

MAINE STATE LEGISLATURE

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State of Maine

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ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
 FIRST REGULAR SESSION
 53rd Legislative Day
 Monday, June 8, 2009

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

Prayer by Reverend Doctor Ruth Merriam, The Church on the Cape (UMC), Cape Porpoise.

National Anthem by Nezinscot Valley Voices, Hartford-Summer Elementary School.

Pledge of Allegiance.

Doctor of the day, Steve Diaz, MD, FACEP, Fairfield.

The Journal of Friday, June 5, 2009 was read and approved.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act To Allow Smelt Fishing in Metallak Brook, Upper Richardson Lake" (EMERGENCY)

(S.P. 348) (L.D. 926)

Majority (5) **OUGHT NOT TO PASS** Report of the Committee on **INLAND FISHERIES AND WILDLIFE READ** and **ACCEPTED** in the House on June 4, 2009.

Came from the Senate with that Body having **ADHERED** to its former action whereby the Minority (4) **OUGHT TO PASS AS AMENDED** Report of the Committee on **INLAND FISHERIES AND WILDLIFE** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-158) AS AMENDED BY SENATE AMENDMENT "B" (S-300)** thereto in **NON-CONCURRENCE**.

On motion of Representative CLARK of Millinocket, the House voted to **INSIST**.

Non-Concurrent Matter

Bill "An Act To Provide Funding for the Highway Fund Biennial Budget" (EMERGENCY)

(H.P. 1042) (L.D. 1487)

REFERRED to the Committee on **TRANSPORTATION** in the House on June 4, 2009.

Came from the Senate with the Bill and accompanying papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

On motion of Representative MAZUREK of Rockland, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Beniah Harding, of Thomaston, on the occasion of his 90th birthday, July 5, 2009. Mr. Harding was born in 1919 in Cambridge, Massachusetts. He graduated from Colby College and went on to serve his country proudly as an officer in the United States Navy during World War II and until 1949. He was present at the Normandy Invasion as a gunnery officer aboard the *S.S. Thomas B. Robertson*. Mr. Harding worked for the Dragon Cement Company for more than 33 years, during which time he was involved in some of Maine's biggest construction projects, including the Maine Turnpike and Loring Air Force Base. He has been an active member of his community his entire life, including the Watts Hall Trustees, the American Legion and the

Veterans of Foreign Wars. He also served on the Thomaston School Committee and in the Thomaston Historical Society. In 1987, Mr. Harding was instrumental in resurrecting the abandoned 140-year-old Thomaston Academy building, now home to the Thomaston Public Library and the Marine Systems Training Center. In 1988, he received the Community Service Award from the Weymouth Grange and in 2001 he was awarded the Sons of the American Revolution Distinguished Service Medal. We send him our appreciation for his lifelong commitment to his community, his State and his Nation, and we extend our congratulations to him on this special birthday;

(SLS 201)

On **OBJECTION** of Representative KRUGER of Thomaston, was **REMOVED** from the Special Sentiment Calendar.

READ and **PASSED** in concurrence.

Recognizing:

Mid Coast Hospital, in Brunswick, which was designated a "magnet" facility for its quality of care and positive work environment from the American Nurses Credentialing Center, a branch of the American Nurses Association. The American Nurses Association has given its "magnet" designation to 332 hospitals worldwide, with the vast majority of them in the United States. The designation is shared by less than 6 percent of all American hospitals according to the association. We congratulate Mid Coast Hospital on receiving this well-deserved designation;

(HLS 465)

Presented by Representative KENT of Woolwich.

Cosponsored by Senator GERZOSKY of Cumberland, Representative PRIEST of Brunswick, Representative CORNELL du HOUX of Brunswick, Representative PERCY of Phippsburg, Representative WATSON of Bath, Representative MacDONALD of Boothbay, Representative BERRY of Bowdoinham, Representative WEBSTER of Freeport, Representative PRESCOTT of Topsham, Senator GOODALL of Sagadahoc.

On **OBJECTION** of Representative KENT of Woolwich, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Woolwich, Representative Kent.

Representative **KENT**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. On May the 18th of this year, a little less than a month ago, Mid Coast Hospital, in Brunswick, after a 4 year effort—after 2,300 pages of documentation bound in 18 volumes—and after 3 days of intensive interviews with nurses, staff, physicians, administrators and the public, was awarded Magnet Recognition status from the American Nurses Credentialing Center.

What is Magnet Recognition? One, the Magnet Recognition status is the culmination of research studies in the 1980's into why, in the middle of a nationwide nursing shortage, do some hospitals have no trouble attracting nurses. It is the answer to the question "What are those forces within a hospital, its environment and administration that make it attractive, make it a magnet, for exceptional nurses and nursing."

Two, it is the recognition bestowed upon healthcare organizations that prioritize nursing excellence and innovations in professional nursing practice. In fact, US News & World Report, in its annual showcase of the best hospitals in the nation, uses it as its sole and total score as the quality of in-patient care.

Three, Magnet Recognition is an ultimate benchmark, and it provides consumers with a measure of the quality of care, working environment and patient outcome that can be expected

when you walk through the doors of that institution.

I am proud to say that Mid Coast Hospital has set as policy the nurture and encouragement of quality nursing and nursing environments, and recognizes the connection between nursing, the healing process, and patient outcome. Mid Coast Hospital is one of only 5% of the nation's hospitals receiving Magnet Recognition and, with this recognition, Mid Coast brings honor not only to itself, but also to Brunswick, the surrounding community it serves, and the State of Maine as a whole. 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. As the Representative from Topsham, who has had very many family members who have frequently visited Mid Coast Hospital, and actually found out over the weekend that my son, who is coming home from college, is going to be going back to Mid Coast Hospital tomorrow to fix a broken finger. I just want to say that I know he will be in the best of hands. Mid Coast Hospital has a wonderful staff, wonderful support and I couldn't be more honored to stand up and say congratulations. Thank you.

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

Representative **WEBSTER**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I, too rise to commend Mid Coast Hospital. The quality of their service is well noted by the people of Freeport. We appreciate their service and all they offer to our community. Thank you.

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

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

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, June 5, 2009, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Expression of Legislative Sentiment Recognizing James Martin, Jr., of Crawford, a member of the Maine Warden Service, who was named the 2009 Warden of the Year by the Maine Department of Inland Fisheries and Wildlife

(HLS 405)

TABLED - May 29, 2009 (Till Later Today) by Representative BUTTERFIELD of Bangor.

PENDING - **PASSAGE**.

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'm sure some of you wonder why on earth I am a cosponsor of this and why I'm standing here today. Well, you see in addition to the many titles that Warden Martin already has, as of August of this year, he'll add another for me, which is Uncle Jim. He is engaged to my Aunt Missy. They are here today, and on behalf of my entire family, I'd just like to recognize his 20 years of sterling service and thank him for that service to the people of Maine. Thank you very much.

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. Maine

Warden Service's Game Warden James Martin, Jr., of Crawford, has been recognized as Warden of the Year for his honesty, consistency and strong work ethic during his 20 plus year career. His knowledge of his assigned area in terrain is a valuable asset to both his district and to the State of Maine. His district covers both towns and unorganized townships. You remember how hard it is to find unorganized townships? I spoke about that a few days ago.

Jim is an honest and dedicated person. His integrity is above reproach and the efforts and professionalism he displays in his performance of his duty serves as a model to all who work around him.

Jim is a man of few words. When asked to say a few words at the recognition ceremony, Jim sure did, and I quote his words: "I am proud to serve."

Jim appears to be a man of action in deeds rather than through words. I congratulate him on his 20 plus years of dedicated service to the State of Maine, and we all hope you stay on for 20 more. Thank you, Madam Speaker.

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

Expression of Legislative Sentiment in Memory of the Honorable Harrison Richardson, of Gorham

(HLS 294)

TABLED - June 4, 2009 (Till Later Today) by Representative NUTTING of Oakland.

PENDING - **ADOPTION**.

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

Representative **MILLETT**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Harrison L. Richardson, better known as Harry, served as Majority floor leader—and I express the term majority—for the 103rd, 104th Legislature, at a time during which both the Representative from Eagle Lake and I served. He was my leader when I came here as a freshman legislator in the winter of 1969, 40 years ago. To say that I was impressed with him from the beginning would be a gross understatement. Harry was a phenomenal person.

In reading some of the comments and quotes following his passing, one of his children described him as being larger than life, and I would concur with that description because, as a person, he was a very impressive figure, had a booming voice, had a unique command of all of the issues, particularly the larger issues, that came before this body at a time when we had both Republican majorities in the House and Senate and Democratic Governor Ken Curtis on the second floor. He actually had a trial lawyer style of speaking on this floor and his focus was to persuade, to inform and to persuade, almost like a closing argument, and he could always cinch his position with effectiveness and with facts. As well as having a keen sense of humor, he was a unique person and he demonstrated very profoundly to me and many others that he was a true leader.

In the 104th Legislature, where I had the privilege of serving with him, many things were accomplished and the Clerk has read some of them. Without question, we would not have the individual and corporate income tax that we have today were it not for Harry Richardson. He spearheaded it, he developed it, he persuaded it, and I remember on this floor at a point in time, and I'm sure that Representative Martin does as well, when 100 votes showed on the tote board for over an hour while troopers went to Old Orchard Beach to bring in the Representative Nick Danton for the 101st vote. It was truly a historic moment, but there were other accomplishments as well during that session, including the

passage of the first public employee collective bargaining statute, a variety of environmental legislation and many other issues that really showed leadership from the beginning in a bipartisan way.

In his term in the other body, he actually did something that we are still talking about today. At that time, we had just enacted the uniform property tax for a funding of general purpose aid. It was targeted for 50 percent and Harry took the issue further and he crafted language that said the intent was to get to 60 percent, even beyond the 55 that we have had as an initiative within the last three years. He had that sort of long-term vision and his ability to not only persuade but bring people along in a bipartisan way, I think, was phenomenal.

There is a publication that came across our desks in recent weeks from the Maine Legal Conservation Voters News and, in it, they pay tribute to Harry, and I'd like to quote one of their comments because I think it does reflect both what the sentiment says and my recollection: Serving in the Maine House of Representatives and the Maine Senate in the 60s and 70s, Richardson mastered the art of building bipartisan support for environmental measures and became, according to the *Maine Sunday Telegram*, "one of the chief architects of some of the strongest environmental protection laws ever passed by a state legislature anywhere." One of those centerpieces was the Coastal Conveyance Act, which began to set aside funds for oil spills in Maine's coastal waters. In 1995, we experienced a major spill in the Portland Harbor and that fund was there to help in the cleanup. I know in talking with his three children, who are here with us today, how proud of Harry they are, and I would like to simply indicate my pride as well.

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

Representative **MARTIN**: Thank you, Madam Speaker. Madam Speaker, Members of the House. Harry and I began together in 1964. After the election, we both started here as freshmen. Ironically, a few years later, I found myself as the Minority floor leader, then Democrat, and on this side sat Harry Richardson, the Majority floor leader, and during that year, those two years in particular, the year that the Representative from Waterford came in was to me one of the best years environmentally that we ever had. Harry was a tough opponent but a fair opponent. As I look back on that period when he served as Majority Leader, I think of those things that we did as a Legislature, which to some degree would be criticized by some today. I think of the double hull requirement for boats coming into Portland Harbor, which went all the way to the Supreme Court of the United States, the environmental legislation on the cleanup, which we use today and has been used throughout Maine since that time. I think of the Land Use Regulation law, which was enacted by the body by one vote, including Harry's, shoreline zoning, and I could go on and on, including the Allagash Waterway, and his support. I can't think of single person, Democrat or Republican, that sat in the Legislature at that time that was more environmentally conscious than he. When we came up with an idea from our side, he would never brush it off, even though he would say, Look, you're the young kid from Aroostook, maybe I'll consider it. Just keep in mind, at the beginning, we were not in a position—well, I guess to put it this way, we're where Republicans are today in terms of margin, and so it was great to have Harry join with us in a bipartisan way to enact legislation. To me, he will be in my memory, one of the best legislators that served the people of Maine, and to his family, I give my condolences.

The SPEAKER: The Chair recognizes the Representative from Newport, Representative Tardy.

Representative **TARDY**: Thank you, Madam Speaker. Madam Speaker, Members of the House. I'd like to thank the Representatives from Waterford and Eagle Lake for their remarks, and I too would like to rise to speak in honor of the distinguished career of Harry Richardson. As we've heard, Harry was a key player in Maine's political and legal communities. Politically, he had a passion for the environment, he had a passion for our justice system and access to justice, and he truly was a role model for legislators. I knew Harry mostly, however, through his role as a lawyer, and I would attest that he was a role model for lawyers. He and I had a great relationship. He would always comment to me about understanding, trying to balance serving in the Legislature, serving in a corner and trying to conduct a trial practice, and wondered what I was thinking. But I would agree with the comments. Anytime you had Harry Richardson in a court room, he was a worthy adversary, he was always a noble adversary, and he could always step back from the file and talk about life in general, and he could offer counsel and advice to you as a lawyer and he could pat you on the back and offer counsel and advice to you as a friend. I would agree with the comments that his personality was larger than life, and to evidence that, one need only watch him in the court room. He did have that booming voice and you could always sense that he loved his job and that he loved people, and because of his high intelligence, his overall personality, that personality and that aura, he was so amazingly effective in the court room, in the political scene and in the community in general. I would like to thank the family members for coming today. We're going to miss Harry Richardson. He left a huge, huge impact. Thank you, Madam Speaker.

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. I wasn't here in the Legislature when Harry was here, but I had the unique and very distinct privilege of actually getting to know Harry really quite well in the 70s. He was a passionate, passionate supporter of the University of Maine and, through that connection, had the opportunity to work with Harry in the late 70s and through the 80s on a number of projects in support of the University of Maine, especially around Cumberland County. We created a program that Harry dreamed up to really explain to the Maine high school kids what the University of Maine was all about, and we sort of created the first sendoff to the University of Maine. We had high school students, we talked about aspirations and it was an amazing program, and it ran really strong for a number of years, and through those meetings and working together with Harry, had hours of listening to his stories, his amazing, quick wit, fabulous stories, really I think affected me a lot in hearing about the insides of the legislative process and the attitude and the play and the thoughtfulness and the magnitude of those issues. I was very active in politics in the 70s and through the 80s and so I had the opportunity to be around the Augusta State House in those days, and it was a very exciting, exciting time. Harry then sort of went, we drifted a apart a little bit, but we came back together when his beloved Kate was diagnosed with breast cancer, and I had the opportunity to have a lot of correspondence with both of them through that process. So I simply wanted to add yet another piece of the wonderful many dimensions that are Harry, that were Harry, and will continue forever. To his family, my sincere condolences and Harry truly was larger than life and one special character. Thank you, Madam Speaker.

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

Representative **KRUGER**: Thank you, Madam Speaker. I got to know Harry in 1974 when I was a minstrel on the steak and salad circuit in southern Maine and Harry was a frequent visitor to my places of employment. I wound up working on Harry's campaign in '74, occasionally as a driver, but mostly as a diversion. I was his respite from the intensity of campaigning. One of Harry's answers to the question "How are you doing?" was first rate, and that touched me, always touched me, and this is the first time I'm telling anybody this, but I wrote a song which Harry was a big fan of, and some of you may know, called "Back to Maine". In the first verse of that song, the line is "rolling home is a first rate thing to do" and Harry knew that I snatched that from him and sang it as a salute to him, but nobody else ever knew that, and I just want to say that one of my big regrets in life is that I didn't take him up on his invitations more often than I did. I enjoyed him very much, I think he enjoyed me. We had a great sail one time that we went up to Christmas Cove. I'll stop now, but Harry was in fact a first rate mind and a first rate man, and I will miss him.

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-539)** on Bill "An Act Making Unified Highway Fund and Other Funds Allocations for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2010 and June 30, 2011" (EMERGENCY)

(H.P. 269) (L.D. 333)

Signed:

Senators:

- DAMON of Hancock
- PERRY of Penobscot
- GOOLEY of Franklin

Representatives:

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

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

Signed:

Representative:

- THOMAS of Ripley

READ.

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

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

CONSENT CALENDAR

First Day

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

(H.P. 666) (L.D. 964) Bill "An Act Pertaining to the Breeding and Selling of Dogs and Cats" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-553)**

(H.P. 1005) (L.D. 1449) Bill "An Act To Expand Tax Incentives for Visual Media Productions" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-554)**

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

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

ENACTORS

Emergency Measure

An Act To Amend the Laws Governing the Consolidation of School Administrative Units To Delay All Penalties for One Year

(H.P. 225) (L.D. 285)

(C. "A" H-352)

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

On motion of Representative CONNOR of Kennebunk, 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**.

The same Representative **PRESENTED House Amendment "A" (H-548)** which was **READ** by the Clerk.

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

Representative **CONNOR**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I rise briefly to inform you about the amendment that I have just proposed. Again, as the good Clerk just began to read, the state shall pay the cost of consolidation by July 1, 2012 for any town or community that has complied by June 2, 2009 with the laws governing the reorganization of school administrative units. As we just acted last week, we delayed the penalties for the communities that did not comply with the law, but as of June 2, 2009, we had 98 prior SAUs that were approved to reorganize, coming together and forming 26 reorganized units. When I look at that, we talked about the penalties of noncompliance a lot in the prior debate. We didn't talk at all, or at least, and I apologize I didn't stand up and I didn't talk about the penalties of compliance, because when you come together and you form a new unit, there are costs that are associated with consolidation. You redo your insurance policies; you redo your titles to your buses. On and on, there are a number of items that are required to be paid for because you complied with this law, and this amendment, as brief as it is, will merely say that for those communities that did comply with the law, we appreciate the sincerity and work that you did and we will cover those costs for you by the year 2012. Thank you, Madam Speaker.

Representative SUTHERLAND of Chapman moved that **House Amendment "A" (H-548)** be **INDEFINITELY POSTPONED**.

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

Representative **CONNOR**: Thank you, Madam Speaker. Again, I wish to just briefly speak to this. This is about fairness. At the end of the day, we heard folks, I believe somebody said we created this mess, we need to fix it. Well, folks, we had people that looked at what some may characterize as a mess and say it is the law of the land, I will follow it, I will do this, they went forward, they complied with the law and they are the only ones right now being penalized. I wasn't going to get into kind of jokes, but I always do, so if I'm driving down Route 95, the Turnpike, and I'm going 90 and I get a ticket, I don't say well I really don't want to pay it because I think the speed limit should be 90. I don't do that, I pay my ticket. In fact, if you look at the records, I have. I wasn't going 90. But more importantly, we don't say to folks, well, you're right, the law wasn't that good so no penalty for you. Now this body did choose to do that a week ago and I think we did that for good reason. We thought we wanted to look at fairness, we wanted to give folks time to comply. But to say to the folks that did follow the law, hah, you got nothing, nice job, thanks but go ahead and pay your fees, pay your titles, pay all of those things. Well, the other communities that failed for whatever reason to comply with the law, that's just not fair and I know that this body is all about fairness, and I hope you will follow my red light to defeat the Indefinite Postponement of this amendment and we'll move forward from there. Thank you, Madam Speaker.

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

Representative **SMITH**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I rise briefly to speak against the pending motion with great respect for the Chair of the Education Committee, but I do agree with my seatmate, this is an appropriate motion. Good faith efforts were made, they were to be rewarded; however, prior action by this body and the other, last week as a matter of fact, has undone that option. I think this is an appropriate mechanism, and I request a roll call. Thank you.

Representative SMITH of Monmouth **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-548)**.

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

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

Representative **CELLI**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. This bill, every school district tried to comply. They worked hard, they met in committees. A lot of money was spent over the last couple of years trying to come up with a consolidation. If the voters voted it down, there was still a lot of money spent and a lot of time spent. The state education office has spent over \$5 million on this issue in the last two years—\$5 million. So how far do we go to repay everybody because of a really bad piece of legislation that was put out? It could go on forever and we don't have the money for that. I say, I vote against this.

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

Representative **WEBSTER**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I think more than any other comment that I have heard about consolidation and about the RSU that has formed in my community has been comments regarding the sense that Augusta, whoever that is, doesn't get it. He or she doesn't get it. People say to me, I want you to tell Augusta, I keep trying to find that office in the State House, but they want me to tell Augusta that the people back home are losing faith in the legislative and executive process.

They don't understand that it's a legislative and executive process. We made a commitment to people. We were unhappy, some of us, with the deal that got made, but we created a law, and law abiding citizens sat down together and worked day after day for weeks and months to put together something to comply with the law. It concerns me greatly that now because people are not happy with the law that we made, that we do not feel responsible for the consequences of our actions. Men and Women of the House, many RSUs, and I know I can speak for the one that I represent, part of their motivation for complying was that it was the law. Part of it was the threat of penalty and part of it was the help that was going to be offered, and they took those three factors into account, two of which were financial in nature, and we are now pulling that back out, two of those back out from under their calculations. The damage is being done in terms of our credibility, and I would appreciate the fact that we will have a roll call, and I support Representative Connor's amendment and I hope that you will follow his light. Thank you.

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

Representative **MAGNAN**: Thank you, Madam Speaker. Madam Speaker, Honorable Members of the House. I will build on what has been said. I have two RSUs which contain all of my towns, and we complied because it was the law. I was on one of the RSU teams myself. I can tell you that Orland, one of my little towns, is going to be penalized, not because they didn't join an RSU, but because of a rearranging of finances for \$366,000. Two of my other little towns are going to be around \$33,000 and they have fewer than 600 people in them. These are towns that complied. Now I can tell you if we don't get some help for these RSU teams that did the job, wait until you see what happens with the people in those towns if this goes to a referendum. Do you think they're going to want to stay there? I think we need some incentives to keep our RSUs together. Thank you very much.

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

Representative **VALENTINO**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise today to also support the amendment. One of the reasons I support this is that we have an election tomorrow in Saco. I was fortunate enough to vote by absentee ballot on Friday because we were let out early, and that was the first question that the clerks and all of the people in city hall asked me: What about the penalties Linda? What's going on with the penalties? This isn't fair. We voted to consolidate because we thought there were going to be penalties involved. I understand that some districts were not able to do this in a timely fashion; I understand that we've given a delay on this. What I don't understand and what I cannot answer are the questions to my citizens saying we went ahead and we went and did this, we went to meetings after meetings, we rushed it and we have a vote tomorrow. Should we vote for this budget or should we not vote? Are you going to change this again in Augusta? Are you going to eliminate the school consolidation? Are you going to delay the penalties? How should we vote tomorrow? I feel that we should go with this amendment, Members of the House, because I feel this is what we voted for originally when we passed school consolidation, and I know I want the election in Saco to be held tomorrow, I want people to come out, and I want them to vote of the budget for the new RSU. Thank you.

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

Representative **JOHNSON**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I have great empathy for the towns that are involved in this law, that are

now facing the problem of penalties. This was a poor law. It was premised on saving money and improving education, and the further we get down the line, the less we see of certainly the cost implications and there has been no discussion of improving education. The law is seeing cost shifts in many of the RSUs that are formed and we see that, due to the lack of time for implementation, a lot of these plans are not well thought out. So what do we do about it? We are now presented with an amendment that would help some of these communities. I am in favor of helping those communities, but it's an undefined cost so I'd like to ask anyone who is capable of answering, Madam Speaker, with your permission, what is the cost of this amendment?

The SPEAKER: The Representative from Greenville, Representative Johnson has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Kennebunk, Representative Connor.

Representative CONNOR: Thank you, Madam Speaker. I will attempt to answer that question. As you know, the fiscal note on this is an undetermined fiscal note, and what I do know is that a portion of the penalty dollars which were collected, which was roughly \$5.2 million, was going to go to help offset the cost of consolidation for some of those communities. Now I will admit that the good Committee on Education looked at that issue by some of the statements made by the commissioner in regard to where those dollars would go, but I do think that we have a full understanding that it is less than that \$5.2 million. As a member of the Appropriations Committee, I am always worried about fiscal notes, but I think this is a situation when we look at fairness, when we look at folks that did comply with the law, this may be one of the issues that we go out and we find the dollars as we go forward. It's one of the reasons that I wrote this to be 2012. Thank you, Madam Speaker.

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

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

Representative SCHATZ: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I'm in favor of the amendment and here's why. I think that, first of all, 285 is really a delay of penalties and there is probably an assumption that even if the penalties are delayed and those school districts who would benefit from that of forward, which is my assumption they would do, there are those same costs that are being experienced by the schools that the good Representative from Kennebunk has pointed out will be seeded in those districts. So I'm presuming the law the language, I see the language of this amendment, that those additional costs for consolidating of those districts, such as the ones I represent, will also be covered in this amendment. I think what we have, if you look at the situation, is a population of two victims: We have the victims, who couldn't get it together in time and, therefore, are being penalized, and the others ones, who rushed to consolidate because they were trying to comply will the law and didn't see the cost of that consolidation for them. I think everybody should be cured, if you will, and the remedy of this amendment is that remedy and it would apply to the school districts who are going to come into compliance within the next year, I think we have a remedy that suits all. I'm inclined to vote red in this case. Thank you, Madam Speaker.

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

Representative WEBSTER: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I would just respond to the question regarding the cost. Certainly, as another member of Appropriations Committee, I, too, am concerned about any costs that we can't nail down and we don't know exactly what the resource is. However, in the past budgetary process, what we did is we crafted and worked together in order to do the best we could with the dollars we had in order to be fair and to look towards the future. I would ask you what is the cost of not fulfilling the expectations that we created. Now some might say that the Legislature never said that people were going to be helped if they consolidated, but believe me, we were all aware that that was being put out there and we did not do anything to stop it. So I would ask you to think whether in fact it is fully our responsibility that that expectation was created. The image now at home for all of us has to do with the credibility of this body, and I would ask you what is the cost of not maintaining credibility with our citizens. Thank you.

Subsequently, Representative SMITH of Monmouth WITHDREW her REQUEST for a roll call.

Subsequently, Representative SUTHERLAND of Chapman WITHDREW her motion to INDEFINITELY POSTPONE House Amendment "A" (H-548).

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

Representative SYKES: Thank you, Madam Speaker. Madam Speaker, I question whether or not House Amendment (H-548) is properly before the body and is germane and ask for a ruling.

Representative SYKES of Harrison asked the chair to RULE if House Amendment "A" (H-548) was germane to the Bill.

The SPEAKER: The Representative from Harrison, Representative Sykes, has questioned the germanous of House Amendment A. This matter will be tabled pending a ruling of the Chair. Is this the pleasure of the House?

Subsequently, the Bill was TABLED by the Speaker pending a RULING OF THE CHAIR.

Emergency Measure

An Act To Conform State Mortgage Laws with Federal Laws
(S.P. 523) (L.D. 1439)
(H. "A" H-532 to C. "A" S-221)

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

Acts

An Act To Direct Fines Derived from Tribal Law Enforcement Activities to the Passamaquoddy Tribe and the Penobscot Nation
(H.P. 545) (L.D. 796)
(C. "A" H-527)

An Act To Amend the Animal Welfare Laws
(H.P. 758) (L.D. 1103)
(C. "A" H-523)

An Act To Amend the Maine Certificate of Need Act of 2002 To Change Nursing Facilities Review Thresholds for Energy Efficiency Projects and for Replacement Equipment
(H.P. 803) (L.D. 1164)
(C. "A" H-534)

An Act To Amend the Certificate of Need Act of 2002 for Nursing Facility Projects

(H.P. 879) (L.D. 1260)
(C. "A" H-535)

An Act To Improve the Ability of the Department of Education To Conduct Longitudinal Data Studies

(S.P. 491) (L.D. 1356)
(C. "A" S-301)

An Act To Establish the Maine Fuel Board

(H.P. 1007) (L.D. 1455)
(H. "A" H-525 to S. "A" S-261; C. "A" H-345)

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, To Reduce Funding to Maine Clean Election Act Candidates

(S.P. 345) (L.D. 923)
(H. "A" H-533 to C. "A" S-287)

Resolve, Relating To Review of Certain Changes in the Application of the Sales and Use Tax Law

(H.P. 775) (L.D. 1120)
(C. "A" H-528)

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 Ensure That Construction Workers Are Protected by Workers' Compensation Insurance

(H.P. 1008) (L.D. 1456)
(C. "A" H-536)

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

On motion of Representative MARTIN of Eagle Lake, was **SET ASIDE**.

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

Resolve, To Establish a Transition Adjustment for Fiscal Year 2009-10

(H.P. 1041) (L.D. 1486)

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

On motion of Representative MILLETT of Waterford, was **SET ASIDE**.

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

Representative MILLETT: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This bill occurred on our Calendar a little over a week ago and it caught my attention because it was to be initially referred to the Appropriations Committee, but that was bypassed, and it was given its First and Second Reading and now appears before us as an Enactor. It's not my intent this morning to cast dispersions on the bill or the motives of the sponsors, but simply to explain what I think is a problem that this bill attempts to address and urge that we look long-term in the Second Session to correct it.

Very briefly, it is a bill designed to address a problem in the Town of Pownal and the sponsors are all in that area. They have a unique situation where, as a result of a few sales of property in the 2007 calendar, their state evaluation spiked by 14 percent in

the evaluations that were certified a year ago. This year, those sales trended downward dramatically and, therefore, they are looking at a lowered evaluation by 6 percent. This is a phenomenon that could occur more frequently in the future in small, rural towns where you have a small sampling of real estate sales and, given the volatility in the market, things can happen one way or the other without a great deal of relevance to the worthy or to the property evaluation and, therefore, the affordability to the residence.

What this bill attempts to do is to simply say, for the fiscal year upcoming, the property capacity for the Town of Pownal will be reduced in order to allow them to in effect raise \$80,000 less locally, with that \$80,000 to be made up from a series of miscellaneous costs which are appropriated through the Department of Education within the GPA formula, and for which there is a predicted balance sufficient to covenant that amount. My initial concern was I did not want to see a change for one town adversely affect the rest of us. That does not occur in this case. I think it's a legitimate approach, but it brings to my attention, anyway, the need to take a look at the property evaluations in small towns, given the volatility of the real estate market, on an averaging basis. Therefore, I'm recommending today and offering assistance, if there is an interest in the Second Session, to go back to an averaging process whereby we might take two, three or even four more years of average rather than allow for this spiking up and down to drive the cost of GPA for a given town.

I think that the Department of Education is sensitive to this. I talked with the prime sponsor, I talked with members of the Education and Cultural Affairs Committee and, if there is interest, I would happily be a sponsor or a cosponsor of an averaging bill in the Second Session. I believe the bill is appropriate for our passage today. I'm not finding fault with the motives of the sponsors or the source of funding that they have identified. I simply wanted to call it to your attention as a symptom of a problem that could affect all of us if we don't take steps in the near future. Thank you, Madam Speaker.

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

Representative McFADDEN: Thank you, Madam Speaker. I just want to go along with what Representative Millett just said. I just have one more example, a town that's probably worse off than Pownal. The Town of Cutler, their evaluation in 2007 was \$46,150,000. In '08, it jumped to \$73,450,000. That's around an 80 percent increase, so we need to look at more towns around the state that have an increased evaluation along with Pownal. I'm not against Pownal, I want to help them any way I can, but I think that Representative Millett has a great idea and I'd have to support what he said.

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

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 Friday, June 5, 2009, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

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

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

- In House, 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 on June 1, 2009.

- In Senate, Minority (5) **OUGHT NOT TO PASS** Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY READ** and **ACCEPTED** in **NON-CONCURRENCE**. **TABLED - June 2, 2009 (Till Later Today)** by Representative PIEH of Bremen.
PENDING - FURTHER CONSIDERATION.

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

An Act To Amend the Maine Clean Election Laws Governing Gubernatorial Candidates

(H.P. 970) (L.D. 1380)
(C. "A" H-429)

TABLED - June 3, 2009 (Till Later Today) by Representative TRINWARD of Waterville.
PENDING - PASSAGE TO BE ENACTED.

On motion of Representative TRINWARD of Waterville, 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" (H-429)** was **ADOPTED.**

The same Representative **PRESENTED House Amendment "A" (H-529)** to **Committee Amendment "A" (H-429)** which was **READ** by the Clerk.

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

Representative **TRINWARD:** Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I just would like to very briefly explain the amendment. The amendment was brought to our attention that there would be gubernatorial candidates that would be interested in using the new regulations or new restrictions for seed money and would like to start being able to collect their seed money this summer. It makes perfect sense that if you are running for Governor, and you were allowed to raise more seed money, that you would be allowed to start collecting it earlier. So this would put an emergency preamble on this bill so that people could start their campaigns as soon as the summer.

The second piece that we did was we moved the date back to April 1st, when your signatures are due at the Commission's Office. This gave the commission extra time to get their gubernatorial signatures done before they started receiving legislative signatures for Clean Election money. So what we failed to do was to add the two weeks we took away at the beginning, so what we've done is change the beginning date for collecting signatures to start two weeks earlier and to end two weeks earlier. Thank you.

Subsequently, **House Amendment "A" (H-529)** to **Committee Amendment "A" (H-429)** was **ADOPTED.**

Committee Amendment "A" (H-429) as Amended by **House Amendment "A" (H-529)** thereto was **ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (H-429)** as Amended by **House Amendment "A" (H-529)** thereto in **NON-CONCURRENCE** and sent for concurrence.

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

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

Representative **GILES:** Yes, on the following roll calls, and you may want to help me out because I haven't missed a session yet, I was absent on Friday and on Roll Call No. 200 for LD 253, I would have voted yea. On Roll Call No. 206, LD 1088, I would have voted nay. On Roll Call No. 202, LD 1205, I would have voted nay. On Roll Call No. 205, LD 1264, I would have voted nay. On Roll Call No. 201, LD 1392, I would have voted yea. On Roll Call No. 203, LD 1438, I would have voted yea. And Roll Call No. 204, LD 1485, I would have voted yea had I been present. Thank you.

The House recessed until 2:00 p.m.

(After Recess)

The House was called to order by the Speaker.

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

An Act To Amend the Laws Governing the Consolidation of School Administrative Units To Delay All Penalties for One Year (EMERGENCY)

(H.P. 225) (L.D. 285)
(C. "A" H-352)

Which was **TABLED** by the Speaker pending a **RULING OF THE CHAIR.**

The **SPEAKER:** The Chair has carefully considered the matter pending ruling as to the germanous of House Amendment "A". On the question of germanous, the Chair is bound by House Rule 506 which simply requires that an amendment must be germane to the proposition under consideration, and by Section 402 of the parliamentary manual of the House, the *Mason's Manual of Legislative Procedure*. Section 402 of *Mason's* reads in its entirety:

Amendments Must Be Germane

1. Every amendment proposed must be germane to the subject of the proposition or to the section or paragraph to be amended.
2. To determine whether an amendment is germane, the question to be answered is whether the question is relevant, appropriate, and in a natural and logical sequence to the subject matter of the original proposal.
3. To be germane, the amendment is required only to relate to the same subject. It may entirely change the effect of or be in conflict with the spirit of the original motion or measure and still be germane to the subject.

4. An entirely new proposal may be substituted by amendment as long as it is germane to the main purpose of the original proposal.
5. An amendment to an amendment must be germane to the subject of the amendment as well as to the main question.

The title of LD 285 is "An Act To Amend the Laws Governing the Consolidation of School Administrative Units To Delay All Penalties for 2 Years." House Amendment "A" would add an additional section to the bill to pay the costs of consolidation for those municipal units that have complied with the school consolidation law. The subject and purpose of House Amendment "A" to pay for the cost of compliance is different than the main purpose of delaying penalties for noncompliance in LD 285. Therefore, House Amendment "A" is in conflict with the spirit of the original measure. With respect to House Amendment "A", the Chair finds the amendment is not germane.

Subsequently, the Chair **RULED House Amendment "A" (H-548)** was not germane to the Bill pursuant to House Rule 506, and by Section 402 of the parliamentary manual of the House, the *Mason's Manual of Legislative Procedure*. Section 402 of *Mason's*.

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-352)**.

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. I think we're opening the Pandora's Box when we start opening this stuff up and I'm going to be voting against LD 285 and I suggest that you follow the red light. Thank you.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 98 voted in favor of the same and 40 against, and accordingly the Bill **FAILED PASSAGE TO BE ENACTED**, sent to the Senate.

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

An Act To Ensure That Construction Workers Are Protected by Workers' Compensation Insurance

(H.P. 1008) (L.D. 1456)
(C. "A" H-536)

Which was **TABLED** by Representative MARTIN of Eagle Lake pending **PASSAGE TO BE ENACTED**.

On motion of Representative MARTIN of Eagle Lake, 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" (H-536)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "A" (H-557)** to **Committee Amendment "A" (H-536)** which was **READ** by the Clerk.

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

Representative **MARTIN**: Thank you, Madam Speaker. Madam Speaker, Members of the House. This basically clarifies

I should say, puts into the bill what the committee had voted.

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

Representative **TUTTLE**: Thank you, Madam Speaker. I would also concur with the good Representative from Eagle Lake, Representative Martin. This was the intent of the legislation but inadvertently it was left out, and I would thank him for his amendment.

Subsequently, **House Amendment "A" (H-557)** to **Committee Amendment "A" (H-536)** was **ADOPTED**.

Committee Amendment "A" (H-536) as Amended by **House Amendment "A" (H-557)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-536)** as Amended by **House Amendment "A" (H-557)** thereto in **NON-CONCURRENCE** and sent for concurrence.

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

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

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment Friday, June 5, 2009, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Bill "An Act To Designate Sales Tax Holiday Weekends"
(H.P. 792) (L.D. 1148)
(C. "A" H-400)

TABLED - June 1, 2009 (Till Later Today) by Representative BERRY of Bowdoinham.

PENDING - PASSAGE TO BE ENGROSSED.

On motion of Representative STRANG BURGESS of Cumberland, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-400)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "A" (H-555)** to **Committee Amendment "A" (H-400)** which was **READ** by the Clerk.

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

Representative **STRANG BURGESS**: Thank you, Madam Speaker. Madam Speaker, fellow Members of the House. I am actually really excited. We've done a lot of work to bring this amendment to you for your consideration. This is adding or actually really working with the existing concept of a sales tax holiday weekend. You folks in this body, a week and a day or so ago, gave this bill a nice resounding vote of your support. Since that time, we all know that the fiscal note on that bill is extremely high, but you all believed, as I do, that we need to do something for the citizens of this state and our Maine retail businesses and those folks who are working in the retail industry.

As you know, that state next door to us, New Hampshire, has the sales tax holiday 365 days a year. Well, we would like to encourage Maine residents to keep their money in Maine. This, we've debated already about the aspects of a sales tax holiday, but just a couple of highlights to tell you what this amendment is that's in front of you. You should have also received on your desks a couple page handout that highlights some of these facts

as well. But essentially in trying to bring the fiscal note down to perhaps getting closer to a more palatable level, we have taken it from the three days of the Columbus Day weekend, which obviously are a high shopping time period, moved it to the week before; cut it from three shopping days to one, it's being proposed for the Saturday of October 3rd. In addition, we changed the threshold which was originally based on the Massachusetts sales tax holiday that's very successful down there. What they do, a very generic \$2,500 threshold, where the consumer can go out and purchase items in that category.

On the back side of your handout you will see a list of all of the states that do sales tax holidays, and it lists all of the states, the number of days and the items that are included in their sales tax holidays, their costs, when they first instituted this rule or law in their states, and also the 2009 dates, and you will see that it is very diverse. But what it does show is that most of these states deal with very, very specific items. So with that in mind, this amendment proposes that the sales tax holiday be one day, that it occur the first Saturday in October, and that the items covered specifically are: clothing, \$200 and under, so the threshold is \$200, and there is a definition of clothing, who knew these things, and that is included in here, along with what isn't clothing.

Then we added something that I'm very excited about and that is there actually is, from a sales tax and from an item perspective, a definition of energy star products. Well, Ladies and Gentlemen of the House, we talk about energy all the time and we're very passionate about energy. A sales tax holiday, the first weekend in October, for energy star products is really spot on. If you go to www.energystar.gov, there is a specific list of these items and I'm sure you all have seen the little, there's a logo, it's sort of an arch and it has energy star right on it. These energy star products are appliances; heating and cooling devices, including geothermal heat pumps; water heaters, including solar hot water heaters; what they call home envelope, meaning anything to do with insulation and roof products and windows. It covers home electronics. It also covers office equipment, anything that carries the energy star logo: computers, lighting, the CFL bulbs, commercial food service items and other products like LED lighting, roof products, etcetera, all excellent energy products. So this bill ties in really nicely with our mission to get the State of Maine on path to being much more energy efficient.

So this bill changes the name slightly to add the fact that it is a sales tax holiday on energy star products and clothing. It clarifies, also, a few things that were always intended to not be included which are meals, lodging and alcohol. Your flyer has lots of information on it; I hope that you'll take a moment to just skim that. It has information about the other states that are participating. Also, it shared a little editorial of the *Lewiston Sun Journal*; it did give this an endorsement last week, even in spite of a \$6.4 million fiscal note.

I furthermore, lastly, would like to just point out to you on this amendment, there is a revised fiscal note, and I confess it was, at first I misread it, and I would just like to double dog sure that you all understand exactly what the fiscal note is at this moment in time. If you look at it, it will show a cost to the General Fund of \$4.5 million, but I remind you to read the paragraph below because what it says is that we have reduced the fiscal note from the original bill, which was \$6.4 million, so that is why it's done like that. This is an amendment and it amends the fiscal note from the first step. So it's important for you to read the last sentence in there, which is that the fiscal note from the General Fund is \$1.8 million and then the Local Government Fund is \$95,000. So we brought this sales tax holiday way, way, way down. We've scaled it back. This is a one time pilot project to

excite the Maine consumer. The Maine consumer is going to have the benefit of saving their sales tax for that one day. They are going to have the double benefit of going out and purchasing some energy efficient products, so they're going to save twice. And Madam Speaker, we're going to help Main Street retail by including the large definition of clothing, which will help people out with getting hopefully that winter coat and getting their family ready for winter. So I'm pretty excited. A lot of people have been involved in the creation of this amendment, and I am hoping and asking you all for the repeat of your strong support of this pilot project, and my goal is to get through this body, get through the other body, and there are a few other things that we can do. I've been encouraged by the Chair of the Taxation Committee to simply get this down to the table in Appropriations and we can continue to work it and we have a few other ideas. But we are out of time and time is very precious at this point, and I want to thank the Speaker and others who have been very tolerant and patient while we have worked very diligently with Revenue Services to try to think of something that would be palatable for you all. So thank you very much, I appreciate your consideration, and Madam Speaker, I would ask for a roll call vote please.

Representative STRANG BURGESS of Cumberland **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-555) to Committee Amendment "A" (H-400)**.

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 Orono, Representative Cain.

Representative **CAIN**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I rise in opposition to this amendment and to the bill generally. Did you know that Florida has cancelled a sales tax holiday this year? They vote on it every single year, and this year they can't afford it so they're not doing it. This bill provides for a sales tax holiday, unequivocally, it just says we're going to do it. Quite frankly, Madam Speaker, I have considered putting in this bill every single session we come to the Legislature. My entire life has been impacted by that of retail sales. My father has worked in the shoe industry since he was 14 years old. He started in the back room of a Floor Shine shoe store in St. Louis, Missouri, and worked for Floor Shine for more than 20 years before he reached the age of 35. He sold shoes, he helped develop new product lines, and now, I won't tell you how old he is, but he's in his 50s and he has never done anything except work in the shoe business. He now works on the other end, he works at the factory, he travels to China and Brazil, and every year he and I have this conversation about maybe we should do a sales tax holiday in Maine. Massachusetts does it. Although, last year they did a two day holiday and this year they are just planning on one day, Madam Speaker. And every single year, he and I have talked about what the fiscal impact will be, and I've looked at it before, and every single year we've settled on the fact that, you know what, we can't afford it this time. And tomorrow, Madam Speaker, we're going to run the table, and there's barely this much money on the table, and as we begin to discuss Maine revenues, there may not even be that much.

I wish I could support this bill but, quite frankly, this year, I can't do it. I can't push a green light on this bill in any way, because I can't see somehow raising the expectation to Maine retailers that we can afford this, this time around. The truth is that we can't, although I definitely wish that we could. So I hope you'll follow my light and vote red on this bill. Thank you, Madam Speaker.

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

Representative **STRANG BURGESS**: Thank you, Madam Speaker. The good Representative from Orono reminded me of one last point and that is that, last year, Vermont voted in their very first sales tax holiday and, at the end of their fiscal year, saw absolutely no decrease in their sales tax for the year. In other words, they had increased enough all over that they actually were flat, and that has always been my original contention is that in fact I don't think it will cost us, the state, anything at all, in fact will generate in sales. Meals and lodging are not included and a number of other things, so this is going to generate activity and additional sales tax in other categories.

The second point is that Vermont passed their state budget, I believe, last Wednesday or Thursday, and interestingly enough, if anybody was thinking that perhaps they weren't happy with it over there, they in fact have just passed and included in their state budget two sales tax holidays for this current upcoming fiscal year. So if it didn't work very well, they're going to repeat two more times, which I think tells you that it did work and it didn't cost the state a lot of money and they have certainly the same economic issues that we do. And we obviously don't do dynamic fiscal notes, but that's the piece where I think needs faith and belief and to do that. Thank you, Madam Speaker.

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

Representative **RUSSELL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Not that long ago I made the really heart wrenching choice to vote against my committee on a scratch ticket that would have funded cancer, and I did that because I felt very strongly that that money needed to be there to support a very good cancer plan that we have not funded and that my good friend from Cumberland has worked so hard to see funded, and I cannot in good conscience support removing funds and potentially removing funds. As the good Representative mentioned, we do not have a dynamic fiscal note. So if we can't find money to fund something that's really critical at the same time that we have to cut programs, like mental health services to adults who are going to end up in jail or on the street, which is going to cost us five times as much in the end, I really can't support the pending motion, and I would ask folks to follow my red light as well.

The SPEAKER: A roll call has been ordered. The pending question before the House is Adoption of House Amendment "A" (H-555) to Committee Amendment "A" (H-400). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 207

YEA - Austin, Ayotte, Beaudoin, Beaulieu, Beck, Bickford, Burns, Campbell, Casavant, Cebra, Celli, Chase, Clark T, Cleary, Crafts, Cray, Crockett J, Curtis, Cushing, Davis, Eaton, Edgecomb, Finch, Fitts, Flemings, Fletcher, Flood, Fossel, Gifford, Giles, Hamper, Hanley, Harvell, Hill, Hunt, Johnson, Joy, Kaenrath, Knapp, Knight, Langley, McFadden, McKane, McLeod, Millett, Nass, Nutting, Pendleton, Pinkham, Plummer, Prescott, Richardson D, Richardson W, Robinson, Rosen, Sarty, Saviello, Shaw, Sirois, Smith, Strang Burgess, Sykes, Tardy, Thibodeau, Thomas, Tilton, Watson, Weaver, Welsh.

NAY - Beaudette, Berry, Blanchard, Blodgett, Boland, Bolduc, Briggs, Bryant, Butterfield, Cain, Carey, Clark H, Cohen, Connor, Cornell du Houx, Crockett P, Dill, Dostie, Duchesne, Eberle, Flaherty, Gilbert, Goode, Harlow, Haskell, Hayes, Hinck, Hogan, Innes Walsh, Jones, Kent, Kruger, Lajoie, Legg, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, Miller, Morrison, Nelson, O'Brien, Peoples, Percy, Pieh, Pilon, Piotti, Priest, Rankin, Rotundo, Russell, Sanborn, Schatz, Stevens, Stuckey, Sutherland, Theriault, Treat, Trinward, Tuttle,

Valentino, Van Wie, Wagner J, Wagner R, Webster, Wheeler, Willette, Wright, Madam Speaker.

ABSENT - Adams, Browne W, Cotta, Driscoll, Eves, Greeley, Lewin, Perry, Peterson, Pratt.

Yes, 69; No, 72; Absent, 10; Excused, 0.

69 having voted in the affirmative and 72 voted in the negative, with 10 being absent, and accordingly **House Amendment "A" (H-555) to Committee Amendment "A" (H-400) was NOT ADOPTED.**

Committee Amendment "A" (H-400) was ADOPTED.

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

Representative **SMITH**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I'm speaking against the pending motion. I regret not having spoken the first time we have the debate on this issue.

This bill is presented as economic development. I believe it is not. We measure the effectiveness of economic development programs when they strengthen the economy and have a long-term impact. When economic development programs benefits are felt by business owners, employees and the public at large, when they focus on innovation and value added activities, these concepts don't fit the legislation on which we are about the vote. I'm not opposed to the concept, except that it comes down to the choices that we have to make. This fiscal note will compete with other true economic development programs on the Appropriations' table. Retail sales are an indicator of economic health and of consumer confidence. In order to increase retail sales in a sustainable, long-term manner, we must focus not on a sales tax holiday, and can I say a 5 percent sale wouldn't get my in the door, I look for a bit higher than that. We need to focus all of our efforts, including the limited Appropriations' table on long-term, broad economic development. With that, Madam Speaker, I request a roll call.

Representative SMITH of Monmouth **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended by Committee Amendment "A" (H-400).**

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 also rise to speak about economic development and to speak about opportunities to do as much as we can for the small business and the retail sector in this state, which in the original floor debate that we had, if you recall, the majority of the workers in the retail industry are women, and I'm looking for more opportunities to create more opportunities for those women, for those families, and to keep people working through this tough, tough time.

I live on the coast, you've heard me talk about it before, and I'm watching fewer cars travel Route 1. I'm watching more and more businesses there struggle and I've seen a lot of vacancy signs, which usually about this time of year, the bed and breakfasts and some of the motels start to fill up on the weekends. I'm watching some of the retail stores in my own community close. I'm watching on the state level, our sales revenues continue to decline, so I recognize we are in a very tight budget period, and I served on Appropriations in the 123rd so I know full well the challenges ahead of them. But I think, in times like this, we need to be big, we need to be bold and we need to do some new things, and I think trying a pilot project, such as this, in this economy is a truly economic development tool that we ought to be considering, and I continue to support this bill and I hope that we can get some passage on it. Thank you.

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. This bill to designate sales tax holidays is no different than what we see every week when we do our groceries or go buy anything in a department store. This is a loss leader to bring people in, to get people out spending, and if you go to get your groceries and you go to the grocery store and they have a special on lettuce, \$0.99 a head, if they use the argument we're going to lose \$0.50 every head of lettuce we sell, we better not do this, it would not be a good practice. So just thinking about it in a retail sense, we may lose some sales taxes; we may gain a ton more. Thank you.

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. I'd like just to remind you that in order to make up a \$6 million fiscal note, we would have to sell \$120 million worth of goods during this sales tax holiday. Thank you, Madam Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Passage to be Engrossed as Amended by Committee Amendment "A" (H-400). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 208

YEA - Austin, Ayotte, Beaudoin, Beaulieu, Beck, Bickford, Burns, Campbell, Cebra, Celli, Chase, Clark H, Clark T, Cleary, Crafts, Cray, Crockett J, Curtis, Cushing, Davis, Eaton, Edgecomb, Finch, Fitts, Flaherty, Flemings, Fletcher, Flood, Fossel, Gifford, Giles, Hamper, Hanley, Harvell, Hill, Hunt, Johnson, Joy, Kaenrath, Knapp, Knight, Langley, McFadden, McKane, McLeod, Millett, Nass, Nelson, Nutting, Pendleton, Pinkham, Plummer, Prescott, Richardson D, Richardson W, Robinson, Rosen, Sarty, Saviello, Shaw, Sirois, Strang Burgess, Sykes, Tardy, Thibodeau, Thomas, Tilton, Tuttle, Weaver.

NAY - Beaudette, Berry, Blanchard, Blodgett, Boland, Bolduc, Briggs, Bryant, Butterfield, Cain, Carey, Casavant, Cohen, Connor, Cornell du Houx, Crockett P, Dill, Dostie, Duchesne, Eberle, Gilbert, Goode, Harlow, Haskell, Hayes, Hinck, Hogan, Innes Walsh, Jones, Kent, Kruger, Lajoie, Legg, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, Miller, Morrison, O'Brien, Peoples, Percy, Pieh, Pilon, Piotti, Priest, Rankin, Rotundo, Russell, Sanborn, Schatz, Smith, Stevens, Stuckey, Sutherland, Theriault, Treat, Trinward, Valentino, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Wheeler, Willette, Wright, Madam Speaker.

ABSENT - Adams, Browne W, Cotta, Driscoll, Eves, Greeley, Lewin, Perry, Peterson, Pratt.

Yes, 69; No, 72; Absent, 10; Excused, 0.

69 having voted in the affirmative and 72 voted in the negative, with 10 being absent, and accordingly the Bill **FAILED PASSAGE TO BE ENGROSSED as Amended by Committee Amendment "A" (H-400)**. Sent for concurrence.

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

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act To Prohibit the Delivery of Tobacco Products to Consumers To Prevent the Sale of Tobacco Products to Minors" (H.P. 850) (L.D. 1230)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-438) in the House on June 3, 2009.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-438) AS AMENDED BY SENATE AMENDMENT "B" (S-308)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

Bill "An Act To Enhance Maine's Electronic Waste Recycling Law" (EMERGENCY)

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

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-499) in the House on June 2, 2009.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-499) AS AMENDED BY SENATE AMENDMENT "A" (S-307)** thereto in **NON-CONCURRENCE**.

On motion of Representative DUCHESNE of Hudson, the House voted to **RECEDE AND CONCUR**.

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

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, June 5, 2009, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Resolve, Relating to a Review of International Trade Agreements and the Management of Groundwater Resources (EMERGENCY)

(H.P. 913) (L.D. 1310)

(C. "A" H-434)

TABLED - June 3, 2009 (Till Later Today) by Representative BERRY of Bowdoinham.

PENDING - FINAL PASSAGE.

The SPEAKER: The Chair recognizes the Representative from Hudson, Representative Duchesne.

Representative **DUCHESNE**: Thank you, Madam Speaker. When this bill came up for a vote earlier, I think there was probably some confusion so if I may just take the liberty of straightening some of that out. This was a unanimous report out of committee. Maine's groundwater is protected strongly by several statutes—Site Law, Natural Resources Protection Act, there's a Bulk Water Transport Act—and the committee was blessed with a number of bills on this issue, and the committee for the most part, I think, was pretty confident that our Resource Protection laws are going to be able to withstand most challenges that we would get under international trade agreements. But there was some question within the committee as to whether we were completely covered, and that was a lot of the concern brought forward by citizens in some of the bills. So we did bring in the Attorney General's Office to discuss this. There was some doubt raised in our minds as a committee that all accompanied bases were covered. As a result, the unanimous report of the committee was, rather than do the original Blue Ribbon Commission that was suggested to the committee by the bill,

rather we would do it within existing resources among organizations that already exist. I think some of the confusion was that this was viewed as a bill that might be used to go after a famous international water bottling company, and in reality, that was not the case with the committee report coming out. We decided to send this to a group of people who have already existed to study water issues: the Water Resources Planning Committee of the Land and Water Resources Council. And to give you some idea of who is going to be looking into this question for us, that would be the state geologist Bob Marvinney, as staff. For the public members, which include Jeff McNelly of the Maine Water Utilities Association; Dave Bell of the Agricultural Council of Maine; Tim Hobbs of the Maine Potato Board; Tom Brennan of Nestle Waters North America; Barry Sanford, Maine Groundwater Association; James Wilfong represents, I think, the environmental and conservation community; Ski Maine Association's Greg Sweetser. Those are the members of the committee who actually will be looking into this, and I think that's not a mischief making committee. It does have the additional support of the Citizen Trade Policy Commission, which looks into issues of how international trade agreements may affect our Maine statutes, and there are several representatives from the Legislature on that, including members of this body: Representative Rotundo from Lewiston; the Representative from Farmingdale, Representative Treat; the Representative from Lincoln, Representative Gifford. Senators include the Senators from Aroostook which would be both Senator Jackson and Sherman, and the Senator from Cumberland, Senator Gerzofsky. So when this is studied and a report brought back to us next year, it will be these people who are researching the issues for us, and I think if there was confusion this was a mischief making bill, in reality, it was a unanimous report out of committee to go study those issues that we thought were a little bit unclear. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Oxford, Representative Hamper.

Representative **HAMPER**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. It's a beautiful thing when both sides of the committee can sit around and sing "Kumbaya" in full support. Thank you very much.

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

HOUSE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (H-367)** - Committee on **MARINE RESOURCES** on Bill "An Act Regarding Saltwater Recreational Fishing"

(H.P. 935) (L.D. 1331)

TABLED - May 27, 2009 (Till Later Today) by Representative PERCY of Phippsburg.

PENDING - **ACCEPTANCE OF EITHER REPORT.**

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

The SPEAKER: The Chair recognizes the Representative from Phippsburg, Representative Percy.

Representative **PERCY**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. In January of 2007, Congress passed and President Bush signed into law the reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act. This reauthorization

included a new requirement for a regionally based registry program for recreational saltwater fishermen in each of the nation's eight fishery management regions. The legislation specified that the Secretary of Commerce would complete and implement this data program no later than January 1, 2011. Congress took this action because they recognized that some of the current methodology employed by the National Marine Fisheries Service, Marine Recreational Fisheries Statistics Survey, for estimating saltwater recreational catch, effort and participation is not sufficient to generate the good data needed for effective management. Close scrutiny by fisheries management councils, as well as sport fishing groups and private anglers, has revealed that certain component parts of this survey are not adequate for the task. Specifically, the current survey does not allow for the National Marine Fisheries Service to identify who are the saltwater participants. While estimates are generated by means of a phone survey, they have been subject to criticism and lawsuits resulting in external and internal peer reviews of the entire data collection program. Both peer reviews concluded that there is a need to identify saltwater recreational fishermen.

I have put in a bill asking that there be a license to collect this information and the reason is this: The Federal Government has dictated that if we do not have some kind of registry or license in effect by 2011, the Federal Government is going to come in and they are going to charge a fee for doing so. They are going to charge between \$15 and \$25 to create this registry and all of the money will go to the Federal Government.

My bill is specifically trying to be proactive. The bill in front of you specifies the following things: It establishes a recreational saltwater fishing license dedicating the fees to the Marine Recreation Fishing Conservation and Management Fund and gives the commissioner of Marine Resources authority to make expenditures from the fund for purposes such as fisheries management research, education, outreach, marine patrol. Currently, the way the bill has been amended, the fees will be as follows: an annual resident saltwater recreational license would be \$5; an annual nonresident license would be \$15; there would be a two week nonresident saltwater recreational fishing license for \$8; children 16 and under would be exempted; seniors 70 and over would be exempted if they are residents of the state, and if you are a nonresident and over the age of 70, you would pay a onetime \$8 fee.

The reason for putting this bill in, Ladies and Gentlemen, is simply because it the right thing to do before the Federal Government gets involved. All freshwater anglers and all commercial fishermen in Maine, including lobstermen, menhaden seiners, clambers, worm diggers, everybody is required to buy a license every year. So why should the estimated 22,000 saltwater anglers, residents or nonresidents, who fish in our tidal waters, be exempt from putting something back into the resource? The debate in the committee was hot and heavy as you can imagine. This is not a popular issue. The Sportsman's Alliance of Maine is not in favor of it; however, the conservation groups are in favor of it, the Natural Resources Council of Maine is in favor of it, and there are a number of us who understand the world of saltwater recreational fishing that are in favor of it. The bill also includes reciprocity with the State of New Hampshire for those people who would like to come at least into York County.

A little bit of history: Currently all the New England states are looking at this exact legislation. Connecticut has passed a fishing license bill that is going to be \$10 for the resident and \$15 for a nonresident. New York has passed a saltwater fishing bill, \$10 for a resident and \$20 for a nonresident. New Hampshire has passed a saltwater fishing license, \$15 for residents and

nonresidents. So other states are looking at this and taking into serious consideration what they are doing to help the saltwater recreational fishery's resources.

Ladies and Gentlemen, it is not an easy conversation. I'm just grateful it's not next session that we're talking about it, because it has proven to be a political hot button item. This bill, in a different form, was in front of us in the last term and it was soundly defeated because people don't want to take on the idea that fish free or die. It has always been a tradition to be able to go down to the Atlantic Ocean and throw that fishing line in and take that fish home and eat it. Ladies and Gentlemen, I would make the point that my great grandfather, when he went to Sebago Lake to go fishing, he didn't have to buy a license. So why is it alright for there to be a freshwater fishing license, but there's not the quality in terms of saltwater fishing?

Another point I would like to make: At some point, whether it's a registry or a license that we have, there will be an increase of activity on the coast for the Marine Patrol. Currently all of the licenses for commercial fishermen pay for what happens with Marine Patrol. If we don't do something to support this effort of gathering data and funding it correctly, the Federal Government is going to do it, and there are some people who say "Let the Feds do it, Leila. Why don't you go down to Congress and convince them to exempt it?" Trust me; our commissioner has talked to Senator Snowe and Senator Collins and our Congressmen about this issue. It is not going to change at the federal level. So I would ask that you follow my light and support this effort to be proactive in bringing resources and an organization to saltwater fishing recreational activities on the coast of Maine. Thank you, Ladies and Gentlemen.

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. I think the important thing to remember here is that saltwater recreational fishing has always been free, and if you have talked to or polled any of your constituents lately, I think they probably feel the same way. Certainly mine do. The only ones who have contacted me in favor of this license was one member of the Maine Association of Charter Boat Captains, and they won't have to pay the license fee, nor will their crew, nor will their passengers, but they will be the ones that benefit the most. I believe that's a little bit of a conflict of interest, but they were the only ones who have contacted me. Everyone else has contacted me and I'm talking about commercial fishermen who fish on the side, from just the average working person who wants to, should he get the whim or anyone in his family get the whim, go down to the shore and catch a mackerel.

This saltwater fishing bill came forward last session under the same guise that, if we don't do it; the feds are going to do it for us. Well, it's not exactly true. As it turns out, the feds are only after data and we can supply them with the data that they want without charging our Maine residents and the Maine tourists for a fishing license. The feds are not after license fees, but if we implemented a license, there would be a lot of money that went to the Department of Marine Resources. We can give the feds the data that they want without taking the right of the Maine people to fish freely in saltwater, as they always have, away. Specifically, the government wants to know who saltwater fishermen are and where they are fishing. This data can of course be collected for very little money without the burden to fishermen. We can be expecting another bill very shortly, which is strictly about the saltwater fishing registry that would have us comply with the federal law. We have the systems in place to do this efficiently for much, much less.

The proposed license would bring in anywhere, I believe we're talking about the amended version now, but it would bring in anywhere from \$1 million to \$3 million a year to the Department of Marine Resources, even though we're spending hundreds of thousands already in the Department of Marine Resources for recreational fishing. They would have you believe that we're going to bring winter flounder back and we're going to bring shad back and we're going to bring Atlantic salmon back by charging this license. We're going to so enhance the fishing experience that everyone will be so glad to pay the fee.

The feds do say that if we don't give them the data that they are demanding, they will implement a license as a way to get it, but it is quite clear the Federal Government is not eager to implement and enforce such a license for all coastal waters. They are counting on the states doing the dirty work on this unfunded mandate, and the idea of all of that extra revenue to depleted state coffers helped sell the idea. An important thing to remember: Just because the Federal Government threatens to grab money from our residents doesn't mean it is the right thing to do, and it doesn't mean that we should do it and we don't have to do it, and we can still comply with their mandate in the Magnuson-Stevens Act.

So what would be the result of the first ever saltwater fishing license in the State of Maine? Many Mainers would simply give up this beloved pastime and sever their only tie to the sea. And down on the ends of these long peninsulas and out on the islands that are interspersed between all of the mansions that you hear about are fairly low income people, and this is their entertainment, and this is a source of food also for many of these people. Have you ever had pickled mackerel? It's not bad. A lot of folks catch a lot of mackerel and they pickle them up and they put them in big jars and they eat them all winter long. Some of these folks will just break the law and continue to fish the way they always have, and others will shell out the extra cash to the government. A family that goes to the coast once a year might have to cough up another \$50 for the trip, and that's \$50 that won't be spent at a restaurant or a marina or a seaside shop, and I wonder how this will affect the tourist industry? I can't imagine that it will help. It said the best things in life are free, but we could be losing another one of them soon right here in Maine. One freedom at a time. We can give the Federal Government the data they demand and keep fishing in the ocean free for our people as it always has been. This is a defining issue for us as Representatives. I guarantee you your constituents do not want this license. It's time to ask yourself who you represent, your constituents or state government? Thank you, Madam Speaker.

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

Representative **VAN WIE**: Thank you, Madam Speaker. Madam Speaker, I rise to support the pending motion. I'm an avid fisherman; I have been my whole life. I'm from a long family of fishermen, mostly freshwater, some saltwater. I enjoy any kind of casting a line. I've also been involved in natural resources management and anadromous fish restoration, working on hydropower re-licensing and witnessed recreational fishermen working very hard to be sure that our hydro dams allow fish passage to restore some of the anadromous species. But I've also come from an ethic of, when I go buy my fishing license, I look forward to that time every year and I gladly pay the fee. And I'm also glad when I'm out on the river a lake or wherever I am, when a warden comes to ask about my license or check on the creel, I'm very thankful that they came up and they are protecting our resource and working on being sure that people are following the laws. I make it a point every single time to shake the warden's hand and thank him for being out there and hope that

they are also checking on others to be sure that they are following the laws.

I've always wondered why you need a license on freshwater but you don't on saltwater, and I've thought about that quite a bit, and I think it comes down to a perspective of abundance versus scarcity. The fishermen on freshwater have long suffered from the over exploitation of that resource and have come to recognize that it is important to fully understand the pressure on the resource and be sure that we're properly managing what nature has provided. So I see it as a respect for the resource, so I don't view this as an issue of an unfunded mandate by the feds. I think this is something that the folks at DMR and others who are looking after this resource should be concerned about. It's not about enforcement necessarily just to see whether you have a license, but it's about the interaction with the public in terms of their understanding of the resource and that it is a limited resource. I wish that we could be in a situation where we could be out there fishing without any concern about the impact on that fishing resource, but as the pressure on the resource increases, the need for proper management is in fact important for the state. So I would support the pending motion and encourage others to do the same. Thank you, Madam Speaker.

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, too, would like to stand in opposition to the pending motion. With all due respect for the good Representative from Phippsburg, I was in the majority on the committee that voted against this proposal. I guess the first thing that I want to do is just ask you to imagine for a minute that you live on the coast of Maine, in close proximity to the ocean, and you feel like going fishing. If you want to be a commercial fishermen you're out of luck pretty much, because if you want to get in your boat and go on the water and fish for something, you need a license and these licenses have very limited entry and extended waiting periods, so we've pretty much tied up the commercial fishing industry already. So let's say that you just want to go down to the pier and throw in your hook and snag a few mackerel, or catch a striped while you're out in the bay on your tender, or you want to drag your smelt pot down to the river and catch a few smelts in January, which if you want smelts that bad, God love you, you shouldn't have to buy a license. But you know, I've heard a lot of arguments in favor of a license and I just want to respond to some of them.

The people who fish recreationally—and I just want to emphasize this is a recreational saltwater fishing license—they are going to go fishing one of two ways: they're going to walk down to the end of the pier or down on the rocks or whatever and they're going to throw their line in, or they're going to go out on boat that they already have. These people are already paying for the ability to do this. They are taxpayers. They own a boat, they've registered that boat, they're paying taxes on that boat, they paid sales taxes when they bought the boat. They are actively supporting state government already. A lot of people that I know in my district, we don't have any of the party boats that go out and people pay to go out and fish or anything. We just have residents who go out and fish recreationally. The people I know who do it; this is how commercial fishermen relax. They already have their boat so they go out and they try to catch a few stripers for some fun, low income people, handicap people, this is the only access that they have to fish, if they can get down to the pier and throw in their line. Low income people that need to be able to eat the mackerel that they catch. It is very limited. We're not talking about people going in and dragging in nets full of fish. They are already limited legally to how many fish that you can

catch, so I guess I don't see the need to invest dollars, especially dollars from fishermen, in conserving the resource since it's a recreational activity.

As far as the concern about increased enforcement, unlike the game wardens that are out because people are out there hunting and fishing, Marine Patrol is already on the water patrolling for commercial fishermen. They are there and hopefully they are also checking recreational fishermen already to make sure that they are within their legal limits of what they can catch, so they're already being patrolled and monitored. This is just one more thing that they would need to check on.

Finally, I just wanted to share, since others have said they are here representing the people from their district, I'm here representing the people that voted for me to come here. I'm not here representing the Federal Government frankly, I'm more interested in what people in Maine think, and I just happen to have some surveys on my desk where people mention the saltwater fishing registry, probably the most mentioned bill that I've heard from people about this year. But here's one that says say no to the Federal Government telling our state what to do, i.e., fishing license for saltwater; shrink government. In regards to LD 1331, no. The fuel license is required and the fewer taxes imposed the greater freedom we will have. And this is my favorite; I hope you'll just bear with me: My God, you have got to stop adding fees and taxes every time you turn around. You are taking away what Maine should be. Straighten out the mess in Augusta and you could reduce taxes and have a surplus, and it goes on.

I am hearing loud and clear from my people that this is not what they want, this is not something that we need, there are other ways to give the Federal Government the information that they say they need, and I hope you'll join me in voting no on this motion.

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

Representative **MacDONALD**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I rise in respectful opposition to the motion by our good chair of Marine Resources, and my reason for opposition is pretty simple: It's a bad time for implementing a fee like this on our fellow citizens for an activity like this that has always been free. I fully recognize that the Federal Government has a legitimate interest in understanding what's happening with the recreational fisheries along all of our coastline, and I would agree that recreational fishing in this state is a strong tourism draw and a strong economic development piece. It's a good part of our summer tourism industry. We need to protect it; we need to make sure that it prospers. But I don't think at this time that implementing a saltwater fishing license like this, at any fee, is really the right time. I think there will be a time when we should consider it, but not now. It's economics to me, pure and simple. I think we should vote against the motion, and I hope you will follow my red light on this on. 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, too, rise in opposition the Minority Ought to Pass with the greatest respect for my committee chair, who happens to also be a close neighbor to Topsham, but LD 1331 is about state government increasing fees, plain and simple, as the good Representative from Harrington has stated. People are struggling and we all know that. Our economy is in disarray and we hear it every day from the people of Maine, and I can't believe that the people in Topsham are any different from anywhere else in this state, and I

know that I hear that every single day. I want to remind the Men and Women of this House that this is Minority Ought to Pass Report. The Marine Resources Committee worked long and hard on this bill and the majority, eight members, were in favor of it, both sides of the aisle. This is not a partisan bill. I ask you to respect this vote from the committee of jurisdiction. Our constituents do not want this and now is not the time, as the Representative from Boothbay has stated, to make this unwanted change. Please vote no and keep saltwater fishing, a truly Maine recreation activity, free of any fees. Thank you. Thank you, Madam Speaker.

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

Representative **WEAVER**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I also was on the Majority Ought Not to Pass on this particular bill, and it was just mentioned, I think we should all listen to our constituents. My constituents are 98 percent in favor of not having a saltwater fishing license, and also you ought to think this supplement was just changed where we were originally going to charge \$15, it was just lowered to \$8. This was lowered to get the votes, that's what it was. It won't be any time before, if the feds are charging \$15, we'll charge \$15. So let's vote no on this Ought to Pass and vote no on a saltwater fishing license, and I'd like a roll call, Madam Speaker.

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

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

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

Representative **COHEN**: Thank you, Madam Speaker. Madam Speaker, may I please pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative **COHEN**: Can municipal agent fees be collected under this proposed bill?

The SPEAKER: The Representative from Portland, Representative Cohen has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Phippsburg, Representative Percy.

Representative **PERCY**: Thank you, Madam Speaker. Yes. Currently the way the license would be administered would be through the MOSES system, and the municipal agents are allowed to charge between \$2 and \$6 for their work on processing this kind of license.

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

Representative **MacDONALD**: Thank you, Madam Speaker. My apologies for rising again. Ladies and Gentlemen of the House, I just had a brief side conversation with Representative Morrison, who is a native of Boothbay Harbor, and he whispered to me that, if we voted for this, he will not be able to go home again. And I forgot to mention, when I was speaking, that one of my strong reasons for supporting the red button on this motion is that I believe I would be lobster bait in my hometown if I voted for this as well. With all due respect to the opposition to this thing done in my part of the world, the opposition is solid. People haven't literally told me they'd kill me, but I think it might come close, and I just thought I'd mention that. Maybe you could perhaps help me save my life on this one. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Phippsburg, Representative Percy.

Representative **PERCY**: Thank you, Madam Speaker. Point of clarification: Currently data is collected by either the people going out in the field or a telephone survey, and that is the reason the feds have come back to us saying we have to have a way of knowing who the actual fishermen are to collect the data, so we know who to call. What they were doing is they would take one town and they would call all of the numbers in the phone book in that town and they would say "Are you a recreational saltwater fisherman?" and, if you weren't, that was a wasted call. So the data collection, about fine-tuning it, is why they have put this forth to us. Thank you.

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. There was a time when you didn't need a license to drive either. There was a time when you didn't need a license to fly an airplane either. There was a time in Maine when you didn't need a license to fish in freshwater. Low and behold, we start running out of fish. People who over consumed and over extended our limited inventory found themselves being regulated. I point out to my good friend, the Representative from Boothbay, Representative MacDonald, that if in fact he is used for lobster bait, he will be used by a licensed lobster fisherman. If he is buried on the beach, he will be dug up by a licensed worm digger. This is what's going to happen; this is what's happened up and down the coast across the United States. We're not unique here. Florida has had a saltwater fishing license for years. All the other states that make a great deal of tourism money on saltwater fishing do so with a saltwater license, because a great deal of that money, it goes into marketing their industry, their recreational industry. Maine does zip. Maine does zip.

The comments earlier, in terms of marketing, the comments earlier about there's an alternative that's free and don't worry about it, the feds won't be here, the feds will be happy, that's also bogus because the alternative simply tells DMR to do it. It doesn't provide any money, take money from other resources and do it. A \$5 ticket on an annual basis to saltwater fish is a bargain compared to what other states charge, and that money could be used, not only to regulate and help enforce the saltwater fishing regulations and rules, but it can do something about the resource. I wonder if all of you who are so happy and so vested in your historical right to go down to the dock and throw a line over have tried to catch a winter flounder in the last four or five years. They're not around. Have you tried to catch a cod fish within eight miles of shore? They're not around. Our fisheries are going away and whether or not that's because they're over fished or because of climate change or because they don't like being out on Sundays, it doesn't matter. We don't know because we're not looking at it, we're not spending any money at it, we're not doing a decent job to preserve what we have, we're letting it slip away because, with inflation alone, DMR's budget is going. So now we're asking simply to supersede the federal action, do the data collection ourselves, we can do it easily with a license, and it is not a great deal of money. It's money well spent, and indeed, in January 2011, the feds will be here knocking on our door asking for a federal license and that will cost us a lot more and that will be money we will not see. Historically, yes, we've always been able to go down and throw a hook in the saltwater, that's great. We can't live on 400 years of history, we have to keep up with the times, and we have a Federal Government now that has placed a mandate on us that's unfunded and we have an opportunity to both satisfy that mandate and do something good for our marine resources, and by rejecting this, we're simply turning our back on it in hopes that things improve through some

magic in the future, which seldom happens. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Phippsburg, Representative Percy. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative **PERCY**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise because I keep getting notes about clarification and I can't write them all to you at once, so I am standing on the floor to make this point. Number one, this bill would not go into effect until 2011, the same deadline as the Federal Government. Number two, the bill spells out exactly how the revenues from this license can be used for the benefit of our saltwater recreational constituents. They are going to create a council. The council is going to be comprised of people who are from the saltwater fishing recreational community, and they will have input into how the moneys are used to enhance our fisheries. I would like to know how many of us in this body are aware of the fact that Maine has the only spanning population of striped bass north of the Hudson River. Do we know very much about the striped bass? We don't. We don't, and that is why part of the money would be used for resource protection and resource enhancement. We have a shad hatchery in Waldoboro. There are species like the winter flounder, as the good Representative from Bath referred to, that we don't know what has happened to them, so at what point in time are we going to be responsible, proactive, and put the money into the resource management and study that is necessary? Thank you, Ladies and Gentlemen, and if anybody has any further questions, meet me behind the glass.

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

ROLL CALL NO. 209

YEA - Beaudette, Beaudoin, Beck, Blanchard, Boland, Bolduc, Briggs, Butterfield, Carey, Cohen, Duchesne, Eberle, Goode, Harlow, Haskell, Hill, Hinck, Kent, Lajoie, Martin JR, Martin JL, Mazurek, Nelson, Percy, Piotti, Priest, Rankin, Rotundo, Russell, Sanborn, Smith, Stuckey, Sutherland, Theriault, Treat, Trinward, Tuttle, Van Wie, Wagner R, Watson, Webster, Welsh, Willette, Wright, Madam Speaker.

NAY - Austin, Ayotte, Beaulieu, Berry, Bickford, Blodgett, Bryant, Burns, Cain, Campbell, Casavant, Cebra, Celli, Chase, Clark H, Clark T, Cleary, Connor, Cornell du Houx, Crafts, Cray, Crockett J, Crockett P, Curtis, Cushing, Davis, Dill, Dostie, Eaton, Edgecomb, Finch, Fitts, Flaherty, Flemings, Fletcher, Flood, Fossel, Gifford, Gilbert, Giles, Hamper, Hanley, Harvell, Hayes, Hogan, Hunt, Innes Walsh, Johnson, Jones, Joy, Kaenrath, Knapp, Knight, Kruger, Langley, Legg, Lovejoy, MacDonald, Magnan, McCabe, McFadden, McKane, McLeod, Miller, Millett, Morrison, Nass, Nutting, O'Brien, Pendleton, Peoples, Pieh, Pilon, Pinkham, Plummer, Prescott, Richardson D, Richardson W, Robinson, Rosen, Sarty, Saviello, Schatz, Shaw, Sirois, Stevens, Strang Burgess, Sykes, Tardy, Thibodeau, Thomas, Tilton, Valentino, Wagner J, Weaver, Wheeler.

ABSENT - Adams, Browne W, Cotta, Driscoll, Eves, Greeley, Lewin, Perry, Peterson, Pratt.

Yes, 45; No, 96; Absent, 10; Excused, 0.

45 having voted in the affirmative and 96 voted in the negative, with 10 being absent, and accordingly the Minority **Ought to Pass as Amended Report was NOT ACCEPTED.**

Subsequently, on motion of Representative PERCY of Phippsburg, the Majority **Ought Not to Pass Report was**

ACCEPTED and sent for concurrence. **ORDERED SENT FORTHWITH.**

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

On motion of Representative JOHNSON of Greenville, the House adjourned at 3:39 p.m., until 9:00 a.m., Tuesday, June 9, 2009 in honor and lasting tribute to Pamela (McIver) Allen, of Greenville and Dr. George E. Roy, Jr., of Scarborough.