50 years. Florida only has it for state highways. The other 47 states don't use it.

I'd like to tell you briefly what the state Department of Transportation does now when it takes something by eminent domain: When it acquires it by eminent domain, it has to pay fair market value for the real estate acquired. It can't offer less than an approved appraisal. It works to negotiate when an offer is unsatisfactory. The owner may appeal to the State Claims Commission, then to the Superior Court, and this is separate and different from the relocation program. There is a relocation program with the Department of Transportation. A business has two options: First, it can have its moving costs reimbursed, plus the reestablishment of costs reimbursed. This is the actual, reasonable and necessary moving costs, which are reimbursed with no upper limit. Or the other option is a fixed payment up to \$100,000 based on the annual net earning of the displaced business over the previous two years. That's the present situation.

For those of you that have some sympathy—I think we all do—for the concept of going concerned value, which is really good will, this bill has three basic problems at this time. Although it may be a good idea at some point in the future, it's not a good idea now. First of all, going concerned value is not easy to agree on. It's an intangible item. You could figure out what tangible assets are worth, but this is intangible. It depends a lot upon an appraiser's opinion. This bill will therefore inevitably generate more litigation because people will have different ideas as to what the good will value of the business is. Second, this bill will cost towns, as well as the state, money. The towns will want to have eminent domain; they're going to pay the going concerned rate of the business, whatever that is found to be. It's interesting, the last time this bill was looked at, it was found to be a mandate because you had to look at towns having to hire appraisers. Why it's not a mandate now when it was last year, I don't know, but it was a mandate last year. Towns will have to pay increased costs for eminent domain. That's going to come out obviously in property taxes. Finally, you've got to consider the fiscal note in this matter. The fiscal note is severe. First of all, the bill sets up a new ombudsman position: \$138,000 for the first year, \$184,000 for the second year. Second, the bill says that there's a Highway Fund cost for legal fees, consulting costs and training.

That's \$627,000 for the first year; \$540,000 for the second year. Last but not least, there's going concerned costs for the state to have to pay when DOT does eminent domain. What is that? \$1,065,000 for the first year; \$1,024,000 for the second year. No matter how much you might like this bill, there is simply no money in the budget to pay for it now, and there is certainly not any money next year in the biennial. So I would ask you to support the Ought Not to Pass motion. Thank you.

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

Representative **CAREY**: Thank you, Madam Speaker. I just wanted to take a moment and ask for a couple of the vague reasons on how the process works in fiscal notes. Sometimes we'll take votes in the body that we have confidence might be killed on the table. This will not make it to the highway table; this will not come before the Transportation Committee. So I would urge you not to, on the basis of the current Highway Fund budget, which needs about \$50 million to maintain our roads, we have currently four in the budget that we're working. The reason that we have those is because we're assuming there will not be a bad winter. If there is a bad winter, we're down to zero. That's the tightness that we are in. To pay an additional plus or minus million dollars, as the Representative from Brunswick was just sharing with us, really, really is dangerous and because this may not come to the Transportation Committee, I would urge you to vote against it, even though there is a lot of, as the Representative points out, there is a lot of reasons that this may be something that we should look at. We quite simply, there is no money going to the roads that we can redirect towards this. Thank you.

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

Representative **GILES**: Thank you, Madam Speaker. I do rise again. I just wanted to address a couple of points that came up with this. First, in regards to the municipal with this or potential with the municipals, Maine Municipal Association did not speak against this bill. In regards to the good will as being an intangible and something that may be kind of a nebulous money number out there, there is a highly quantifiable, analytical process that appraisers that are very well qualified can perform. It's based on past earnings; it's based on business performance; it is a very objective view. In regards to the fiscal note, I can't fight what's there. But what I can say is the approximately million dollars they put on there, if you recall my opening numbers, there was a situation and these situations, there is a fiscal note that's got to be budgeted for, but if nothing happens and there's not claim with this, to me, there is no fiscal note. So it comes up if a situation occurs and the situation that I talked about in my area, initially the state paid over \$200 for the property through court battles and so forth, which probably cost hundreds of thousands of dollars for the state, and I don't know what that number is, but they settled for another \$750,000. So to me, there's one instance, one year, right there.

Just in reference to, as far as other states using this law, California has had this law, very similar to this, in place for many, many years and it has worked appropriately there. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Sullivan, Representative Eaton.

Representative **EATON**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I'd like to thank the good Representative from Belfast for bringing this forward. I'm quite concerned about the financial costs of this as well, but I also am ashamed of the actions of the State of Maine at destroying this family's business for a pittance and thinking that that was alright. So it's okay, I guess, when we destroy a

family business that's been in existence for a long time, but, whatever we do, we've got to make sure we don't cost ourselves some more money. This is a struggle, I realize, our financial difficulties, but I will be voting with the good Representative from Belfast, because I would like to never see the State of Maine do again what we did to the family that we're talking about. Thank you, Madam Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Minority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 134**

YEA - Adams, Berry, Blanchard, Boland, Bolduc, Bryant, Butterfield, Cain, Carey, Casavant, Clark H, Cleary, Cohen, Connor, Cornell du Houx, Crockett P, Driscoll, Duchesne, Eberle, Flemings, Goode, Harlow, Hayes, Hinck, Hogan, Innes Walsh, Jones, Kaenrath, Kent, Kruger, Lajoie, Lovejoy, MacDonald, Martin JL, Mazurek, Miller, Morrison, O'Brien, Peoples, Percy, Perry, Peterson, Pieh, Piotti, Pratt, Priest, Rankin, Rotundo, Russell, Sanborn, Smith, Stevens, Stuckey, Sutherland, Theriault, Treat, Trinward, Tuttle, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Wheeler, Wright, Madam Speaker.

NAY - Austin, Ayotte, Beaudoin, Beaulieu, Beck, Bickford, Blodgett, Browne W, Burns, Campbell, Cebra, Chase, Clark T, Cotta, Crafts, Crockett J, Curtis, Cushing, Davis, Dill, Dostie, Eaton, Edgecomb, Eves, Finch, Fitts, Flaherty, Fletcher, Flood, Fossel, Gifford, Gilbert, Giles, Hamper, Hanley, Harvell, Hill, Hunt, Joy, Knapp, Knight, Langley, Legg, Lewin, Magnan, Martin JR, McCabe, McFadden, McKane, McLeod, Millett, Nass, Nelson, Nutting, Pendleton, Pilon, Pinkham, Plummer, Prescott, Richardson D, Richardson W, Robinson, Rosen, Sarty, Saviello, Schatz, Shaw, Sirois, Strang Burgess, Sykes, Tardy, Thibodeau, Thomas, Tilton, Valentino, Weaver, Willette.

ABSENT - Beaudette, Briggs, Celli, Cray, Greeley, Haskell, Johnson.

Yes, 67; No, 77; Absent, 7; Excused, 0.

67 having voted in the affirmative and 77 voted in the negative, with 7 being absent, and accordingly the Minority **Ought Not to Pass Report was NOT ACCEPTED.**

Subsequently, on motion of Representative PRIEST of Brunswick, the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-361) was READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Friday, May 29, 2009.

HOUSE DIVIDED REPORT - Majority (10) **Ought to Pass as Amended by Committee Amendment "A" (H-386)** - Minority (3) **Ought Not to Pass** - Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Create a Moratorium on the Open-air Production of Genetically Engineered Pharmaceutical Crops in Maine"

(H.P. 491) (L.D. 708)

TABLED - May 27, 2009 (Till Later Today) by Representative PIEH of Bremen.

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

Representative THOMAS of Ripley **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 Ripley, Representative Thomas.

Representative **THOMAS:** Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I had two of my constituents come speak against this bill, two organic dairy farmers, and when two dairy farmers take the day off, you need to sit up and pay attention, because they don't take the day off for nothing and they are scared to death. Let me back up just a second. One of these farmers is an organic dairy farmer that just lost his milk market. He was just notified that he is no longer going to be able to sell milk, where he's been selling it for years. So that means that he's going to see his price drop considerably, even though he is geared up to produce organic milk, and he is scared that there may be some opportunities here for him to farm that he won't be able to take advantage of, if this moratorium is in place. The other farmer is also an organic farmer and he's waiting to get his notice any day. They'll go from \$25, \$26 a hundred for their milk to \$11 or \$12. I don't know what we would do if our pay was cut in half or more than in half, and probably most dairy farmers work for less than we do, believe it or not, and they need that opportunity. Even if they don't need the opportunity, other farmers do, because we're going to get to the point where they're aren't enough farmers to support the infrastructure. What if a dairy farmer has to go to New York to buy a bulk tank for his milk or a farm tractor, because there aren't enough farmers in Maine to support the dealerships? Then what? Then he has to hire somebody from New York to come to Maine to fix his equipment? These farmers need every opportunity that they can get and this bill would do away with those opportunities. Maybe this is a bad analogy, but I'm going to use it anyway. I'm reminded of when I was in school, we studied Henry Ford and how he built the horseless carriage in his garage, and then the carriage was too big and he had to tear the side of the building apart to get it out. Some of his neighbors were upset because this horseless carriage scared their horses. They were scared of technology and some of those people would have passed a law forbidding him to do that, yet look at the opportunities and look at what horseless carriages and automobiles have done for the economy of this country. I think there is some potential here for these crops that farmers want to grow, we're not growing them yet, there are lots of regulations so that they're going to be safe. I think there is the potential to provide a lot for our economy and I personally would hate to see us give them up and those two dairy farmers definitely can't afford to lose any opportunities. Thank you.

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. With all due respect, I don't believe this bill has much to do with the plight of the organic dairy industry. There is a lot of things that we will be talking about this session, that we'll be bringing further down the line here, that we can talk about the plight of the dairy industry in the State of Maine. There are a lot of reasons that our dairy industry is in peril and this bill, LD 708, is not one of those reasons. I want to make that abundantly clear.

I would ask everyone in this body, farmer or non-farmer, to ask you and what you think of when you think farmers. Do farmers produce food? Do farmers produce fiber? Do farmers produce cheese? Do farmers produce drugs? To be perfectly honest with you, this is all this is about. There is no farmer right now in the State of Maine who is going to touch pharmaceutical crops right now with a ten foot pole, I believe that wholeheartedly. There is an idea that we've heard about that you want to keep your options open, and, trust me, I understand the idea of diversification. If you want to talk about diversification, we can talk about diversification. There is a lot of ways to do that and I

wish this body, trust me, would help us with that with poultry, with raw milk. There is a lot of ways that we can encourage diversification and help our farmers weather this economic storm. By putting all of that at risk, everything that we know as farming right now in the State of Maine at risk by genetically engineering corn or safflower or anything else, to incorporate a drug meant to cure some type of human disease and not meant for food, to me, I question. Because what I want to do is protect exactly what we're talking about, this Maine brand. These dairy farmers that are going out of business, these dairy farmers that are in trouble, I want to support them and that's why I want to make sure that our food supply is protected from being contaminated with drugs. I'm a paramedic, okay? I'm not a farmer. I'll be the first to admit it; I admit it there everyday when I get there to committee. I'm not a farmer. Am I wannabe farmer? Yes, probably, but that's not the point. I use drugs every day to help people. Nobody else here in this body, I mean I understand the benefits of drugs. Interesting; interesting, yes. Some people would question and ask me what drugs I'm on right now, but I am telling you I'm talking about pharmaceuticals, I'm talking about insulin in your safflower oil, okay? I understand the benefits that these things can have and this technology that I am so apparently scared of, there is nothing in this bill that says you can't continue to work on that technology. In an enclosed greenhouse, we're making sure that that technology is not getting into my food. The biggest thing to me, we talk a lot about homeland security, we talk a lot about travel documents and all the things to keep us safe, to me, there is nothing that keeps us more safe than a stable and just, a democratic food supply in a food system, and I don't want to put that at risk and that's all I'm trying to do, okay? I'm not anti-technology, I'm not out here looking to prevent people from coming up with some things that could help human kind. I just want to make sure that when I eat my corn, that I'm eating corn.

In terms of, we heard about this idea that there is plenty of regulations in place to protect us, don't worry. Don't worry, they say. The Office of the Inspector General stated in 2005 that the USDA APHIS, the people in charge of food safety, the rules and regulations were wholeheartedly inadequate, and I'll bring your attention to a couple of handouts that I tried to get out. It's a lot of words. I know some people have a hard time with reading through a lot of stuff, and I apologize for the length of it, but it's an important issue. There is a lot of people here who would agree with me, I think, that the Nation Academy of Sciences is not some whack job think-tank, okay? These people here and it's a wide group of people, including the groceries manufacturers and food processors, are just saying hey, let's take a timeout and wait for the science to catch up to the technology, and that's all I'm asking for.

I also would ask, before I sit down, for a roll call, if it already hasn't been asked for. But also to read the Committee Report, because I think you'll find that, on both sides of the aisle and our committee did a heck of job going through all this research, a lot of the stuff that I tried to summarize, that took at least two pages to summarize in bullet points, that we waded through, the evidence is there that this is not proven science yet and that all we're asking is what do you want Maine farming to be like, what do you envision that? Do you envision diversified farms? Yes, I do. I don't envision pharmaceutical crops and I don't think the majority of your constituents, if you went back to them and asked them what do you think farming in Maine should be, and I don't think if you ask the majority of farmers, that they would say to you what I would really like to be doing is producing insulin for human use rather than food. I have taken more than my fair share of time today, I apologize. I thank you all for indulging me and I would be happen to answer any questions that come from this

body on this issue because I think it's important, I think it's important to be proactive, I think it's important to protect our brand, protect our farmers and just make sure that food is food. Thank you.

Representative PRATT of Eddington **REQUESTED** that the Clerk **READ** the Committee Report.

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

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

Representative **CONNOR**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I rise to support the Majority Ought to Pass as Amended Report. As many of you folks know, I am a registered nurse by training. I own a small biotech research company; I make my living running clinical trials of pharmaceutical products. In the spirit in not being misconstrued, I'll refer to these as medications and medicines as we go forward, as opposed to drugs, but the same is true. The industry in which I work, we have to test these medicines and medications and prove that they're safe and prove that they're efficacious, which means that they actually work and do the things that they are set out to do, before we allow them to be sold to humans. Now, what we have before us, as a technology in a sense, is the ability for a product to go into a crop, to eventually be made into a medicine, that will be tested and proven whether safe and effective and, hopefully, one day sold to humans. I don't think we should take the chance of having it mixed in with our food. So, to me, if this bill was a straight out ban on genetic engineering of pharmaceutical products, I would stand and oppose this motion and that may surprise the sponsor, but what this bill says is it says in its amendment that this happens until July 2012. So this allows us to find out where the technology is going. Who here in Maine wants to have it? Now in Madison there is a beautiful place, like many places in Maine, and they have Backyard Beauties, and I'm sure the folks here know that Backyard Beauties is not a website; it is tomatoes that are grown right there in Madison indoors. So we have successful technology of growing crops indoors in Maine. If these products need to be here, if these medications need to be here in crops, they can be done indoors and it could be a new wonderful avenue for Madison and the folks there to pursue. Thank you, Madam Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Caswell, Representative Ayotte.

Representative **AYOTTE**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise in opposition to the bill, but I do want to base my opposition on what I would refer to as pretty good scientific facts. I want to point out that nature has been doing genetic engineering for a millennium, eons of time. Natural selection or natural mutation has been going on for millions of years. Genetic engineering is induced mutation. I would like to attempt to dispel any concern as to the negative effects or genetic engineering.

As all of you know, within each cell of our body there is a nucleus. In the nucleus there is DNA. The DNA is made up of a sequence of organic bases. Most of you have seen the pictures of the four letters: cytosine, guanine, adenine and thymine. When a gene about 1,500 of these organic bases come together, they code for a protein. Proteins are made up of amino acids. Amino acids can be compared to letters that make up a word, just like there's 26 letters in the alphabet that make up word, there's 20 amino acids that make up proteins. Now when one of the organic bases, whether it be cytosine, guanine, thymine or adenine, is changed by the process known as a retrovirus that goes in and changes the organic base from, say, an adenine to a thymine, this will change the basic protein. What happens



when you change the basic protein? You may have made that plant resistant to a virus, you may have made that plant resistant to the Colorado beetle, you may have produced a genetic crop that will feed, and the United States does do that in many ways, feed millions of people because of that genetic mutation. Ninety-nine point nine percent of all genetic mutations are lethal, the plant or animal does not survive a genetic mutation. Genetic mutations are what has caused us to evolve or what causes animals to improve and adapt better their environment. Again, I urge you to vote against Ought to Pass, because genetic engineering has done the same thing as vaccinations and many other medical breakthroughs has done for humanity. Thank you, Madam Speaker.

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

Representative **MAGNAN**: Thank you, Madam Speaker. Madam Speaker, honorable Members of the House. Last Saturday, after going to the Cub Scout breakfast, I ran into town to drop off a library book at our volunteer library and found a farmers market. This was amazing. It was the first week, there were five booths, and I was surprised to say the least. But, as a person who is very concerned about micro businesses or tiny businesses, I am amazed at the resurgence of agriculture, in a way, in my district, which has virtually no horrible end. However, we do have blueberries, after the blueberries we have honey, and we have lamb and poultry, llamas now to feed, we have eggs and we have people who want to be organic farmers and who are organic farmers. In this sense, part of the problem here is the perception of the problem. I do believe that the honorable Representative, who just spoke before me, made a very good point about genetic engineering being a wonderful thing for the world and feeding billions of people. But, in Maine, I don't think that we're ready for the notion of genetically engineered material even being out there. Bees are going to pick the stuff off, they'll move it around, and I think that it is the question of contamination. I would like to see this stay indoors.

One of the gals who had a little stall, who raises organic blueberries, she had jams, jellies and teas. She made \$400 last Saturday morning and that was the first time it had been in place. I'm looking for a growth in this whole process, all through my district, as people do small-scale organic agriculture to supplement their incomes in some cases and to live that way in others. We have a place called Hardscrabble Farm and, believe me, that is what it is, and those people are doing just fine. So I would like to say that I'm going to be voting against this bill, but it's only because of the, even if there's some good to come out of it, the perception of the problem does exist and I don't want people to be worried about it. I'd like to see it contained. Thank you.

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

Representative **EDGECOMB**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise in opposition to the current motion. LD 708 would take away a significant ability of our universities and any company from doing research in a fast-growing industry of the 21st century. Industrial products that are not petroleum based but from renewable resources with a much smaller environmental footprint, this is fact that the Coca-Cola Company just announced that some of their bottles will now be biodegradable plastic made from corn. It is a fact that a company just south of us in Massachusetts is investigating research opportunities to make biodegradable plastic for bottles and other containers from switch grass. I would remind you that none of these fantastic environmentally-friendly

and, by the way, possibly lucrative opportunities for Maine's academia and farmers would be possible if 708 became law.

The bill is a classic example of a solution looking for a problem. It is easy to ban whole areas of research and products if we don't have any of them in Maine; however, all of our neighbors, states, allow plant made pharmaceutical and plant made industrial research and products. In fact, Massachusetts even has an incentive program, passed last year, to encourage this kind of research. Why do we think all of this is problematic when nobody else does? Why do we want to be the first in the nation, and perhaps the only state in the nation, to say no to this possibly very helpful technology? LD 708 is shortsighted and would take away any ability for our intelligent, younger generation to engage in this kind of groundbreaking research or industry and jobs that could result. Sure, let us continue the trend to send our best and brightest out of state to some place else, where the real opportunities are. Thank you, Madam Speaker.

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

Representative **WRIGHT**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. When I first saw the title of this bill, I was thinking to myself, here we go with another Frankenfood bill, but it turns out to be much worse than that. I don't know if it's bride of Frankenstein, son of Frankenstein, but every day we're overwhelmed with the drugs being pushed on society and I'm talking about the drugs that are federally approved. All you have to do is look at the TV ads during the television and during the news, during family programming, and we're constantly bombarded with more drugs. Now I don't feel that the drugs are bad, necessarily. Admittedly, I probably don't have as many experiences with the drugs as some people in this House has talked about. But the thing that bothered me more than the number of drugs is listening to the adverse effects of these drugs. Many times, the adverse effects are worse than the diseases they are trying to cure. The one that springs to mind is, several years ago, I'm sure you all remember where a little creature living underneath your toenails and who knew that toenail fungus was such a bad disease in America, but then you listen to the adverse effects and the heart problems, nerve damage, diabetes, because people are afraid of toenail fungus. Then all you have to do is read the papers about what drugs that have been federally approved are being removed after a short time. I'm worried that what we're asking here, it's not about food, it's about genetically altering plants for drugs, and I, for one, don't want to worry about which way the wind is blowing and have to worry about a four hour long side effect or going blind or going deaf, because I might be downwind from some farm. 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. That's a little hard to follow, talking about toenails. I just want to make just a couple of points and this is not about genetically engineered food. That's not what this is about. This is about not getting drugs, medicine into our food chain. Think about the cattle industry and those feed lots. They made a practice of putting antibiotics, putting penicillin in the food so the cows wouldn't get sick. It ended up in our food chain and we have a lot of regrets about that, and most of us are not able to take penicillin to treat illness now because it got into the food chain, it was an unintended consequence. What I'll mention is that this doesn't stop study, this doesn't stop doing it. This places a three year moratorium on doing it outside, where we run the risk of getting the medicines into our food chain.

That's all this does, and I rise in enthusiastic support of the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from New Gloucester, Representative Van Wie.

Representative **VAN WIE**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I'm not an expert in genetic engineering, but I spent a lot of time in engineering school and working with engineers, and one of the things, key principles I've learned in my many years is that engineered systems fail. Engineered systems do great wonders for our society but, ultimately, engineered systems fail. Engineers hate me to say that, many of my colleagues, but it is true. We spent a lot of time and I spent a lot time trying to understand how to address the consequences of failure of those systems. When you look at the failure of an engineered system, you have to look at two things: you have to look at the probability of that failure and impact of that failure, and the two combined are the risk. When you look at the risk, you have to then say, well, what can we do about it, can we mitigate it? Can the result of that failure be contained? Can the results of that failure be reversible? Now, in the case before us, we're looking at combining an engineered system with ecology and our food supply, so the consequences of failure, the impact can be tremendous, and I would argue that under the current system under open air, it's very difficult to contain or to know that we can contain them and very, very difficult to reverse. I understand the economic opportunity that was expressed by the good Representative from Caribou. I'm not against economic opportunity, but I want to balance that with the potential economic destruction that could come if something goes wrong. I don't want to be in this body, when we have to find a way to fund a mitigation program on the scale of this spruce budworm program or the invasive species program that we've been embarked on to address some unwanted consequences that have affected our ecology. So I'm going to vote in favor of the motion Ought to Pass. I'm concerned that once the genie is out of the bottle, we don't have the technology to put it back in. Thank you very much, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Lincoln, Representative Gifford.

Representative **GIFFORD**: Thank you, Madam Speaker. I rise today to oppose LD 708. I come from a long line of farmers in the past and I've seen technology work. You know, I remember my uncle discovered weed killers and that's a big thing to him because, before that, farmers spent a lot of time pulling weeds, hoeing by hand, doing a lot of groundwork by hand. Also, I talked to some farmers up in Island Falls and that area that worked with the potato industry, working on a potato gene, a gene in a potato that could do away with harmful potato bugs. I, myself, I've been an organic farmer since 1975, but that's my choice. If we're going to feed the world the way we do with the amount of farmers that we have, I think this genetic engineering is a good thing, as long as it's done under controlled circumstances, and I have faith. We make mistakes, we all make mistakes. But I think the way to do it is you test, you grow stuff and you look at it and see what it does, and I think it's just that we're looking at a solution for a problem that we don't have and that's why I rise in opposition. Thank you, Madam Speaker.

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

Representative **SMITH**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I will try to add a unique perspective and new information at this time. First, as the Chair of the Committee on Business, Research and Economic Development, having served on that committee for

now four terms, biotech is a valuable component of our economy. I support it. This is something different. This is mixing pharmaceuticals and our food, where there is a risk of cross contamination. Let me read the definition from the bill of what it is that we would restrict from open air production for three years: a plant that has been genetically engineered to produce a medicine or industrial crop, including human or veterinary drug, a biologic, industrial or research chemical, enzymes, vaccines, human antibodies and human blood proteins. I think it's reasonable, since none of these things are happening in Maine now nor are they close to happening, that we have the moratorium to get our feet under us. Well the primary purpose is for the industry to educate the public and the committee on the value and purpose of these drug foods, as well as dealing with the risks.

Let me give you an example of the testimony that solidified my support for this bill. We had a gentleman who is a scientist with Bio, the industry group for the biotech companies, who spoke about the fact that there's been no contamination in the food system, even though these products have been propagated in other states. A supporter of the bill then stood and said that's not true, that there had indeed been contamination, that the grains had been harvested with these pharmaceuticals in them, and had been harvested from the land. I asked for clarification from the scientist. He said well, the contaminated food didn't make it into the food stream; therefore, he stood by his statement that there hadn't been a problem. I'm sorry, a near miss is enough to validate the need for three years for the industry to talk to the citizens of this state and the committee and the Legislature about why we need this, how they're going to protect the food system.

There is an irony that the example that was used was to inject insulin into safflower oil. Do you know why we need insulin safflower oil? Because the level of diabetes will double worldwide in the next 20 years. Do you know why diabetes will double in the next 20 years worldwide? Hydrogenated corn oil. We eat garbage. We have very poor, if you look at prepared foods, and I'm not just talking sodas and chips, look at Hamburger Helper or any of the prepared things: hydrogenated corn oil. I think perhaps instead of injecting insulin into foods to deal with a lousy food system that has hydrogenated oil in it, perhaps we look at our foods, we eat more whole foods, perhaps an apple a day really is legitimate and we each walk a half a mile, we won't need insulin in our safflower oil, nor will those countries where we are exporting our lousy eating habits.

Let me close by saying, in addition to being the Chair of the BRED Committee and looking at this from a business aspect, I'm an organic dairy farmer that has darn near volunteered to take a day off from my farm to be here ten months, every two years, for four terms. I hope that you will give credibility to my words in the time that I have taken to learn about these issues, and I hope that you will respect that. This bill does not limit markets. It does not limit options for Maine farmers. This gives three years for no open air propagation of human and veterinary drugs, biologics, medical and chemical research enzymes, vaccines, human antibodies and human blood proteins in Maine. I think it is not based on fear, I think it is based on a wise prudent long view. The fact that Massachusetts has incentives for this is spectacular. They can have it. I have never in this body heard that we want to model ourselves after Massachusetts and I don't think this is the time to start. Please support the pending motion, I appreciate it.

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

Representative **MAGNAN**: Thank you, Madam Speaker. Madam Speaker, Ladies and honorable Members of the House. I misspoke my last sentence and it would be that I do support the moratorium on genetically modified crops, number 708. 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. 135**

**YEA** - Adams, Beaudoin, Beaulieu, Beck, Berry, Blanchard, Blodgett, Boland, Bolduc, Bryant, Butterfield, Cain, Campbell, Carey, Casavant, Clark H, Cleary, Connor, Cornell du Houx, Crockett P, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Eves, Finch, Flaherty, Flemings, Flood, Fossel, Gilbert, Goode, Harlow, Harvell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kaenrath, Kent, Knapp, Knight, Lajoie, Langley, Legg, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, McKane, Miller, Morrison, Nelson, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Piotti, Pratt, Prescott, Priest, Rankin, Richardson W, Rosen, Rotundo, Russell, Sanborn, Schatz, Shaw, Sirois, Smith, Stevens, Stuckey, Sutherland, Treat, Trinward, Tuttle, Van Wie, Wagner J, Wagner R, Watson, Webster, Wheeler, Wright, Madam Speaker.

**NAY** - Austin, Ayotte, Bickford, Browne W, Burns, Cebra, Chase, Clark T, Cotta, Crafts, Crockett J, Curtis, Cushing, Edgecomb, Fitts, Fletcher, Gifford, Giles, Hamper, Joy, Lewin, McFadden, McLeod, Millett, Nass, Nutting, Pinkham, Plummer, Richardson D, Robinson, Sarty, Strang Burgess, Sykes, Tardy, Theriault, Thibodeau, Thomas, Tilton, Valentino, Weaver, Willette.

**ABSENT** - Beaudette, Briggs, Celli, Cohen, Cray, Davis, Greeley, Hanley, Haskell, Johnson, Kruger, Saviello, Welsh.

Yes, 97; No, 41; Absent, 13; Excused, 0.

97 having voted in the affirmative and 41 voted in the negative, with 13 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-386)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 29, 2009.

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

**SENATE DIVIDED REPORT** - Majority (12) **Ought Not to Pass** - Minority (1) **Ought to Pass** - Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Allow Noncitizen Residents To Vote in Municipal Elections"

(S.P. 443) (L.D. 1195)

Which was **TABLED** by Representative **PIOTTI** of Unity pending the motion of Representative **TRINWARD** of Waterville to **ACCEPT** the Majority **Ought Not to Pass** Report. (Roll Call Ordered)

The **SPEAKER**: A roll call having been previously 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. 136**

**YEA** - Adams, Austin, Ayotte, Beaudoin, Beaulieu, Beck, Berry, Bickford, Blanchard, Blodgett, Boland, Browne W, Bryant, Burns, Cain, Campbell, Carey, Casavant, Cebra, Chase, Clark H, Clark T, Cleary, Cohen, Connor, Cornell du Houx, Cotta, Crafts, Crockett J, Crockett P, Curtis, Cushing, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Edgecomb, Eves, Finch, Fitts, Flaherty, Flemings, Fletcher, Flood, Fossel, Gifford, Gilbert,

Giles, Hamper, Hanley, Harlow, Harvell, Hayes, Hill, Hogan, Hunt, Innes Walsh, Jones, Joy, Kaenrath, Kent, Knapp, Knight, Lajoie, Langley, Legg, Lewin, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McFadden, McKane, McLeod, Miller, Millett, Morrison, Nass, Nelson, Nutting, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Pinkham, Piotti, Plummer, Prescott, Priest, Rankin, Richardson D, Richardson W, Robinson, Rosen, Rotundo, Sanborn, Sarty, Shaw, Sirois, Smith, Stevens, Strang Burgess, Sutherland, Sykes, Tardy, Theriault, Thibodeau, Thomas, Tilton, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Weaver, Webster, Wheeler, Willette, Wright, Madam Speaker.

**NAY** - Bolduc, Butterfield, Goode, Hinck, McCabe, Pratt, Russell, Schatz, Stuckey.

**ABSENT** - Beaudette, Briggs, Celli, Cray, Davis, Greeley, Haskell, Johnson, Kruger, Saviello, Welsh.

Yes, 131; No, 9; Absent, 11; Excused, 0.

131 having voted in the affirmative and 9 voted in the negative, with 11 being absent, and accordingly 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 (8) **Ought to Pass as Amended by Committee Amendment "A" (H-424)** - Minority (4) **Ought Not to Pass** - Committee on **TAXATION** on Bill "An Act To Raise the Property Tax Exemption for Veterans"

(H.P. 60) (L.D. 71)

Which was **TABLED** by Representative **BERRY** of Bowdoinham pending **ACCEPTANCE** of either Report.

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

The **SPEAKER**: The Chair recognizes the Representative from Bath, Representative **Watson**.

Representative **WATSON**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. Shortly after World War I, the State of Maine passed a property tax exemption for combat veterans. They placed the level at \$5,000. In those days, that pretty much was the entire homestead that a veteran might have had. Since that time, we have returned to the Veteran's Homestead Exemption, the veteran's property tax exemption, time and time again, raised it a bit in pieces, bit in pieces. It's now at \$6,000. This bill was presented to us, as it is every year, for another opportunity to try and raise the Veteran's Homestead Exemption to something closer to reality. For the first time, the Taxation Committee decided that, first of all, we can't afford to do that and municipalities cannot afford to do that in this biennium, certainly. But we decided to try something new and instead we have passed this bill out of committee favorably on a divided report, but it would increase the Homestead Exemption for veterans by 5 percent a year, beginning in the next biennium, until such time the Legislature can look at it and determine that it's at an equitable level and stop it if they so chose. But this is a way to prevent the veterans coming, having to come in year after year, on either going home with a small percentage increase or nothing at all, which is what we had to do with it this year obviously. So this has no fiscal impact in the next biennium, it does start to have a fiscal impact in 2012. It will cost the state about \$900,000 a year to reimburse the municipalities, as it's mandated under the Constitution, 50 percent of the property tax loss due to the exemption. I encourage you to support the Ought to Pass motion. It's something we can do for the veterans this session. Thank you.

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

Representative **NASS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I do not intend to belong to the on and on and on club, and the good Representative from Taxation has already explained what was done and it is getting late, but I do urge you to vote for this bill. This particular bill is one of my passions and some of the Education Committee knows that, when I have a passion, I really work for it. The veterans cause is a great one of mine. I owe it to them as having been a child that went to college as a result of my dad being killed in World War II. I ask that you support the veterans that have given of their lives and maybe are not reaching the full potential of their earning power and can use our help now. So I ask that you follow my light and please vote for this bill.

Representative **KNIGHT** of Livermore Falls **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 Valentino.

Representative **VALENTINO**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I just rise briefly to state that I was on the Minority Report of this, along with, there were four of us actually on the Minority. Obviously we all care about the veterans in the State of Maine. The reason, though, that we voted against it was because, even though there was a \$900,000 fiscal note, we did not feel that it was right, first of all, to push it off to another Legislature to have them deal with, when they came in where we could not deal with it in our budget this time. Secondly, we also reduced the Homestead Exemption and we reduced the Circuit Breaker Exemption. These help people in these difficult economic times and the reason we felt was that where we were actually reducing other exemptions and we did not reduce the veteran's exemption, that this was not the time to be increasing the exemption. I have all the respect in the world for the veterans, but I will be voting Ought Not to Pass out of fairness to all of the other cuts that we made. Thank you.

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. My colleague from Saco has pretty much summed it up and I, too, voted Ought Not to Pass for the same reasons, in light of the fact the veterans do receive Circuit Breaker and Homestead Exemptions and because of the fiscal note, not in this biennium but in the next biennium, we just thought it was not fiscally responsible to take away the Circuit Breaker, we're making reductions in Circuit Breaker and it was just not responsible to send this forward in this session. So I voted Ought Not to Pass. Thank you.

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

Representative **BRYANT**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I rise in opposition to this motion. I realize that the veterans are a very big part of why we're here today and that's one of the reasons I'm voting against this motion. I think we should respect them and we keep sending out this message, as we have in the past, that we have this money to get them something, and they look, the bill passes, dies on Appropriation's table, and then they say, well what happened? Well, I'm saying let's be real, let's give them the respect that they deserve and not give them this false hope.

Follow my light, vote red.

The **SPEAKER**: The Chair recognizes the Representative from Bath, Representative Watson.

Representative **WATSON**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I need to apologize. Often times, when you're wrapped up in something in committee, you inherit or you gain a certain understanding of it and then you assume that everybody you're talking to has the same level of understanding. I thought I'd just back up just for a moment and tell you a little bit about the Veteran's Exemption. I mentioned how earlier it was passed and how low a figure it's been over the last many decades, but remember, the Veteran's Homestead Exemption kicks in only at age 62 or in the case of total disability. So this is a very small group of people we're talking about and, frankly, they are dying out quickly. The good Representative from Windham, Representative Bryant, is absolutely right with regard to responsibility of a committee passing something out, a bill out to get a group's hopes up and then knowing full well it's going to die on the table. But again, I will remind you that this does not begin in this biennium. There is no fiscal note in this biennium on this. This begins in two years and is simply a way to give veterans something to plan for and, frankly, municipalities something to plan on rather than the hit or miss method that we've used in the past. With that, thank you very much, Madam Speaker.

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

Representative **CHASE**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I, too, rise in favor of this bill. It's a wonderful bill and we did work on this with concern about what the fiscal note was going to be. That's one of the reasons why we didn't start it for until it was outside of this biennium. On top of that, the five percent indexing that goes on this is very, it was a lot smaller than what the original bill was. Over a period of time, it will build up so that later on, when the economy recovers and we're doing better, at that point, we'll be able to afford it more. So we took that all into consideration with this and, at the same time, recognized that we really wanted to do something for our veterans that was going to keep on going over the years. Thank you very much.

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

Representative **BRYANT**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I respect my Chair's position on this and others that spoke, but again I speak. The people that sponsored the bill, some of them are not going to be here in two years, and they move this problem on to another Legislature, another session. I think that's wrong. We take the responsibility now. In two years, a new Legislature can make a decision on where they want to go. We don't just shovel it underneath, ship it to another Legislature's session to deal with. We deal with it in the session that it's in and not shirk our responsibilities. Again, I say respect the veterans, vote no, let them know it's out there for this session and, next session, let's go back at it again with some money and see what's there. 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. 137

YEA - Adams, Austin, Beaudoin, Beaulieu, Beck, Berry, Bickford, Blanchard, Bolduc, Browne W, Burns, Butterfield, Campbell, Casavant, Cebra, Chase, Clark H, Clark T, Cleary, Cornell du Houx, Cotta, Crafts, Crockett J, Curtis, Cushing,

Dostie, Driscoll, Duchesne, Edgecomb, Eves, Finch, Fitts, Flemings, Fletcher, Flood, Fossel, Gifford, Gilbert, Giles, Goode, Hamper, Hanley, Harlow, Hill, Hogan, Hunt, Innes Walsh, Jones, Joy, Kaenrath, Knapp, Knight, Lajoie, Langley, Legg, Lewin, Lovejoy, MacDonald, Magnan, Martin JL, Mazurek, McCabe, McFadden, McKane, McLeod, Millett, Nass, Nelson, Nutting, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pinkham, Piotti, Plummer, Pratt, Prescott, Priest, Rankin, Richardson D, Richardson W, Robinson, Rosen, Russell, Sanborn, Sarty, Shaw, Sirois, Smith, Stevens, Strang Burgess, Sykes, Tardy, Theriault, Thibodeau, Thomas, Tilton, Trinward, Tuttle, Wagner J, Wagner R, Watson, Weaver, Wheeler, Willette, Wright, Madam Speaker.

NAY - Blodgett, Boland, Bryant, Cain, Carey, Cohen, Connor, Crockett P, Dill, Eaton, Eberle, Flaherty, Hayes, Hinck, Kent, Martin JR, Miller, Morrison, Pilon, Rotundo, Schatz, Stuckey, Sutherland, Treat, Valentino, Van Wie, Webster.

ABSENT - Ayotte, Beaudette, Briggs, Celli, Cray, Davis, Greeley, Harvell, Haskell, Johnson, Kruger, Saviello, Welsh.

Yes, 111; No, 27; Absent, 13; Excused, 0.

111 having voted in the affirmative and 27 voted in the negative, with 13 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-424)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 29, 2009.

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The following item was 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. 978) (L.D. 1399) Bill "An Act Concerning Water Quality in Watersheds" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-452)**

(H.P. 1014) (L.D. 1462) Resolve, Regarding Legislative Review of Portions of Chapter 3: Maine Clean Election Act and Related Provisions - Increase of Seed Money to \$150,000, a Major Substantive Rule of the Commission on Governmental Ethics and Election Practices (EMERGENCY) Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-445)**

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

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

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On motion of Representative ADAMS of Portland, the House adjourned at 5:38 p.m., until 9:00 a.m., Friday, May 29, 2009 in honor and lasting tribute to Theodore Barris, of Portland and Myron H. Pierce, of South Paris.