

# 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  
49th Legislative Day  
Tuesday, June 2, 2009

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

Prayer by Pastor Ron McLaughlin, The United Baptist Church of Topsham.

National Anthem by Phippsburg 4th and 5th Grade Elementary School Band.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

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### SENATE PAPERS

#### Non-Concurrent Matter

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)

Report "A" (7) **OUGHT NOT TO PASS** of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY READ** and **ACCEPTED** in the House on May 28, 2009.

Came from the Senate with Report "C" (2) **OUGHT TO PASS AS AMENDED** of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-387)** in **NON-CONCURRENCE**.

On motion of Representative PIEH of Bremen, the House voted to **RECEDE AND CONCUR**.

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### COMMUNICATIONS

The Following Communication: (S.C. 383)

#### MAINE SENATE 124TH MAINE LEGISLATURE OFFICE OF THE SECRETARY

June 1, 2009

Honorable Hannah M. Pingree  
Speaker of the House  
2 State House Station  
Augusta, ME 04333-0002

Dear Speaker Pingree:

In accordance with 3 M.R.S.A. §158 and Joint Rule 506 of the 124th Maine Legislature, please be advised that the Senate today confirmed the following nomination:

Upon the recommendation of the Committee on State and Local Government, the nomination of Tracy B. Bigney of Bangor for appointment to the State Civil Service Appeals Board.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

**READ and ORDERED PLACED ON FILE.**

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

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### REPORTS OF COMMITTEE

#### Divided Reports

Majority Report of the Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by**

**Committee Amendment "A" (S-159)** on Bill "An Act Regarding Asbestos Abatement Work"

(S.P. 518) (L.D. 1434)

Signed:

Senators:

GOODALL of Sagadahoc  
SIMPSON of Androscoggin

Representatives:

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

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

Signed:

Senator:

SMITH of Piscataquis

Representatives:

HAMPER of Oxford  
EDGEComb of Caribou  
AYOTTE of Caswell

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-159) AS AMENDED BY SENATE AMENDMENT "A" (S-272)** thereto.

**READ.**

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-159)** was **READ** by the Clerk.

**Senate Amendment "A" (S-272) to Committee Amendment "A" (S-159)** was **READ** and **ADOPTED**.

**Committee Amendment "A" (S-159) as Amended by Senate Amendment "A" (S-272)** thereto **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" (S-159) as Amended by Senate Amendment "A" (S-272)** thereto in concurrence.

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Nine Members of the Committee on **STATE AND LOCAL GOVERNMENT** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (S-252)** on Bill "An Act To Authorize the Annexation of a Portion of Redington Township in Franklin County to the Town of Carrabassett Valley" (EMERGENCY)

(S.P. 288) (L.D. 741)

Signed:

Senator:

COURTNEY of York

Representatives:

BOLAND of Sanford  
BROWNE of Vassalboro

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

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

Signed:

Senator:

SIMPSON of Androscoggin

Representatives:

BEAUDETTE of Biddeford

KAENRATH of South Portland

One Member of the same Committee reports in Report "C"  
**Ought to Pass as Amended by Committee Amendment "B"**  
**(S-253)** on same Bill.

Signed:

Senator:

JACKSON of Aroostook

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

**READ.**

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

Majority Report of the Committee on **AGRICULTURE,  
CONSERVATION AND FORESTRY** reporting **Ought Not to  
Pass** on Bill "An Act To Reform the Land Use and Planning  
Authority within the Unorganized Territories of the State"

(H.P. 960) (L.D. 1370)

Signed:

Senators:

NUTTING of Androscoggin

BRYANT of Oxford

Representatives:

PIEH of Bremen

SMITH of Monmouth

PERCY of Phippsburg

McCABE of Skowhegan

PRATT of Eddington

KENT of Woolwich

O'BRIEN of Lincolnville

Minority Report of the same Committee reporting **Ought to  
Pass as Amended by Committee Amendment "A" (H-494)** on  
same Bill.

Signed:

Representatives:

EDGECOMB of Caribou

GIFFORD of Lincoln

CRAY of Palmyra

**READ.**

Representative PIEH of Bremen moved that the House  
**ACCEPT** the Majority **Ought Not to Pass** Report.

Representative JOY of Crystal **REQUESTED** a roll call on the  
motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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

Representative **JOY**: Thank you, Madam Speaker. Madam  
Speaker, Ladies and Gentlemen of the House. Every once in  
awhile we have organizations that are created by the state that  
do a wonderful job over a period of years and then, all of the  
sudden, they start getting power hungry and they lose sight of the  
intent that was given to them, such as the case now with our  
Land Use Regulatory Commission, and it's time to change the  
governance and the planning of our unorganized territory. This  
proposal would turn that responsibility over to the counties,  
county government. They would keep in place the Land Use  
regulation plan that is in effect right now for a two year period,  
give them time to work together and coordinate their activities  
and come up with plans for the future.

One of the problems that we have today is that our Land Use  
Regulatory Commission gives no consideration for the fact that  
that property is privately owned, and one of the key factors in the  
formation of this country and the freedoms that we have deal with  
our ability to own property. Well, what's happened now is LURC,  
which they're called, thinks that they have the right to tell people  
how they can do things on their land. Nobody wants to ruin the  
environment, but people would like to be able to use their  
investment that they've made in the land to their best advantage.  
Nobody wants to see the unorganized territory populated like it  
happens along the 95 corridor. It's very important that we bring  
this governance of the unorganized territories back to the closest  
governments that exist in that territory.

I have hundreds of square miles, thousands of square miles  
of unorganized territory in my district, and the things that people  
are required to go through to get something done is fantastic. I  
talked to a young man who is a state employee, he's a game  
warden, and he's building a home in Benedicta. He has an  
application form for a building permit, he said the fee was \$75  
and he sent the \$75 in with the application and received a letter  
back saying sorry we've changed the fees, it's now \$700. Fees  
increase ten times. Now the committee of oversight, in that  
particular case, was supposed to be Agriculture, Conservation  
and Forestry; however, that particular bill got railroaded to the  
Natural Resources Committee, so those fees were changed not  
by the committee of oversight but by another committee. Of  
course, having been here a number of years, I've seen how bills  
get shuttled from one committee to another in this particular  
system. It shouldn't be done. If there is a bill that requires  
certain oversight, they should be back with that committee.

But getting back to the issue of changing the governance  
structure, there are 10 counties that have unorganized territory in  
them and I realize, Madam Speaker, that your islands are  
governed by LURC and I don't know how often they get down  
onto the islands, but I do know that they get up to our area quite  
often. There are people up there who are permanently assigned  
to those various areas. Unfortunately, some of those people are  
real good agents for the people, others get a little bit power  
hungry and it's pretty hard to bring them in line. So I think that it's  
high time that we turned our governance structure and our  
planning for unorganized territories back to the counties.

I'm very disturbed to see the balance of the vote on this  
particular issue. I left them a book in the committee room which  
showed what has been planned for the unorganized territories of  
Maine. Maine and its unorganized territories are lumped in with  
lands across Vermont, New Hampshire and into New York State,  
making a total of 26 million acres that's supposed to be turned  
into a national park. That's the aim, and we have lots of

environmental groups out there, I say environmental, actually control groups, that are working to do this. A question was asked by one of the LURC commissioners in the middle of those conferences of a lady who was a lobbyist here in this organization quite often, how they proposed to pay for the land that they were going to take for that national park, and her answer was that compensation is not warranted. Well that's quite a broad statement to someone who is in charge of 10.6 million acres, which is roughly what we have for unorganized territories. If you look at the map, you'll see that it goes down into Washington County, makes the loop up around the organized towns, just probably around Bangor, and from there on up then you run into more unorganized territory. There are a lot of people who have property and a lot of people who work and live in the unorganized territories and it's getting tougher to do that all the time.

The latest plan that came out, which is the thing that triggered this bill for me, in essence it wants to promote all the non-motorized aspects of recreation. It doesn't really want to do much than to allow tree harvesting or anything like that and every excuse that can possibly be used to shut down activities in the unorganized territories is being put into place. The LURC Commission has two meetings scheduled, one for today and one for tomorrow. The one today deals with the Plum Creek proposal in the unorganized territories up around Moosehead Lake and the one tomorrow deals with the Comprehensive Land Use Plan. Both of those meetings are in Bangor and, while Bangor is not a long way away, it does present a problem for some of the people who live in the unorganized territories trying to get there. So there's not being much done to help or to show consideration for the people in the unorganized territories, and I think it is high time that we turned our governance structure over to the county. That's where it should have been in the first place. We're one of I think just two states in the nation that have an organization such as LURC in governing them. There have been several bills in this time on this, trying to change the governance structure of LURC and this one, actually this follows two bills that I presented in the past that would have established a governance system for the unorganized territory, so it has not anything that's new. I have tried to work for the unorganized territories in all of my career down here. So I would hope that the people that profess to be for the unorganized territories the other day would join me in voting this down and pass the Ought to Pass as Amended. Thank you, Madam Speaker.

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

Representative **PIEH**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I very much appreciate the good Representative from Crystal, Representative Joy, for bringing forward this piece of legislation. I think it illustrates the concern that many people who live in the UT, deal with the UT, concerns that they have about how their issues have been dealt with and are being dealt with. I think if you'll notice from legislation that has come through, this body and the other body recently; I think you'll realize that they are being listened to. We just Recede and Concurred on a piece of legislation that will put three residents of the UT on the LURC Commission, and we also looked at rewriting the entire purpose for LURC to broaden its scope in a way that acknowledges the issues that people have had. While I appreciate his bringing this forward as an issue, I do not see it as the answer and there are several reasons for this. One is imagine if you're a large project, a wind power project or development project, and you have to deal with several different counties trying to get your permits taken care of. Counties don't do school boards. You would have to begin to do a school board.

Counties don't do planning boards. They would have to create planning boards and, if it's like our towns in Lincoln County, every county would end up having some difference in ordinances for how they treat permits, which is right under home rule and is accoladed, but does not work for the 10.6 million acres. It won't save money. Most of the areas that are in the unorganized territories now would not choose to organize given that choice, because they get a better financial deal and get one complete continuous program to deal with, with the LURC Commission. The environmental groups don't support this and the industry groups don't support this, the Department of Conservation does not support this, and I urge you to support the Majority Ought Not to Pass Report. Thank you very much.

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

Representative **HARVELL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. When we debated the adding members to the LURC Commission a week ago, I heard two curious phrases from people suggesting that the unorganized territories were actually owned by the state. They are not, they are owned by private individuals. This is not like the Bureau of Land Management which is out west, where the Federal Government literally owns this land that homesteaders didn't take. This is privately owned land in this state and I think that's a unique distinction to make and, therefore, I will be supporting Representative Joy on this bill.

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. Representative Joy spoke about the Land Use Regulation Commission in a more philosophical or a theoretical sense. I wish to speak on it in a more pragmatic sense. About three weeks ago, incidentally I have three towns in my district: Hamlin Plantation, Connor Township and Cyr Plantation are under the auspices of the Land Use Regulation Commission. In one of the plantations, Cyr Plantation, the ATV club decided to put up a structure for a frame, four aluminum legs with a tarp on top of it, to sell hotdogs and hamburgers to raise money for the ATV club. Someone, perhaps someone not in full favor of ATVs, reported them to the Land Use Regulation commissioner. They received a letter from the Land Use Regulation. This incidentally, I'll read part of the letter, the person in charge of the sale that day received a letter from the Land Use Regulation commissioner asking him to fill out an after the fact application. The letter goes: I received your application yesterday. There are some missing items, but I can provide most photo site plans. I spoke to Scott Rollins who works for the Governor. Scott Rollins has waived the after the fact triple fee. It's a triple fee for you, so the fee will be a normal base of \$50 plus \$0.20 per square foot. I wish to reiterate this is four aluminum legs and a tarp on top. This isn't a permanent structure; this is just to sell hotdogs and hamburgers. I have calculated that the fee will be \$158. Feel free to double check my math, this is payable to the Treasury of the State. I will keep the incomplete application in the meantime. To use the words of the person of the ATV club, this doesn't make any sense, \$158 for a permit for a tarp to sell hotdogs and hamburgers to raise money for the ATV club on a Sunday afternoon? This is next to ludicrous. The Land Use Regulation Commission has lost its way. It may have had a purpose when it first began 30 or 40 years ago, but it is no longer serving the people. This is a situation; this is an entity that I have more calls and more emails than any other entity of state government. The Land Use Regulation Commission has lost its way. Thank you, Madam Speaker.

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

Representative **MARTIN**: Thank you, Madam Speaker. Madam Speaker, Members of the House. I didn't think that it was perhaps necessary for me to comment on the bill that most county commissioners are opposed to and transfers the cost of planning and zoning to the taxpayers of the plantations and each county of that \$2 million would be transferred from the public cost and transferred directly to county government. I didn't think that we were moving in that direction, but it appears that some people are interested in doing that, but let me just make a couple of points. Any municipality that is a plantation now can remove themselves from the Land Use Regulation Commission by creating a zoning and planning map. That's been done for a number of towns in my legislative district over the years. I still have four towns that would rather remain and not spend the local money in creating a planning board or a zoning board or a comprehensive plan. Those are the options.

The Land Use Regulation Commission was created to provide a zoning and planning mechanism throughout the unorganized territory and upon the plantations, since they do not have the capacity in the state law to have planning and zoning boards. That is the process. Now granted there are people who sometimes, typical state employees perhaps or atypical I should say, who perhaps are the different kind of enforcers or dealers with the public than you would normally have and those we find very often in state government in various locations, and we do find them in LURC, I understand that and I have, over the years, dealt with some of them. But keep in mind one thing, that these 10 million acres of land that we have that are under the jurisdiction of the Land Use Regulation Commission, for the most part now, are not owned by Maine people, that are owned by Maine corporations. The mills are gone. The land ownership has changed to investors in New York, over which we have absolutely no control. We do have the individual landowners, like myself and I have to apply and have applied for LURC permits like everyone else and I understand the process that it takes. But it's true, in a municipality that has a zoning and planning system. It's also true that some of the towns that I have have no desire to have a comprehensive plan and they've voted it down every time. You're not going to change the attitude of Maine people in those communities, who want to be left alone to do whatever it is they want to do with their land, whenever they want to do it, unfortunate though that may be.

Now I have one last comment and I hope, as a matter of fact, I would move Indefinite Postponement of this bill and also accompanying papers and request, when the vote be taken, it be taken by the yeas and nays before I continue to speak, Madam Speaker.

Representative **MARTIN** of Eagle Lake moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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 Eagle Lake, Representative Martin.

Representative **MARTIN**: Thank you, Madam Speaker. Madam Speaker, Members of the House. I do so because I am frustrated by the attempts to simply destroy the Land Use Regulation Commission. There are valid reasons and there are things that we need to change and we need to correct, I won't stand here and tell you otherwise. I can tell you that there are employees that I'd like to find in an organized community like

Portland rather than the unorganized territory. I understand that. But I will give you one last message: To the Representative who suggested that the fees for permits are too high, at the request of a member of the Minority Party, we put in to the Appropriations bill, which is now law, a provision that a study is to come back so that the entire cost of permits should be borne by the people who request the permit. If you think fees are going to be higher now, imagine what those recommendations are going to be. I urge members of both caucuses to keep that in mind and when that report comes back to vote against it.

The SPEAKER: The Chair recognizes the Representative from Harrington, Representative Tilton.

Representative **TILTON**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise to oppose the motion that's before us now and to speak in favor of the notion of transferring the responsibilities of LURC to county government, and my support for this notion doesn't really have as much to do with the failures of LURC as just the practical aspects of making a substantial change like this. Counties already manage many of the other aspects of the unorganized territories. Every county that has unorganized territories under its jurisdiction has an unorganized territories manager that supported and works out of that office. So moving more responsibility into the county government isn't necessarily going to require that new people are hired.

As far as having the planning expertise, counties certainly have that, possibly not in-house, but certainly at their disposal through organizations supported by state government that are either called councils of governments or planning commissions. Every county has access to one of these and the staff of those organizations have as much, if not more, expertise with the state planning laws as LURC members have.

As far as the cost, my town just went through a comprehensive planning process and I am thinking that to develop that comprehensive plan was maybe \$20,000 to \$30,000, if you multiply that by the 10 counties that would probably need to do some kind of comprehensive plan for their unorganized territories. That only adds up to \$200,000, which is quite a bit less expensive than the current system.

Another reason that I would be in favor of this is because the decisions that are made around the use of the land in the unorganized territories would be closer to the people who actually live there and would directly affected by those decisions. The costs that we're currently incurring to support the LURC Commission and the staff would be saved. I didn't see anywhere in the bill that the responsibilities for running schools would also be turned over to county government, but since Representative Pieh raised that, I think it's certainly an interesting idea and I don't think that it would be outrageously expensive for a county government to contract with one of the new reorganized school organizations to perform those services rather than having state government do it. So I see some potential cost savings and some benefits to everybody and that's why I'm opposing this motion. Thank you.

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

Representative **JOY**: Thank you, Madam Speaker. I rise not to belabor the issue of the unorganized territories and I realize that the motion to Indefinitely Postpone is a legitimate motion; however, it's a very convenient way of not having to vote on an issue that's before this body. So I hope that you will join with me and reject the Indefinite Postponement motion and let us vote on the issue at hand. Thank you, Madam Speaker.

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

Representative **McFADDEN**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Pretty near a quarter of all the area in Washington County is unorganized territory, so I'm quite familiar with it. The point I wanted to bring up was that back years ago, and I don't want to mention how many years ago, it catches up on me after awhile, but the LURC office was in East Machias. Then a few years later, they moved it west to Jonesboro, and then a few years later, they moved it to Cherryfield. Now they've moved it to Bangor, and so now, to go to the LURC office, you have to travel two and a half or three hours, where if it was in Machias and the county commissioners were taking care of us, it would be a half hour less, it would be next door. That's one point that needs to be considered also, and I'm not sure where the island's office is or how far you people need to go, but I know that it keeps moving, all of these offices, they keep moving farther and farther away from the unorganized territory. So I hope you'll vote against this Indefinite Postponement on this article. Thank you, Madam Speaker.

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

Representative **GIFFORD**: Thank you, Madam Speaker. I rise in support of this bill. Since I've been in the Legislature, I've had several complaints with LURC. They seem out of touch with reality or the people that they're supposed to be representing. Also, I've talked to the county commissioners and they are fully aware of what's going on, and I really strongly believe that there is a cost savings here, and I think it's something we really need to look at and study for the people we represent. Thank you, Madam Speaker.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Indefinite Postponement of the Bill and all accompanying papers. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 160**

**YEA** - Adams, Beaudoin, Beck, Berry, Blodgett, Boland, Briggs, Bryant, Butterfield, Cain, Carey, Casavant, Cleary, Cohen, Connor, Cornell du Houx, Crockett P, Dostie, Driscoll, Duchesne, Eberle, Eves, 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, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Piotti, Priest, Rankin, Rotundo, Russell, Sanborn, Shaw, Sirois, Smith, Stevens, Stuckey, Sutherland, Theriault, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Wheeler, Willette, Wright, Madam Speaker.

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

**ABSENT** - Beaudette, Blanchard, Celli, Cushing, Dill, Pratt.

Yes, 86; No, 59; Absent, 6; Excused, 0.

86 having voted in the affirmative and 59 voted in the negative, with 6 being absent, and accordingly the Bill and all accompanying papers were **INDEFINITELY POSTPONED**. Sent for concurrence.

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought Not to Pass** on Bill "An Act To Require the Collection of DNA from a Person under Certain Circumstances"

(H.P. 551) (L.D. 815)

Signed:

Senators:

GERZOFSKY of Cumberland  
DAVIS of Cumberland

Representatives:

HASKELL of Portland  
HANLEY of Gardiner  
LAJOIE of Lewiston  
SCHATZ of Blue Hill  
PLUMMER of Windham  
WHEELER of Kittery  
MAGNAN of Stockton Springs

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-495)** on same Bill.

Signed:

Senator:

NUTTING of Androscoggin

Representatives:

GREELEY of Levant  
BURNS of Whiting  
SYKES of Harrison

**READ.**

Representative HASKELL of Portland moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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 urge you to go with the majority of the committee regarding this Ought Not to Pass Report. While the bill in its original form came in with appropriate reasons to be concerned about whether or not DNA that was collected for missing persons was an expense to those families, we found out that it was not, that they are not charged for the use of that or for gathering that DNA information. However, the bill at that point was left with the requirement that those for whom a DNA test is required now and that's a series of criminals, they are listed in the law, who have been charged with a variety of crimes, this bill now would require that those people pay a fee into a special fund that's been set up. While on the surface that may sound like something reasonable to do, the reality is that DNA is just one of the other tools that's used when criminals come into the system. We also take their picture and we don't charge them for that; we also take their fingerprints and we don't charge them for that. DNA is just the newest tool or the most recent tool in identification that is obtained by the Department of Corrections when someone, or the jails, when someone comes into their care.

The effort to collect funds has, by its very nature, a number of inherent difficulties, most particularly, most of those people who have been convicted of crimes have very little money to pay while they are incarcerated, so much of the funds comes from the family. Currently prisoners are responsible for paying any outstanding fines, restitution and child support. The department is required to deduct up to 25 percent of those funds in prisoner's accounts for these payments, so that leaves them in a difficult

position in order to be able to come up with the money, particularly when you think about folks who are moving in and out of our county jails, the average stay of a county jail is 14 days. During that time period, it was testified too that it would be difficult to try and collect those funds from folks who are facing being incarcerated, not having any income, paying fines and having a series of other financial obligations, perhaps, at that point in time. There is currently no penalty for failure to pay that fine and being able to trace and track people down after that 14 days, in order to be able to collect the \$46, may be, according to the fiscal note, cost more than you could possibly get back from the collection of those fines. So I urge you to support the Ought Not to Pass Report. Thank you.

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

Representative **SYKES**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This is a 9-4 Ought Not to Pass Report, and I'm not going to convince you to go the other way. But I want to let you know about some very disturbing facts that I find in this bill, maybe not in the bill, but as we looked at it. In 1996, the Legislature enacted a DNA database. We started taking DNA samples from all convicted felons and some of those people convicted of a few misdemeanors. Since that time and when we enacted the bill, there was absolutely no funding to it. Since that time, we have lived on federal grants. Right now in the DNA database, there are 13,000 samples. What's really disturbing, Ladies and Gentlemen of the House, is that there are 4,000 samples that have yet to be tested. They are sitting in a test tube in the Maine Crime Lab, 4,000 of them, a backlog. I know it's difficult to say to a convicted felon, boy, you've got to pay child support, you've got to pay for your telephone, you've got to pay restitution, you've got to pay a fine. But what about paying simply \$46 to have his DNA sample tested? It would develop a database that might be helpful.

Why should we do this? Let me give you two really scary examples, one very close to my house. The Crystal Perry murder case, 10 or 12, 13 years ago, unsolved. Unsolved, unsolved, unsolved, until a young man in that same town was convicted of another crime and his DNA sample was taken, but it sat in the Maine Crime Lab for almost two years before, all of the sudden, they finally got to it, called the State Police and said, guess what, we have a match in the Crystal Perry murder case, arrested him, convicted him, he's in prison. What's even more scary is a recent brutal murder, not many years ago and not far from this State House, in which a young man brutally murdered his girlfriend. DNA from that crime scene was collected, it was placed in the Maine Crime Lab, and about a week later, the young man murdered his father. That young man's DNA had already existed but was untested. I wonder what would have happened if we'd been able to have that tested, run it immediately, found a match and arrested that man before he got to the second murder.

Ladies and Gentlemen, the State of Maine does not fund the crime lab to the extent that it should and that's disturbing. We're living on grants. Those grants are up and down, as you are aware. We still have 4,000 samples in the Maine Crime Lab that have yet to be analyzed. We used to send them out of state; we now do this in-house. Another scary statistic is that 2,000 of those profiles—2,000 of those profiles—are for unsolved crimes in the State of Maine. I wish we could find a way so that that backlog could go away. This bill would certainly be a help, and I know there are issues with it. But as we proceed through this and future legislative sessions, give some serious thought to

protecting Maine citizens by fully funding the Maine Crime Lab. Thank you.

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.

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

**ROLL CALL NO. 161**

YEA - Adams, Beaudoin, Beck, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Butterfield, Cain, Carey, Casavant, Clark H, Cleary, Cohen, Connor, Cornell du Houx, Crockett P, Driscoll, Duchesne, Eberle, Eves, Finch, Flaherty, Flemings, Gilbert, Goode, Hanley, Harlow, Haskell, Hayes, 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, Plummer, Priest, Rankin, Rotundo, Russell, Sanborn, Schatz, Sirois, Smith, Stevens, Stuckey, Sutherland, Theriault, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Wheeler, Willette, Wright, Madam Speaker.

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

ABSENT - Beaudette, Blanchard, Celli, Cushing, Dill, Pratt.

Yes, 88; No, 57; Absent, 6; Excused, 0.

88 having voted in the affirmative and 57 voted in the negative, with 6 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-496)** on Bill "An Act To Amend the Maine Certificate of Need Act of 2002" (EMERGENCY) (H.P. 974) (L.D. 1395)

Signed:

Senator:

BRANNIGAN of Cumberland

Representatives:

PERRY of Calais

PETERSON of Rumford

JONES of Mount Vernon

JOY of Crystal

CAMPBELL of Newfield

LEWIN of Eliot

STUCKEY of Portland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-497)** on same Bill.



Signed:

Senators:

MARRACHÉ of Kennebec  
MILLS of Somerset

Representatives:

SANBORN of Gorham  
STRANG BURGESS of Cumberland  
EVES of North Berwick

Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the Minority **Ought to Pass as Amended by Committee Amendment "B" (H-497)** Report.

**READ.**

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

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

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Majority Report of the Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-490)** on Bill "An Act To Stabilize Funding and Enable DirigoChoice To Reach More Uninsured"

(H.P. 883) (L.D. 1264)

Signed:

Senators:

BOWMAN of York  
ALFOND of Cumberland

Representatives:

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

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-491)** on same Bill.

Signed:

Senator:

McCORMICK of Kennebec

Representatives:

FOSSEL of Alna  
WEAVER of York  
RICHARDSON of Warren

**READ.**

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

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

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Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by**

**Committee Amendment "A" (H-481)** on Bill "An Act To Increase Access to Nutrition Information"

(H.P. 878) (L.D. 1259)

Signed:

Senators:

BRANNIGAN of Cumberland  
MARRACHÉ of Kennebec  
MILLS of Somerset

Representatives:

PERRY of Calais  
PETERSON of Rumford  
JONES of Mount Vernon  
SANBORN of Gorham  
CAMPBELL of Newfield  
STUCKEY of Portland  
EVES of North Berwick

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

Signed:

Representatives:

JOY of Crystal  
LEWIN of Eliot  
STRANG BURGESS of Cumberland

Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the Majority **Ought to Pass as Amended by Committee Amendment "A" (H-481)** Report.

**READ.**

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

The SPEAKER: The Chair recognizes the Representative from Ellsworth, Representative Langley.

Representative **LANGLEY**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I rise to ask you to oppose this legislation. This bill mandates that chain restaurants post on their point of sale boards the calorie count of each item that they sell. I just want to paint a picture for you: You're in between your morning and afternoon sessions and you duck into your favorite fast-food restaurant to grab a quick meal, and standing in front of you is a family of four ready to order their meals. Each of the four are calculating their calorie total of their meals. Little Johnny struggles to add up his menu choices and mom tries to help him. Mom tells little Johnny that he's ordered too many calories and has to swap his milkshake for the fruit cup. Johnny starts to negotiate. He wants the milkshake and will give up his fries to get the milkshake or give up the cheese on his sandwich. Little Susie, who actually runs the family, has figured out in her head everyone's calorie count and tells dad he's too fat and should order the salad with low fat dressing. Mom is still negotiating with Johnny about trading cheese for a milkshake. Right about now you want to bang your head on the wall and decide maybe the drive thru is the place to get that quick meal so you can be on your way and get back here for the afternoon. However, the drive thru is backed up in the street because people are trying to add up the calories from the backseat of the car and asking how many calories are in the special sauce, not to mention those who confuse the calories with the cost. You now drive off in frustration, perhaps the greatest weight loss program ever invented. All kidding aside, if you can't believe that this can happen, and I'm telling a farfetched story, then you really need to spend some time waiting on people and field all of the millions of possible questions we already get. If you think this scenario

won't be played out, that people just won't read the calorie counts, then why are we imposing this bill on these businesses? If you think this scenario is possible, then just be prepared to take the fast out of fast-food. These folks make their living off volume sales and customer counts definitely will suffer. The sheer cost of signage specially made just for Maine will cost these businesses thousands, not including what is already in publication and on their websites.

Madam Speaker, I was moved by some of the testimony in support of your bill. One supporter stated that during the week that she testified, her family was only going to have one home cooked meal during the week. Her family was just too busy with sports, music lessons and after school activities. I sat there thinking where are the priorities in this family? It's not the priority of chain restaurants to provide six meals a week to your family. Eating out six meals a week is just not recommended, and I know this from personal experience from having lived down here most of the winter. Madam Speaker, we're so concerned about big brother and what government does to us, when we should be just as concerned about big sister and how much government does for us. This is just bad for business, bad for us as responsible adults. Please vote against the Majority Ought to Pass. Thank you very much.

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

Representative **JONES**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. As a member of the Health and Human Services Committee, I rise in support of the Majority Report to increase access to nutrition information. Again, as a public health advocate, one of our major health issues is obesity. It contributes to diabetes; it contributes to other chronic diseases such as heart disease. One of the major public health interventions is to create a supportive environment by which people can make healthy choices. As was just stated, many of our families are going to fast-food restaurants to make quick pickups and to get their meals. They need to have quick access to information that can help them make healthy choices. Currently, they have little brochures with this information already available. They hide it under the counter. You have to ask for it. It is not going to cost them more to take that information, put how many calories there is in something up on their board on the wall. This is also about the man who has had bypass surgery, who has had his nutritionist and his physician say you have got to lower your fat intake, your calories and your cholesterol. He is a busy person. He goes in, he needs to make quick choices about what is the best menu I should choose from here today

Again, during the testimony on this bill, we were amazed at the examples of choices of food that you could make. We were given by Madam Speaker some bagels and blueberry muffins and had to choose which was the more healthy. The bagel with cream cheese was much less healthy than perhaps the blueberry muffin, but you wouldn't know that by just looking at it. I strongly support that you support this bill in order to address our health care costs, and to help our Maine citizens make better choices. Other states have passed this. Yesterday, the State of Connecticut passed it, Massachusetts passed it, the City of New York, Oregon, California. It is a leading public health effort and I commend our Speaker for bringing this bill forward to us. Thank you very much, Madam Speaker.

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. The worst thing that's happened to my health in the last 20 years is getting elected to the Legislature. I work in a paper mill, and

since I've been here, I've gained 10 pounds. But here are the facts: Since 1950, our informational knowledge on nutrition has gone up double every seven years, and in that period of time, obesity has risen 214 percent. Is it due to lack of information? The evidence suggests it isn't. Some suggest it's a fat gene and in our codependent society, it's only a matter of time before we're all sitting down with a therapist blaming our parents because we're fat. But as you know, evolution takes millenniums, not generations. In 1900, only 1 in 50 people were obese. By 1950, it had risen to 10 percent, and now it stands at 64.5. Is it because of lack of information? The evidence overwhelmingly suggests it is not. I had a cup of coffee this morning and a cupcake on the way to work. On the back of that package, it didn't suggest it was healthy to me, but I ate it anyway. I've never met anybody that picked up a Big Mac that thought they were getting health food. It's because our society has changed.

When I was first in the Netherlands, one of the things that became very clear to me is the proportions of the size of food we eat. I ordered an orange juice there and the person brought by what I thought was a shot glass. I looked at him and said, just leave the bottle pal; I'm going to need more. The other day, I stopped in to McDonald's to pick up a drink. They said do you want the small, the medium or the large. I figured the medium. When he sent it to me, I didn't think it was going to fit in my cup holder. I don't know what a large is. Is it a five gallon pail? When I was a kid growing up a 12 ounce soda was the standard; today you're going to need a handle to lug them out of the stores. These are the issues we face as a society. We drive everywhere; we're taking our kids everywhere. This is the issue that addresses our obesity; it isn't for lack of information. Do what you want with the bill, but know, if this is a two-prong to three-prong attack that's going to end obesity, it's got about as much success as Lee had at Gettysburg crossing that field.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative Lewin.

Representative **LEWIN**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Boy it's tough to follow that fellow. I'm real concerned about this bill. We've had labeling bills before two committees in this Legislature, four times in the last six years, and they never made it out of committee until this one this year. I'm concerned about this. I really think that it's time that big brother stopped watching and stopped pushing and shoving us to do the things that obviously we don't want to do.

This is going to affect chain restaurants that have over 20 restaurants nationally and at least one in Maine. It's only going to affect 13 percent of our restaurants at this point in time, so I'm not sure it's going to have a major effect on obesity in Maine. People eat out an average of four times a week here in Maine, and I don't think that eating out is what their problem is. Frankly, I think it's what they're bringing into the house at home, and it's what our children are not doing that's causing the obesity problem.

Nineteen years ago grocers were required to label all food in grocery stores. I wonder if anybody has any idea how well that's worked out for us. I can tell you it didn't work out real well, because in the ensuing 19 years, we're 74 percent more obese. So the people are getting the information, I don't think they really much care. Frankly, I think they want to eat what they want to eat. I think that the problem is one of education, it's one of consumption. When you talk about education, I remember not so long ago Representative Nass brought a terrific bill to this House that could not pass, and it was about educating our children in school. We didn't want to do that. I think, frankly, that was a terrific bill and it should have passed. I think we ought to have

children doing phys ed again at school, they ought to be getting out and playing on the playground. I think we need to get them out from behind their computers, get the game boys away from them and their cell phones and all of these other electronic devices that keep them seated in a chair having a good time playing with them, and what we ought to be doing is getting them some exercise, and we certainly ought to be teaching that about food in school and I don't think we're doing a great job of that. We need to get our children moving again, and I think that we could certainly wait the 12 to 18 months it's going to take for the Federal Government to define how they want to see us handling posting of calories. I assure you, this is the first step, in one of many, that will ultimately, within three or four years, have every single restaurant posting this information. Frankly, I think if people are going out for a nice dinner, they really couldn't care less what the calorie count is, and I suspect one of the next things that we'll be hearing is we'll be posting carbs, we'll be posting proteins, we by golly better be posting the sugars for the diabetics. You know what; we all know a cookie is not good for you're if you're diabetic. We all know we shouldn't be having cheesecake, and heaven forbid we put the strawberries on the top. The fact is most people do know what's good for them and what's not, but our children aren't getting that education, they're not getting any exercise. We've turned into a society of couch potatoes who live with all of our mechanical means and we don't move around anymore. Years ago, people worked very hard, they were out in the fields, they were in factories working very hard, they were getting a lot of exercise. Unfortunately, that is not the case anymore and these societal changes is what's produced this problem. So I think we need to take a long look at this, and I wouldn't be so anxious to let big brother take charge. Thank you.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Sanborn.

Representative **SANBORN**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise in support of the proposed Ought to Pass on LD 1259.

As discussed yesterday at length, health care costs are extremely high, are a huge burden to businesses of all sizes and to individuals and need to be decreased.

This bill will address the issue by helping to decrease obesity. As you know, obesity is a risk factor for diabetes, hypertension, heart disease, arthritis, sleep apnea, cancer and many other diseases. There is a strong link between obesity and eating out - people eating out eat larger portions of high caloric foods than when eating at home.

In order for people to take personal responsibility, they must have the information to make better choices. It is not always obvious what the best choices are. I was just hearing on the Today Show this morning, I didn't catch all of it, but they were just talking about fruit smoothies and how fruit smoothies are not necessarily the best choice. I just don't think it's that obvious without seeing the number of calories. Seeing the number of calories before you make a final choice or as you are choosing will influence your decision. In New York City, 82 percent of residents say that menu labeling has affected their food choices when dining out.

This is not a significant burden to chain restaurants as most already make these calculations, they are simple to make with inexpensive software programs, this is done in our school cafeterias daily and restaurants are already changing out their menu boards twice yearly.

Indeed, if we want to be pro healthy, if we want to be pro business, we should do what we can to decrease obesity,

decreasing health care costs. Please join me in supporting LD 1259. 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. We go to the supermarket and pickup, whether it's meat, canned stuff, chips, no matter what we pick up, it tells us the different kinds of fat with contents. If we're going to take our business to a restaurant, to go out and eat and take their children to the restaurant, I think it's a very small thing to turn around and let us know what we're eating and what their children are eating, whether we're obese or we're not obese. You don't have to be obese to take a heart attack and have problems with stuff you're eating. So I think we should pass this, I think it's a good bill. Thank you.

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 am going to rise in support of this. Just to mention another thing, as a health care provider, I see a lot of people who I am trying to prevent diabetes from. We talk about diet and we talk about what to choose when you're going out. What it is not readily available is the information around calories. To get that information, it does take extra work. It is the choices you make at the time of making that order that makes the difference on what you choose. Having that information at the time you're making that choice makes a big difference in how you choose to eat out.

This also gives an opportunity for businesses to look at, also, what will sell better for them. They can be participants. This may give them and open up an opportunity to offer different varieties of food that will increase people coming to them. But, as a health care provider, it is much easier when you are at the moment of choice, looking at the calories you're taking in to have that information on the menu.

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

Representative **JOY**: Thank you, Madam Speaker. It's a little awkward to rise and speak in opposition to your bill, but I feel that I must. One of the problems that we have, this may be a factor that will help some people. I think it was pointed out by one of our committee members that, of the people who go in to the fast-food restaurants, the ones that are most apt to read the menus and find out what the food value are, are women. Men will just walk right by and they'll buy whatever they want to please them. One of the things and the reason that I voted in opposition to this bill is the fact that we try to do things to have people follow good dietary habits, and yet our FDA approves something that is going to be a problem for all of us. As you're well aware, MSG is very prevalent in almost everything that we have today. It's used as a flavor enhancer, a preservative and so forth, but MSG was designed in the first place to be an agent to create fat mice and rats for the laboratories, because they didn't have any way of getting these. So here we are with all of this in everything that we eat practically today, so the efforts that we make in other directions probably are not going to be that noteworthy until we get something like that taken care of. So our own FDA, while they preach one thing about good eating habits, are supporting things which are not. Madam Speaker, if a roll call has not been requested, I would request it.

Representative JOY of Crystal **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 Belfast, Representative Giles.

Representative **GILES**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I have a question, I guess this will turn out to be, that I'd like to pose that anyone in the body here could answer, and I'll preface it with you know I support wellness and support wellness initiatives and brought forth some discussion and ideas on that matter yesterday. In the bill, it talks about—I guess my question revolves around enforcement and any penalties or violation, that if a business fails to do this, it states in the amendment that the violation will be under the Maine Unfair Trade Practices Act, except "that no private remedies exist" and it references a title number, and in the footnote it talks about the AG's Office as being responsible for this. So I'm curious as to the enforcement and to what the penalty is if a business fails to comply with the very detailed specifics of this proposed legislation.

The **SPEAKER**: The Representative from Belfast, Representative Giles has posed a question through the Chair to anyone who may care to respond. Chair recognizes the Representative from Mount Vernon, Representative Jones.

Representative **JONES**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. In response to the Representative's question, it is written in the bill that the Maine Center for CDC, which already has a restaurants inspection unit, is available to support this effort. Thank you.

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

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

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

Representative **SYKES**: Madam Speaker, apparently this regulation applies to those food establishments, chain restaurants that have 20 stores nationally and at least one in Maine to do this posting. It also exempts self service buffets and salad bars, those are exempt. If this bill is such an important thing to do, why don't we do it for all of these food establishments, buffets, dessert trays, everything?

The **SPEAKER**: The Representative from Harrison, Representative Sykes has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Calais, Representative Perry.

Representative **PERRY**: Thank you, Madam Speaker. That was originally part of the bill and in discussing how this would be done and whether this was the time to start that, as a result of compromise, that was taken out.

The **SPEAKER**: The Chair recognizes the Representative from Hiram, Representative Rankin.

Representative **RANKIN**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise in support of this bill. I cannot stress too strongly how important it is that we make parents, especially, more aware of what children are eating today. As a former school nutritionist for almost 40 years, I can tell you that more and more children are starting school already overweight. This isn't a joke. If we can do anything and raise awareness of how serious this problem is, we must do something about it. It's a proven fact that children today may very well have a shorter lifespan than their parents. It's unconscionable if we don't do everything within our power to raise awareness, and I can tell you this is not directed only to children, it's adults. I know very personally what it is to have a family member with serious, serious heart problems, who had to watch ever blessed thing he ate, and I watched labels every time

I went to the grocery store to make sure that there was nothing there that might give him further problems. Obviously, I'm very nervous about this, but I could not in good conscience sit here and let this pass. Please, please, for your own health's sake and your children's sake, vote in favor of this bill.

The **SPEAKER**: The Chair recognizes the Representative from Somerville, Representative Miller.

Representative **MILLER**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I'm looking at an institute based at Yale University that does a lot of work on food policy and obesity. A few facts that I think are pretty useful for us. It may have been said already, but in 2006, Americans spent half of their food money on food prepared outside the home—half. When they've gone out and looked at their menus, research has shown 9 out of 10 underestimate the number of calories in less healthy items by about 600 calories. The trouble is, I think we all know, is that oils, cheeses, butters are all used, it's very hard to figure these things out. In fact, another study they had showed that experienced nutrition professionals in restaurants underestimate the number of calories by an average of 200 to 400 calories. It's important to have these labels if we're going to eat out that much. In fact, the last piece of research showed that half of American adults say, when surveyed, that reading nutritional information on food labels made them change their purchases. I think, for families, if we are on the good and we're going to eat out that much, we need to understand what the calories are that we cannot visibly see, the labels and important and they will help us change our behaviors. Thank you, Madam Speaker.

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. I rise as a health advocate and someone with a background in health and fitness, and with all due respect, Madam Speaker, how many things can we as a government micromanage in this state? This is not a business friendly bill, as it makes just one more requirement with a cost to our businesses that are affected by this bill. Once again, I rise to speak about individual choice, personal responsibility. I find that putting up information about the food that I'm about to consume isn't going to change my mind whether or not it goes into my somewhat large mouth or not, and I don't think we're going to change our constituents' minds either. We have to allow them to have that choice, that personal responsibility. I understand the intent of this bill, Madam Speaker, and I think that everybody in this House wants to help people live a healthier lifestyle, but I think people out there know which foods are good for them and which ones aren't. We all know Doritos might not be so great, but we've probably all sat down and consumed a bag as we drive around in our cars or on a trip or on to a soccer game. Is the next step to ban certain people from eating certain foods because we know better than our constituents? Please vote this down. Thank you, Madam Speaker.

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

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

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

Representative **FITTS**: Could somebody, either from the committee or that was involved in this bill, explain to me what the actual cost to a typical business would be for the signage changes? As I read the amendment, it has some very specific language about font sizes, and from what I can see, it would appear people would have to spend a considerable amount of

money on redoing their signs. So in contrast to that, as a two part, why isn't a simple fact sheet that would sit on the counter or on the table where somebody could even take it home with them adequate? Why is this such an issue that it has to be signed?

The SPEAKER: The Representative from Pittsfield, Representative Fitts has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Eliot, Representative Lewin.

Representative LEWIN: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. There is presently a book kept in all restaurants that has the calorie count and all of that information. All anyone has to do is ask for it. They seldom do that in terms of testimony that I've heard. The cost for this, one person got up and testified that they changed their signs four times a year, and it's a cost of \$45,000 to do it every time they change the signs, which caused me to ask the question: Do you people occasionally buy things from farmer's markets? Do you buy whatever is in season or what's at the producers the day that you go shopping? Do you buy the same thing? How often do you change? If a chef runs out of a vegetable, does he substitute another vegetable that day and, if so, does he have to change the signs the very day that that happens? So there is a major cost to this.

As to the discussion about font size, if you're dealing with signing outside of a restaurant at a drive thru, those signs frequently are controlled by town ordinances, and I would suspect that there are studies done to say what type size has to be for people to see the sign from inside the car to read it. So it is a very expensive thing to change these things. I think that the Restaurant Association is more than willing to do whatever it is mandated to do, and they're waiting anxiously for the Federal Government to rule on this. This is something that's been out there, that's been worked on, that we're told that within 18 months we'll have law. I believe that it's very costly and it is a burden that we should not be putting on our restaurants. Most of us know exactly what we're doing when we're dining out, and for those of you who have a glass of wine or two with dinner or a beer, I suggest that you might not want to do that because there is a whole lot of calories right there. But the big thing to me is that we need to start educating our children, we need to start getting them up and getting them to get some exercise, and it will take care of the problem over a period of time. Thank you.

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

Representative JONES: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. In response to the question that was previously posed, as I had said in my presentation, each of these fast-food facilities has the information already in a handout. Unfortunately, most people don't ask for it. It's hidden underneath the counter, it's in small print; I've had to fight to get it myself one day. The information is already available; they just need to add the calorie count up on to their menus as you're driving in to one of these fast-food restaurants.

It was mentioned a concern about other restaurants having to do this, our smaller restaurants that aren't chains. They are changing their menus frequently and it would be very difficult for them to do this. Our fast-food restaurants are used much more than the smaller restaurants. They change their menus, as was said, about four times a year. It is not a big inconvenience to share this important information with the public. Thank you, Madam Speaker.

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

Representative PERRY: Thank you, Madam Speaker. This is again an answer to the question. The way this bill is set up, it

is not that you have to create new signs the minute this bill is passed. The implantation of this bill was set to, I think it's February 2011, and that is to coordinate and coincide with the other states that have passed similar legislation, which includes Massachusetts, California, Oregon, New York and, just recently, Connecticut. So that is for these major chains, they are going to be making these changes in signage. This is going to coordinate with those others that are being done so that we're all on the same time table.

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

Representative STRANG BURGESS: Thank you, Madam Speaker. Madam Speaker, Members of the House. This issue is really a hard one for me because I do think that we need to get a lot smarter, it's information about making choices, so I understand that part. I'm a proponent of health choices, I've been active with the Obesity Council, I've been active with nutrition, with early child, all of these different things, and it's so hard, these issues that come before us, when they make so much sense in one way and yet they're so hard to do when you're out kind of in front of the curb. This is one of those that we do have federal legislation coming, and I want to be sure that we don't have our small businesses get ahead of that. So here's the one point, there's been good points made all over the chamber, but I just want to add I worked in the area of fast-food for about 20 years and I still do marketing with these guys, so I have an understanding about the actual logistics of these things. I just want to say that these national chains, which you think, oh, they're national chains, they're the big guys, they're actually, most all the restaurants we have in our state that are franchises and they are owned by Maine people. They pay franchise fees and they employ these people, these people who work at a Denny's restaurant or a McDonald's restaurant in Bangor get a paycheck from a person who lives in Bangor, Maine, and those employees work for that company, which is the company that owns the franchise for these specific stores. So just remember that we are talking about Maine small business owners here, who are trying to make a go of it.

Then I'll just add this one part, that it will cost these stores who have, you know, when you go in, you're going to see, for the restaurants that have a walk up counter that you order at, the menu boards are up above you, they have some pictures and they have strips, and you're going to add sort of new strips and you're going to have to get that designed. Some of the restaurants, like an Amato's, has that pretty much built in to their system, because they really don't change their menu that much. It's going to cost maybe about \$25,000 a store to update these menus. Okay, now if I owned six restaurants in the State of Maine, that's \$150,000. This is a time when, I'm a small business owner, our cash lines and credit lines are all being kind of frozen or we're being very cautious. People don't necessarily have \$150,000 cash to spend on updating their menus all at one time. When you're a small business owner, you do sort of a restaurant by restaurant and you keep always upgrading and things about that. There's been wonderful, wonderful, wonderful ideas that many of us have brought forward this session, but they cost money, and I have heard every day, we all stand up and say this is a really great idea but we do not have the money in the budget. It has a fiscal note, therefore, there's no money in the budget, we can't do it now. Unfortunately, Ladies and Gentlemen, this is a small business issue about the same thing. We, the Legislature, aren't paying for this. The little, small Maine business owner is the one that's going to pay for this. It's cash out of their pocket, and we're telling them to make this change. So I just wanted to sort of put the local face, if you will, on it, because I think it's kind

of intriguing. I can tell you from a design perspective, because my company does this, it's going to be a challenge so that we don't confuse you in how it gets done, but I think it's going to be interesting. So the idea is good, the timing is the problem. It's not a nice economic time out there, and a lot of these small Maine businesses don't have \$150,000 sitting there in their credit line to make a cash outlay of changing and updating a menu board right now. That, I think, is my point that I'd like to make to you and make sure that you understand that these aren't faceless large corporations with deep pockets that we're talking about here. 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 you turn around and pick up a bottle of apple juice now in the store, they don't need to tell you what's in it, but where it's from. If you look at it, a lot of the concentrate is from China. We have dog food from China that killed animals in this country. We're asking people to put on their menu calories. Maybe we should also add that we put on there where do they buy these products. Are these vegetables from Mexico, are they from California? I keep hearing parents should be educating their children. Well, what this bill is doing is asking their restaurant owners to educate the mother and father so they can educate the children. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Peterson.

Representative **PETERSON**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I speak in support of this measure. I am concerned about the health and wellbeing of my fellow citizens. I don't want to be part of a nanny state, but I am interested in people making choices that are based on information. Why would we be against that? We know, in this body, information is important. It is power. Why would we want less for our fellow citizens? We should empower our fellow citizens. I listened carefully to the debate before our committee and on the floor here today, and I see this as an important step in helping our citizens make better health choices. I will be supporting this bill because it's commonsense and good for all of us. Thank you, Madam Speaker.

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've read this bill and I said yes, this is great, and then I gave it a second thought. I thought about what I've done in the classroom. I also think about looking around at how quickly we nod off in here, so I'm going to be brief.

First of all, every day I have an avocado. That avocado has 325 calories. Whew, that's like thunder thighs, but let me tell you why: I know what's in that 325 calories. I know that it has over 20 vitamins and minerals, I know it has zero cholesterol, which I fight, and I know that it has 0.5 saturated fat.

Now every Sunday my roommate has viewing hours at Hannaford Brothers in front of the doughnuts, and you know why, because that's all I let him do. He glazes over, with glazed eyes, the doughnuts and the cream fills, and then I say we're going to go home and have a good breakfast. That's where it starts. It starts with the education. Just having the calories up there, listen to people. They say, Oh, just this once, except just that once to some families is five times a week. We have had with McDonald's the calories, the nutritional facts down to selenium, which we need to keep from falling over, but how many people actually look at those things that have been there? They are

doing fast. What we need is education. I can make dinner in 17 minutes flat having three vegetables and an entrée, and by god, it doesn't take rocket science to do that. We need to start with education. I listened to the good Representative talk about apple juice and how great it is, except how many people realize that the mothers that feed apple juice to their children in the summer are having children that are malnourished because, yes it has low calories, but it has calories that are useless calories and keeping them from having their formula. But it's easier because that formula sours in the summer, so we do the easy thing. You know, I am so adamant that people learn to eat properly, but as we've talked about, we need personal responsibility. It's not beneath me to say to the two young people who were standing on the first floor today waiting for the elevator that I can make it faster than the elevator, so can you, join me. You know, we need to be thinking about how we're keeping up our own metabolism, how we are taking personal responsibility for ourselves.

The other side of this is the bad business thing. It isn't the time for it. It is wonderful that we want to help people, but it needs to start with the education. Please think about that, that this is not going to be the answer. Thank you.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Cornell du Houx.

Representative **CORNELL DU HOUX**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I am rising in support of this legislation today, because it is addressing a serious problem that we do face: 17 percent of children and adolescents are actually obese; 1 in 3 are overweight. When I went to my local health clinic to learn about the issues that they face, I sat down for a couple of hours, and one of the major problems they were faced with was the fact that children were coming in overweight and, as a result, getting Type 2 diabetes. One of the reasons why, I was asking why this happened, was because, unfortunately, the parents didn't have the education or weren't aware of what they were eating was actually unhealthy. It's not apparent all the time. If you look at some salads, they are actually much more unhealthy than say a sandwich. So I do believe this is very important and it is a small step that we can take, then the cost is minimal when you look at the overall health care costs in this nation we're facing right now.

In addition, if you own over 20 stores nationally, I wouldn't necessarily consider you a small Maine business; so overall, I believe it is well worth the effort and thank you for introducing legislation.

The SPEAKER: The Chair recognizes the Representative from North Berwick, Representative Eves.

Representative **EVES**: Thank you, Madam Speaker. I request that the Clerk read the Committee Report, when she can, and secondly, I just wanted to follow up and address some of the things that I feel might have been mischaracterized in the intent of the bill, in the legislation. We worked this a couple of different times, I feel like we came to a really good compromise. This is about fast-food restaurants, it's not about mom and pop restaurants, and there was a concern from folks in attendance, in the committee room, that this is where that's going. Madam Speaker made it clear that this is not the intent of the legislation, nor would she be, I don't want to mischaracterize, the opinions be in favor of that, as members of our own family own a small family business, restaurant. So I ask that you all support the legislation. I think it addresses a growing epidemic, and it provides choices for us as we do stand in a line with two small children of my own, it would provide an opportunity, I would have the courtesy to go to the back of the line or to the side while others made their choices. Thank you.

Representative EVES of North Berwick **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 Auburn, Representative Bickford.

Representative **BICKFORD**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. With all due respect, this is nothing but a feel good bill that attacks small business in Maine. I echo what my good friend, Representative Strang Burgess, said concerning small business in Maine. These national chains may have a national name, but they're owned by local moms and dads that live in our communities. They don't have national money behind them to change these menus, to change their menu boards. It's a small percentage of the restaurants in Maine and we're holding them accountable for the obesity we have in this state. They are no more accountable than any other mom and dad that own a small restaurant or a small fast-food counter. Thank you.

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

Representative **STRANG BURGESS**: Thank you, Madam Speaker. Representative Bickford may have answered and beat me to the punch here, but I did just want to make sure that everybody does understand. I am very familiar with the ownership of a number of the national chains in our state and the majority of them are owned by individuals, and they may in fact have 20 or more locations of the national chain around the country, therefore, do come in under the umbrella of this bill, but they may own in fact one or two of those restaurants. So I do consider those individuals very much Maine based small businesses. 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. There is obviously a problem in this state with obesity and the associated issues, such as diabetes, but we are forcing restaurants to become educators, and is this a bad idea? Not if they choose to do so. No one is stopping restaurants from being able to post information about the food they sell, but to mandate this is where I feel the issue is. Education should be done by our schools and our parents, and we keep hearing that Maine is not business friendly, so let's please defeat this measure and open up Maine to becoming more of a business friendly state and defeat this bill. Thank you, Madam Speaker.

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

Representative **BURNS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I had no intention of getting up and speaking on this bill, but I'm going to. What I've been hearing today is very good intentions, but frankly, Madam Speaker, this is what our responsibility as parents and grandparents is all about. I have been raising children since I was 21, and I'm a bit past that now, I have seven grandchildren and five children. This is my responsibility as a dad or a grandparent to make sure that the consumption of these foods are appropriate. If we are talking about responsibility, what about the small restaurants that our families dine in? What is the difference? I don't understand the difference. They serve essentially the same food. It is our responsibility to make sure we know what we're putting into our bodies and what our children and our grandchildren are putting into their bodies. I think this could easily be accomplished if restaurants would provide, I think it's already been mentioned here, provide this on a slip of paper, just as they do with complimentary menus, so that every

consumer would have the opportunity to look at those. They're not going to stand there and decide all this information before they order their meal, they need an opportunity to sit down at their table and take these things home and make informed choices. Let's not forget whose responsibility this is. It should not be a burden on our small businesses and chain stores. Thank you, Madam Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Bowdoinham, Representative Berry.

Representative **BERRY**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. This is a great bill, and I want to remind everyone, although we've already heard it read, that there was an 11-3, bipartisan report out of the committee. They worked it very hard; they heard a lot of testimony on the bill from both sides. It's a great bill because it provides important public health information to consumers and families about a very serious subject of important to us all. I want to thank the good Representative from Hiram for pointing out that this is not a laughing matter. But Madam Speaker, Men and Women of the House, after about 45 minutes of debate, I think we all have enough information to make a very measured decision. I don't think we want to supersize this debate. We don't want to bite off more than we can chew on today's agenda. I suggest we order the Majority Ought to Pass as Amended Report, hold the mayo. 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. 162**

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

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

**ABSENT** - Beaudette, Blanchard, Celli, Crockett J, Cushing, Pratt, Watson.

Yes, 88; No, 56; Absent, 7; Excused, 0.

88 having voted in the affirmative and 56 voted in the negative, with 7 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-481)** 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**.

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-481)** and sent for concurrence.

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Eleven Members of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (H-474)** on Bill "An Act To Ensure a Uniform Comprehensive State Policy Regarding Residency Restrictions for Sex Offenders"

(H.P. 292) (L.D. 385)

Signed:  
Senator:  
NUTTING of Androscoggin

Representatives:  
HASKELL of Portland  
HANLEY of Gardiner  
LAJOIE of Lewiston  
GREELEY of Levant  
SCHATZ of Blue Hill  
PLUMMER of Windham  
BURNS of Whiting  
WHEELER of Kittery  
MAGNAN of Stockton Springs  
SYKES of Harrison

One Member of the same Committee reports in Report "B" **Ought to Pass as Amended by Committee Amendment "B" (H-475)** on same Bill.

Signed:  
Senator:  
GERZOFSKY of Cumberland

One Member of the same Committee reports in Report "C" **Ought Not to Pass** on same Bill.

Signed:  
Senator:  
DAVIS of Cumberland

**READ.**

On motion of Representative HASKELL of Portland, Report "A" **Ought to Pass as Amended** was **ACCEPTED**.

The Bill was **READ ONCE. Committee Amendment "A" (H-474)** 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**.

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-474)** 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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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.

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

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**CONSENT CALENDAR**

**First Day**

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

(H.P. 1022) (L.D. 1468) Bill "An Act Regarding the Evaluation of Economic Development Programs" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-502)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the House Paper was **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

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**BILLS IN THE SECOND READING**

**House as Amended**

Resolve, Establishing the Blue Ribbon Commission To Study Landlord and Tenant Issues (EMERGENCY)

(H.P. 747) (L.D. 1080)

(C. "A" H-489)

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

On motion of Representative TUTTLE of Sanford, was **SET ASIDE**.

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENGROSSED as Amended by Committee Amendment "A" (H-489)** and later today assigned.

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**ENACTORS**

**Emergency Measure**

An Act Regarding Construction and Excavation near Burial Sites

(H.P. 97) (L.D. 113)

(C. "A" H-416)

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

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**Emergency Measure**

An Act To Regulate the Rockweed Harvest in Cobscook Bay

(S.P. 109) (L.D. 345)

(C. "A" S-225)

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. 122 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 Establish the Maine Commission on Indigent Legal Services

(S.P. 423) (L.D. 1132)  
(C. "A" S-233)

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. 127 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 Streamline the Regulatory Process for Commercial Building Construction Projects

(H.P. 861) (L.D. 1242)  
(C. "A" H-368)

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

**Emergency Measure**

An Act To Make Permanent the Allowance of Certain Commercial Vehicles between the United States-Canada Border and Certain Points in Maine

(S.P. 490) (L.D. 1355)  
(C. "A" S-192)

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

Representative TARDY of Newport **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. 163**

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

NAY - Cray, Gifford, McLeod, Pinkham, Weaver.

ABSENT - Blanchard, Carey, Celli, Cushing, Giles, Greeley, Hill, Johnson, Pratt.

Yes, 137; No, 5; Absent, 9; Excused, 0.

137 having voted in the affirmative and 5 voted in the negative, with 9 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**Emergency Measure**

An Act To Support the Center of Excellence for At-risk Students

(S.P. 528) (L.D. 1443)  
(C. "A" S-211)

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 Ensure Fair Calculation of Severance Pay for Maine Workers

(S.P. 547) (L.D. 1469)  
(C. "A" S-231)

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. 136 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**Emergency Measure**

Resolve, Regarding Legislative Review of Portions of Chapter 182: Formula for Distribution of Funds to Child Developmental Services Regional Sites, a Major Substantive Rule of the Department of Education

(H.P. 68) (L.D. 78)  
(C. "B" H-374)

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

**Emergency Measure**

Resolve, To Further Regulate the Use of Tanning Booths by Minors

(S.P. 137) (L.D. 395)  
(C. "A" S-227)

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

Representative BERRY of Bowdoinham **REQUESTED** a roll call on **FINAL PASSAGE**.

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 Final Passage. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 164**

YEA - Adams, Beaudette, Beaudoin, Beck, Boland, Bolduc, Briggs, Bryant, Butterfield, Cain, Campbell, Casavant, Clark H,

Cleary, Cohen, Connor, Cotta, Crockett P, Dill, Dostie, Duchesne, Eaton, Eberle, Eves, Finch, Flaherty, Flemings, Fletcher, Flood, Gilbert, Goode, Hanley, Harlow, Haskell, Hayes, Hinck, Hogan, Hunt, Innes Walsh, Jones, Joy, Kent, Knapp, Kruger, Lajoie, Legg, Lewin, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, Miller, Millett, Morrison, Nelson, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Piotti, Priest, Rankin, Rotundo, Russell, Sanborn, Sarty, Schatz, Shaw, Sirois, Smith, Strang Burgess, Stuckey, Sutherland, Tardy, Treat, Trinward, Tuttle, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Wheeler, Willette, Wright, Madam Speaker.

NAY - Austin, Ayotte, Beaulieu, Berry, Bickford, Blodgett, Browne W, Burns, Cebra, Chase, Clark T, Cornell du Houx, Crafts, Cray, Crockett J, Curtis, Davis, Driscoll, Edgecomb, Fitts, Fossel, Gifford, Hamper, Harvell, Kaenrath, Knight, Langley, McFadden, McKane, McLeod, Nass, Nutting, Pinkham, Plummer, Prescott, Richardson D, Richardson W, Robinson, Rosen, Saviello, Stevens, Sykes, Theriault, Thibodeau, Thomas, Tilton, Valentino, Weaver.

ABSENT - Blanchard, Carey, Celli, Cushing, Giles, Greeley, Hill, Johnson, Pratt.

Yes, 94; No, 48; Absent, 9; Excused, 0.

94 having voted in the affirmative and 48 voted in the negative, with 9 being absent, and accordingly the Resolve **FAILED FINAL PASSAGE**.

On motion of Representative BERRY of Bowdoinham, the House **RECONSIDERED** its action whereby the Resolve **FAILED FINAL PASSAGE**.

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

**Emergency Measure**

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

(H.P. 674) (L.D. 972)  
(C. "A" H-384)

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

**Emergency Measure**

Resolve, To Direct Action on Health Disparities of the Passamaquoddy Tribe and Washington County

(H.P. 848) (L.D. 1228)  
(C. "A" H-403)

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 Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

**Emergency Measure**

Resolve, To Implement Select Recommendations of the Joint Select Committee on Future Maine Prosperity

(H.P. 989) (L.D. 1413)  
(C. "A" H-379)

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

Representative BERRY of Bowdoinham **REQUESTED** a roll call on **FINAL PASSAGE**.

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 Final Passage. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 165**

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

NAY - NONE.

ABSENT - Blanchard, Carey, Celli, Cushing, Fletcher, Greeley, Johnson, Pratt.

Yes, 143; No, 0; Absent, 8; Excused, 0.

143 having voted in the affirmative and 0 voted in the negative, with 8 being absent, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

**Emergency Measure**

Resolve, Regarding Legislative Review of Portions of Chapter 41: Special Restrictions on Pesticide Use, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control

(H.P. 1012) (L.D. 1460)

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

**Emergency Measure**

Resolve, Regarding Legislative Review of Portions of Chapter 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

(H.P. 1013) (L.D. 1461)  
(C. "A" H-392)

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 Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

**Acts**

An Act To Amend the Laws Governing the Confidentiality of Correctional Facility Plans  
(H.P. 52) (L.D. 59)  
(H. "A" H-449 to C. "A" H-362)

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

An Act To Amend the Laws Governing Involuntary Hospitalization Procedures  
(S.P. 224) (L.D. 609)  
(C. "A" S-228)

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

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

An Act To Reverse the Effects of Grant v. Central Maine Power, Inc. on Workers' Compensation  
(H.P. 649) (L.D. 946)  
(C. "A" H-359)

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

An Act To Create the Probate and Trust Law Advisory Commission  
(H.P. 694) (L.D. 1006)  
(C. "A" H-349)

An Act To Amend the Education Laws Regarding the State Board of Education's Degree-granting Authority, the Telecommunications Education Access Fund and Certain Definitions and Programs  
(H.P. 711) (L.D. 1036)  
(C. "A" H-373)

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

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

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

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

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  
(H.P. 805) (L.D. 1166)  
(C. "A" H-413)

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

(H.P. 818) (L.D. 1179)  
(C. "A" H-409)

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

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

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

An Act To Continue Coverage of Oil Clean-up Costs and Improve Administration of the Ground Water Oil Clean-up Fund  
(H.P. 936) (L.D. 1332)  
(C. "A" H-360)

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

An Act To Ensure the Effectiveness of Critical Incident Stress Management Teams  
(H.P. 964) (L.D. 1374)  
(H. "A" H-448)

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

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

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  
(S.P. 508) (L.D. 1405)  
(C. "A" S-235)

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

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

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

An Act To Amend Licensing, Certification and Registration Requirements for Health Care Providers and Other Facilities  
(H.P. 1019) (L.D. 1464)  
(C. "A" H-364)

An Act to Amend Mercury Standards for Air Emission Sources  
(H.P. 1035) (L.D. 1482)

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

**Resolves**

Resolve, Directing the Secretary of State To Conduct a Pilot Program for Ongoing Absentee Voter Status

(H.P. 129) (L.D. 150)  
(C. "A" H-182)

Resolve, Regarding the Sale of Certain Real Property in the City of Hallowell

(H.P. 623) (L.D. 905)  
(C. "A" H-358)

Resolve, Regarding the Classification of Wildlife Management District 2

(S.P. 351) (L.D. 929)  
(S. "A" S-238 to C. "A" S-140)

Resolve, To Conduct an Updated Study of the Feasibility of Establishing a Single-payor Health Care System in the State and the Impact of Any Federal Health Care Reform

(H.P. 690) (L.D. 1002)  
(C. "A" H-353)

Resolve, To Understand and Assist in Efforts To Promote Science, Technology, Engineering and Math Education

(S.P. 412) (L.D. 1101)  
(C. "A" S-208)

Resolve, To Facilitate Training and Education on Dating Violence Prevention

(H.P. 760) (L.D. 1105)  
(C. "A" H-323)

Resolve, To Review the Adjustments in the School Funding Formula Related to School Administrative Units That Are Eligible for the Minimum State Share of Their Total Allocation

(H.P. 845) (L.D. 1225)  
(C. "A" H-404)

Resolve, Regarding Low-profit Limited Liability Companies

(H.P. 884) (L.D. 1265)  
(C. "A" H-410)

Resolve, To Provide a Program Model for Children with Autism Spectrum Disorder

(S.P. 461) (L.D. 1280)  
(C. "A" S-210)

Resolve, To Study Implementation of Shared Decision Making To Improve Quality of Care and Reduce Unnecessary Use of Medical Services

(S.P. 493) (L.D. 1358)  
(C. "A" S-218)

Resolve, Directing the Department of Labor and the Department of Health and Human Services To Establish a Work Group To Clarify the Working Status of Respite Care and Shared Living Residential Service Providers for Individuals with Developmental Disabilities

(S.P. 496) (L.D. 1361)  
(C. "A" S-229)

Resolve, To Reform Public Retirement Benefits and Eliminate Social Security Offsets

(S.P. 515) (L.D. 1431)  
(C. "A" S-230)

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

An Act To Clarify Standards by Which All-terrain Vehicles May Be Stopped

(H.P. 244) (L.D. 308)  
(C. "A" H-354)

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

On motion of Representative SARTY of Denmark, was **SET ASIDE**.

The same Representative moved that the Bill and all accompanying papers be **COMMITTED** to the Committee on **INLAND FISHERIES AND WILDLIFE**.

Representative CLARK of Millinocket **REQUESTED** a roll call on the motion to **COMMIT** the Bill and all accompanying papers to the Committee on **INLAND FISHERIES AND WILDLIFE**.

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 Mexico, Representative Briggs.

Representative **BRIGGS**: Thank you, Madam Speaker. I'd like to speak on behalf of this bill. After we had voted last week, I really felt uncomfortable with it, and I really just want to give you folks some input on my issues with this bill, so I'll go forward with this: According to the summary from the Department of Inland Fisheries and Wildlife, in the Office of Policy and Legal Analysis, this bill amends the law to statutorily require a game warden to have a reasonable and articulable suspicion to believe a violation of the law has taken place or is taking place before stopping an all terrain vehicle. This language codifies the common law, law derived from the judicial decisions, that has developed around the Fourth Amendment in Maine's constitutional protections against unreasonable searches and seizures regarding investigatory stops. In general, a law enforcement officer may briefly detain a person for investigatory purposes without the probable causes needed for an arrest, as long as there is a reasonable suspicion supported by articulable facts that a violation of the law has occurred or has taken place. However, this standard has a number of exceptions and the courts have not settled the issue with regard to whether or not a warden would need to have a reasonable and articulable suspicion before stopping an ATV.

The Maine Supreme Judicial Court, the law court, is now deciding a case represented by attorney and state representative from Newport, Representative Tardy, that goes to this very question. While this bill, as written, will not affect the case currently pending by the law court, if the law court holds that the Fourth Amendment and Maine's Constitution do not require a warden to have reasonable and articulable suspicion before stopping an ATV, this bill will establish a higher standard than what is required by either the Fourth Amendment or the Constitution of Maine.

The **SPEAKER**: Will the Representative please defer for a moment. The Chair would just remind the member that you are currently debating whether or not the bill should be committed back to the committee. So your line of debate is mostly along the right lines, but make sure that you are debating whether or not it should be referred back to the committee, so why you do not believe it should pass today, why you believe it should actually go back to the committee. The Representative may continue.

The Chair reminded Representative **BRIGGS** of Mexico to stay as close as possible to the pending question.

Representative **BRIGGS**: Thank you, Madam Speaker. I feel that it should go back to the committee for further work, for further decision-making with the court in helping us going forward to make a better decision. So I respectfully request this commitment. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Denmark, Representative Sarty.

Representative **SARTY**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. One of the reasons that we feel this should go back to committee, the committee dealt with this issue for many, many weeks, and the

committee's sense was due to the fact that the case was on appeal to the Maine Law Court to determine the constitutionality of this type of stuff, that we would prefer to see what that decision was prior to the committee having to make a decision as to how the bill would be presented to the House. Unfortunately, the Supreme Court has not made that decision as of yet, and, therefore, we felt it would be proper for the committee to recommend that we carry the bill to the Second Session pending the decision of the Maine Law Court as to the constitutionality of such a start.

Very late in committee hearings, in fact I think it was the last day, our Senate Chair advised that the Senate President had informed him that there could be no bills carried forward. Unfortunately, that appears that that still could have been possible, and we might have been in fact misinformed or there was some confusion there. So the point of the issue is even though some will say that it is a very different venue and a different issue when it comes to the Maine Law Court's constitutional determination in this case, it certainly is not. All of us, I think, realize that the state Legislature can often have an influence on a court decision and a court decision can often have an influence on the state Legislature. Unfortunately, we have both issues coming together at the very same time, so simply we are asking for this to be delayed through whatever action can make that possible, until there is a determination by the Maine Law Court. That was the desire of the committee, and that's one of the reasons we would like this to go back to committee. Thank you.

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

Representative **MARTIN**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This is a bill which I put in that went to the Inland Fisheries and Wildlife Committee, it was studied for at least a couple of months and came out of committee, and this body accepted the Majority Report. I do not believe it needs to go back to committee. Frankly, it doesn't matter how the Supreme Court rules. The issue here is very simple, it's whether or not game wardens, like the former game warden member of Inland Fisheries and Wildlife, the Representative from Denmark, Representative Sarty, as to whether or not game wardens should have more power than other law enforcement officers. So if you believe that game wardens should have more power than a state trooper, you'd be voting for this bill and trying to send it back to committee and get it buried somewhere. But if you believe that the power should be identical for law enforcement officers across the board, then you would vote not to send it back to committee and we enact this bill today.

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

Representative **SHAW**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I support the views of the Representative from Denmark, Representative Sarty, and the Representative from Mexico, Representative Briggs. There is no difference right now between what the game wardens can do and what a state police officer can do. An ATV should be held to a higher standard, because they have to have the landowner's permission to be on a piece of property. If a game warden or a state trooper sees an ATV traveling across a field, tearing up a field, presently, they could stop them and ask them if they had permission to be in that field. If this law does pass, they would have no opportunity to stop the person that could be potentially destroying the field, going through a corn field destroying the corn. So I think the ATV should be held to a stronger standard, and I would highly recommend that we send

this back to committee. Thank you.

Representative CLARK of Millinocket **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 Newport, Representative Tardy.

Representative **TARDY**: Thank you, Madam Speaker. Madam Speaker, Members of the House. I will be opposing the motion to Commit and look forward to the Enactment vote on this LD. I would like to thank my good friend from Eagle Lake for bringing this bill forward. I'd also like to thank the committee for the process it engaged in and would like to thank the Clerk for reading the report.

I think it's important for this body to understand that the committee unanimously voted to apply the Constitution to ATV stops. The Majority Report of the committee voted to permanently codify and clarify the standards; the Minority Report sunsets the bill with a report back to the Legislature. Both reports, I appreciate, recognize, at least implicitly, that something needs to be fixed here, and with all due respect to the Minority Report, I would say that the Constitution and the rights it gives people shouldn't be sunsetted, and statutes that clarify standards shouldn't be subject to sunset provisions as well. LD 308 clarifies some present ambiguities in Maine law, and it extends basic constitutional protections to citizens operating all terrain vehicles.

Under current law, some law enforcement officials—some law enforcement officials—believe that Maine law allows that any ATV can be pulled over for any reason or, worse, no reason, and that's a reasonable interpretation by game wardens, for example, because Title 12 presently states that you can pull an ATV over to check for noncompliance with the law. Well LD 308 clarifies that, in order to affect an investigatory stop, you need to have reasonable articulable suspicion. That's a constitutional protection. It's a constitutional protection that extends; it's the same as the constitutional protection that extends to operators of automobiles that are pulled over by a state trooper or a county sheriff. It's the same protection that applies to all citizens, whether it be that old Volkswagen van filled with young people and a peace emblem as a bumper sticker headed to a Phish concert, whether it's a motorcyclist heading out to bike week in a convoy, or whether it be a mom or a dad in a station wagon headed to a soccer game. It's a basic constitutional protection. You should not be detained and your privacy shouldn't be invaded unless there is a reason that can be articulated, and it has to be reasonable under the circumstances.

I appreciate the concern for my good friend from Denmark, Representative Sarty, and I would suggest that it is absolutely within the Legislature's prerogative to deal with ambiguities in Maine law. I would also suggest that there is nothing in this bill that would have an impact on cases that are presently pending before any court or cases that have gone before any court. This is a prospective application, so that there's absolutely no impact on the judiciary. They are charged with an oath to apply the law in the Constitution, and they are not going to be impacted by what they do. We have a great judiciary. I think they will rise above what we do here in this body.

Madam Speaker, ATVs are, for many citizens, a common mode of transportation. They are recreational vehicles that are quite popular in my neck of the woods, and I would suggest that citizens should be able to enjoy a ride on a public trail, or permissive ride on a private trail, without a random stop. These are ATVs, four-wheelers. They are not highly regulated commercial motor vehicles carrying freight in interstate commerce with weight limits or hazardous waste manifest requirements, they are not ocean faring vessels patrolled by the

Coast Guard potentially importing illegal contraband, and they are not potential terrorists at a border patrol. These are our constituents, our neighbors, who have constitutional rights, and they have a right to be free from an unreasonable search and seizure, not any search and seizure but an unreasonable one. I urge the members of this body to vote against the motion to Commit and enact this bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Turner, Representative Sirois.

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

The SPEAKER: The Representative may pose his question.

Representative **SIROIS**: I asked the same questions in our caucus, but it was right at the very end as we were leaving. Does this bill apply to also, say snowmobiles and boats, other means of transportation, and if not, why not? Thank you.

The SPEAKER: The Representative from Turner, Representative Sirois has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Denmark, Representative Sarty.

Representative **SARTY**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. No it does not, and I think that's a notable issue. Wardens typically enforce the law with three types of recreational equipment used in the State of Maine for three types of very different activities. One is watercraft, one is snow machines, and one is all terrain vehicles. All terrain vehicles represent the new kid on the block. They are the newest type of recreational vehicle. The use is still going through growing pains that we can probably all remember that snow machines were going through 25, 30 years ago. But the fact is no. Articulate suspicion is not required for wardens to stop watercraft or snow machines. This would be the exception, and I find that extremely unique because it is the only recreational equipment that requires the property owner's consent in order to operate on that person's land.

Another point I'd like to clarify, this law is enforceable by all law enforcement in the State of Maine. This is not unique to Maine game wardens. I've been all three: I've been a state trooper, I've been a game warden, I've been a deputy sheriff. We have interactive jurisdictions where we can enforce the laws of each other's agency, even though it might not be our primary responsibility. So that's a myth to assume that this is only a law that can be enforced by game wardens, just to clarify that point. Thank you.

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

Representative **MARTIN**: Thank you, Madam Speaker. Madam Speaker, Members of the House. Let me respond to it in a somewhat different fashion. In talking to an active game warden, he tells me that that's not a problem as far as watercraft is concerned because most of the time they are checking on whether or not there is a sticker, and that becomes the reason why they would be stopping watercraft, and that's never been an issue from his point of view. But there is a difference between the two and that's clear, so I'm hoping that that explains that issue clearly.

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. Just a quick clarification for my good friend Representative Shaw: If someone was driving in someone's corn field and tearing it up, that would be recognizable and articulable suspicion to stop that individual. Thank you, Madam Speaker.

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

Representative **SHAW**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I'll be brief. With respect to the Representative from Wilton, Representative Saviello, I don't know if that would be articulable suspicion or not.

A couple of other points I wanted to make out, ATVs do have a higher standard. Like the Representative from Denmark stated, Representative Sarty, you do have to have landowner permission to be on that property riding an ATV. It's completely different, with respect to the Representative from Newport, Representative Tardy, than driving your station wagon down a road. Driving a car down a road, you don't have to have permission of the state, I guess other than having it registered and a driver's license. An ATV, you do have to have permission. So there is a different standard to be held to driving an ATV. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is to Commit the Bill and all accompanying papers to the Committee on Inland Fisheries and Wildlife. All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 166

YEA - Adams, Austin, Briggs, Browne W, Cebra, Cotta, Cray, Finch, Gilbert, Hamper, Innes Walsh, Joy, Kaenrath, Knight, Lewin, Magnan, McCabe, McFadden, Millett, Richardson W, Russell, Sarty, Shaw, Sirois, Stevens, Sykes, Thibodeau, Weaver, Welsh, Wheeler, Madam Speaker.

NAY - Ayotte, Beaudette, Beaudoin, Beaulieu, Beck, Berry, Bickford, Blodgett, Boland, Bolduc, Bryant, Burns, Butterfield, Cain, Campbell, Casavant, Chase, Clark H, Clark T, Cleary, Cohen, Connor, Cornell du Houx, Crafts, Crockett J, Crockett P, Curtis, Davis, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Edgecomb, Eves, Fitts, Flaherty, Flemings, Fletcher, Flood, Fossel, Gifford, Giles, Goode, Hanley, Harlow, Harvell, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Jones, Kent, Knapp, Kruger, Lajoie, Langley, Legg, Lovejoy, MacDonald, Martin JR, Martin JL, Mazurek, McKane, McLeod, Miller, Morrison, Nass, Nelson, Nutting, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Pinkham, Piotti, Plummer, Prescott, Priest, Rankin, Richardson D, Robinson, Rosen, Rotundo, Sanborn, Saviello, Schatz, Smith, Strang Burgess, Stuckey, Sutherland, Tardy, Theriault, Thomas, Tilton, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Willette, Wright.

ABSENT - Blanchard, Carey, Celli, Cushing, Greeley, Johnson, Pratt, Webster.

Yes, 31; No, 112; Absent, 8; Excused, 0.

31 having voted in the affirmative and 112 voted in the negative, with 8 being absent, and accordingly the motion to **COMMIT** the Bill and all accompanying papers to the Committee on **INLAND FISHERIES AND WILDLIFE FAILED**.

Representative SHAW of Standish **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. 167

YEA - Adams, Austin, Ayotte, Beaudette, Beaudoin, Beaulieu, Beck, Berry, Bickford, Blodgett, Boland, Bolduc, Bryant, Burns, Butterfield, Cain, Campbell, Casavant, Clark H, Clark T, Cleary, Cohen, Connor, Cornell du Houx, Crafts, Cray, Crockett J, Crockett P, Curtis, Davis, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Edgecomb, Eves, Finch, Fitts, Flaherty, Flemings,

Fletcher, Flood, Fossel, Gilbert, Giles, Goode, Hanley, Harlow, Harvell, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Jones, Kent, Knapp, Knight, Lajoie, Langley, Legg, 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, Robinson, Rosen, Rotundo, Russell, Sanborn, Saviello, Schatz, Smith, Stevens, Strang Burgess, Stuckey, Sutherland, Tardy, Theriault, Thibodeau, Thomas, Tilton, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Wheeler, Willette, Wright, Madam Speaker.

NAY - Briggs, Browne W, Cebra, Chase, Cotta, Gifford, Hamper, Innes Walsh, Joy, Kaenrath, Kruger, Lewin, McCabe, Richardson W, Sarty, Shaw, Sirois, Sykes, Weaver.

ABSENT - Blanchard, Carey, Celli, Cushing, Greeley, Johnson, Pratt.

Yes, 125; No, 19; Absent, 7; Excused, 0.

125 having voted in the affirmative and 19 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.

An Act To Clarify Land Use Regulation in Unorganized and Deorganized Townships

(H.P. 301) (L.D. 413)  
(C. "A" H-383)

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

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

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

An Act To Regulate Foreclosure Negotiators

(S.P. 198) (L.D. 503)  
(C. "A" S-216)

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

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

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

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

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

**ROLL CALL NO. 168**

YEA - Adams, Austin, Ayotte, Beaudoin, Beaulieu, Beck, Berry, Bickford, Blodgett, Boland, Bolduc, Briggs, Browne W, Bryant, Burns, Butterfield, Cain, Campbell, Casavant, Cebra, Chase, Clark H, Clark T, Cleary, Cohen, Connor, Cornell du Houx, Cotta, Crafts, Cray, Crockett J, Crockett P, Curtis, Davis, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Edgecomb, Eves, Finch, Fitts, Flaherty, Flemings, Fletcher, Flood, Fossel, Gifford, Gilbert, Giles, Goode, Hamper, Hanley, Harlow, Harvell, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Jones, Joy, Kaenrath, Kent, Knapp, Knight, Kruger, Lajoie, Langley, Legg, Lewin, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, McFadden, McKane, McLeod, Miller, Millett, Morrison, Nass, Nelson, Nutting, O'Brien,

Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Pinkham, Piotti, Plummer, Prescott, Priest, Rankin, Richardson D, Richardson W, Robinson, Rosen, Rotundo, Russell, Sanborn, Sarty, Saviello, Schatz, Shaw, Sirois, Smith, Stevens, Strang Burgess, Stuckey, Sutherland, Sykes, Tardy, Theriault, Thibodeau, Thomas, Tilton, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Weaver, Webster, Welsh, Wheeler, Willette, Wright, Madam Speaker.

NAY - NONE.

ABSENT - Beaudette, Blanchard, Carey, Celli, Cushing, Greeley, Johnson, Pratt.

Yes, 143; No, 0; Absent, 8; Excused, 0.

143 having voted in the affirmative and 0 voted in the negative, with 8 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act To Improve Transportation for Veterans

(H.P. 601) (L.D. 870)  
(C. "A" H-342)

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

On motion of Representative TRINWARD of Waterville, was **SET ASIDE**.

The same Representative moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED** in **NON-CONCURRENCE** and sent for concurrence.

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

Representative **TRINWARD**: Thank you, Madam Speaker. I just would like to let the Men and Women of the House know that this has been taken care of in the budget and that's why we are postponing this bill. Thank you.

Subsequently, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** in **NON-CONCURRENCE** and sent for concurrence.

An Act To Reduce Lung Cancer Rates in Maine

(H.P. 646) (L.D. 943)  
(C. "A" H-365)

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

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

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

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

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

**ROLL CALL NO. 169**

YEA - Adams, Austin, Ayotte, Beaudoin, Beaulieu, Beck, Berry, Bickford, Blodgett, Boland, Bolduc, Briggs, Browne W, Bryant, Burns, Butterfield, Cain, Campbell, Casavant, Cebra, Chase, Clark H, Clark T, Cleary, Cohen, Connor, Cornell du Houx, Cotta, Crafts, Cray, Crockett J, Crockett P, Curtis, Davis, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Edgecomb, Eves, Finch, Fitts, Flaherty, Flemings, Fletcher, Flood, Fossel, Gifford, Gilbert, Giles, Goode, Hamper, Hanley, Harlow, Harvell, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kaenrath, Kent, Knapp, Knight, Kruger, Lajoie, Legg, Lewin, Lovejoy, MacDonald, Magnan, Martin JR,

Martin JL, Mazurek, McCabe, McFadden, McLeod, Miller, Millett, Morrison, Nass, Nelson, Nutting, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Pinkham, Piotti, Plummer, Prescott, Priest, Rankin, Richardson D, Rosen, Rotundo, Russell, Sanborn, Sarty, Saviello, Schatz, Shaw, Sirois, Smith, Stevens, Strang Burgess, Stuckey, Sutherland, Sykes, Tardy, Thibodeau, Tilton, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Wheeler, Willette, Wright, Madam Speaker.

NAY - Joy, Langley, McKane, Richardson W, Robinson, Theriault, Thomas, Weaver.

ABSENT - Beaudette, Blanchard, Carey, Celli, Cushing, Greeley, Johnson, Pratt.

Yes, 135; No, 8; Absent, 8; Excused, 0.

135 having voted in the affirmative and 8 voted in the negative, with 8 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act To Strengthen Sustainable Long-term Supportive Services for Maine Citizens

(H.P. 745) (L.D. 1078)  
(C. "A" H-351)

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

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

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

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

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

**ROLL CALL NO. 170**

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

NAY - NONE.

ABSENT - Blanchard, Carey, Celli, Cushing, Greeley, Johnson, Pratt, Shaw.

Yes, 143; No, 0; Absent, 8; Excused, 0.

143 having voted in the affirmative and 0 voted in the negative, with 8 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

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

SENATE DIVIDED REPORT - Report "A" (9) **Ought to Pass as Amended by Committee Amendment "A" (S-252)** - Report "B" (3) **Ought Not to Pass** - Report "C" (1) **Ought to Pass as Amended by Committee Amendment "B" (S-253)** - Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Authorize the Annexation of a Portion of Redington Township in Franklin County to the Town of Carrabassett Valley" (EMERGENCY)

(S.P. 288) (L.D. 741)

Which was **TABLED** by Representative PIOTTI of Unity pending **ACCEPTANCE** of any Report.

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

Representative EATON of Sullivan **REQUESTED** a roll call on the motion to **ACCEPT** Report "B" **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 Sullivan, Representative Eaton.

Representative EATON: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I request a roll call on this because I'm quite frustrated with our inability to move projects so necessary to our state in a proper direction. I really do believe in local rule and local control, and I also believe that there are times where we must, as a body, speak up to the needs to the State of Maine. We have outrageous energy costs and impact on our state. It's time for us as a body to step up and do something about it, and if annexation of the Redington Township to move this project ahead is what's required, then I will support that. Thank you, Madam Speaker.

On motion of Representative BEAUDETTE of Biddeford, **TABLED** pending his motion to **ACCEPT** Report "B" **Ought Not to Pass** and later today assigned. (Roll Call Ordered)

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

HOUSE DIVIDED REPORT - Majority (9) **Ought to Pass as Amended by Committee Amendment "A" (H-490)** - Minority (4) **Ought to Pass as Amended by Committee Amendment "B" (H-491)** - Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Stabilize Funding and Enable DirigoChoice To Reach More Uninsured"

(H.P. 883) (L.D. 1264)

Which was **TABLED** by Representative TREAT of Hallowell pending her motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

Representative MCKANE of Newcastle **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 Warren, Representative Richardson.

Representative RICHARDSON: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise today in opposition of this bill and basically to just give a



couple of things. The Dirigo Health Agency, this is supposed to help the cash flow situation of this agency, and I just want to give you a couple of numbers. Since the beginning, initially they had \$50 million. We've had at least one payment from the Fund for Healthy Maine of \$5 million; we've had an SOP, savings offset payment; we've had premiums collected from policy holders; and as of June 30th, we'll be \$20 million overdrawn. I think really that this has really gone too far. We do have a proposal as an amendment, which I won't go into now, which I think would be better for the agency.

The other thing I really want to mention is that, last November, we had a vote on this very same type of issue, a 65-35 reject by the voters, for this same type of tax. Now people are going to say, oh, that was a soda tax, it doesn't count. I think it reflects the Dirigo Agency and what they've been able to do. This new tax is going to be increased by 34 basis points. Again, I want you to be reminded that Dirigo membership continues to decline. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Treat.

Representative TREAT: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I urge that you support the Majority Ought to Pass Report of the committee on this bill. LD 1264, plain and simple, makes sure that people and small businesses, as well as nonprofits, in our communities, who currently rely on the DirigoChoice insurance product, or who want to sign up for this insurance option, continue to have that choice. I want to just briefly tick through a few of the things that this bill does, but first I'm going to go straight to the point of the opposition, which is this is some new tax. No it's not. This is the continuation of the funding amount that right now is being paid by people in the State of Maine already. It's changing it from something called a savings offset payment into an assessment that just is a flat assessment, that is ongoing. Now what's the big deal, why does this matter? You heard the good Representative from Warren, Representative Richardson say well you know there's really not very many people on Dirigo. Oh really? Well, there's a reason for that. It's because we're got a cockamamie funding system that assesses people every year through the state savings offset payment, a savings offset payment has to go through a hearing process, which costs one agency of this state a million dollars every single year. That's a million dollars that could be going to providing access to health care, that could be going to doing many other things that people would like to do in this state, many things that we in fact cut out of the budget. A million dollars really just wasted, so that we can fight about how much the saving offset payment is, when, in the end, it's going to be assessed anyway. Why not, as I said, cut to the chase, just assess it, and that's what the committee decided to do.

Now there's a number of things about what we do right now that don't make sense, which have led directly to the program being capped repeatedly, so that many, many people, including the 2,000 that have been waiting to get into the program over this last year, many, many people who would like to be in it cannot get into it. One of the major reasons is that there's this interesting accounting mechanism which collects this savings offset payment, over a period of 27 months, but then pays out the benefits, or tries to, over 12 months. Well now, let's do the math, okay? You're going along trying to collect the money, but it takes 27 months to collect it, yet you have to pay it out in 12. Hmmm. I think there's something wrong with this picture. Maybe it just isn't adding up. In fact, someone might say this isn't how we would run a business, and you're right, it's not how we run a business, it's not how we run state government. This Majority Report will change that. This Majority Report will collect the amount of

money over 12 months and then it will pay off the amount of money in benefits to people, as well as subsidized care, over a period of 12 months, and it will allow more people to participate in this program, who want to participate in it, and it won't rely on a mechanism, both of setting the fees that are paid to fund it nor of collecting it, that really doesn't make much sense. So this Majority Report provides for a consistent funding source. It gets rid of what I would call an accounting nightmare and our committee heard all too much about this, during the hearings on this. It reduces administrative waste and lawyer's fees. It takes steps to redesign the program and to have the board of Dirigo look to redesign the product to see if there are more affordable options. The Amendment "A", which is the Committee Report, the Majority Report, also allows the board to do voucher options that might make insurance available through other companies. It allows the state to partner with the Federal Government, because we will have a program that is ready and waiting, and indeed there are grant proposals just waiting for us to pass this bill, which we could take advantage of to cover people who have been laid off and want to take advantage of it. It eliminates the cap on enrollment, and it continues to offer the product to many small businesses and other people. I just want to, I have a handful of the many, many communications to our committee, and I just want to make a point here. I think there are a lot of misconceptions about this program. One of the things about it that is really the essence of Dirigo is that it's a partnership between a private company, which is the insurance company, the government and the funding sources that we have, the private sector in terms of the hospitals and the insurance companies as well, and the individuals who sign up, who pay membership fees, who pay premiums, who pay co-pays. Seventeen percent of the people on the DirigoChoice program pay 100 percent of their costs. It's a program where it's a sliding fee program, and this is so much of what we talk about here. Why can't we come up with health care where it's based on the ability to pay, and there are sliding fees so that someone who can pay more pays more and someone who has less pays less? It's one of the only options available to many small businesses.

As I mentioned, I have a handful of the many communications to us, and one of them I found particularly charming. It's on a packing list and the owner of this company, which is an electric company in Madawaska, crossed out packing list and wrote letter of support. It's admirably short. It just says: *As a small business owner, we really rely on the Dirigo program as a means of operation. Please help us continue the program.* Here's another one. It says: *My husband and I will be 60 this year. We've been with the Dirigo program for four or five years now. He's been self-employed since 1976; our children were raised at home and not in daycare. I have not worked outside of the home. We went with Dirigo Health. This was after they were at one point paying over \$17,000 a year for insurance with a high deductible. They end by saying: This is really, really important to us because we need medical care and this allows us to do it.* Here's a letter that came from Freeport: *My husband Eric and I own and operate a small business. We have been DirigoChoice members since its inception. Dirigo has allowed us to start and grow our business, which is now on its way to stable viability. Giving the high risks associated with creating a new enterprise, it would have been very difficult for Eric and I to make the decision to leave our two children and ourselves without insurance while we focused on creating a new company. Thanks to Dirigo, this enterprise is alive and well.*

We know there are many people who are healthy today because they have had this option, but I think it's also important to remember that this is an economic development tool for this

state, and we've had a lot of bills here over the last several days, where we've voted on economic development, we have debated what's the best way to do it. This is an ongoing program, it continues the program, and it benefits those who like it. If you don't want to take advantage of it, you don't have to. But for those people who are on this program now, who are taking advantage of this insurance option, it's an excellent option. This report will make it a better option, and I encourage your strong support of the Majority Ought to Pass. 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. About six years ago, I first voted on Dirigo. It was pretty even on both sides of the aisle. Then I went home that summer—and I don't want to sound like a broken record, but there are a lot of new faces in the chamber—and found out that Anthem BlueCross BlueShield was going to run this program. Well, my first reaction was like it's like buying a piece of land and building a little general store and walking across the street and ask Hannaford if they'll run it for you. Then I find out that we spent \$50 million, as one of my colleagues just said, to start Dirigo, and to find out that Anthem BlueCross BlueShield gave their CEO a \$42.5 million bonus. What a slap in the face that was to this Legislature, on both sides of the aisle, and the people of the State of Maine. Now all I hear is that Dirigo doesn't work.

I speak to the people that are on Dirigo. Like I came up here with the fourth grade for the Shapleigh school two years ago, and on the school bus, one of the women from Shapleigh, with tears in her eyes, right after we voted for the beer and wine tax, told me that she was the only one in the family that had insurance and she was scared that she was going to lose it, and it was Dirigo, and she said she was being treated for cancer. Well, I said then and I say now, how would I have felt looking her in the eye to say well I voted to take it away from you.

We also had some members of this House leave last time. We're only part-timers. We work six months and the next year we work four months, so we're elected for 24 months, we work up here 10 months, but we get full-time benefits, at the new price of \$686.66. To the legislator's share, nothing. To the taxpayers, not the state, to the taxpayers, they pay the \$686. Now we'll talk about the scale, I talk about a 12 inch ruler. The bottom four inches, the bottom third, have health insurance paid for by the taxpayers of the State of Maine and the Federal Government. Then we'll go up to the top four inches of that ruler, and that's us, being paid for by the taxpayers, full-time benefit that we take, and then go home and ask for their support and then try to cut back on MaineCare and cut back on Dirigo and they say it's not working, but I don't see anybody stepping up to the plate and saying, when I leave here, I don't want any insurance, I want it to go to the taxpayers of Maine. They didn't want to support this with the beer and wine tax, now they don't want to support it with this. I say that we should pass this bill. Thank you very much, Madam Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Newcastle, Representative McKane.

Representative **McKANE**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. My good friend, the good Representative from Hallowell, referred to the current funding system, the savings offset payment, as a cockamamie funding scheme. I would allow, and I think some of the members of this body and I think a lot of our constituents would refer to more than just the funding mechanism as a cockamamie scheme. LD 1264 is a permanent, new tax to fund Dirigo. It's important to remember that next year Dirigo will

reduce its membership to 5,200, in order to pay off what the program has borrowed from the General Fund. Next year, Dirigo will receive \$40.7 million from this assessment and the remaining savings offset payments due, \$19.2 million in premiums paid by employers and individuals, \$4.7 million for each year of the biennium, that's over \$9 million coming out of the Fund for a Healthy Maine. That's what we're spending a lot of the money from the Fund for a Healthy Maine for is directly into the Dirigo program, \$500,000 for membership fees. That's \$65.1 million in revenue that is going to the Dirigo program. Now if you subtract the \$5.1 million that goes to subsidize the MaineCare expansion and you subtract the \$1 million for the Maine Quality Forum, you have \$59 million left to pay for the 5,200 people on the program. That works out to about \$11,300 per enrollee in the Dirigo program, for over \$45,000 per family of four through Dirigo. Not very efficient. Three to four times what it would cost just to buy that insurance on the open market. Now by this time, when this body proposed Dirigo back in 2002, by this time we were supposed to have had 100,000 people enrolled on Dirigo. Now if I get my calculator out and multiply 11,000 x 100,000, I get \$1.1 billion we would be spending now on Dirigo to insure these people, not very efficient, a lot of money. We were also supposed to get funding from the Federal Government to help with Dirigo, we never did.

The taxes on health insurance were rejected soundly by the voters last November. I wonder why we think that they would go along with a new higher tax on health insurance this time around. The sad truth is that the people who are already struggling to pay for health insurance shouldn't be the ones to pay for Dirigo. It should struggle, just like every program does, for money through the General Fund. 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 colleague from Newcastle, I'm a little bit intrigued by your numbers. My numbers are a little bit different, but be that as it may, in the bill, in LD 1264, they referred to the Maine Quality Forum, which is funded by the SOP and, in the SOP, they allocate a million dollars each year from the SOP to fund the Maine Quality Forum, which is an oversight board. The board's duties in this are to look at procedures, to look at ways to enhance the Dirigo product. It says the board of trustees of the Dirigo Health to reach more uninsured and underinsured individuals through a more affordable product and to report to the joint standing committee of IF & S, and it goes on. No where in this bill or in this narrative does it say anything about how we're going to expand the program, how we're going to market the program. Since the inception of the program, there has never been a marketing program. There has never been a method in which to expand the program, a marketing program, how to reach more participants. That's why the program has failed, that's why we haven't seen over 100,000 participants. There's no marketing program. You simply can't take a product, add new pieces to it and say, okay, we've got a new product, put it out in the newspaper and expect the phone to ring. You have to go out and market the product. It's never happened, that's why we don't have the enrollment we thought we were going to have. We don't have a marketing program. That's why this product has never been successful.

There are approximately 9,630 participants in this program since April 2009. We're looking for \$53 million to fund 9,630 people. Of that, \$31 million is the cost of the subsidies; 54 percent of the members are 80 percent of the subsidies. That's a huge amount of money. It's just too expensive. It's not

sustainable. Since fiscal year '06, employees and state contributions to the program are approximately \$273 million, a huge amount of money for very, very little participation. That's why I can't support this. 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. I stand in front of you this evening to speak in favor of Dirigo, and I want to tell you why. Back in 2003, as I indicated before on the House floor, 1,100 workers lost their job at what they call Great Northern Paper Company, back in 2003—1,100 people. Right following that, 900 active employees who had medical insurance—who had medical insurance—lost their medical insurance. I can tell you right now, I would not be going home and telling people I represent, I mean, it's going to be cutting another medical plan on their behalf. When I was at mass this Sunday, the first thing, when I was coming out the door, they kept saying don't cut my Dirigo, please, we can't afford to lose anymore medical insurance. I'll be the first to tell you we need to find a better way to fund Dirigo, yes we do. What do you do with the people on it today? Too many people in the state had fell by the wayside because their employees or employer, whatever, eliminates their programs—eliminates their programs. Now how do those people, when they left that plant thinking they had that for life, they thought they had it for life. The only thing they have today that's salvation is Dirigo. A lot of the small businesses in our area have Dirigo. Yes, we're going to have to find a better way to fund it, but please make sure the ones who are in it now stay in it. They're having a hard enough time now making ends meet without taking away the medical plan. Thank you very much, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Legg.

Representative **LEGG**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. The fundamental problem with the Dirigo program is the financial problem. For any of you who have ever run a business or managed a budget or budgets, you know that cash flow is critical and managing cash flow is critical to the success of that business. Dirigo can't do that because they have a 27 month imposed collection time on their cash flow, which means the state has costly had to operate a line of credit to bail them out, and then they get paid off when they collect 27 months, and this continues to flow, their cash flow. That dooms Dirigo. This bill fixed that and it will get Dirigo off the borrowing mode that they've been in by June 2010. They will be paid monthly now, that's the way it ought to be. That's the way any business operates, to have regular payment of money that's owned you. That was taken away from Dirigo in 2005. That's why it hadn't grown, that's why it's now capped with a large waiting list, and that's why, more than ever, Maine needs this program with all the people losing their health insurance. So I'm very much in support of this bill. It was a 9-4 vote in our committee, and I really hope that you will continue Dirigo. We can fix it with this bill on the financial side and let it compete from then on.

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

Representative **FOSSEL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. To cut to the chase, never have so many Mainers spent so much and gotten so little. Let's vote this thing down and go to the Minority Report. Thank you.

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 doubt that I garner many votes or that anyone garners any votes by speaking on the floor of the House, but I will still try. I will support any program that will help a family in Maine get insurance in a less expensive manner, especially when insurance costs for a family is about anywhere between \$1,800 and \$2,000 a month for family insurance. That's an egregious price to pay. However, it seems strange to me that so many people are interested in getting the people of Maine a less expensive insurance when, about a month ago, we defeated a bill that would have allowed Mainers to buy out of state insurance at a less expensive rate. However, I won't belabor the point, and I will probably support the bill because I have many families and I feel for these families that cannot afford health insurance and are too proud so they go without insurance. However, we should rethink our priorities. Thank you, Madam Speaker.

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. As I rise to speak, I want to preface it with I support seeing every man, woman and child in this state have health insurance; however, I am going to speak against the pending motion and I'm going to think of it a little more broadly and back up. I wasn't part of the Legislature when this was passed in, from what I understand, a fairly bipartisan basis, Dirigo, first was six years ago. However, if you had put together a business plan that proposed to have 130,000 customers within a few years and, at the end of that five or six year time period, you had less than 10,000 customers and was having to limit it to even less than that, I would question whether or not the business was viable. I would also look more deeply into it and said if I had taken \$53 million in startup capital, which if used and managed properly could have probably helped finance some of the funding gap that we've been hearing about today, I would question that as well. I would also question \$9 million being taken out of the Fund for a Healthy Maine in the next biennium to help sustain this. We've had a number of good ideas brought before this body, however, the resources are being used to support Dirigo at a time when Dirigo isn't able to grow a customer base, isn't able to demonstrate a sustainable business plan, and to shift the funding source from A to B and say this will work, I dare say, I think we'll be back here, if not in the next session, in the 125th trying to fix this thing again.

A final comment I'd like to make on this too is I heard a presentation for members of the Dirigo staff recently, and they did a very fine job and they had a lot of financial information. But one thing that really was very concerning to me about it was the \$20 million, which is currently owed to the State of Maine, in their projections, they said would take five years to repay, and I found that very disconcerting, particularly knowing that that \$20 million was never advanced to them on an approved basis through this body. So I would encourage people to rethink continuing this and to think more of, if we've learned some things from Dirigo, let's use it but let's consider it for a different vehicle, a different program, and to vote the pending amendment down. Thank you.

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 speak in favor of the this bill. Having been a part of the process of Dirigo from its inception, I do want to say that Dirigo has been working under constraints since the day it was instituted. It started out by an agreement for an SOP, with the very people who sued Dirigo for the purpose of the legality of the savings offset payment. As

much time has been spent in legal negotiations around the financing mechanisms for Dirigo, which has taken resources that certainly could have gone to insurance products for the very people we are trying to serve.

The other thing is it took time, employee time and time with working with the negotiations so that so that the opportunity and the ability to really look and evaluate and change the program on an ongoing basis has been hampered. As money has been slow coming in because of the legal workings that have gone on, there has not been a consistent steady stream and, as a result of that, has affected the ability for them to cover what they want. This bill is the next step. It offers an opportunity for there to be reliable, steady funding; it gives them then the time and the ability to look at their product, to really make the changes that they have been wanting to make, to take the time to put that together. This is the next step. This is an opportunity for us to do exactly what we set out to do in the beginning, and I ask that you support this.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Goode.

Representative **GOODE**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I rise briefly, the major reason being I can't let some of these stories we received in our committee go untold. I know Representative Treat, the Representative from Hallowell, shared a couple of those, but one that particularly stood out for me was from a woman in Westbrook, and I'm going to read from her testimony.

*I stayed in a physically abusive marriage for over 20 years, because I was afraid I could not survive financially on my own, due primarily to the high cost of medical care and my financial instability to get health insurance on my own. After finally taking a leap of faith to leave that marriage, I became clinically depressed and was hospitalized two times in a one year period because of the fear that I would not be able to make it on my own financially. When DirigoChoice became an option, I was able to afford adequate coverage, overcome my fears and recover from the depression. DirigoChoice made it possible for me to have peace of mind and survive financially. I was self empowered once more, I own a small business and I do career counseling and life coaching. I help women to empower themselves and one of the major problems that my clients face is staying in unhealthy workplaces or relationships because of the fear of losing their employer based health insurance. Too often, a woman's fear that they cannot survive financially keeps them tied to abusive relationships, both in personal relationships and in their careers.*

We had dozens of pieces of testimony like this from small business owners written on stationary from small businesses, from people who can't afford their prescription drugs and were able to enter DirigoChoice, and it was terribly moving, and that's one of the major reasons why I'm supporting this.

Another major reason is this is going to be spun as a tax by some people, but it is pretty clear that Dirigo saves money by covering more people. Every year when the SOP has been determined, it's been initially determined in the \$80 million range. I think it's knocked down into the \$40 million range. This bill just switches the funding mechanism so we still get that \$40 million from a more safe and secure funding source.

Lastly, the other major thing I want to mention is that Dirigo is always talked about just as a health insurance program, but the Dirigo reform, it's just one third about insurance. It also does amazing work around cost and quality issues, and this continues the important work of the Maine Quality Forum and those other aspects of the Dirigo Health Agency. So I encourage everybody else to vote for the Majority Ought to Pass Report. Thank you.

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

Representative **CROCKETT**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I stand in support of the pending motion. I support Dirigo because I believe it's the best we have until we can get a more comprehensive health system, either from the federal or from the state. I've heard from many of my constituents and they have told me that they feel fortunate to have health insurance now. One woman told me that, until Dirigo came along, she had not had any health insurance for ten years. I think the fact that it's saving us millions of dollars because people are able to go and get preventive care. They can go and see their primary care physician. They don't have to go to the emergency room. They can be diagnosed with something before it gets to the point where it's costing millions of dollars more. I think the problem we all know is the funding mechanism, and this funding that's proposed today is not going to cost any more for the insured, the insurer, the hospitals, anyone. It's going to cost the same. But my way of looking at it, it's going to cost us less because the one person that we're eliminating is the lawyer. Year after year, the state spends a million dollars going to the court system to defend what we all know is going to bring the funding for this, and now we have the funding mechanism in place. I ask you to please support Dirigo.

One more thing, I almost forgot. Last session, we were presented a packet that had 91 pages in it, front and back, of stories from people across this state, many in your districts, that had reasons why they wanted this insurance, the good things that it had done to help their families and their businesses—91 pages front and back. That was quite impressive, I felt. I ask you to support the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Butterfield.

Representative **BUTTERFIELD**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I've just had distributed to your desks an article that appeared in the *Bangor Daily News* two days after the voters of this state repealed the beverage tax last year, and in it, a small business owner from Bangor, Peter Geaghan, who owns Geaghan's Pub says the following. Peter, by the way, insures his 10 employees through the DirigoChoice program, or at least he did before the repeal. He said this: *My concern is the fear of the unknown. Is the funding just going to dry up and be nothing? I'm finding shopping around that there are other plans out there, but the deductible is higher and the coverage really isn't as good.* He goes on to say at the end of that article: *I don't think that folks have my employee, the guy I look at every day; they don't have his best interest at heart. We treat our employees as best we can and it's an investment for us.* This, I think, is something that unfortunately really gets lost every time we talk about Dirigo here, is that this is not some failed entitlement program. This is an expansion of the health insurance market and an affordable way for small businesses. This is for Peter, folks. I guess I would just urge all of you as my colleagues to keep in mind the huge number of small businesses in Maine that rely on Dirigo and their employees who rely on Dirigo and certainly support the pending motion. Thank the huge number of small businesses in Maine that rely on Dirigo and their employees who rely on Dirigo and certainly support the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Morrison.

Representative **MORRISON**: Thank you, Madam Speaker. Good afternoon, Members of the House. I am on the Majority Report on this and I am supporting this motion, and the main reason why I supported it from the very beginning was from a business perspective. I ran a small business in Portland for many years, and if I had a payment structure like Dirigo had, I

would be out of business fast. My payment structure, as we call it in the business world, in a net 30 or net 60 to your purveyors. You have to pay your purveyors within 30 to 60 days. When I looked at the payment structure from Dirigo right now, it was horrible. I saw the gaps and the peaks and valleys, and I thought, wow, no wonder why they need help. So if nothing else, we need to help Dirigo stay strong and stay alive for that reason alone. I have all the confidence that the administrators of Dirigo will do what they say and restructure the program and make it better and competitive in the future. The key is, we've been talking throughout these debates and this Legislature, that we need a competitive market. Well Dirigo will be that market if we change this structure. I would encourage everyone to follow my light. 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 Kennebunk mentioned earlier something about there's money flowing into the program, there's new money, that we've corrected the funding mechanism. But he failed to mention that the program for new enrollees has been capped until 2010, so the program is not taking any new participants. This program is not an alternative for any new participants. So we're really not offering the people that want to get into the program, sorry, can't get in until 2010.

My colleague from Augusta mentioned that she has people that say that we really need this program. Well, we haven't offered them anything. The people in Maine don't have any alternative. What do they have? Anthem, individual market and MEGA Life, and we had a bill before us recently that perhaps would have given people the opportunity to go across state lines, but that didn't work, we can't do that. Another bill, perhaps to create a reinsurance risk-pool model, which was presented to us last session, no, can't do that, we don't want to open the markets up at all. So we really, here in the Legislature, have really not created any opportunities for our constituents. We've closed the market. There's nothing available. So we need this, we need this, but the enrollment has been closed until 2010. What are we going to do? I don't know. But again, going back to what I've said earlier, for the fiscal year '06, the cost of the program is exorbitant, just \$273 million.

Again, my friend and colleague from Calais mentioned that the funding mechanism will give time to create new products, and I didn't paraphrase her, so please accept my apology, but something to the effect that this will give us time to create new products and get us back on track. Well, quite frankly, since the inception of the program back, roughly about 2003, we've had an awful lot of time to try to find new products and try to get us back on line, but, as I believe, we've never had a true marketing program to go out into the marketplace and solicit the business, you need to solicit the business. You just simply can't say here's our new product, wait for the phone to ring. It doesn't work. Thank you.

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

Representative **BECK**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I have a feeling that many minds are made up about the pending motion. I wanted to briefly, however, address the simple substance of this bill and the pending motion. It's very easy, I think, to be on the Minority Report on this supplement. It's very easy to push the red button today and say, well Dirigo is not very popular and it has not met its goals, but the pending motion simply replaces the savings offset payment with a very simple, transparent, more reliable

funding mechanism as we await federal action and help the uninsured. I hope we keep that in mind and not stray too far in this debate and stay focused on the motion at hand. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Newcastle, Representative McKane.

Representative **McKANE**: Thank you, Madam Speaker. I love the anecdotes we've heard today, and no one is arguing the 10,000 enrollees of Dirigo, soon to be 5,000, have not benefited from this program. There is no question that they have, and they appreciate it and they express their appreciation when it comes time to address the funding issues. All we're saying this time is there are much better ways to provide health insurance to these people than this convoluted system that we call Dirigo Health. Thank you, Madam Speaker.

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. A few points. This program, Dirigo, has a number of parts to it. Obviously, one is insurance, another one is health reform and health delivery. On the ACHSD Committee, they are trying to look to control health care costs, which is a very important factor when we have health care costs rising twice the rate of inflation. But let me refer to what this bill does, because I'm not sure everybody has read the entire bill.

The first part of the bill straightens out the financing mechanism and that's very important, because in fact, when we talk about why haven't they marketed it, there's been a huge problem with this program being under legal attack for at least four to five years. The program has spent over a million dollars in defending itself and, if we don't straighten out the funding mechanism, that will continue. That's money which could go to health care costs and health care relief. But the second part of this bill is something which ought to be looked at. It says that the board of trustees shall develop more affordable products and procedures that could reach uninsured and underinsured residents of the state to reduce uncompensated care; shall use subsidy to maximize federal initiatives; shall determine the impact of asset tests in determining eligibility, consider offering a voucher-based program to provide health insurance benefits based upon the experience of the Dirigo voucher program; and redesign the DirigoChoice product or products. There is going to be some major work done by the board once their funding mechanism is straightened out, and that will come back to the Insurance Committee and we will certainly take a look at it, and I would expect that there would be a number of recommendations made to this body because of that. So there are two parts to this system: one, straighten out the funding, which is tremendously important; but two is to take a look at new ways of running the program, which may indeed include marketing, as Representative Pilon has said. So I think this is a good bill, I urge you to vote for it.

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. 171

YEA - Adams, Ayotte, Beaudoin, Beck, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Butterfield, Cain, Campbell, Casavant, Clark H, Cleary, Connor, Cornell du Houx, Crockett P, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Eves, Flemings, Gilbert, Goode, Harlow, Haskell, Hill, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kaenrath, Kent, Kruger, Lajoie, Legg, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek,

McCabe, Miller, Morrison, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Piotti, Priest, Rankin, Rotundo, Russell, Sanborn, Schatz, Shaw, Smith, Stevens, Stuckey, Sutherland, Theriault, Treat, Trinward, Tuttle, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Wheeler, Willette, Wright, Madam Speaker.

NAY - Austin, Beaudette, Beaulieu, Bickford, Browne W, Burns, Cebra, Chase, Clark T, Cohen, Cotta, Crafts, Cray, Crockett J, Curtis, Davis, Edgecomb, Finch, Fitts, Fletcher, Flood, Fossel, Gifford, Giles, Hamper, Hanley, Harvell, Hayes, Joy, Knapp, Knight, Langley, Lewin, McFadden, McKane, McLeod, Millett, Nass, Nelson, Nutting, Pilon, Pinkham, Plummer, Prescott, Richardson D, Richardson W, Rosen, Sarty, Saviello, Sirois, Strang Burgess, Sykes, Tardy, Thibodeau, Thomas, Tilton, Valentino, Weaver.

ABSENT - Blanchard, Carey, Celli, Cushing, Flaherty, Greeley, Johnson, Pratt, Robinson.

Yes, 84; No, 58; Absent, 9; Excused, 0.

84 having voted in the affirmative and 58 voted in the negative, with 9 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-490)** 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**.

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-490)** 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.

**SENATE REPORT - Ought to Pass as Amended by Committee Amendment "A" (S-168)** - Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Amend Certain Provisions of Fish and Wildlife Laws"

(S.P. 319) (L.D. 811)

- In Senate, Unanimous **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-168)**.

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

PENDING - **ACCEPTANCE OF COMMITTEE REPORT**.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-168)** 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**.

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-168)** in concurrence.

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

**SENATE DIVIDED REPORT - Majority (8) Ought Not to Pass - Minority (3) Ought to Pass** - Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Provide Greater Access to ATVs by Lowering the Minimum Operating Age"

(S.P. 104) (L.D. 340)

- In Senate, Minority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

TABLED - May 29, 2009 (Till Later Today) by Representative CLARK of Millinocket.

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

Representative TARDY of Newport **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

The **SPEAKER**: The Chair recognizes the Representative from Mexico, Representative Briggs.

Representative **BRIGGS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise to ask for your support to accept the Majority Ought Not to Pass Report. This bill would lower the minimum age that a person may operate an ATV unaccompanied by an adult from 16 years of age to 14 years of age. Current law requires a person between 10 and 16 years of age to successfully complete an ATV training course approved by the IFW department before operating an ATV. Reducing the age from 16 to 14 years of age for children to drive an ATV unaccompanied by an adult is dangerous.

My husband and I have a two-rider ATV. We have traveled many miles on a variety of different terrain. We have traveled on flat, dirt logging roads, and terrain that was so steep going up and/or coming down that I can't imagine a 14 or 15 year old teenager out there having to drive through this kind of terrain unexpectedly, alone, and without any support, guidance or assistance from a more experienced person. There are times when we least expect it, the dangers of the terrain ahead of us. It's not like driving on smooth terrain such as snow, or even paved road. You travel on sand, gravel, large rocks, through large puddles to which there are sometimes rocks that are hidden beneath the muddy waters unseen. Children don't grasp the concept of the dangers that unexpectedly can lie ahead. These are things that you learn along the way and through time and experience.

ATV's are a unique piece of equipment. They are not to be taken lightly. These machines are to be respected, not to be taken for granted. Children need the strong support, guidance, and many times assistance of adults to accompany them through the sometimes challenging terrain, this learning process.

Currently, a person under 16 years of age must attend the training program with that person's parent or guardian. The training program must include instruction on the safe operation of ATV's, the laws pertaining to ATVs, the effect of ATVs on the environment and ways to minimize that effect, courtesy to landowners and other recreationists and other materials as determined by the department. I can't imagine reducing the training to under the age of 14 years old.

According to the Secretary of State, to drive a vehicle, you can't take driver's education until your 15 years old; you must have 10 hours class time; 10 hours on the road; then 30 hours supervised practice before you can take the road test. And you can't take the road test until age 16.

According to the Office of Policy and Legal Analysis Report, opponents of this bill were the IF&W Department., ATV Maine, and Maine Farm Bureau Association. It was reported that

lowering the minimum age for operating an ATV is inconsistent with safety themes found throughout the final report of Governor Baldacci's ATV Task Force entitled *ATV Solutions*. The implementation of the Task Force's recommendations has worked out very well and should not be changed now.

According to the IF&W's ATV Accident Statistics by Year Report from 2003 forward to which I have them all right here, in just last year, 2008: The total number of ATV accidents were 144. The total number of people injured were 148. The total number of fatalities were 5. Fatalities under the age of 18 were 2. Total number of accidents 15 years of age and under were 41. 15 years of age and under accounted for 28% of the total accidents in 2008. Out of the five fatal accidents in 2008, two of them were both 15 years of age. There were nine fatal accidents in 2007, one was age 10 and another age 12. There were nine fatal accidents in 2006, two of them were both 15 years of age. There were nine fatal accidents in 2005, one was age 9, age 16, and another age 17. There were eleven fatal accidents in 2004, with one age 11.

Young ATV operators are involved in almost one-third of all ATV accidents and, because of this, numerous pediatricians and health care organizations have issued formal warnings and policies regarding ATV use by children.

As a legislative body, we need to take a good hard look at what these changes will do. We need to make the responsible decision to protect the safety of our children. I respectfully ask you to oppose LD 340 and to please follow my light. Thank you, Madam Speaker.

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

**ROLL CALL NO. 172**

YEA - Adams, Austin, Ayotte, Beaudette, Beaudoin, Beaulieu, Beck, Berry, Bickford, Blodgett, Boland, Bolduc, Briggs, Browne W, Bryant, Burns, Butterfield, Cain, Campbell, Casavant, Cebra, Chase, Clark H, Cleary, Cohen, Connor, Cornell du Houx, Cotta, Crafts, Crockett P, Curtis, Davis, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Eves, Finch, Flaherty, Flemings, Fletcher, Flood, Fossel, Gilbert, Giles, Goode, Hamper, Hanley, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Jones, Joy, Kaenrath, Kent, Knapp, Knight, Kruger, Lajoie, Langley, Legg, Lewin, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, McFadden, McLeod, Miller, Millett, Morrison, Nelson, Nutting, O'Brien, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Pinkham, Piotti, Plummer, Prescott, Priest, Rankin, Richardson W, Rosen, Rotundo, Russell, Sanborn, Sarty, Schatz, Shaw, Sirois, Smith, Strang Burgess, Stuckey, Sutherland, Sykes, Theriault, Thomas, Tilton, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Weaver, Webster, Welsh, Willette, Wright, Madam Speaker.

NAY - Clark T, Cray, Crockett J, Edgecomb, Fitts, Gifford, Harvell, McKane, Nass, Pendleton, Richardson D, Saviello, Stevens, Tardy, Thibodeau, Wheeler.

ABSENT - Blanchard, Carey, Celli, Cushing, Greeley, Johnson, Pratt, Robinson.

Yes, 127; No, 16; Absent, 8; Excused, 0.

127 having voted in the affirmative and 16 voted in the negative, with 8 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** in **NON-CONCURRENCE** and sent for concurrence.

**Amendment "A" (H-443)** - Committee on **LEGAL AND VETERANS AFFAIRS** on Resolve, To Authorize a Pilot Project on Ranked Choice Voting

(H.P. 945) (L.D. 1344)

TABLED - May 29, 2009 (Till Later Today) by Representative TRINWARD of Waterville.

PENDING - **ACCEPTANCE OF EITHER REPORT.**

Subsequently, on motion of Representative TRINWARD of Waterville, the Resolve and all accompanying papers were **INDEFINITELY POSTPONED** and sent for concurrence.

**SENATE REPORT - Ought to Pass as Amended by Committee Amendment "A" (S-243)** - Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Provide Representation for Dog Clubs on the Animal Welfare Advisory Council"

(S.P. 157) (L.D. 454)

TABLED - June 1, 2009 (Till Later Today) by Representative PIEH of Bremen.

PENDING - **ACCEPTANCE OF COMMITTEE REPORT.**

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

The Bill was **READ ONCE.** **Committee Amendment "A" (S-243)** was **READ** by the Clerk.

Representative PIEH of Bremen **PRESENTED House Amendment "A" (H-501)** to **Committee Amendment "A" (S-243)**, 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 long, detailed, complicated amendment that we forgot to put in the bill that simply says the Chief Executive shall consider nominations made by state-based dog clubs. Thank you.

Subsequently, **House Amendment "A" (H-501)** to **Committee Amendment "A" (S-243)** was **ADOPTED.**

**Committee Amendment "A" (S-243)** as Amended by **House Amendment "A" (H-501)** 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" (S-243) as Amended by House Amendment "A" (H-501)** thereto in **NON-CONCURRENCE** and sent for concurrence.

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

Bill "An Act To Clarify the Beano and Bingo Laws as They Apply to Federally Recognized Indian Tribes"

(H.P. 371) (L.D. 526)

(C. "A" H-442)

TABLED - June 1, 2009 (Till Later Today) by Representative TRINWARD of Waterville.

PENDING - **PASSAGE TO BE ENGROSSED.**

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-442)** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (5) **Ought to Pass as Amended by Committee**

SENATE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (6) **Ought to Pass as Amended by Committee Amendment "A" (S-244)** - Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Allow the Sale and Use of Consumer Fireworks"

(S.P. 435) (L.D. 1187)

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

TABLED - June 1, 2009 (Till Later Today) by Representative HASKELL of Portland.

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

Representative HASKELL of Portland moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

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 like to provide you with some additional information regarding this fireworks bill that we heard in our committee, and while it was an interesting and entertaining hearing, there were some very serious issues raised by a variety of people regarding this new provision to allow fireworks to be sold and used in the State of Maine. I would first of all like to tell you a little bit about how the project would work, and that is each one of your individual municipalities and I'm not exactly sure what would happen in the LURC territories, but at least one of your municipalities or towns would have to pass an ordinance regarding the sale, the use or the possession of fireworks. I think that's problematic from the perspective that you may very well end up with quite a patchwork, if you think about many of the lakes where fireworks use is prevalent, you'll find that they have more than one town, and how does an individual from away coming into Maine find out which portion of your lake are fireworks allowed on? This could potentially create a real patchwork. This is not a statewide policy, this is a permissive policy, this allows your municipalities to create these opportunities for fireworks to be sold and used in your district. I think that's problematic to start with, and Maine Municipal Association agrees with that position. In their testimony, they stated, while they appreciated the level of local control provided for in the bill, for public safety reasons, they believe that preserving the prohibition on sale of fireworks is important and necessary, and for that reason, municipal officials opposed LD 1187.

The second issue is of course with this being local ordinances, they are going to be enforced by local agencies, certainly they can be by state officials as well, but by any law enforcement official, so there is the potential to create some issues around how do you determine whether someone's in the right town and stopped for the sale and/or use of fireworks.

There were a number of other people who testified in opposition, including, as you would have expected, the State Fire Marshall's Office. But in the State Fire Marshall's Office, there was some interesting testimony attached to his testimony, where there was a list of organizations that are the members of the Alliance to Stop Consumer Fireworks. This organization has joined in the Alliance, because they've seen the results of the use of consumer fireworks, and I'd like to read you that list of people who oppose, of organizations who oppose the use of fireworks: The American Academy of Family Physicians; the American Academy of Ophthalmology; the American Academy of Pediatrics; the American Association for Hand Surgery; the American Association of Public Health Physicians; the American Burn Association; the American College of Emergency Physicians; the American Society of Plastic Surgeons; the

Emergency Nurses Association; the Fire Department Safety Officers Association; the International Association of Arson Investigators; the Association of Fire Chiefs, Firefighters, Fire Marshalls, Metropolitan Fire Chiefs; the National Association of Pediatric Nurse Practitioners; the National Association of School Nurses, State Fire Marshals, Fire Protection Association, Volunteer Fire Council; the Prevent Blindness America Association; the American Society for Reconstructive Microsurgery; and the Center for Injury, Research and Policy. Quite a group of medical professionals, which ought to give you some sense of what the concern is about the use of fireworks.

In addition, we received testimony from Lawrence Piazza, MD, who was a president of the Maine Society of Eye Physicians and Surgeons, in opposition to the bill. He indicated in his testimony that ophthalmologists of the state are alarmed that consumer fireworks may be legalized in Maine, and they believe will result in injuries to adults and children alike, and history has shown that many of the more devastating injuries impact the eye and, ultimately, vision. That was their opposition to that testimony.

Other information that you may have heard during previous conversations is about the fiscal impact of this particular piece of legislation, and I have here the fiscal notes, which I'm sure you all have attached to your bills, indicating that because this establishes a new Class C crime, there are increases in correctional and judicial costs, and that there will be the collection of additional fines, which may increase the General Fund revenue. However, on the revenue rise, the Office of Fiscal and Program Review indicated that they believe that there would be only five licenses issued because these licenses are \$1,500 a piece, resulting in revenues of about \$7,500, and the costs, appropriations and allocations, are just shy of \$100,000. In New Hampshire, while there is reportedly \$7 million worth of fireworks sold, they don't collect sales tax in New Hampshire, and we were told that, in New Hampshire, the revenue from licenses is around \$40,000, because the license fee in New Hampshire is \$40, not \$1,500. So Madam Speaker, Men and Women of the House, I would encourage you to take a serious look at what the implications are of changing from our current policy and allowing fireworks again here in the State of Maine, both from a fiscal and from an injury perspective, and I would urge you to follow me in Indefinitely Postponing this bill and all its papers. Thank you.

Representative TARDY of Newport **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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

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

Representative **Lajoie**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I tend to shy away from standing this evening, especially at this time. But it's quite important for me on safety reasons, and I base my debate on experience in my 30 years in the fire service, as well as individuals that were in the fire service prior to me. When I joined the fire service in 1970, we responded to a number of calls during the Fourth of July. Some comments were made in regards as to some of the injuries on a number of calls, during that time, that we went to. However, the older guys would say that's nothing, you should have seen a few years back; we were out on an hourly basis and we hardly came back to the station.

One of the things that I guess is the injuries to the younger people, that is the most common, and that's the ages 15 and below. That was specified in one of the reports that Representative Haskell stated to you. What I did, when we got



this bill, is I just want to verify my experience in responding to these types of situations, so I said to myself, why would someone put in a bill such as this, there must be a reason and when was it done? So what I did is I went to the Law Library downstairs and I requested information as to the law and its origination. What they gave me basically went back to 1949, and it was Chapter 372. As I read through that chapter, I came upon other information that referred me to 1943, 1943, as I read on to the debate, which I have here, led me to 1941, where I cannot see or the library can see any further areas where a bill was presented. Two of them were brought forward that particular year. One of them apparently never made it to be read; however, the secondary one, which was put in just a short time later, one of them, was January 14th, and it was An Act to Regulate the Sale of Fireworks in the State of Maine. The other one that was put in, the previous one is the one that didn't go through. The next one that came up with January 23rd, and it came in as an emergency preamble, and it says: whereas the promiscuous use of fireworks as dangerous to life and property and whereas the law relating to the regulation of the use of fireworks must be effective immediately to protect the interests of the people and whereas in judgment of the Legislature, these facts create an emergency within the meaning of Section 16, article such and such. Anyways, this bill was debated likely, there's just one page that I got out of that one, and the reasoning for it was because of injuries as well as nuisance. But the greater request was due to injuries attained through the use of fireworks.

Representative Haskell went through a lot of data that was given to you. What I would like you to remember is the injury aspect in the report. The report, the current one that Representative Haskell basically mentioned to you stated 15 and below. Well, guess what folks? Fifteen and below was mentioned in 1941, it was mentioned in 1943, and it was mentioned in 1949. Everything in the common factor through these years was due to injury. The injuries lessened somewhat as the laws became more strict. In 1941, for whatever and I'm not sure how this came about, I don't know if there was a federal or government request or what have you, but the towns were allowed to make their own rules, and they did so. However, what happened, and what I got from 1943, is that those particular rules that towns brought upon themselves worked internally somewhat, but not quite as well as they thought it would because surrounding towns, of course, did not abide by that particular rule, therefore, individuals would go to the next town and they would set off the fireworks. This goes through all the way to 1949 and, finally in 1949, well I should say in 1943, what happened in 1943 is, as you know, the war was going on and a complete ban throughout the United States was created in regards to fireworks or any type of explosive materials, therefore, nobody in the United States, unless under a special permit, would be able to let off fireworks. One of the arguments in the 1943 was, if we had that rule right now, why do we have to create another one. Well the fact of the matter was is that was the appropriate time to create one because the injuries had lessened in that period of time, as well, of course, as the nuisance complaint, and, of course, the property damage that was caused. We go into 1949 and it states again that local rule did not work. I can state some injury reports that I have here through testimony from the Bangor Hospital and from the Mid-Maine Hospital, with regards as to injuries during the Fourth of July. One thing that I'd like to stress is that injuries are greater on the Fourth of July, just like the fire marshal may have mentioned to you, as well as property damage. However, injuries actually, and this is throughout these years of testimony that I've seen, start at the end of June and finish approximately a week after the July 4th date with the high

point in July 4th. So I guess what I can say is I've done my homework as thoroughly as I thought I should and what it has done is instill in me the importance of my standing before you this evening and expressing my concern with regards as to legalizing fireworks, and I would strongly request that you vote for the Indefinite Postponement. Thank you, Madam Speaker and Ladies and Gentlemen of the House.

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. Maine is only one of five states that prohibit fireworks in the country. Fireworks causes fires. New Hampshire in 2008, that allows fireworks, had 13 fires caused by fireworks, that is according to our state fire marshal. Maine, that prohibits fireworks, had 16 fireworks caused fires. They talked about an estimated five licenses, and when you talk about, as Representative Haskell said, creating a new Class C crime, that's for violation of the license to sell. There's only five licenses that are going to be sent out, so you don't have an awful lot of supervision there, and they want to add one public safety inspector. We already have fire marshals. They are law enforcement officers that go out, in fact, they'll go over to New Hampshire and find somebody that's buying fireworks in New Hampshire and follow them over to Maine, stop them and summons them. New Hampshire sells \$8 million worth of fireworks annually, probably \$4 million that come to Maine from New Hampshire. If we could just sell the same amount of fireworks that New Hampshire sells, that's \$400,000 in sales tax. Thank you.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Sanborn.

Representative **SANBORN**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. It seems a bit absurd to me that we're debating legalizing fireworks because it will bring money into the state, despite the fact that fireworks can clearly be dangerous. There is no doubt that many injuries involving fireworks occur each year. In 2006, 9,200 patients were seen in the ER per the National Fire Protection Association. If this number required emergency room visits, then there were many more injuries that were unreported or were seen by local doctors. The argument that I used them when I was a kid and never had a serious injury just does not hold water. It reminds me of the argument that my father smoked until the age of 95 and never had lung cancer. It doesn't mean it doesn't cause lung cancer. There are many improvements in safety management that we've imposed for good reason: They save lives or prevent injuries. As a physician, I used to go down a checklist with every patient at their yearly exam. The list included questions like: Have you had your screening colonoscopy? Have you seen your dentist lately? Are you wearing your seatbelts? When I asked about seatbelts, people would often ask why I cared, and I would reply because of all the screening or health care advice I can give you as a physician, wearing a seatbelt is more likely than any to save your life. Well, not handling fireworks is also likely to save your thumb, your eye or you life. Please join me in voting of for the motion on the floor. 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 did use fireworks as a kid and I was injured. I had a firecracker go off a few inches from head and I have a permanent hearing loss that started with that. So it does happen and it's something that we should be concerned about. Frankly, I'm surprised that we

haven't heard more from the forest products industry about this issue. I was just looking at the Forest Stewardship Council's data. Over 90 percent of Maine is forested land, 95 percent of that is commercial forest land and 95 percent of that is privately held. I would argue that \$400,000 in tax revenue might be something to think about, but that's quite an investment that we have in this state and I would not want to put that, we could go through \$400,000 in a major forest fire in a heck of a hurry, especially the one of the size of the great fire of York County. So I appreciate the opportunity to comment. Thank you, Madam Speaker.

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

Representative **MacDONALD**: Thank you, Madam Speaker. I rise in support of the Indefinite Postponement motion, and I enlist Mark Twain in my cause here. Mark Twain, in 1874, I think it was, in "Pudd'nhead Wilson's Calendar", said statistics show that we lose more fools on this day, being the Fourth of July. *Statistics show that we lose more fools on this day than all the other days of the year put together. This proves by the number left in stock that one Fourth of July per year is now inadequate. The country has grown so.* I take Mark Twain as my argument that fireworks are a bad idea. They were then, they are now. I urge you to support the Indefinite Postponement. Thank you, Madam Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of the Bill and all accompanying papers. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 173**

YEA - Adams, Beaudette, Beaudoin, Beaulieu, Beck, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Casavant, Clark H, Cohen, Cotta, Crockett P, Dill, Dostie, Driscoll, Duchesne, Eberle, Eves, Finch, Flemings, Gilbert, Goode, Harlow, Haskell, Hayes, Hill, Hogan, Hunt, Jones, Kaenrath, Kent, Kruger, Lajoie, Legg, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, Miller, Morrison, Nass, Nelson, Pendleton, Peoples, Percy, Perry, Pieh, Pilon, Piotti, Priest, Rankin, Rotundo, Russell, Sanborn, Schatz, Sirois, Smith, Stevens, Strang Burgess, Stuckey, Sutherland, Theriault, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Wright, Madam Speaker.

NAY - Austin, Ayotte, Bickford, Browne W, Burns, Butterfield, Cebra, Chase, Clark T, Cleary, Cornell du Houx, Crafts, Cray, Curtis, Davis, Eaton, Edgcomb, Fitts, Flaherty, Fletcher, Flood, Fossil, Gifford, Giles, Hamper, Hanley, Harvell, Hinck, Joy, Knapp, Knight, Langley, Lewin, McFadden, McKane, McLeod, Millett, Nutting, O'Brien, Peterson, Pinkham, Plummer, Prescott, Richardson D, Richardson W, Rosen, Sarty, Saviello, Shaw, Sykes, Tardy, Thibodeau, Thomas, Tilton, Weaver, Wheeler, Willette.

ABSENT - Blanchard, Campbell, Carey, Celli, Connor, Crockett J, Cushing, Greeley, Innes Walsh, Johnson, Pratt, Robinson.

Yes, 82; No, 57; Absent, 12; Excused, 0.

82 having voted in the affirmative and 57 voted in the negative, with 12 being absent, and accordingly the Bill and all accompanying papers were **INDEFINITELY POSTPONED** in concurrence.

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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-488) - Committee on CRIMINAL JUSTICE**

**AND PUBLIC SAFETY** on Bill "An Act To Create a Duty To Report Serious Injuries"

(H.P. 877) (L.D. 1258)

TABLED - June 1, 2009 (Till Later Today) by Representative HASKELL of Portland.

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

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

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**ENACTORS**

**Acts**

An Act To Clarify the Municipal Jurisdiction of a Portion of Saco Bay

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

(C. "A" H-375; S. "A" S-254)

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

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**REPORTS OF COMMITTEE**

**Divided Report**

Majority Report of the Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-499)** on Bill "An Act To Enhance Maine's Electronic Waste Recycling Law" (EMERGENCY)

(H.P. 381) (L.D. 536)

Signed:

Senators:

GOODALL of Sagadahoc

SIMPSON of Androscoggin

Representatives:

BOLDUC of Auburn

KNAPP of Gorham

MARTIN of Eagle Lake

EBERLE of South Portland

DUCHESNE of Hudson

WALSH INNES of Yarmouth

WELSH of Rockport

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-500)** on same Bill.

Signed:

Senator:

SMITH of Piscataquis

Representatives:

HAMPER of Oxford

EDGEComb of Caribou

AYOTTE of Caswell

**READ.**

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

Representative TARDY of Newport **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**: 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. 174**

**YEA** - Adams, Beaudette, Beaudoin, Beck, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Butterfield, Cain, Casavant, Clark H, Cleary, Cohen, Cornell du Houx, Crockett P, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Eves, Finch, Flaherty, Flemings, Gilbert, Goode, Hanley, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Jones, Kaenrath, Kent, Knapp, Knight, 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, Priest, Rankin, Rotundo, Russell, Sanborn, Schatz, Shaw, Sirois, Smith, Stevens, Stuckey, Sutherland, Theriault, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Wheeler, Willette, Wright, Madam Speaker.

**NAY** - Austin, Ayotte, Beaulieu, Bickford, Browne W, Burns, Cebra, Chase, Clark T, Cotta, Crafts, Cray, Curtis, Davis, Edgcomb, Fitts, Fletcher, Flood, Fossel, Gifford, Giles, Hamper, Harvell, Joy, Langley, Lewin, McFadden, McKane, McLeod, Millett, Nass, Nutting, Pinkham, Plummer, Prescott, Richardson D, Richardson W, Rosen, Sarty, Saviello, Strang Burgess, Sykes, Tardy, Thibodeau, Thomas, Tilton, Weaver.

**ABSENT** - Blanchard, Campbell, Carey, Celli, Connor, Crockett J, Cushing, Greeley, Innes Walsh, Johnson, Pratt, Robinson.

Yes, 92; No, 47; Absent, 12; Excused, 0.

92 having voted in the affirmative and 47 voted in the negative, with 12 being absent, and accordingly the Majority **Ought to Pass as Amended Report** was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-499)** 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**.

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-499)** and sent for concurrence. **ORDERED SENT FORTHWITH**.

On motion of Representative **TARDY** of Newport, the House **RECONSIDERED** its action whereby the House voted to **ACCEPT** the Majority **Ought Not to Pass Report** on Bill "An Act To Create a Duty To Report Serious Injuries"

(H.P. 877) (L.D. 1258)

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

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

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

Representative **SYKES**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. The bill creates a duty to record a serious injury. I would point out to you that it is a law that you must report a hunting accident; it is a law that you must report a traffic accident; it is a law that you must report a fire. I think we should have a law to report a serious injury. 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. This bill came about because of a very difficult hearing, that's not unusual for the Committee on Criminal Justice and Public Safety. However, the remedy that was provided for this one incident which occurred is a substantial change, and as a longstanding matter of policy and in Maine's Criminal Code, as well as in its common law, we have never imposed a legal duty upon a person to come to the aid of another, when that person is in no way responsible for causing harm to that other person. In the incident of the hunting accident, it is when you are the person who caused it. This creates a duty if you by any means come across somebody or see somebody who has an untreated gunshot wound, knife wound or other open wound, that involves substantial blood loss. So upon finding yourself in that situation, you have to first assess whether or not there is substantial blood loss. I think that's a difficult standard for any of us to determine. Is that a lot, is that a little? When my kids would fall down and bang their head and get a little cut on the forehead, it looked like about eight gallons of blood. But some injuries could occur which might be life threatening and did not have substantial loss of blood, and because that's the standard, you'd have no duty to report that. So it creates a very difficult standard, I think, for the individual.

I have some concerns as well when folks get brought to court for this because the failure to have reported it has to have been a part of a substantial factor that causes the aggravation of that person's injury. I think that's a tough standard as well to try and figure out, well, if you didn't report it did that really mean would the person have expired anyhow, we don't know. In addition, this particular bill also applies the civil cause of action here, applies retroactively to any lawsuit that's pending as the effective date of this section in any court. I also find that an unusual process. So because this would be the first time that we have established a punishment for passive behavior, for a failure to act, I believe that and the majority of the members of the committee believe that this bill Ought Not to Pass, and I would request that the Clerk read this Report. Thank you, Madam Speaker.

Representative **HASKELL** of Portland **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 Lee, Representative **McLeod**.

Representative **McLEOD**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise today in support of LD 1258. I want to clarify just a few points in this bill. This bill would require anybody who observed a person who had been shot or stabbed, it doesn't say anything about car accidents or it doesn't say anything about other kinds of accidents, shot or stabbed and was bleeding, to call for assistance as the quickest possible means. I think the committee got confused between the concepts of the civil duty. Some committee members thought this pertained to a car accident or a fist fight. The language in the bill is confined to gunshot and stab wounds. There is concern of civil cases flooding the court system, this is not the case. This bill would pertain to only one case that is on file and any future cases. I ask my fellow members of this body to vote with me in passing 1258 and please follow my red light on this proposal as we see it on the board. We do it for animals, should we do no less for human beings? Thank you, Madam Speaker, and I guess we do have a roll call in order.

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. As you

heard, I was on the other side of this issue. This was a very difficult situation case that was brought to us, but it's not a unique case, it's something that happens. This is not the first time we're asking somebody to do what I consider is the very minimum that any of us can do when we see somebody that's mortally hurt and wounded. This is a very reasonable solution to a very difficult situation. Can you just picture yourself in this situation, or picture your son or daughter, grandson or granddaughter, in this situation where they have sustained a very serious wound, and the bill does talk about a gunshot or a stab wound. It doesn't matter whether it's been self-inflicted or inflicted by somebody else. All this bill does is require that any person who is in that presence to make a call to 911, to try to secure first aid for that person. It doesn't require them to give the first aid; it's simply requiring them to make that call. What would happen if your child was in this situation and their friends chose to do nothing so that they wouldn't get involved, and that child died? This is a very reasonable approach to a very difficult situation. I would urge you to vote against this and support the Minority Report. 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. In early December, this past year, my niece Angie was out jogging and she has a reputation of being one of the top joggers or racers in Aroostook County. As she was passing a house in Monticello, she was attacked by three pit bulls, and she spent more than four hours in the operating room at the Houlton Regional Hospital. That's one of the most serious injuries that the doctors had ever seen. During the attack, she begged the lady to call 911 and she refused, shaking her head no, she would not do it. She pleaded, cried, did everything possible and then asked them to open the car, unlock the doors on your car so that I can get in the car. She refused to do that. Angie, especially her right arm in protecting her face and neck, was seriously injured and when she asked God to protect her two children, because she felt she was spending her last minutes with these three animals viciously attacking her. So at that point, something kind of clicked in she said, and someone told her, Angie, you've got to get out of here, and then she headed down the road, the dog attacked her rear, the back of her legs etcetera, and she managed to make it to a house nearby where she collapsed from loss of blood and the lady did call 911. I will be voting red on this issue. It was a sad case that should have never happened.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Hanley.

Representative **HANLEY**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I just want to clear up something. It was stated that this would apply only to knife and gunshot wounds, when in fact the bill does say knife and gunshot wounds, but it also is any other open wound, so it's not just knife and gunshot. You can imagine what an open wound would be. That's a pretty broad definition. Thank you.

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

Representative **MAGNAN**: Thank you, Madam Speaker. This was a very difficult bill to sit and think about, because how can people be so indifferent, as the Representative from Caribou just discussed with his niece, how could they be so indifferent and cold as to not report this kind of an injury, copious blood, open wounds, it's really quite terrible, and yet I don't think that that is the rule. I do believe that most people, when they see an injury like this, whether it's caused by a gunshot or a knife wound or even in an automobile accident where a person's staggered

out of the car, that they would report this. The problem, I think, with the bill creating a new law is that there may be unintended consequences. For instance, someone may be in a fistfight or in another kind of altercation and have internal injuries and pass away, and someone would say, well, no one reported that. I know it requires a lot of blood, but this is the next step. And so passive behavior, while it can be considered unfortunate and even incorrigible to have them be so indifferent to the pain and the anguish of someone else, I'm not sure that it's not opening a pathway to another series of laws that would somehow or another begin to penalize people for not jumping in the water to rescue someone, not administering CPR when it was obvious that that's all that person needs, even if you can't do it. I will have to vote for this bill because I just cannot see expanding passive behavior into a criminal activity. Thank you.

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, thank you for allowing me to rise again. I just wanted to point out that we have to keep in mind this doesn't require anybody to give first aid, to jump into the water or do anything else other than to make a phone call, knock on a neighbor's door, flag down a car that's going by, do something that any citizen should be able to do on their own. This is a very minimal step to save somebody's life, and if anybody doesn't think that this ever happens, just read your newspaper. It happens all of the time. People expire because nobody took these steps to call for an ambulance.

I would also suggest that this does two things: It is preventative maintenance; it's going to cause some people to make that call when they might never do so, and it also holds people accountable, which I think is also important, for not making that call and somebody's life is lost because of it. Please reconsider and vote against this recommendation.

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

#### ROLL CALL NO. 175

YEA - Adams, Beaudette, Beaudoin, Beck, Berry, Blodgett, Bolduc, Briggs, Bryant, Butterfield, Cain, Casavant, Chase, Cohen, Connor, Cornell du Houx, Crockett P, Dill, Dostie, Driscoll, Duchesne, Eberle, Eves, Finch, Flaherty, Flemings, Hanley, Harlow, Haskell, Hayes, Hill, Hinck, Hunt, Jones, Kaenrath, Kent, Lajoie, Legg, Lovejoy, Magnan, Martin JR, Mazurek, McCabe, McKane, Miller, Morrison, Nelson, O'Brien, Pendleton, Percy, Perry, Peterson, Pilon, Piotti, Plummer, Priest, Rankin, Rotundo, Russell, Sanborn, Schatz, Smith, Stevens, Stuckey, Treat, Trinward, Valentino, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Wheeler, Wright, Madam Speaker.

NAY - Austin, Ayotte, Beaulieu, Bickford, Boland, Browne W, Burns, Campbell, Cebra, Clark H, Clark T, Cleary, Cotta, Crafts, Cray, Curtis, Davis, Eaton, Edgecomb, Fitts, Fletcher, Flood, Fossel, Gifford, Gilbert, Giles, Goode, Hamper, Harvell, Hogan, Joy, Knapp, Knight, Kruger, Langley, Lewin, MacDonald, Martin JL, McFadden, McLeod, Millett, Nass, Nutting, Peoples, Pieh, Pinkham, Prescott, Richardson D, Richardson W, Rosen, Sarty, Saviello, Shaw, Sirois, Strang Burgess, Sutherland, Sykes, Tardy, Theriault, Thibodeau, Thomas, Tilton, Tuttle, Weaver, Willette.

ABSENT - Blanchard, Carey, Celli, Crockett J, Cushing, Greeley, Innes Walsh, Johnson, Pratt, Robinson.

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 Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

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

Representative **CAMPBELL**: Thank you, Madam Speaker. I was sitting on the porch when the bell rang last time, we got locked out there and the electronic key didn't get us back in here. So I believe you were debating LD 1187, the Majority Ought Not to Pass. I would have voted yea. On LD 536, I would have voted yea on that one too.

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

**REPORTS OF COMMITTEE**

**Divided Report**

Eight Members of the Committee on **INSURANCE AND FINANCIAL SERVICES** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (S-221)** on Bill "An Act To Conform State Mortgage Laws with Federal Laws" (EMERGENCY)

(S.P. 523) (L.D. 1439)

Signed:

Senators:

BOWMAN of York  
ALFOND of Cumberland

Representatives:

TREAT of Hallowell  
PRIEST of Brunswick  
BEAUDOIN of Biddeford  
GOODE of Bangor  
LEGG of Kennebunk  
MORRISON of South Portland

Four Members of the same Committee report in Report "B" **Ought to Pass as Amended by Committee Amendment "B" (S-222)** on same Bill.

Signed:

Senator:

McCORMICK of Kennebec

Representatives:

FOSSEL of Alna  
WEAVER of York  
RICHARDSON of Warren

One Member of the same Committee reports in Report "C" **Ought to Pass as Amended by Committee Amendment "C" (S-223)** on same Bill.

Signed:

Representative:

BECK of Waterville

Came from the Senate with Report "A" **OUGHT TO PASS AS AMENDED READ** and **ACCEPTED** and the Bill **PASSED TO BE**

**ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-221) AS AMENDED BY SENATE AMENDMENT "D" (S-289)** thereto.

**READ.**

Representative TREAT of Hallowell moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

On motion of Representative BECK of Waterville, **TABLED** pending the motion of Representative TREAT of Hallowell to **INDEFINITELY POSTPONE** the Bill and all accompanying papers and later today assigned.

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**SENATE PAPERS**

**Non-Concurrent Matter**

Bill "An Act To Permanently Establish the Position of Director of Recreational Access and Landowner Relations"

(H.P. 594) (L.D. 863)

Majority (8) **OUGHT TO PASS AS AMENDED** Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-153) AS AMENDED BY HOUSE AMENDMENT "A" (H-447)** thereto in the House on June 1, 2009.

Came from the Senate with the Minority (5) **OUGHT NOT TO PASS** Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY READ** and **ACCEPTED** in **NON-CONCURRENCE**.

On motion of Representative PIEH of Bremen, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

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**REPORTS OF COMMITTEE**

**Divided Reports**

Majority Report of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-195)** on Resolve, To Examine Environmental Effects of the Dual Recovery System for Beverage Containers

(S.P. 270) (L.D. 733)

Signed:

Senators:

SCHNEIDER of Penobscot  
SULLIVAN of York

Representatives:

SMITH of Monmouth  
WRIGHT of Berwick  
MacDONALD of Boothbay  
HUNT of Buxton  
CLEARY of Houlton  
MARTIN of Orono  
COHEN of Portland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-196)** on same Resolve.

Signed:

Senator:

RECTOR of Knox

Representatives:

AUSTIN of Gray  
PRESCOTT of Topsham

GILES of Belfast

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-195) AS AMENDED BY SENATE AMENDMENT "A" (S-284)** thereto.

**READ.**

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

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

Eight Members of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** report in Report **"A" Ought to Pass as Amended by Committee Amendment "A" (S-270)** on Bill "An Act To Amend the Laws Governing Bottle Redemption and To Establish the Department of Agriculture, Food and Rural Resources as the Agent in the State for the Purposes of Bottle Redemption"

(S.P. 139) (L.D. 397)

Signed:

Senators:

SCHNEIDER of Penobscot  
SULLIVAN of York

Representatives:

SMITH of Monmouth  
WRIGHT of Berwick  
MacDONALD of Boothbay  
HUNT of Buxton  
CLEARY of Houlton  
MARTIN of Orono

Three Members of the same Committee report in Report **"B" Ought to Pass as Amended by Committee Amendment "B" (S-271)** on same Bill.

Signed:

Senator:

RECTOR of Knox

Representatives:

AUSTIN of Gray  
PRESCOTT of Topsham

One Member of the same Committee reports in Report **"C" Ought Not to Pass** on same Bill.

Signed:

Representative:

GILES of Belfast

Came from the Senate with Report **"A" OUGHT TO PASS AS AMENDED** **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-270)**.

**READ.**

On motion of Representative SMITH of Monmouth, **TABLED** pending **ACCEPTANCE** of any Report 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:

(S.P. 474) (L.D. 1292) Bill "An Act To Provide More Transparency and Protection for Public Employees in the Laws Governing the Maine Public Employees Retirement System" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-285)**

(H.P. 333) (L.D. 445) Bill "An Act To Improve Tribal-State Relations" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-516)**

(H.P. 929) (L.D. 1325) Bill "An Act Regarding Curriculum Requirements and Standards for Awarding a High School Diploma" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-512)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, 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.

(S.P. 345) (L.D. 923) Resolve, To Reduce Funding to Maine Clean Election Act Candidates Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-287)**

On motion of Representative TRINWARD of Waterville, was **REMOVED** from the First Day Consent Calendar.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-287)** was **READ** by the Clerk.

On further motion of the same Representative, **TABLED** pending **ADOPTION** of **Committee Amendment "A" (S-287)** and later today assigned.

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

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act To Reduce Income Tax Rates"

(S.P. 469) (L.D. 1288)

Signed:

Senators:

PERRY of Penobscot  
BLISS of Cumberland

Representatives:

WATSON of Bath  
BRYANT of Windham  
FLEMINGS of Bar Harbor  
CROCKETT of Augusta  
PILON of Saco  
VALENTINO of Saco  
SIROIS of Turner

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-279)** on same Bill.

Signed:

Senator:

NASS of York

Representatives:  
 LANGLEY of Ellsworth  
 CHASE of Wells  
 KNIGHT of Livermore Falls

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

**READ.**

Representative WATSON of Bath moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative TARDY of Newport **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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

Representative **WATSON**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This bill was brought to the Taxation Committee on the premise that you can simply reduce the income tax a couple of points a year and live with it. There were no alternatives offered, there were no funding mechanisms offered, there was no way to do a statute that the bill would require the income tax rate to drop by a couple of points a year until it's gone to nothing. The fiscal note, in 2009-10, is \$457 million; 2010-11 is \$656 million. That is not tax reform, Ladies and Gentlemen. Thank you.

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

**ROLL CALL NO. 176**

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

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

ABSENT - Blanchard, Carey, Celli, Cotta, Crockett J, Cushing, Greeley, Innes Walsh, Johnson, Miller, Pratt, Robinson, Sarty.

Yes, 90; No, 48; Absent, 13; Excused, 0.

90 having voted in the affirmative and 48 voted in the negative, with 13 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:

Resolve, To Further Regulate the Use of Tanning Booths by Minors

(S.P. 137) (L.D. 395)  
 (C. "A" S-227)

Which was **TABLED** by Representative BERRY of Bowdoinham pending **FINAL PASSAGE**.

On motion of Representative PERRY of Calais, 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-227)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "A" (H-519)** to **Committee Amendment "A" (S-227)** which was **READ** by the Clerk.

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. This amendment simply removes the emergency preamble.

Subsequently, **House Amendment "A" (H-519)** to **Committee Amendment "A" (S-227)** was **ADOPTED**.

**Committee Amendment "A" (S-227)** as Amended by **House Amendment "A" (H-519)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (S-227)** as Amended by **House Amendment "A" (H-519)** thereto in **NON-CONCURRENCE** and sent for concurrence.

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

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On motion of Representative BRIGGS of Mexico, the House adjourned at 6:34 p.m., until 9:00 a.m., Wednesday, June 3, 2009.