

# MAINE STATE LEGISLATURE

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

**Volume III**

**Second Regular Session**

March 24, 2010 - April 12, 2010

**Appendix**  
**House Legislative Sentiments**  
**Index**

Pages 1215-1836

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE  
SECOND REGULAR SESSION  
26th Legislative Day  
Wednesday, March 24, 2010

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

Prayer by Reverend Diana Beach, Thomaston.  
National Anthem by Mark Tipton, South Portland.  
Pledge of Allegiance.  
Doctor of the day, Alex Brazalovich, D.O., Saco.  
The Journal of yesterday was read and approved.

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**SENATE PAPERS**

**Non-Concurrent Matter**

An Act To Conform the Maine Tax Laws for 2009 to the United States Internal Revenue Code (EMERGENCY)  
(S.P. 578) (L.D. 1500)

**PASSED TO BE ENACTED** in the House on March 22, 2010.  
Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-426)** in **NON-CONCURRENCE**.

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

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**Non-Concurrent Matter**

Bill "An Act Relating to the Membership of the Workers' Compensation Board"  
(H.P. 1103) (L.D. 1566)

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-659)** in the House on March 2, 2010.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-659) AS AMENDED BY SENATE AMENDMENT "A" (S-399)** thereto in **NON-CONCURRENCE**.

On motion of Representative TUTTLE of Sanford, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

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**Non-Concurrent Matter**

Resolve, To Create a Working Group To Review the Property Tax Exemption for Veterans  
(H.P. 60) (L.D. 71)  
(C. "B" H-644)

**FINALLY PASSED** in the House on March 9, 2010.  
Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-644) AS AMENDED BY SENATE AMENDMENT "A" (S-439)** thereto in **NON-CONCURRENCE**.

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

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**Non-Concurrent Matter**

Resolve, To Promote Efficiency and To Streamline Access to the Circuitbreaker Program Application Process  
(H.P. 1063) (L.D. 1514)

**PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-713)** in the House on March 11, 2010.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-440)** in **NON-CONCURRENCE**.

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

**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

Bill "An Act To Decriminalize Violations of Rules or Permit Conditions of the Baxter State Park Authority" (EMERGENCY)  
(H.P. 1310) (L.D. 1824)

Sponsored by Representative ADAMS of Portland.  
Cosponsored by Senator NUTTING of Androscoggin and Representatives: CRAY of Palmyra, GIFFORD of Lincoln, O'BRIEN of Lincolnville, PIEH of Bremen, SMITH of Monmouth.  
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** suggested.

On motion of Representative PIEH of Bremen, the Bill was **REFERRED** to the Committee on **JUDICIARY**, ordered printed and sent for concurrence.

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Resolve, Authorizing the Commissioner of Administrative and Financial Services To Sell or Lease the Interests of the State in Certain Real Property Located at 187-189 State Street, Augusta, Known as the Smith-Merrill House, and at 159 Hogan Road, Bangor, known as the Elizabeth Levinson Center

(H.P. 1311) (L.D. 1825)  
Sponsored by Representative CAIN of Orono. (GOVERNOR'S BILL)

Cosponsored by Representatives: FLOOD of Winthrop, MILLETT of Waterford, Senators: DIAMOND of Cumberland, ROSEN of Hancock.

Committee on **STATE AND LOCAL GOVERNMENT** suggested.

On motion of Representative BEAUDETTE of Biddeford, the Resolve was **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**, ordered printed and sent for concurrence.

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

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**ORDERS**

On motion of Representative TRINWARD of Waterville, the following Joint Resolution: (H.P. 1309) (Cosponsored by Senator SIMPSON of Androscoggin and Representatives: BECK of Waterville, BOLAND of Sanford, CLARK of Millinocket, CORNELL du HOUX of Brunswick, CROCKETT of Augusta, HOGAN of Old Orchard Beach, PIEH of Bremen, ROTUNDO of Lewiston)

**JOINT RESOLUTION ENDORSING TAIWAN'S PARTICIPATION AS AN OBSERVER IN THE MEETINGS AND ACTIVITIES OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION AND THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE**

WHEREAS, Taiwan and the United States enjoy an important and strategic relationship; and

WHEREAS, aviation safety and global climate change are vital issues of international interest and concern; and

WHEREAS, the United Nations Framework Convention on Climate Change preamble acknowledges "that the global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response"; and

WHEREAS, Taiwan's highly industrialized development has brought about a large amount of carbon dioxide emission, and its participation in the United Nations Framework Convention on Climate Change and related agencies and activities will benefit the international effort to combat climate change; and

WHEREAS, Taiwan is a key air transport hub in the Asia-Pacific region, and the Taipei Flight Information Region under Taiwan's jurisdiction covers an area of 176,000 square nautical miles and has 1,350,000 controlled flights passing through each year; and

WHEREAS, in 2008, Airports Council International statistics ranked Taoyuan International Airport in Taiwan as the world's 11th largest airport by international cargo volume and 19th in international passenger services, and Taiwan plays a prominent role in regional air control and transport services and in consideration of flight and passenger safety; and

WHEREAS, Taiwan's participation is indispensable if the International Civil Aviation Organization and the United Nations Framework Convention on Climate Change are to ensure the integrity of the global civil aviation safety network and protection of the global environment; and

WHEREAS, the International Civil Aviation Organization and the United Nations Framework Convention on Climate Change practices allow for Taiwan to meaningfully participate in those organizations' meetings, mechanisms and activities; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-fourth Legislature now assembled in the Second Regular Session, on behalf of the people we represent, take this opportunity to indicate our support for Taiwan's participation as an observer in the meetings and activities of the International Civil Aviation Organization and the United Nations Framework Convention on Climate Change; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Maine Congressional Delegation of the United States Congress and Director-General Anne Hung, Taipei Economic and Cultural Office in Boston.

**READ and ADOPTED.**

Sent for concurrence.

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**SPECIAL SENTIMENT CALENDAR**

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

**Recognizing:**

the following members of the Brewer High School Boys Ice Hockey Team, who have won the 2010 Class B Hockey State Championship: players Eric White, Jamie Williamson, Ian Forrest, Evan Nadeau, Michael Shedd, Jacob Chapman, Jake Valley, Joey Fowler, Tyler White, Brody Valley, Nick Moore, Lucas Lamond, Spencer Valley, Nick Risser, Alec Pacheco, Tyler McCormick, Kyle Alexander, Ryan Parkhurst, Garrett Gonzales, Chris Lopez, Adam Cossette and Matt Sloan; head coach David Shedd; and assistant coaches Rob Bergman, and Gary Gonzales. We send our congratulations and best wishes to the members of the team on their achievement;

(HLS 1019)

Presented by Representative **CELLI** of Brewer.  
Cosponsored by Senator **ROSEN** of Hancock, Representative **PRATT** of Eddington.

On **OBJECTION** of Representative **CELLI** of Brewer, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

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

Representative **CELLI**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Being from Texas, these are the guys that helped me learn hockey but that's not the reason I'm proud of them. They are also the winningest hockey team in the State of Maine in the last three years. They are not the Black Bears, they are the Brewer Hockey Team. Hopefully the Brewer Black Bears will take these guys and also continue their winning ways, but their winning ways and the desire to win is not what makes me proud of them. What makes me proud of them is they are good kids. Yes, they probably have a little devil in them as we all did when we were in high school, but basically these kids have a lot of genuine respect and are a great example of what Brewer High School puts out. I am very proud to have them here today and I am also honored that one of the most important things I'll have hanging on my wall is this great picture of their championship game. Thank you, guys, and thank you, Madam Speaker and Ladies and Gentlemen of the House.

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

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**Recognizing:**

the following members of the Jay Middle School FIRST LEGO Team, "6 Chicks and a Dude," on their winning the 2009 Maine FIRST LEGO League Championship: Sydney Bishop, Brittany Crocker, Kendra Peart, Alexa Perkins, Emily Taylor, Erik Taylor, Alyssa Timberlake and coach Rob Taylor. We extend our congratulations to the team on its achievement and send our best wishes to the team at the World Festival in Atlanta, Georgia in April, 2010;

(HLS 1020)

Presented by Representative **GILBERT** of Jay.

Cosponsored by Senator **BRYANT** of Oxford.

On **OBJECTION** of Representative **GILBERT** of Jay, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

The **SPEAKER**: The Chair recognizes the Representative from Jay, Representative **Gilbert**.

Representative **GILBERT**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. "6 Chicks and a Dude," don't you just love that name? The 2009 Maine FIRST LEGO League Championship saw 51 Maine middle school teams compete at the Augusta Civic Center. These kids practiced and honed their skills for months in preparation for this competition. "6 Chicks and a Dude" created a film and a presentation on Maine's distracted driver law and they developed an automated robotics presentation and took first prize in the tabletop performance awards. The competition was intense and emotions ran high. The team, one of three from Jay Middle School, won the daylong competition and as a result will represent the State of Maine at the 2010 FIRST LEGO League World Festival next month in Atlanta, Georgia. The team's coach is Rob Taylor, who has the gifted and talented program at Jay Middle School. The town of Jay is extremely proud of its students, teachers and staff and we are extremely proud of six chicks, Alyssa, Brittany, Emily, Kendra and Sydney, and, of course, dude Eric, who are here today as part of the school student council serving as honorary pages.

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

**Recognizing:**

the University of Maine at Farmington Men's Basketball Team, which won the 2010 North Atlantic Conference, the team's first conference championship. As the conference champions, the team received an automatic bid to attend the Division III NCAA National Tournament. The team was the only collegiate team from Maine at the tournament and defeated Bridgewater State in the first round by one point. We extend our congratulations to the team on their accomplishments this season and send the members our best wishes;

(HLS 1021)

Presented by Representative SAVIELLO of Wilton.  
Cosponsored by Senator GOOLEY of Franklin, Representative HARVELL of Farmington.

On **OBJECTION** of Representative SAVIELLO of Wilton, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

**Recognizing:**

Dick Meader, of Waterville, the men's basketball coach at the University of Maine at Farmington, who was named the Conference Coach of the Year by the North Atlantic Conference and was named the Maine Men's Basketball Coaches and Writers Association State Coach of the Year. We extend our congratulations to Coach Meader on his receiving these well-deserved honors;

(HLS 1023)

Presented by Representative SAVIELLO of Wilton.  
Cosponsored by Senator GOOLEY of Franklin, Representative HARVELL of Farmington, Representative TRINWARD of Waterville, Senator MARRACHÉ of Kennebec, Representative BECK of Waterville.

On **OBJECTION** of Representative SAVIELLO of Wilton, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

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

Representative **SAVIELLO**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. It's a great pleasure to recognize the University of Maine Farmington Basketball Team. Just so you know a little bit about the rest of the story, they actually started their season at zero wins and eight losses and came back from that under great coaching and great leadership to win the North Atlantic Conference title. It was truly a team effort. Not only did Dick win the Coach of the Year and the team win the athletic conference title, but some of the individuals on the team won some special recognition. Eric Taylor was an all-state first team and first team on the North Atlantic Conference. Eric Lelansky was named to the first team of the North Atlantic Conference. Josh Tanguay was named in that tournament Most Valuable Player, second team NAC and was also named to the ESPN Academic All-District Team because of his grade point average of 3.9 while attending the University of Maine at Farmington studying psychology. But most importantly, which they told me this morning which I did not know, is that they are the only Maine college basketball team that all the players and the coach are from Maine. Thank you, Madam Speaker.

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

Representative **HARVELL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I won't be too longwinded. Go UMF.

Subsequently, the Sentiments were **PASSED** and sent for concurrence.

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

**UNFINISHED BUSINESS**

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

Expression of Legislative Sentiment in Memory of Dennis Sweetser, of Auburn

(HLS 924)

**TABLED** - March 2, 2010 (Till Later Today) by Representative **TARDY** of Newport.

**PENDING - ADOPTION.**

The **SPEAKER**: The Chair recognizes the Representative from Auburn, Representative Beaulieu.

Representative **BEAULIEU**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. A graduate of Edward Little High School and Bates College, Dennis Sweetser performed admirably in a number of roles. He was a devoted husband, a loving father and grandfather, an outstanding chemistry teacher and head of the science department at Edward Little High School for 33 years. He was a Civil War buff, a deeply religious man acting as a lay leader and chair of the board of trustees of the Court Street Baptist Church in Auburn. He was a true conservative and a political observer, quick to take you to task if he felt you had departed from your principles. I heard from him on more than one occasion when he felt I had swayed too far from his view of the world. He was direct and honest and I appreciated that about him. Many of us in this room would be happy to be remembered for having set these standards and having achieved these goals, yet Mr. Sweetser was much more than all of these things. He was also a coach. His players affectionately referred to his great organizational skills, his attention to detail and his desire for perfection in each of them. "I don't care if they know what we're going to do," he would tell his players, "because as long as we do it well, they won't be able to stop us." He was right. His coaching style and managing techniques led his teams to nine state senior little league championships, five New England championships, and six Eastern Regional Tournaments and a third place finish in the Senior Little League World Series behind Taiwan and Florida in 1979.

According to Rick Lashua, who played in one of those New England championship games, and Billy Reynolds, a product of the Auburn Suburban Little League, Edward Little, UMO and the Oakland A's organization, Coach Sweetser's passion for youth sports and particularly baseball was reflected in the way his teams performed on the field. Dennis Sweetser gave a little over 40 years of service to the Auburn Suburban Little League and to the young people of this fine city, and his players rewarded him with unparalleled accomplishments and enduring love and respect. Two years ago, in appreciation for Coach Sweetser's contributions, the Auburn Suburban Little League dedicated Sweetser Field in his honor at its Auburn athletic complex. Last year, the Auburn Fire Fighters Union 797 donated an electronic scoreboard, which now overlooks this field, and this year a memorial garden will be constructed to commemorate the unwavering sacrifice of this unique gentleman. Not bad for just a coach. But perhaps the most significant display of affection for Coach Sweetser took place on the day of his funeral. Having personally requested that his wife, Donna, direct the motorcade, take him through the athletic complex one final time, the games which were being played that day came to an abrupt stop and

players lined the roadway saluting the man who had cheered and encouraged them for so long, the man they came to know as coach and the man that became the face of the Auburn Suburban Little League program. This was the ultimate tribute given to someone who had done so much for this community and both the young and the older athletes who will never ever forget him. Thank you.

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

Representative **SIROIS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. It is my privilege to say a few words about Dennis Sweetser. I was privileged to know and work with Dennis. As it was mentioned, he taught science at Edward Little for many years and I taught math at Walton, which was just the 9th grade or the freshman class, kind of unique, and then it went from Walton on to EL. But I got to know Dennis a little bit because he was a department head and he came down to visit the science teachers at Walton. Then, in 1997, Walton moved up to Edward Little so all four classes now are at Edward Little, so I got to know Dennis a little more. As it was mentioned, Dennis influenced so many people in athletics, in the classroom, with his fellow faculty members. You know I was just thinking we all hope that we leave this world a little bit better than we found it and this was surely true in Dennis' case. He influenced and helped so many young people in the City of Auburn and also some of his faculty members. So I just want to express my condolences to the family. 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. I knew Dennis Sweetser from probably 1970 until his passing and I want to say Dennis touched my family in many ways. He touched me as a misbehaving sophomore at Edward Little High School. He touched my brother as his coach in the late '70s at Auburn Suburban Little League. And he touched us with my son playing in Auburn Suburban Little League as the coach of the opposing team, and it was always a testament to Dennis because for a team to go against Dennis Sweetser's team was, oh boy, here we go, we're facing Mr. Sweetser. Dennis not only coached but Dennis was at the field umpiring. Dennis spent tireless hours working with kids, working with the field, keeping the grounds up and he touched my family spiritually also at Court Street Baptist Church, which my mom is a member of, and he has just done so much for the community. His attention to detail when I was on the city council in Auburn, Dennis emailed me several times about a cemetery near his house. This needs work, this needs work, Mr. Bickford, when are you going to get this fixed? We did get it fixed, but it was through persistence by Dennis Sweetser and we'll all miss him. Thank you.

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

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**REPORTS OF COMMITTEE  
Ought to Pass as Amended**

Report of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Amend Certain Provisions of Fish and Wildlife Laws"

(S.P. 615) (L.D. 1650)

Reporting **Ought to Pass as Amended by Committee Amendment "A" (S-388)**.

Came from the Senate with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-388) AS**

**AMENDED BY SENATE AMENDMENT "B" (S-412)** thereto **AND SENATE AMENDMENT "B" (S-452)**.

Report was **READ** and **ACCEPTED**. The Bill was **READ ONCE**. **Committee Amendment "A" (S-388)** was **READ** by the Clerk.

On motion of Representative CLARK of Millinocket, **TABLED** pending **ADOPTION** of **Committee Amendment "A" (S-388)** and later today assigned.

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**Divided Report**

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-401)** on Bill "An Act To Regulate the Use of Traffic Surveillance Cameras"

(S.P. 598) (L.D. 1561)

Signed:

Senators:

DAMON of Hancock  
GOOLEY of Franklin  
PERRY of Penobscot

Representatives:

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

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

Signed:

Representative:

THOMAS of Ripley

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-401) AS AMENDED BY SENATE AMENDMENTS "B" (S-432) AND "C" (S-453)** thereto. **READ**.

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

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

Representative **EATON**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I wish to speak briefly to this. I find surveillance of innocent citizens unacceptable in our society. I will hold my nose, there have been a few amendments placed on this bill that I still, while opposed to the bill, recognize that if we vote against this bill, those of us that are concerned about the civil liberties of our citizens will receive absolutely nothing. The bill, as amended, will at least put some restrictions on the capture of the data of our citizens who are merely conducting their lives and, as a result, I feel compelled to make that statement. I will be supporting the motion. Thank you, Madam Speaker.

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

Representative **HARLOW**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This bill hasn't changed a thing because all this information is still on a computer now. All you have to do is write it in, tell the license number, and all this does is try to keep the police force safe and keep us more safe. Everybody says keeping records is bad, but we have manila folders now with records. I don't see anything wrong with this at all. I trust police expect for Representative Hanley. Somebody said they'll go around on parking lots and take all the license plates down with a camera, but they can do that now with pencils and do the same exact thing, only this, they won't do that, they never have done it. They've got the same information now on you, whatever they want on you.

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

Representative **MORRISON**: Thank you, Madam Speaker. I support this amendment and I testified on behalf of keeping this bill alive for a couple of reasons. Number one, I support my police department in South Portland and I trust what they do to protect the citizens of South Portland. This is only sort of a temporary thing. The City of South Portland applied for the grant to get this technology, so it was \$20,000 for the technology which they applied for so it didn't come out of taxpayers' dollars. Also, on the average time that a police officer is on the beat, there are about four or five officers at a time that go out and this technology helps and enhances their abilities to capture folks who are driving with stolen vehicles. This does not scan people or doesn't take away anyone's civil liberties; it just simply captures license plates and collects the data for that purpose only. In my opinion, it wasn't a civil liberties issue, and as everyone knows, I'm sometimes the captain of civil liberties and I would be the one to stand in opposition if I knew that this was going to take away anyone's civil liberty. It's only capturing license plates and holding data to help enhance the police department in my municipality. And again, this is something that just came into place as of January, and I support the amendment and support the police department by letting this take its course and seeing how far this technology can go for us. Thank you very much, Madam Speaker.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-401)** was **READ** by the Clerk. **Senate Amendment "B" (S-432)** to **Committee Amendment "A" (S-401)** was **READ** and **ADOPTED**. **Senate Amendment "C" (S-453)** to **Committee Amendment "A" (S-401)** was **READ** and **ADOPTED**.

**Committee Amendment "A" (S-401) as Amended by Senate Amendments "B" (S-432) and "C" (S-453)** thereto was **ADOPTED**.

The Bill was assigned for **SECOND READING** Thursday, March 25, 2010.

Majority Report of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought Not to Pass** on Bill "An Act To License Home Building and Improvement Contractors"

(H.P. 215) (L.D. 272)

Signed:

Senators:

SCHNEIDER of Penobscot  
SULLIVAN of York  
RECTOR of Knox

Representatives:

AUSTIN of Gray  
PRESCOTT of Topsham  
GILES of Belfast  
COHEN of Portland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-760)** on same Bill.

Signed:

Representatives:

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

**READ.**

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

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. Let me start by saying I move the Minority Report, number one, because it's the report I'm on, but secondly, it's easier to talk about a bill as amended than to talk about Ought Not to Pass. So this leaves us in an appropriate setting to debate the issue at hand, licensing of residential building contractors. I choose my battles carefully and if you look at the Committee Report you may think that it's a fool's errand to debate this bill, but I do truly believe this is the right thing to do and so I am bringing this forward for debate. I have served four terms in this House and every year we have debated this bill and I believe every term, rather, it has passed in the House and I hope that that will happen again today.

The opposition in the past to this bill has been that we have no standard to hold building contractors to. We fixed that. We accomplished that last term with MUBEC, the Maine Unified Building and Energy Code. It's a great success. It's one of the most significant economic development accomplishments that's happened in the eight years that I've been here because it sets a single set of standards statewide that reduces costs and gives the predictable regulatory environment for the building contractors. The harmonization of building codes that's required for this to happen is ongoing at this time and the effective date will be 2012 for all towns. This bill ties the effective date for licensing building contractors to the effective date for the statewide building codes. It is an appropriate time, in my mind, to deal with this significant issue because it will take time to set up the licensing board for building contractors, and the timing is, I think, just right to pass this bill at this time and I'm asking for your vote when it comes to the pending motion. And Madam Speaker, I request a roll call.

The same Representative **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 Belfast, Representative Giles.

Representative **GILES**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I also rise to speak about this motion, but I'm going to speak against my good chair's pending motion. First, I want to thank the committee

for the discussion, for a lot of work on this bill, and I want to thank Representative MacDonald, who initially brought forth this issue, because I think all of us want to make sure that people are having work done to their home or having new homes built, that they can live in a safe and protected home situation. So we're certainly all on the same path with that. But the path that is already in place is one in which this bill interjects and inserts a change, and I do just want to give a little bit of history on what's come before this legislative body, before I was here, but I believe I've studied and I'm fairly familiar with this.

In the 121st Legislature, there was a sunrise review that was directed for the commissioner of Professional Regulation to consider. For those of you not familiar with sunrise review, that is when we look at, at the state level, from a regulatory standpoint whether or not a profession should be regulated or licensed or not in this state, and there are many considerations that go into it. Foremost is whether or not there is impact to the public health and safety that this industry or profession may have. At the time, it was determined that we should not put any kind of regulatory program for building contractors because we did not have a statewide building code to go by. If you are going to regulate something, you need to know what the rules and what the requirements and what the standards are. This was revisited in the 122nd Legislature. Basically the same conclusion was brought forth, so in the 123rd, as the good Representative from Monmouth has stated, there was a significant piece of legislation passed which puts into place the Maine Uniform Building and Energy Code. However, there are three very important dates people should keep in mind before they cast their vote for or against this pending motion.

First, the Maine Uniform Building and Energy Code, the adoption deadline was pushed from January 1 of this year out to June 1 of this year. So it's not in place yet and there is an all voluntary advisory board that is working with Commissioner Jordan on this in public safety. A second date on this is that the Professional and Financial Regulatory group is supposed to report back to BRED December 1 on their own assessment on where we are with building and energy codes. A third date would be beginning in January 2011, the board that has been put into place to support the Maine Uniform Building and Energy Code, MUBEC for short, reports back to BRED. So we've got a code that should become effective in June, you've then got two subsequent reports that are going to come back six months later. These, and I will use a contractor term of foundation, this creates the foundation for then when you should go back and consider the licensing. In this bill, if you look at it, it jumps ahead of public policy that is already going down a path, already is something that the industry, the regulators and past legislators have agreed to, and it begins a process ahead of when the rules are really in place.

There are a couple of things that I want you to think about on a policy basis before you cast this vote. Anytime new regulation goes into place there are different levels of how you monitor, how you regulate and consider what's the goal and objective of this. Is it to continue along the path we're doing or is it trying to take care of maybe an issue that could be, if you just give it another six months and let the 125th address this, you'll be fine. You need to ask who needs to be regulated, how the regulations are going to be evaluated. There are some requirements for testing and so forth in here. There are some requirements for reporting and a whole series of things that truly have not been vetted by a board that could put this into place effectively. My encouragement, my assessment on this was I listened to the regulators, I listened to the industry folks that came before. And again, I support having good, safe, sound homes, I support

having contractors that we can trust and believe in, but we've got a path, we're about 75 percent through that and I would allow that process to continue and, therefore, I will be voting against the pending motion and with the majority of the committee who voted to defeat this motion. Thank you.

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

Representative **MacDONALD**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Yes, I was the sponsor of this bill and you might ask why would we put this bill forward at this time when the Maine Uniform Building and Energy Code will not be in place for another year or so, another few months. The reason is that when I put this bill in the First Session of the 124th, the administrative processes that were going forward to support the MUBEC, as it's called familiarly in BRED, we're in place to have a much earlier date of effectiveness. They were administratively delayed. This was still a good bill. We took the bill, looked at the administrative delays and revised the effective dates for implementation of the bill to take that administrative delay into account. So you'll see if you read the bill that the licensing procedures would not even take place until January 1 of the year 2013.

Now we've been told by the regulators that this is a complicated task, that it takes a lot of time to do this. That may be so and if it is true why not get the wheels in place now, get the wheels rolling so that by the time that MUBEC is in place, the board is set up, the licensing procedures are set up and licensing can begin a year after the MUBEC is in place.

On the other hand, I have to believe that the regulators who come before our committees often times will try to tell you that it's too difficult to do what we the Legislature want to do. They try, I think sometimes, to stall our good work, to prevent our taking leadership on public policy by saying that their administrative work is too hard. I say bologna. I say that we should take leadership on legislative matters, on policy matters. If you believe that it is correct and right to provide licensure for these trades, and by the way, this is not just consumers versus contractors. The contractors in my area who are upstanding, good business people think that this kind of licensing mechanism will weed out of their profession, their trades, the people who are giving them a bad name. The fly-by-night roofers, whatever. I have lots of constituents who have come to me and said for years since I've been here that this is a big problem in our community, and I suspect that you hear from consumers and contractors in your communities as well. So I say this is the right time. We have the dates in certain, in statute for when the MUBEC will be in place and this will not take effect until a year after that. So the argument that this is putting the cart before the horse is incorrect and I say that if you let the regulators run our timetable then you are losing your legislative initiative, your policy leadership, either to the Executive, the lobby or whatever. I say take leadership. If you believe this is the right thing and I realize that some people do not believe it's the right thing, but if you do believe it's the right thing now is the time to act and I ask you to support this bill, LD 272. I hope you will follow my light and Accept the Minority Report. Thank you, Madam Speaker.

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

Representative **PRESCOTT**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise in opposition to LD 272, not because I'm in disagreement with our wonderful chair and my committee members on the BRED Committee or with the concept of licensing, but with the timing issue that surrounds this debate. I have to remind the members of this House that there is a cost to pass this bill. Is now the time



to be doing that? The BRED Committee has been working hard for the past eight plus years to establish a statewide building code, the MUBEC as you have heard others speak of, the Maine Uniform Building and Energy Code. That code reflects many, many hours in committee, four years longer than I have been here, and an incredible amount of time in meetings outside of committee between building associations, interested contractors, the Department of Professional and Financial Regulation, state officials and the general public. This code is finally going to be adopted this June. It will be reviewed and reports will come back to the BRED Committee with observations, requests, proposals for improvement and effectiveness and other valuable and important information. I want to remind the members of this House that when the code was passed, there was an agreement that the code would be in place before licensing were to go forward. There are many that believe that if the passage of this bill takes place that we're renegeing on that contract. As we heard from testimony in the BRED Committee, other states that have had a code and licensing have had the code in place for years before establishing a statewide license.

I also want to remind everybody that the Department of Professional and Financial Regulation is opposed to this bill. Many believe that good things come to those who wait. I agree. Let the code work. Let the code go forward by itself and get all the kinks worked out. Let time work in our favor and then let's do it right. Let's not let this be a comedy of errors. In comedy, as well as in legislation, timing is everything. Please oppose LD 272 and when the time is right, let's build a license together from the ground up with a strong, firm foundation. Thank you, Madam Speaker.

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

Representative **PILON**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. It's only been eight years that we've been trying to get this to the House floor and finally it's here. I've only been working on it for six years. I've been only here for six years. I've had many constituents in my district calling me and saying, help me, I've been ripped off again. My predecessor, the good Representative Kane, said to me "I've hired a contractor. He came down, he gave me a price to fix my home. He opened up my roof, he put tarps on it, it rained, damaged my house and he's gone. I can't find him, can you help me?" I said, "Tom, I don't know, I'll try." But we had no provision in the law to help him. I've had a number of situations like this in just my district and we had no provisions, Madam Speaker, to help them. Now we have the opportunity to help people like this and I'm sure there are many of us here in the House that have similar stories. Now the good Representative from Boothbay that has struggled to get this to the House floor, I agree with him. Who do we serve? The people in this chamber represent the people in their districts, not the bureaucrats, not the people appointed by the executive director. We represent the people of Maine, not the appointees. So I agree with the Representative from Boothbay. We need to stand up today and vote this out.

The other thing that I've heard in the hallways as I've been talking to other people about this bill is, well, this is a bad economy. We need to help people make a living. So what's a matter with letting people put a sign on the side of their truck and letting them go out and be a handyman? Well, there is a provision in the bill that if they do a job under \$3,000, they can continue to be a handyman, and this bill is not going to prevent them from doing that. However, if they are going to be a remodeler or be a contractor we're going to license them and that's really the target of this bill, that's what we need to look at.

When I leave from session and I put a sign on the side of my car and call myself Don's Home Repair, I have no ability, I don't know how to repair houses and those are the people we need to look at. Those are the people we need regulate. I don't know anything about home repair and those are the people we need to address. This is endorsed by the Maine Association of Realtors, the Home Builders Association. They support the bill as well. So I encourage everyone here today to support this bill. Thank you, Madam Speaker.

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

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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 understand the desire to want to crack down on the perceived epidemic of unscrupulous builders, but I don't believe there is an epidemic and I don't believe there is a crisis and I don't believe that this law would necessarily solve the perceived problem. I've been in construction for three plus decades, in one form or another, and in my experience the worst offenders as far as craftsmanship and customer relations have been with the largest contractors. I also, my contractors that I work with are not in favor of this. It's interesting how they have in some districts been complaining or want this bill and in my district they haven't.

What this bill would do was put a \$3,000 limit on jobs that can be done for one customer in one year. That's a pretty small job or a couple of very small jobs, when you consider the cost of materials that has to be brought in. Right there you are going to eliminate a lot of work. It would force contractors to take an exam on a code that doesn't exist yet, that would require two years experience under a licensed contractor to become an independent contractor yourself. It would also require a yearly fee. Ultimately, this bill is going to keep some of Maine's small, independent contractors from continuing or entering into the building trade. And some of these folks, you all know them, they do a little of everything. They plow driveways in the winter, they might be a stern man on a lobster boat, they might do a little farming. They built their own home. They work with their family and they've been doing it for a long time that way and it works for them and they fill a niche. There is a niche for those very small independent contractors and I think it would be a shame to put them out of business or to keep them from entering the business.

This bill would also add to the cost of all building in the State of Maine. Why don't we establish the code first, let towns adopt it if they want and allow contractors to become state certified if they want and an owner could ask "are you state certified?" if they want that certification. Thank you, Madam Speaker.

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

Representative **WRIGHT**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I rise to support this legislation. We've heard a lot about history today. I'll tell you about my history. When I entered this chamber in the 118th, I was going to bring this forth and I was told at that time we can't do it now, we don't have any uniform building codes, and I withdrew the legislation. Now we have in place, moving forward, the uniform building codes and we have it worked on, it's been worked on for many years, and it will take place. It's a done deal. This legislation will come into effect after that has taken place. It's not in the cart before the horse. We'll have the

uniform building codes, then we'll have licensing.

One of the reasons we need to go forth with licensing now is because it does take a long time, it takes many years to put forth the new board, to get the rules in place, to set up the regulation. I feel that we are moving in a timely manner on this.

Talking about history, we heard about the sunrise review that was done. The Attorney General's Office put out a report in 2003 saying that somewhere between 25 and 40 million dollars of shoddy construction happens in Maine every year. That data is now seven or eight years old, so we can only assume that that has increased also. Talk about health and safety, the commissioner couldn't find the reason under health and safety issue in which to do this, that they didn't look in the right places. You think about shoddy construction, you think about walls falling down, you think about roofs blowing off, but I can tell you from experience because I am a carpenter and I have been in this business for more than 30 years also. When you go into a newly built house and you go up the stairs and the first four steps are 7 1/2 inches, the next four steps are 7 3/4 inches and then the top steps are 7 inches, that is a health and safety issue, especially if you are coming down in the nighttime. Not only that, what happens when your roof leaks, your window leaks? You get your walls wet, you get your carpet wet, you get your insulation wet and now all of the sudden you're dealing with mold and mildew. Who hasn't heard about the sick building syndrome sweeping the country now because of this?

There is no real recourse for homeowners now. Everybody in this chamber, I can guarantee you have had somebody in your district who have had problems with this. You go into a small claims court, if it's a small claim, or into a civil court. You have a finding against the contractor and what do they do, they go bankrupt. Oops, sorry, that's null and void, we're no longer in that company. Two months later you find that same person building houses under a different name, incorporated into different areas. So you sue them again, the next homeowner that has problems sues him. You go to bankruptcy court. Here we go again, the same people in another six months will open up with another name. Holding a license over them is our only recourse we have. If you have that license and you have a fine against them, you can pull that license and then they are no longer allowed to build in Maine.

We are only one of 16 states that do not regulate this industry and I know for a fact that Maine, Vermont and New Hampshire are all looking at this at the same time. Very soon, we may be only one of 10 that do not have this. We license dieticians, we license manicurists, now is the time to license homebuilders.

In addressing something else that was previously said, we talked about somebody building their own house, working for the family. There are exemptions in this exactly for that. If you're working on your own home, on a family's home, if you are a lessee working on an apartment, you are exempted from this. The time is now, push this forward and let's get this done.

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

Representative **FOSSEL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. If you're a carpenter, it's like if you're a hammer all the solutions involve hitting a nail, if you're a legislator, all the solutions involve passing laws. Perhaps the next law we have to pass is licensing legislators to see if they are competent. I'm a broken down carpenter and some people might accuse me of being a broken down legislator. I've heard that the Attorney General finds that 80 percent of the problem that we're having is with roofers. In many cases, this won't affect the roofers. Another problem we have is if you buy a new car, you've got a five year warranty on it.

If you had things done on your house, there is a one year warranty on it. Perhaps we need to look at warrantees instead of what we're doing. The problem is that the good actors follow all of this, the bad actors are violating every law you have already. We have a law on the books that if it's over \$3,000 you are supposed to have a contract. Many of the people I compete against don't have contracts. Many of the people don't have workman's compensation insurance or any of the rest. It would be very good if you would go after the bad contractors and deal with that.

The other thing that happens is the customers themselves share the responsibility. It's been said that if you represent yourself in court you have a fool for a lawyer. Well, there's all kinds of people out there who regularly complain because they've decided to become their own contractor and they find the people that are available, then hire them and don't understand why they're available and that is because nobody else will hire them. Almost everybody in this room has gotten through college, I suspect, has a great respect for education. Many of the people in my field are the ones who are very bright, but they struggled with high school and probably never got through college and they didn't because they don't function well in an academic setting. They function well in a real world setting.

I've heard many people say that we have all these places that are licensed. Well, if you scratch the surface, you'll find that in many places it's not licensing with a test, it's simply paying some money to the state for a registration. Connecticut is a good example of that. If you're going to go to a test, you're going to take people who have a hard time dealing with tests and you're going to throw them out of the business, people who have been functioning with impeccable records for decades. You're going to throw them out of the business.

I've heard that the contractors support this in some areas. I can tell you that the Maine Builders Alliance, which I'm a member of, supports the idea of licensure but only after the code and only in the way that we make sure we regulate the bad actors instead of punishing the good actors. What you have before you will punish the people who you should be supporting and I find that shameful. 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 was surprised to learn that this was not considered a health and safety issue. I have two instances in my own town in the last nine months in which actual health and safety has been involved in shoddy construction work. One case was a case in Pownal where an elderly gentleman, who needed to have his house made more ADA compliant, more accessible, hired a contractor and that contractor renovated his bathroom, made the doorway more wide, put in an accessible toilet and a tub and so on. Then his wife was in there several days after the contractor had completed and a several hundred pound soil pipe, the vent stack came crashing down through the ceiling just missing her. There was really no recourse. They couldn't find this gentleman.

And the second case affected my own family. My sister took a recommendation from someone in order to repair her roof and that roof was half done and then the person disappeared. I got together with some friends and finished the other side of the roof that hadn't been done. Unfortunately, and I used to do some contracting so I was fortunate enough to have some friends who also know how to roof and we finished the roof, but unfortunately I didn't have the foresight to go over on the other side of the roof and go shingle and shingle and check it out. This winter, when we had snow and ice building up on roofs, my sister called me

and she said there is water pouring into my living room. We went up, I got the contractor who has been working on my house and we went over during a break in the weather and took a look at the roof, and the contractor had butted the shingles together in straight lines so that you could actually see the underlayment. The person obviously had no idea what they were doing. When the weather broke, I hired that contractor and I went over with him and we tore up that section of the roof. We found that the underlayment that that person had purchased was, some of you probably know this, ice and water shield, they had laid it down but they had neglected to take the paper backing off, and they had put it on upside down. They had no idea what they were doing. Now my sister has a living room wall that is filled with mold and one of my projects this summer is going to be tearing off her outside wall in order to remove all the fiberglass, try to eliminate all the mold and hopefully make her house livable for her again because, at this point, she has to leave the windows open periodically it's so bad. At other times when it's dry, it's not a problem. I guess that's a health and safety issue as far as I'm concerned.

You know I had another constituent who contacted me because he is a contractor. He hires employees, he pays them as employees. He pays worker's comp and he said when I went to his door, he said, "I have a problem. I bid a job in the next town for a garage and I never heard back from the people." When I went by a few months later, I saw someone else building that garage, but they clearly were not competent contractors. They didn't have any OSHA approved equipment, the ladders were too short so they had the pickup trucks backed up against the wall and they had the ladders in the bed of the pickup truck in order to reach the roof. His guess was those folks probably were operating illegally. I mean we need some standards in this state to protect people who are being hurt, whether it be the workers or the people who are in residences. My understanding is and may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **WEBSTER**: I would like to know in fact if the rules and regulations will go into effect before or after the unified building codes are established. Thank you, Madam Speaker.

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

Representative **MacDONALD**: Thank you, Madam Speaker. In answer to the question, the bill is very explicit in that the licensing system would not go into effect until we set, originally, a year after the MUBEC goes into place for the entire state. According to statute we can't just say a year, we have to give a date certain. The date certain would be January 1, 2013, which is a full year after the MUBEC goes into place.

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

Representative **FLAHERTY**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. A year ago, I probably would not have supported this bill. I probably would have said it was over burdensome for businesses and too much regulation. But after talking with home builders and homeowners in my district, I have drastically reversed my position. I want to tell you about the story of a few people that I've had the pleasure of working with. The first person is Jordan Fogle. Jordan Fogle bought her dream retirement home and, within months of moving in, her bathtub fell through the first floor ceiling and into her living room. She then discovered more than \$150,000 worth of damages, damages so severe that her doctor first forced her to move out immediately because of harmful

health effects. Jordan pleaded with her builder to fix the problems and the damage in her home but to no avail.

Dale Buseano. Dale is a U.S. Army combat veteran of 22 years, recently returned from active duty in Iraq in 2006. He built a new home, when he returned, only to find that there were multiple problems with that home, including major structural damage and an unstable, unlevelled kitchen floor. Dale notified the builder about the problems, but the builder only fixed a few and very few of them were resolved.

Scott and Lesley Kimble. Scott and Lesley Kimble decided to build their dream home. After extensive searching, they found a beautiful lot and a reliable builder, or so they thought. Toward the end of their first year in the house, they noticed a dip in the fireplace and some cracking in the walls above it. The builder offered to repair the problem, but the repairs did not correct the problems which then only grew worse. They spent thousands of dollars on structural engineers who confirmed the horribly defective construction of that home, including numerous code violations, but the builder would not even return their calls, never mind fix the problems with their home.

How about Greg Cole? Greg bought his dream home for himself and his two boys and his wife. He noticed a few structural problems with that home so he hired an engineer, discovering three pages worth of defects in the house. In particular, there was mold growing throughout that home. His family was diagnosed with dangerously high levels of mycotoxins in their bodies because of that mold. His two boys have mold in their bloodstream and his wife has a fungus eating away at her ear canal that her doctor cannot cure. The family doctors say they are all slowing dying.

This is happening in the State of Maine my friends. It is only going to get worse. It is the largest single investment, the purchasing of a home, that any person or family will make in their lives and all we're asking is that the person who constructs that home be held somewhat accountable with simply a licensure. The Representative from Alana, Representative Fossel, said maybe we should mandate warranties. That's a great idea, but today all we're looking for is licenses and I would argue that broken-down legislators already have warranties. They're called elections. But Ladies and Gentlemen, in all seriousness, this is a growing epidemic in our state. It's happening in my town. It is happening to people who are investing in their homes. Scarborough is one of the fastest growing communities, one of the largest communities in the state. We've had tremendous growth, tremendous homebuilding over my lifetime, which is just 25 years, and there are already numerous violations of hardworking Maine people, most of them vote Republican most of the time, who have reached out to me and asked for me to support simply a licensure for homebuilders, not so that they can get some type of retribution but so that it doesn't happen to anybody else. So Madam Speaker, Ladies and Gentlemen of the House, all we're asking is that we can give consumers the education and the information that they need and the ability to feel confident that the builder that they hire or the contractor that they hire for their largest single investment of their life, their home, can somewhat be held accountable if they build a defective dwelling. It is a simple ask and it is a small step forward in supporting thousands of Maine working families and the next generation, my generation, who will come through, build homes and purchase homes in this state. It is the least we can do, Madam Speaker. Thank you, Ladies and Gentlemen of the House.

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

Representative **MARTIN**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I, too, rise in support of the Ought to Pass as Amended motion, the Minority Report. A lot of this debate that is happening on the floor today is similar to the debate we heard in our committee. But one of the things we're overlooking is that those that came to testify in support of this legislation in the past had opposed it. The Maine Association for Realtors, the Maine Interior Designers, organizations that in the past had always stepped forward and expressed their opposition to this, because of the building codes, recognize that now is an opportunity. We have the building codes about ready to go in place. It makes perfect sense to have a joint track for contractor licensing at the time we are moving and implementing these codes, because there is so much more to the licensing process, in setting up the ethical standards and the board and the rules and regulations, outside of just the codes. So it makes sense for this Legislature to move forward and set the policy that we're no longer going to allow this rampant contractor problem where we have contractors that are taking advantage of the citizens. To me, this is a consumer protection issue. In my district, I heard from several residents that have had problems with problem contractors and they contacted me when, for example, one of my constituents was having a home built, \$150,000 in overruns, and then the contractor didn't pay their subcontractors, so now the subcontractors didn't finish their projects and now my constituents are stuck with an unfinished home, almost \$200,000 in debt. We went to the Attorney General's Office and we said what can we do about this? There was absolutely nothing that could be done. Contractor licensing at least allows or demands that contractors in this state have some form of licensing so that when we get these unscrupulous contractors and these ones that take advantage of constituents, at least we can pull their license. At least we can say, you were not capable of working in the State of Maine.

Now I want to address a couple of the arguments that have been brought up by those that oppose this legislation and one of them is the exam requirement and that we can't expect contractors to take an exam. As the good Representative Wright mentioned earlier, we license all sorts of professions in this state and in fact all of those contractors in order to get their driver's license had to take a written exam. We even discussed working on oral exams and alternative exams because we don't want to keep out good contractors, we don't want to intimidate them. We want to find a way to make sure that when a contractor makes an agreement with one of our constituents, one of the residents that's made that they know what they're doing and I don't think that's too much to ask because, for the most part, and I dare ask the question, not through the Chair but just pose the question for you to think about, how many of you would be able to know if a contractor on your home, whether it's on a roof or siding or putting on an addition or making handicap accessible changes, do you know the rules? Do you know how to do it? Are you going to be able to tell whether that contractor is doing their job right or are we going to end up with a situation like the good Representative from Freeport, Representative Webster, mentioned in where the contractor came out and did the work, did it completely with such incompetence that now not only is the roof the problem, but now there is mold in the house and the person now has tens and hundreds of thousands of dollars of additional costs to them when they just wanted to start out with a simple \$3,000 roofing job. I don't think this is an unreasonable piece of legislation and I think we all should move forward and say that this body and the Legislature is the one that sets policy, not the regulators, and that we believe that we should be protecting our constituents and the consumers in this state and we believe that

they deserve to have some recourse when an unscrupulous contractor takes advantage of them in a financial way. I urge you to support the Ought to Pass as Amended motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Cushing.

Representative **CUSHING**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise today in a couple of capacities. I am a realtor and I'm also a homebuilder, but I'll set you at ease. They don't allow me to touch power equipment. The opportunity for homeownership is the American dream and you don't want that dream to turn into a nightmare. I use a gentleman who we've had numerous conversations about the standards by which some builders subscribe here in the State of Maine, and we both agree that the ability to have a higher standard and have people apply to those standards is critical in what you are doing in buying a home and entrusting a builder to carry out your needs and do it safely and responsibly. But to that end, the process also requires us as we make these laws to reflect on what we do in applying them. One of the concerns I have that I think echoes the concern of my friend from Newcastle is that by just passing a requirement for a license does not indicate that those people will rise to the level of competency or professionalism that we would hope for. As a realtor, I rose to a higher level than I did when I received my license as a real estate agent or associate broker. I chose to pledge to carry out certain principles in the application of my skills and my duties as a real estate agent and therefore was accepted as a realtor. I hope that in the field of home construction that we can aspire to that same level so that Maine will have another reputation, as well as being a quality place to live, that the people who build homes here are quality people.

I feel that there have been opportunities in the past where Maine has made wise choices. The crisis with workers' comp, many years ago, caused the formation of a company that has taught people in the industry to make sure their workers practice safe practices in the workplace and that those companies encourage their workers not to be harmed in the operation of their professions. I think we need to subscribe to that same situation as we look at the field of homebuilding and I urge you to continue to pursue this. Simply passing a license is not a guarantee to those people who will entrust what we are presenting to them, that the licensee is indeed competent or will fulfill those matters. Some of the issues that have been shared with us today, I can empathize with, are tragic. When somebody that I have worked with has had a difficulty in their home, I have felt an obligation regardless of how long it has been to get that corrected. I hope that other professionals would feel the same, but I recognize that there are some that do not for various reasons. The true test of your ability in a profession like homebuilding is to sustain yourself and your sustenance comes from people willing to continue to hire you. If we create a certification level in this state and we give the uniform building code the time necessary to be worked out by the local professionals and at the state level, I think we serve the citizens better. I would urge you at this point not to support this bill. 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. I rise again to speak, first to remind you, I know you can read it for yourself, but this is the Minority Report and there are three Senators who are not on this Minority Report from the BRED Committee. I also want to remind you about the importance of taking our time. The code will take care of a lot of the horrible

issues that Representatives have mentioned in previous speeches. We need that time so that we can work through that and see exactly what those things are that the code takes care of. I believe that the majority of the members in this chamber will agree that LD 1, EPS and school consolidation, all great ideas, have had some major issues. Let's avoid as much confusion and unintended consequences as possible. This is one thing we all can afford. We can afford to wait and do it right and have more information in our toolbox. I request the Committee read the vote from the BRED Committee. Thank you.

Representative PRESCOTT of Topsham **REQUESTED** that the Clerk **READ** the Committee Report.

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

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

Representative **MacDONALD**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I reluctantly rise a second time to talk on this just on a couple of issues that have been brought up in the discussion. First of all, I think it is with all due respect to my friend and seatmate in BRED, Representative Prescott, to say that we should take our time on this bill flies in the face of the history of this bill that you've heard. This bill has been before this Legislature in numerous past sessions. It's before us again, it's been well thought through. The bill takes into account the putting in place of the MUBEC into the state and doesn't require a licensing system until a full year after that takes place. So I say to you that the time that she's asking for has been built into the process and is built into the bill, so you're not rushing forward on something if you vote on this Minority Report.

With respect to some questions that were raised by Representative McKane, first of all, there are exemptions in this bill that allow people entry into this trade. You can work under an already licensed contractor, you can work on your own home, you work on a place you rent, you can work on something under \$3,000. This should allow people to get into this business without these regulations being in the way.

With respect to whether or not this is going to add hugely to the cost of doing business in the State of Maine, the cap, it's a cap of \$350 a year on any of these licenses and I suspect that as time goes forward that the licenses will be well under that cap. That's an amount of money, I think it's an amount of money that's worth spending to have a profession and a trade in which both the good actors and the consumers who want a good environment in which to have their home built think that cost is well worth it.

Finally, I guess I just find it strange to say that this bill would be punishing those that we are trying to support. We are trying to support the contractors who are legitimate, who want to do good work. We will do that through a licensing process and we will weed out those people that are not legitimate. This will be punishing the people who are not legitimate who are the people that we want to get after in our licensing scheme.

Finally, on exams, all kinds of other states already have these systems in place. Exams can be on the job exams, they can be oral exams, they can be written exams. There are all sorts of varieties. We're not trying to impose a college level SAT exam on contractors, far to the contrary. We're trying to make sure that there is an appropriate way of measuring whether or not these contractors are able and that can be done in a variety of ways, Madam Speaker, and I thank you for a second opportunity for speaking. Thank you.

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

Representative **WATSON**: Thank you, Madam Speaker. I'd like to commend the BRED Committee on the work they've done on this bill, not just this session but the entire time I've been here. I, too, came in here with the intention of putting in a bill to license contractors and I watched that process evolve. I was convinced that a building code did need to be in place before we start holding people accountable for it and I think the process has worked properly. I'm a little chagrined that it's taken an entire legislative career on my part to see this come to fruition, but that's how some things happen. Please don't leave this body and go off on your own without accomplishing this. You'll come back here and find that we're going to repeat ourselves again.

I'm always suspicious of people who say take your time on something on a matter like this. Generally, it's a ruse for saying I don't have any better answer for you so let's just slow the process down and hope maybe it dies and goes away. We've watched that argument take place on this bill or this kind of bill for the last six, seven years also. I have a yellow sticky next to my phone in my law office with the number of the Attorney General's Consumer Affairs Division. I've stopped taking cases like this since the last one I made the mistake of taking for a friend, instead refer them all to Consumer Affairs and the AG's Office invariably gives the same answer. Well, if you don't have a contract, there's not a whole lot we can do. I took a case like this because there was a contract. The contractor came, signed up, gave a \$30,000 estimate on a pretty easy task, collected a third of that up front, parties signed the contract very happy and went away. The contractor never showed up. Ten thousand dollars worth of work never showed up. By the time we got into it, the building supply company was billing my client for money that the contractor had charged not only on his job but on two other jobs and was suing my client for that money because the contractor came in with contract in hand, ordered a bunch of supplies, didn't pay for them and now it was the homeowner who faced that responsibility. By the time my investigator found this guy, the contractor, all of his tools and his vehicles were in his wife's name, the sign on the side of his truck had been painted over and he was operating in a different part of the state under a different contractor name and doing the same kind of thing.

The building code being in place is a great step and it is necessary to do this and the timeline is right. The building code will not solve that problem. Having a licensed contractor with a traceable address and a license that can be revoked under the right circumstances is the way to solve that problem. The building code is merely peripheral to that. It is the individuals. We don't punish bad actors by requiring them to do decent work. We don't punish contractors who have been on the job for 30 or 40 years and don't need a test to know how to drive a nail. What we're doing is protecting not only the legitimate contractors but the people who hire them, and I'm afraid we're forgetting the people who hire them in this debate. Please support the Minority Report. It is time this happens. There is plenty of time built in to the bill and the code to see that all this happens and moves along properly. If you delay it you're only delaying it, you're not solving the problem again. Thank you, Madam Speaker.

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

Representative **AUSTIN**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. In much of the hearings and testimony that was given at the hearings over this particular issue over the years, what many of us found that, unfortunately, innocent homeowners to be, that were building and had an agreement with a contractor, willingly handed over, if you will, their checkbook and gave approval for a line of credit to building supply companies. In these cases, I do not see how a

licensing is going to affect that sort of innocent behavior. As we know, buyer beware. Madam Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative **AUSTIN**: I am asking that anyone that is listed upon the Minority Report, am I correct in reading the fiscal note of this amendment as running well over \$1 million?

The SPEAKER: The Representative from Gray, Representative Austin has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Monmouth, Representative Smith.

Representative **SMITH**: Thank you, Madam Speaker. There is a fiscal note. It's available as part of the paperwork that we have for this. As with all licensing, it is self funded. You take the cost of the computer software that will be required and the staff to create it, divided by the number of licensees and you come up with a per license fee. There is a broad range. I hold a license as a professional forester. It costs me \$75 a year. With this currently we have, as the Representative from Boothbay noted, a \$350 cap per contractor. So again, the purpose of licensing is to be self funded and that's how the fiscal note is noted. There is no cost to the General Fund, it is Other Special Revenue for the licensing fees. Thank you.

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

Representative **GILES**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I appreciate the discussion we've had on it and as I rise to make my final comments on this, the best we can all do as legislators is put the information in front of us, listen to the people that come before us and make the best decisions we can and I hope this is the type of discussion and results we're going to have today.

I did want to make a few clarifying comments. One, on the comment of the timing, I think it's important, it's how you interpret it but this is how I interpret it. The bill sets standards and requirements for licensing in this proposed legislation that if we pass today, will go into effect January 2, 2013, so nearly three years from now. As I explained when I first rose, we have several reports that are coming before BRED in the next six months that will put so much clarity, so much more information in front of the committee. This issue is not going away. I don't believe anyone is trying to put this off longer than need be, but it just seems to make good common sense to allow those reports, that information to come forward in the next six months rather than past legislation that's going to be put out there three years ahead of time.

The other comment was about the professional groups and business groups that came before us and I have a copy of the testimony sign-in sheet from that day, and as I count down it, there were more professional groups that spoke against this than spoke in support of this particular bill. Not that they didn't support the licensing, but it was this particular bill.

Finally and I'm glad a few questions and a few comments came up on the fiscal note because I was going to address that. The good chair is correct. The professional licensing and regulation, that does get passed on to the industry and the individuals, but I do want to go over some numbers because I think they're important. First, within the fiscal note, it's going to allow with the startup of this agency and board it's going to cost the state \$1.2 million, which would be transferred from unappropriated surplus from past fees and licenses that have been paid into the Department of Professional and Financial Regulation. So \$1.2 million over the next two years. Once the new department is created, it's going to involve nine new state employees and it's going to cost the industry, beginning in

January 2013, \$2.1 million a year. Now I know personally in coming over to Augusta this session with the economy being in the status that it's in with all the things that people are dealing with, who are just trying to pay their light bill, pay their phone bill, put food on the table, I've been very sensitive not to support legislation that put on fees and costs on to anyone at this point. You can go back to the time in question if you want, but that is the real cost to somebody or somebodies in this state, \$1.2 million to start up this department and \$2.1 million on an annual basis with nine new state employees. Thank you.

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

Representative **SMITH**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. In what I think may be wrapping up the discussion on this debate, I rise for two points. One is as I'm leaving this body and I'm feeling, maternalistic isn't quite the right word, but I want to leave messages with folks that are going to be here behind and I can't sit still when my position, when the position that's been spoken on by quite a few people is described for the record for posterity as shameful or is a comedy of errors. I can't sit still. The basic tenet of democracy, the reason this works is because we all agree to respectfully and civilly disagree. I took great offense at both of those remarks and need to say so for the record, so that when future legislators are looking at exactly this legislation in the future, they will know that no one sat quietly by as those remarks were made.

In what I hope is an appropriate use of humor as we wrap this up, I do want to say from listening to the debate I'm reminded from my notes from the 2006 debate in the committee. This was referred to at one point as the goldilocks legislation because it was too hot for some and too cold for others, and I've heard that today. We all have heard the basic tenet don't let perfect be the enemy of pretty darn good, which is what I consider this one to be. As for having standards, I think having standards is a good thing, not just for contractor licensings but in all aspects of our lives, and it's a shame to hear that as a problem with this bill. Let's have standards, shall we? And as for what the cost is to the industry, let's have the office come up with a fiscal note for the cost of the status quo, for the industry and for the people of the State of Maine and then let's compare apples and apples. I think that would be terrific. I think it was humorous too to have the Committee Report read when it's page 12 of today's Calendar. I'll also remind you that as House members we should be strongly defensive of the three Senator rule. If we are not a separate and independent body then, once again, I say unicameral baby.

I'm going to close by saying that you have heard a few of the stories of the Representatives from Bath, from Scarborough and Freeport. These are the stories I have listened to for eight years. There are more, they are grotesque and they are sad. It is for these people that we pass this legislation in this body today. Thank you very much, Madam Speaker.

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

#### ROLL CALL NO. 302

YEA - Beaudoin, Berry, Blanchard, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Carey, Casavant, Chase, Clark H, Cleary, Connor, Cornell du Houx, Crockett P, Driscoll, Duchesne, Eaton, Eberle, Eves, Flaherty, Flemings, Gilbert, Harlow, Haskell, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kent, Kruger, Lajoie, Legg, Lovejoy, MacDonald, Martin JR, Martin JL, Mazurek, Miller, Morrison, Nelson, O'Brien, Pendleton, Peoples, Percy, Perry, Pieh, Pilon, Piotti, Pratt, Priest, Rankin, Rotundo, Russell,



Sanborn, Schatz, Shaw, Sirois, Smith, Stevens, Stuckey, Sutherland, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Webster, Wright, Madam Speaker.

NAY - Austin, Ayotte, Beaudette, Beaulieu, Beck, Bickford, Browne W, Burns, Campbell, Cebra, Celli, Clark T, Cohen, Cotta, Crafts, Cray, Crockett J, Curtis, Cushing, Davis, Dill, Dostie, Edgcomb, Finch, Fitts, Fletcher, Flood, Fossil, Gifford, Giles, Greeley, Hamper, Hanley, Harvell, Hayes, Hill, Johnson, Joy, Kaenrath, Knapp, Knight, Langley, Lewin, Magnan, McCabe, McFadden, McKane, McLeod, Millett, Nass, Nutting, Peterson, Pinkham, Prescott, Richardson D, Richardson W, Robinson, Rosen, Sarty, Saviello, Strang Burgess, Sykes, Tardy, Theriault, Thibodeau, Thomas, Tilton, Weaver, Welsh, Willette.

ABSENT - Adams, Butterfield, Goode, Plummer, Wheeler.

Yes, 76; No, 70; Absent, 5; Excused, 0.

76 having voted in the affirmative and 70 voted in the negative, with 5 being absent, and accordingly the Minority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-760)** was **READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Thursday, March 25, 2010.

Seven Members of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** report in Report "A" **Ought Not to Pass** on Bill "An Act To Ensure Humane Treatment for Special Management Prisoners"

(H.P. 1139) (L.D. 1611)

Signed:

Senator:

DAVIS of Cumberland

Representatives:

HANLEY of Gardiner  
LAJOIE of Lewiston  
GREELEY of Levant  
PLUMMER of Windham  
BURNS of Whiting  
SYKES of Harrison

Four Members of the same Committee report in Report "B" **Ought to Pass as Amended by Committee Amendment "A" (H-763)** on same Bill.

Signed:

Senator:

GERZOFISKY of Cumberland

Representatives:

HASKELL of Portland  
WHEELER of Kittery  
MAGNAN of Stockton Springs

Two Members of the same Committee report in Report "C" **Ought to Pass as Amended by Committee Amendment "B" (H-764)** on same Bill.

Signed:

Senator:

NUTTING of Androscoggin

Representative:

SCHATZ of Blue Hill

**READ.**

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

**CONSENT CALENDAR**

**Second Day**

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

(S.P. 446) (L.D. 1198) Bill "An Act To Reform Insurance Coverage To Include Diagnosis for Autism Spectrum Disorders" (C. "A" S-430)

(S.P. 623) (L.D. 1658) Bill "An Act To Increase Maine's High School Graduation Rates" (C. "A" S-429)

(S.P. 649) (L.D. 1677) Bill "An Act To Protect Minors from Pharmaceutical Marketing Practices" (C. "A" S-427)

(S.P. 680) (L.D. 1773) Bill "An Act To Improve Dental Insurance Coverage for Maine Children" (C. "A" S-431)

(H.P. 408) (L.D. 570) Bill "An Act To Improve the Laws Governing the Consolidation of School Administrative Units" (C. "A" H-768)

(H.P. 1111) (L.D. 1573) Bill "An Act To Improve Water Quality through the Phaseout of Overboard Discharges and the Improvement of the Boat Pump-out Laws" (C. "A" H-756)

(H.P. 1270) (L.D. 1780) Resolve, Regarding Legislative Review of Portions of Chapter 270: Uniform Reporting System for Quality Data Sets, a Major Substantive Rule of the Maine Health Data Organization (EMERGENCY) (C. "A" H-770)

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

(H.P. 1206) (L.D. 1705) Bill "An Act To Align the Duties of School Boards Concerning Student Safety with the Requirements of the Federal Gun-Free Schools Act and To Prohibit the Discharge of Firearms within 500 Feet of Public and Private School Properties" (C. "A" H-769)

On motion of Representative PIOTTI of Unity, was **REMOVED** from the Second Day Consent Calendar.

The Unanimous Committee Report was **READ.**

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

(H.P. 1294) (L.D. 1807) Bill "An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2010-11" (EMERGENCY) (C. "A" H-758)

On motion of Representative HAYES of Buckfield, was **REMOVED** from the Second Day Consent Calendar.

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

The Bill was **READ ONCE. Committee Amendment "A" (H-758)** was **READ** by the Clerk and **ADOPTED.**

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

Representative HAYES of Buckfield **PRESENTED House Amendment "A" (H-771)**, which was **READ** by the Clerk and **ADOPTED.**

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment**

**"A" (H-758)** and **House Amendment "A" (H-771)** and sent for concurrence. **ORDERED SENT FORTHWITH.**

**BILLS IN THE SECOND READING**

**House**

Resolve, To Review and Update the Telecommunications Taxation Laws

(H.P. 1306) (L.D. 1823)

**House as Amended**

Bill "An Act To Prevent the Spread of Invasive Plants and Protect Maine's Lakes"

(H.P. 1090) (L.D. 1548)

(H. "A" H-757 to C. "A" H-724)

Bill "An Act To Establish a Broadband Policy for Maine" (EMERGENCY)

(H.P. 1174) (L.D. 1646)

(C. "A" H-685)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the House Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence.

Bill "An Act To Improve Employment Opportunities for Maine Workers in the Forest Industry"

(H.P. 1094) (L.D. 1552)

(C. "A" H-738)

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

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

The same Representative **PRESENTED House Amendment "A" (H-772)**, 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. Yesterday we talked about this bill for some time. The purpose of the amendment is to clarify what I said to you yesterday, to make it clear that the loss of the revenue or the tax break would be for one year and not for beyond that.

Representative **WATSON** of Bath **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-772)**.

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

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

Representative **WATSON**: Thank you, Madam Speaker. I don't mean to interrupt or delay proceedings in the House this morning, but I'd like to point out, you'll recall the debate yesterday, the intention of this bill, as I understood it, was to take a landowner out of Tree Growth for a year if hired bonded labor. I pointed out that the bill did not include that language and now we are presented with this amendment. But those of you who have read the Tree Growth law should know that this amendment does not cure that problem. Nothing in this amendment addresses the penalties. Whether you're taken out of Tree Growth for a day or a year or forever, you are subject to the penalties and the penalties are five years back taxes plus a percentage of your valuation depending on how long you've been in the program. This bill just says you lose classification for the property tax year in which the bonded labor is used. That does not protect you from the penalties.

My basic objection to this thing all along has been that we had people come into the Tree Growth program, enter into a contract if you will, invest a great deal of money and a great deal of time into that program and facing a huge risk if they decide later, 10 years, 20 years from now to develop or change or get out of the program. That was the deal that was made when they came in. Now we're changing the rules. If this suggestion had come before the Taxation Committee, a very common response from our committee is you don't change the rules in a contract without doing one of two things. One, you make it prospective only so people entering the program can take the new rules into account and make their decision, or you allow the party to opt out. I've made a contract with you, you have breached the contract, I have the option of my own breach and the contract is null and void. The problem with that in this case is even if you corrected this to allow property owners to opt out, we're going to see Tree Growth crash. Given anybody who faces \$100,000, \$150,000 fine for a decision to develop their property now, give them a chance to opt out of the program for any reason and they're going to jump to it. So we can just kiss Tree Growth goodbye if we give them that option. If we make it prospective only that doesn't necessarily solve the labor problem. But this is a labor problem not a Tree Growth problem, and there is a bill addressing the labor problem increasing fines and penalties for people who might violate the U2 program. That's where you make labor law. You don't make Tree Growth Tax Law in a matter that's arising out of a labor dispute. This amendment does not solve the problem. This amendment just adds words saying you're out of the program for a year. The next question is and give Maine Revenue Service a call because they're going to be collecting these penalties for the unorganized territories, the next question is what's the penalty? Well, just back taxes for a year. There's nowhere in the state, nowhere in the statute that provides that kind of penalty. The penalty in the statute for failure to file your 10 year certification or for any other reason is being booted out of the program and when you're booted out of the program, you pay the statutory penalty. Thank you, Madam Speaker.

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

Representative **TUTTLE**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. Very briefly, as I mentioned yesterday, we're trying to get some consensus on this bill. This is a step in that direction. I'd like to have the process go forward so that we can try to reach some consensus. Now as far as Maine Revenue Services, they did have concerns to the bill. The bill has been amended to express their concerns. The amendment clarifies the procedure in which a landlord must notify the Department of Conservation if forest land is harvested by a landlord or harvester who uses bonded labor. It indicates that the use of bonded labor of any part of the parcel of Tree Growth land during the period of notification cycle will result upon notification to the Maine Revenue Services in the loss of Tree Growth tax benefits and that withdrawal penalty will be imposed therewith and further clarifies that the parcel of land will not benefit from General Fund contribution to the forest fire protection for the property tax year in which the bonded labor is used. I'd ask us to allow the process to go forward. This is the beginning of the amendment, the beginning of negotiations and I would ask those to support the pending motion and accept the amendment.

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

Representative **MARTIN**: Thank you, Madam Speaker. First of all, in reference to the Representative from Bath, Representative Watson, he was not in favor of the bill yesterday.



This is not an attempt to satisfy the comments that he made yesterday. I want to point out that Tree Growth is not a contract. It is a tax break that is given to us by the citizens of Maine that are giving to a particular group. This is a one year issue of payment of tax. It is not taking them out of Tree Growth and it's basically an attempt to solve the issue that we have now in northern Maine and I urge you to vote for the pending motion.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Bickford.

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

The SPEAKER: The Representative may pose his question.

Representative **BICKFORD**: My question is with regards to the penalties to the business for the Tree Growth and for using bonded labor, where specifically does that money go and who does it benefit?

The SPEAKER: The Representative from Auburn, Representative Bickford has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative **MARTIN**: Thank you, Madam Speaker. This is not a penalty question but if it were, which is true wherever there is Tree Growth, the money will go to the community wherever the Tree Growth is located.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Cushing.

Representative **CUSHING**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise today to respectfully disagree with the amendment before us. The issue which I will not reiterate from yesterday's discussion is that there is an impact on what occurs in the forest products industry. What we are faced with here is an amendment which the good Representative from Eagle Lake has submitted to try and address a portion of our concern, but ultimately what we're looking at is the same net affect to the property owners. It does not, at this point, yield what I consider the confidence to prevent severe harm occurring to the forest products industry in this state and, although I respect the chairman and have been quite pleased to have the opportunity to work with him on issues before our committee this year, I have to respectfully disagree that now is a time to move this forward. I feel that we still have some work to do and I would welcome the opportunity for individuals involved in this issue to sit down and talk. Thank you, Madam Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Adoption of House Amendment "A" (H-772). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 303**

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

NAY - Austin, Beaudoin, Beaulieu, Bickford, Browne W, Burns, Cebra, Celli, Chase, Cotta, Crafts, Cray, Crockett J, Curtis, Cushing, Davis, Edgecomb, Fitts, Fletcher, Flood, Fossil,

Gifford, Giles, Greeley, Hamper, Harvell, Hayes, Hill, Johnson, Joy, Knapp, Knight, Langley, Lewin, McCabe, McFadden, McKane, McLeod, Millett, Nass, Nutting, Peterson, Pilon, Pinkham, Prescott, Richardson D, Richardson W, Robinson, Rosen, Sarty, Saviello, Strang Burgess, Sykes, Tardy, Thibodeau, Thomas, Tilton, Valentino, Watson, Weaver.

ABSENT - Butterfield, Clark T, Cohen, Goode, Plummer, Wheeler.

Yes, 85; No, 60; Absent, 6; Excused, 0.

85 having voted in the affirmative and 60 voted in the negative, with 6 being absent, and accordingly **House Amendment "A" (H-772) was ADOPTED.**

Representative TARDY of Newport **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended.**

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

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

**ROLL CALL NO. 304**

YEA - Adams, Ayotte, Beck, Berry, Blanchard, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Campbell, Carey, Clark H, Cleary, Connor, Cornell du Houx, Crockett P, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Eves, Finch, Flaherty, Flemings, Gilbert, Hanley, Harlow, Haskell, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kaenrath, Kent, Kruger, Lajoie, Legg, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, Miller, Morrison, O'Brien, Peoples, Percy, Perry, Pih, Piotti, Pratt, Priest, Rankin, Rotundo, Russell, Sanborn, Schatz, Shaw, Sirois, Smith, Stevens, Stuckey, Sutherland, Tardy, Theriault, Treat, Trinward, Tuttle, Wagner J, Wagner R, Webster, Welsh, Willette, Wright, Madam Speaker.

NAY - Austin, Beaudette, Beaudoin, Beaulieu, Bickford, Browne W, Burns, Casavant, Cebra, Celli, Chase, Cotta, Crafts, Cray, Crockett J, Curtis, Cushing, Davis, Edgecomb, Fitts, Fletcher, Flood, Fossil, Gifford, Giles, Greeley, Hamper, Harvell, Hayes, Hill, Johnson, Joy, Knapp, Knight, Langley, Lewin, McCabe, McFadden, McKane, McLeod, Millett, Nass, Nelson, Nutting, Pendleton, Peterson, Pilon, Pinkham, Prescott, Richardson D, Richardson W, Robinson, Rosen, Sarty, Saviello, Strang Burgess, Sykes, Thibodeau, Thomas, Tilton, Valentino, Van Wie, Watson, Weaver.

ABSENT - Butterfield, Clark T, Cohen, Goode, Plummer, Wheeler.

Yes, 81; No, 64; Absent, 6; Excused, 0.

81 having voted in the affirmative and 64 voted in the negative, with 6 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-738) and House Amendment "A" (H-772)** and sent for concurrence.

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Representative CAMPBELL of Newfield assumed the Chair.  
The House was called to order by the Speaker Pro Tem.

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**ENACTORS**

**Emergency Measure**

An Act To Amend the Maine Certificate of Need Act of 2002 Concerning Right of Entry and Investigation

(H.P. 1129) (L.D. 1591)  
(C. "A" H-720)

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. 114 voted in favor of the same and 1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

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**Emergency Measure**

An Act To Extend Access to Federal Health Insurance Premium Assistance

(H.P. 1259) (L.D. 1769)  
(C. "A" H-722)

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. 116 voted in favor of the same and 3 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

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**Acts**

An Act To Improve Tribal-State Relations

(H.P. 333) (L.D. 445)  
(C. "B" H-714)

An Act To Provide Protections for Consumers Subject to Mandatory Arbitration Clauses

(H.P. 875) (L.D. 1256)  
(C. "A" H-715)

An Act To Improve Toxics Use Reduction and Reduce Energy Costs by Maine Businesses

(H.P. 999) (L.D. 1423)  
(C. "A" H-712)

An Act To Expand Options in Child Protection Proceedings for Children in Foster Care

(H.P. 1151) (L.D. 1623)  
(C. "A" H-706)

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

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**Resolves**

Resolve, Regarding a Report on the Status of Federal Ship Ballast Water Discharge Rules

(H.P. 1194) (L.D. 1693)  
(S. "A" S-436 to C. "A" H-652)

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

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An Act To Establish the Silver Alert Program

(H.P. 1138) (L.D. 1610)  
(C. "A" H-709)

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

On motion of Representative CHASE of Wells, was **SET ASIDE**.

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

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

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

**ROLL CALL NO. 305**

**YEA** - Adams, Ayotte, Beaudette, Beaudoin, Beaulieu, Beck, Berry, Bickford, Blanchard, Blodgett, Boland, Bolduc, Browne W, Bryant, Burns, Cain, Campbell, Carey, Casavant, Celli, Chase, Clark H, Cleary, Cohen, Connor, Cornell du Houx, Cray, Crockett J, Crockett P, Curtis, Cushing, Davis, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Edgecomb, Eves, Finch, Fitts, Flemings, Flood, Gifford, Gilbert, Giles, Greeley, Hanley, Harlow, Harvell, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Johnson, Jones, Kent, Knapp, Knight, Kruger, Lajoie, Langley, Legg, Lewin, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, McFadden, Miller, Millett, Morrison, Nass, Nelson, Nutting, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Pinkham, Piotti, Pratt, Priest, Rankin, Richardson D, Rosen, Rotundo, Russell, Sanborn, Saviello, Schatz, Shaw, Sirois, Smith, Stevens, Strang Burgess, Stuckey, Sutherland, Tardy, Theriault, Thibodeau, Thomas, Tilton, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Weaver, Webster, Welsh, Willette, Wright, Madam Speaker.

**NAY** - Austin, Cebra, Crafts, Flaherty, Fletcher, Fossel, Hamper, Joy, Kaenrath, McKane, McLeod, Prescott, Richardson W, Robinson, Sarty, Sykes.

**ABSENT** - Briggs, Butterfield, Clark T, Cotta, Goode, Plummer, Wheeler.

Yes, 128; No, 16; Absent, 7; Excused, 0.

128 having voted in the affirmative and 16 voted in the negative, with 7 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

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The Speaker resumed the Chair.

The House was called to order by the Speaker.

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**UNFINISHED BUSINESS**

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

**HOUSE DIVIDED REPORT** - Majority (10) **Ought to Pass as Amended by Committee Amendment "A" (H-663)** - Minority (3) **Ought Not to Pass** - Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Require Private Insurance Coverage for Certain Services for Children with Disabilities"

(H.P. 313) (L.D. 425)

**TABLED** - March 4, 2010 (Till Later Today) by Representative TREAT of Hallowell.

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

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

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

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

**ROLL CALL NO. 306**

YEA - Adams, Ayotte, Beaudette, Beaudoin, Beaulieu, Beck, Berry, Blanchard, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Campbell, Carey, Casavant, Celli, Clark H, Cleary, Connor, Cornell du Houx, Crockett P, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Edgecomb, Eves, Flaherty, Flemings, Flood, Fossel, Gilbert, Giles, Hanley, Harlow, Haskell, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kaenrath, Kent, Knapp, Knight, Kruger, Lajoie, Langley, Legg, Lovejoy, Magnan, Martin JR, Martin JL, Mazurek, McCabe, Miller, Millett, Morrison, Nelson, O'Brien, Pendleton, Percy, Perry, Peterson, Pieh, Piotti, Pratt, Priest, Rankin, Richardson D, Rosen, Rotundo, Russell, Sanborn, Saviello, Schatz, Shaw, Sirois, Smith, Stevens, Strang Burgess, Stuckey, Sutherland, Theriault, Thibodeau, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Willette, Wright, Madam Speaker.

NAY - Austin, Bickford, Browne W, Burns, Cebra, Chase, Cohen, Crafts, Cray, Crockett J, Curtis, Cushing, Davis, Finch, Fitts, Fletcher, Gifford, Greeley, Hamper, Harvell, Hayes, Hill, Johnson, Joy, Lewin, McFadden, McKane, McLeod, Nass, Nutting, Pilon, Pinkham, Prescott, Richardson W, Robinson, Sarty, Sykes, Tardy, Thomas, Tilton, Weaver.

ABSENT - Butterfield, Clark T, Cotta, Goode, MacDonald, Peoples, Plummer, Wheeler.

Yes, 102; No, 41; Absent, 8; Excused, 0.

102 having voted in the affirmative and 41 voted in the negative, with 8 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-663)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, March 25, 2010.

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

HOUSE DIVIDED REPORT - Majority (11) **Ought to Pass as Amended by Committee Amendment "A" (H-748)** - Minority (2) **Ought Not to Pass** - Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Require Insurance Companies To Cover the Cost of Prosthetics"

(H.P. 15) (L.D. 20)

TABLED - March 22, 2010 (Till Later Today) by Representative TREAT of Hallowell.

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

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

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

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

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

The SPEAKER: The Representative may pose his question.

Representative **McKANE**: Will this mandate make health insurance more expensive or less expensive? Thank you, Madam Speaker.

The SPEAKER: The Representative from Newcastle, Representative McKane has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Hallowell, Representative Treat.

Representative **TREAT**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. In response to

the question of the good Representative from Newcastle, Representative McKane, this could add up to 15¢ per member per month in order to provide microprocessors in the prosthetics who are potentially about 50 people in the State of Maine. However, the actual cost and to other states including New Hampshire that provide this is actually 5¢ per member per month. I have a lot I could say about this bill. I would just say for now, unless there is an intent to debate it at length, one of the handouts we got from people supporting the bill is headlined "Arms and Legs Are Not a Luxury". I would say that for the nine members of the House who are on our committee that are here that voted in support of this, that certainly was what we agreed and why we agreed to vote for this. This is a very good bill. We already cover arms and legs, prosthetics in our mandates already. All this does is it gets rid of an exemption for microprocessors. We are the only state that has a mandate and there are 17 or so of states that do have these mandates. We are the only one that has that exemption. Every other state that covers arms and legs does not have that exemption and so this puts in line with those states. It's a very good bill and I urge your support.

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

Representative **SHAW**: Thank you, Madam Speaker. Just one more point on this subject. The bill could also help people provide themselves with a more productive life. Their earnings could potentially be higher and they may not need to use state resources.

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

Representative **FOSSEL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I also support this bill; however, you must remember every time we do this that we allow somebody into the lifeboat, somebody else is going to be shoved out of that lifeboat and what in effect happens is whoever shouts the loudest gets the coverage they need. And the more we do this, the more our system cries out for some kind of economic reform so we have health care we can afford, because every time we do this, we simply make it more unaffordable. Thank you.

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

**ROLL CALL NO. 307**

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

NAY - Austin, Beaudette, Bickford, Cohen, Curtis, Gifford, Hayes, Hill, Joy, McKane, Richardson W.

ABSENT - Butterfield, Clark T, Goode, Plummer, Wheeler.

Yes, 135; No, 11; Absent, 5; Excused, 0.

135 having voted in the affirmative and 11 voted in the negative, with 5 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-748) was READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Thursday, March 25, 2010.

Resolve, To Implement the Recommendations of the Juvenile Justice Task Force (EMERGENCY)

(H.P. 1204) (L.D. 1703)

(C. "A" H-708)

TABLED - March 22, 2010 (Till Later Today) by Representative PIOTTI of Unity.

PENDING - **FINAL PASSAGE.**

On motion of Representative HASKELL of Portland, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION.**

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Resolve was **FINALLY PASSED.**

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-708) was ADOPTED.**

The same Representative **PRESENTED House Amendment "A" (H-773) to Committee Amendment "A" (H-708) which was READ** by the Clerk and **ADOPTED.**

**Committee Amendment "A" (H-708) as Amended by House Amendment "A" (H-773) thereto was ADOPTED.**

The Resolve was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-708) as Amended by House Amendment "A" (H-773) thereto in NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH.**

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

HOUSE REPORT - **Ought to Pass as Amended by Committee Amendment "A" (S-388) - Committee on INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Amend Certain Provisions of Fish and Wildlife Laws" (EMERGENCY)

(S.P. 615) (L.D. 1650)

Which was **TABLED** by Representative CLARK of Millinocket pending **ADOPTION of Committee Amendment "A" (S-388).**

Subsequently, **Committee Amendment "A" (S-388) was ADOPTED.**

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

Representative CLARK of Millinocket **PRESENTED House Amendment "A" (H-774), which was READ** by the Clerk and **ADOPTED.**

**Senate Amendment "B" (S-452) was READ and ADOPTED.**

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-388), House Amendment "A" (H-774) and Senate Amendment "B" (S-452)**

in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH.**

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

**REPORTS OF COMMITTEE**

**Divided Report**

Majority Report of the Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "B" (S-411)** on Bill "An Act To Create a Saltwater Recreational Fishing Registry"

(S.P. 516) (L.D. 1432)

Signed:

Senators:

DAMON of Hancock

SULLIVAN of York

RECTOR of Knox

Representatives:

KRUGER of Thomaston

MacDONALD of Boothbay

WEAVER of York

PERCY of Phippsburg

EATON of Sullivan

ADAMS of Portland

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

Signed:

Representatives:

McKANE of Newcastle

PRESCOTT of Topsham

TILTON of Harrington

Came from the Senate with the Reports **READ** and the Bill and accompanying papers **COMMITTED** to the Committee on **MARINE RESOURCES.**

**READ.**

On motion of Representative PERCY of Phippsburg the Bill and all accompanying papers were **COMMITTED** to the Committee on **MARINE RESOURCES** in concurrence.

**Divided Report**

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-423)** on Bill "An Act To Adopt the Common Core State Standards Initiative" (EMERGENCY)

(S.P. 705) (L.D. 1800)

Signed:

Senators:

ALFOND of Cumberland

SCHNEIDER of Penobscot

WESTON of Waldo

Representatives:

SUTHERLAND of Chapman

CASAVANT of Biddeford

WAGNER of Lewiston

LOVEJOY of Portland

NELSON of Falmouth

RANKIN of Hiram

RICHARDSON of Carmel

JOHNSON of Greenville

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

Signed:

Representative:

FINCH of Fairfield

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-423).**

**READ.**

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

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

Representative **FINCH**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I thought for awhile I was going to get through this session without standing up. I guess not. I was telling someone the other day I don't get up here. Why not? Well, a lot of times somebody else is going to say what I would say anyway. A lot of times I don't know what I'm talking about and a lot of times I don't feel passionate enough to do it. This is an exception to all three of those rules.

This bill is one of three, the so-called Race to the Top bills, which we were told by the Commissioner of Education will assist us in our application for federal funds. To this point 40 states have applied for Race to the Top funds, 16 have made it into the second round. Maine did not apply. This is, we are told, to assist us in the second round of applications.

What this one bill would do is replace Maine's standards with a set of federal standards. Our teachers, our school boards, our superintendents have worked on standards for years. We now have a very detailed set in place which our teachers have had a great deal of difficulty implementing. This would replace them. Now we are told that these federal standards will not be very different from ours. We were told that. The problem is these federal standards, which we are being asked to adopt, are still in draft form and haven't finally been adopted. We're asked to take it on faith. Since I've been here, we've been told or asked to take a lot of things on faith. A lot of times we've done it. I think I'll let the members of this body determine how successful that's been. I can't take this one on faith. If we're going to adopt these standards for Maine on the rather questionable idea that it might assist us in getting federal funds, I want to see those standards before we vote on them. I will sit down and shut up now, but Madam Speaker, I respectfully request a roll call.

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

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

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

Representative **SAVIELLO**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise to support my good friend Representative Finch. Yesterday it was the MEAs, No Child Left Behind; today it's learning results, SATs; tomorrow it's trust me. I can't do that. I went through a consolidation law, as many of us did in this chamber, and, at the end of that day, we heard trust me we'll fix it. Well, we're still fixing it. Now we have something that our guidelines or ideas of where we're going to go and we're being asked to support this. I can't do this. I support my friend. I heard the words trust me

once before. I listened to it, I will not do it again. I will be voting against this motion. Thank you.

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

Representative **SUTHERLAND**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I really was not going to rise to speak, but I feel I must. I have the utmost respect for my colleague, Representative Finch, who sits at my elbow at the Education Committee meetings. I cannot argue with his comments. However, the issue that was put before the Education Committee was that there are opportunities for federal funding and there were some specific criteria that our Department of Education must meet. It is very difficult to approve significant policy changes in a hurry. On the other hand, if the State of Maine can apply for and be competitive to receive many millions of dollars in federal dollars, I am not going to be the person to stand in the way of that opportunity. We don't have a lot of extra dollars to spend in our public schools. That was a tough decision that those on the committee had to wrestle with. I know that the common core standards are a draft. However, they are being worked on by the heads of our public schools around the country at the commissioner level. They are educators. There is some similarity. I know it's hard to take some things on faith, but when you weigh the options at the end of the day I would encourage you to vote to support the Education and Cultural Affairs Committee, that voted 12-1 to approve our being able to apply these standards, so that we can be competitive as we go down the road. And in order to be competitive, our proposal has to be there in June so it's not as if we can wait and weigh everything somewhere down the road. I encourage you to follow my light please. Thank you, Madam Speaker.

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

Representative **JOHNSON**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I am on the Majority Report on this and I think it's important to pass it. That being said, I fully agree with what my friend, Representative Ed Finch, has said. He has provided tremendous leadership in the Committee on Education for as long as I've been on it and I agree with many of his points. The dilemma that we're in is that there is a potential part of federal money that would be very useful to this state. There were three bills that were put forward by the Commissioner of Education late in the session. All three are important to pass if we're going to be competitive. That being said, there are a lot of unknowns out there and I guess on this particular issue I would agree, except that I'm not in love with the Maine Learning Results. I see a lot of problems with them and there are bills coming down the line that are associated with these that I think are useful to discuss in terms of how one provides innovative education in the State of Maine. So as Representative Eaton said earlier, I'm going to hold my nose and vote on this one.

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

Representative **KNAPP**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I also with reticence stand and rise to speak, but as a professional educator and having seen many transitions over the years that our professional educators work very hard for our children, that to look at something that's unknown, I think it's time to wait because our teachers have changed a lot over the last few years. Even though there is the money hanging out there, I think we need to wait on this one. Thank you.

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

Representative **JOY**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I'd like to remind you that the Constitution does not provide any provision for the Federal Government to have anything to do with education. That's left for the states and, consequently, we should not be reaching out there for those federal dollars because we should remember that those federal dollars always come with a number of strings attached to them. And I'll ask this body the same question that I asked the commissioner when she latched on to No Child Left Behind. Why are we willing to sacrifice the education of our children, which we couldn't guide, for a few federal dollars? I think we're selling them down the river. I hope that you will join with Representative Finch and oppose this motion.

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

Representative **SYKES**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. It appears as though we're being asked to adopt some standards that are yet to be written. I can't help but draw the analogy of a wedding. The young man is about to marry the bride, knows that his potential father-in-law will make him vice president of a great corporation, but he has yet to meet the bride.

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

Representative **BROWNE**: Thank you, Madam Speaker. I'm not sure that I want to follow that line of reasoning. We're all concerned about the results of our education system. We keep changing the standards, it's wasting the teachers time writing and understanding and implementing these standards. If we want to improve our education system, let's let teachers teach and the administrators administrate. Thank you.

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

Representative **FINCH**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Well, looks like I stirred up something so I would like to respond a little bit if I might. Sorry if I'm taking up your time. I haven't done much this session so I'm going to cash in my chips now. I've heard the words might, I've heard the words potentially, I've heard the words possibly tied to this federal pot of gold. So far, as I said, 40 states sent in their first application. Twenty-four of those 40 were told to go home. Sixteen made the second round. That doesn't mean those 16 are going to get any money. That just means they're eligible to go on to the second round. Maine is going to try to get in on this in the second round. I don't know. To me, that doesn't sound like very good odds. This bill might help us meet the criteria. Our application might result in some money. There is a potential for dollars. I don't know about the mights and I don't know about the potential, but I do know if we vote this in, whether we get any federal money or not, we will have these federal standards like it or not.

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

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

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

Representative **SYKES**: I'm curious. If we are required to adopt these common core standards, what does it mean? Is it for these standards to be used for graduation, are these standards to be used for promotion from one grade to another, are these standards to be used for if you don't meet that standard for qualification for special education or additional assistance? What exactly are these common core standards going to be used for?

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

Representative **SUTHERLAND**: Thank you, Madam Speaker. The standards are similar to Maine's Learning Results but identify, primarily in the areas of English, language arts and mathematics and some science, those skills that children should learn as they go along the way up to and including high school graduation.

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

Representative **BERRY**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I rise as a secondary school and middle school teacher for the last 20 years in favor of the pending motion and with cautious optimism that adopting a core of standards in language arts and in math, which is all that's presented here, K-12, in common with other states will move our entire national education system forward. It has always been a great concern for me and for other educators who have taught in more than one place that children in Alabama do not learn the same thing that is taught in Alaska, that children in New York do not learn the same thing that is taught in Nebraska, that children in Mississippi do not learn the same thing that is taught in Maine.

In adopting the common core standards, I want to be clear we would not require true sameness, but rather we would require that some very basic standards in language arts and in math be adopted. These would be incorporated into Maine's Learning Results. They would not be separate from it. I feel that when a child comes to a Maine school from another state or when a child leaves a Maine school and goes to another state that they should have a fighting chance to keep up in language arts and in math with the children in the class that they joined. That is the essence of what we would be moving towards. It's what the vast majority of developed nations in the world already do, and, Ladies and Gentlemen, it is one of the reasons that our system lags behind others, that our children do not have a common core set of standards in these critical areas throughout the 50 states. Sameness is not required but common standards are. Same textbooks are not required but common standards are. The same experiences are not required but basic common standards should be. Thank you, Madam Speaker.

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

Representative **SAVIELLO**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I will be very brief but I will just say this comment. If there is \$75 million available, perhaps they might put that into the special education mandates that we've gotten from the Federal Government, then our teachers will have it when they need to teach and they will be able to do the job, our students will be ahead as they are ahead now. Thank you very much, Madam Speaker.

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

Representative **WAGNER**: Thank you, Madam Speaker. As Representative Johnson said to us all, this was not an easy decision for the Education Committee. There were the three criteria that are necessary to compete for the federal funds. We supported two of those, one of which is the common core. We, I believe, rejected or certainly we were very divided on the third having to do with innovative schools or charter schools. I think it's important, as Representative Berry has said, for us to have some standards, some standards that do prevail across the

country. Consequently, I think we should support this and I ask that the Committee Report be read.

Representative WAGNER of Lewiston **REQUESTED** that the Clerk **READ** the Committee Report.

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

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

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

Representative **PEOPLES**: Thank you, Madam Speaker. On the record, I would like to tell you that had I been in my seat when we voted on LD 425, I would have voted yea.

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

Representative **ADAMS**: Thank you, Madam Speaker. On the record please. I wish the record to reflect that had I been in the chamber when we voted on LD 272, Roll Call No. 302, I wish my vote to have been recorded yea or yes.

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

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The House recessed until 4:00 p.m.

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(After Recess)

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The House was called to order by the Speaker.

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On motion of Representative TARDY of Newport, the House **RECONSIDERED** its action whereby Bill " An Act To Improve Employment Opportunities for Maine Workers in the Forest Industry "

(H.P. 1094) (L.D. 1552)  
(C. "A" H-738)

Was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-738) and House Amendment "A" (H-772).**

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

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

HOUSE DIVIDED REPORT - Majority (11) **Ought to Pass as Amended by Committee Amendment "A" (S-423) - Minority (1) Ought Not to Pass** - Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Adopt the Common Core State Standards Initiative" (EMERGENCY)

(S.P. 705) (L.D. 1800)

Which was **TABLED** by Representative PIOTTI of Unity pending the motion of Representative SUTHERLAND of Chapman to **ACCEPT** the Majority **Ought to Pass as Amended** Report. (Roll Call Ordered)

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. You've probably noticed on this Supplement that came back this morning my name was missing on the Education Committee, and why it was missing is that I was out when the bill was voted out. Had I been there, I was sort of on the fence in which way to vote and I still don't know which way to vote. But we can sure use the federal dollars like Representative Finch said and he really, really explained everything right down to the nitty-gritty part of it, but there's no guarantee we're going to get the money because they are competitive federal grants. Representative Finch did an eloquent job in the background and the details of the bill. Representative Joy did a great job in regards to the Federal Government interest in it. I believe if I am correct there is 500 points as a perfect score, that's the most you can get. Now, first of all, we've lost 32 points because we do not have charter schools. They are unlawful in Maine, so therefore the most we can receive is 468 points.

One more catch to this bill. LD 1799 and also LD 1801, they must also pass because there's points in those bills also. LD 1799 permits the use of student assessment data as a model for evaluation of teacher performance and LD 1801 enables school administrative units to establish innovative schools that meet the requirement of the federal Race to the Top Assessment Program application. Maine certainly could use the federal money, but the question is do we want to change to federal standards when we aren't sure what they are at this time? I'm asking you please, I'm not sure how I'm going to vote so please don't follow my light. It might even be yellow, I'm not sure. Thank you, Madam Speaker.

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

Representative **MAGNAN**: Thank you, Madam Speaker. I've been in the business of education for a very, very long time and I'm not worried about the standards because, actually, I don't even know what standards you're talking about. The common core standards, well the NCSL has some common cores of standards under development, the Governor's Committee in the national committee has standards under development, the ASCD, Association for Curriculum Development. There are dozens and dozens of standards, but the good part is all of them are very, very, very basic. I mean a standard is something like a child will recognize a verb in context. So the adoption of these standards regardless of Arne Duncan has in the grand plan, regardless of the fact that we just finished, probably, finished up finally our own standards from the mid-90s, this is not exactly a threat because the important piece is that we can still by community, by RSU now I guess, we can still select our own textbooks and decide how to meet those standards and that's the important piece of this. If it's for money, I'll go along with it. I'm not thrilled, but I'd like to think it's more for the fact that we would be getting on board and we don't have to worry about it. I watched a terrifying report the other night on the Texas State Board of Education coming up with standards where they rewrote history right in their room there, and then the textbooks are going to publish that sort of bologna. That's amazing. I'd like to think that here in Maine we'll be able to at least have standards and meet them with credible, historical, scientific, mathematical, important data. Thank you.



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

Representative **CASAVANT**: Thank you, Madam Speaker. Like Representative Finch, I have not been speaking too often on the floor this session, but it's a little bit different for me. Its part of my new green theory by eliminating a lot of CO2 and hot air, I'm contributing to the environment by less speaking. But what I do want to say is this. In terms of this bill, I would say that the committee as a whole did not like the bill because, as was said, we are voting blind. On the other hand, I would say what's worse than learning results? I think you all pretty well know that I don't really particularly like those.

I also feel that it's very important for us as a body to consider the extra funds. Now don't for a minute think that I believe that the bills that you're going to be seeing over the next few days are going to ensure that we're going to be getting any funds. I thought that the bills were rather weak and not detailed enough, but I think that we have to try. And I think that at least for the next Legislature, whether we get money or not, I think it's to our advantage no matter how much we dislike voting blind, I think it's to our advantage to be willing to gamble now and tweak later. Thank you, Madam Speaker.

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

**ROLL CALL NO. 308**

YEA - Adams, Beaudette, Beaudoin, Beck, Berry, Bickford, Blanchard, Blodgett, Boland, Bolduc, Bryant, Cain, Campbell, Carey, Casavant, Celli, Chase, Cohen, Connor, Cornell du Houx, Crockett J, Crockett P, Davis, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Eves, Flaherty, Flemings, Flood, Fossel, Gilbert, Giles, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Johnson, Jones, Kaenrath, Kruger, Lajoie, Legg, Lovejoy, MacDonald, Magnan, Martin JL, Mazurek, McCabe, Miller, Millett, Morrison, Nelson, Nutting, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Piotti, Pratt, Priest, Rankin, Richardson D, Robinson, Rotundo, Russell, Sanborn, Shaw, Smith, Stevens, Strang Burgess, Stuckey, Sutherland, Tardy, Theriault, Thibodeau, Thomas, Treat, Trinward, Valentino, Van Wie, Wagner J, Wagner R, Watson, Weaver, Webster, Welsh, Willette, Wright, Madam Speaker.

NAY - Austin, Ayotte, Beaulieu, Browne W, Burns, Cebra, Clark H, Clark T, Cleary, Cotta, Crafts, Cray, Curtis, Cushing, Edgecomb, Finch, Fitts, Fletcher, Gifford, Hamper, Hanley, Harvell, Joy, Kent, Knapp, Knight, Langley, Lewin, McFadden, McKane, McLeod, Nass, Prescott, Richardson W, Sarty, Saviello, Schatz, Sirois, Sykes, Tilton, Tuttle.

ABSENT - Briggs, Butterfield, Goode, Greeley, Martin JR, Pinkham, Plummer, Rosen, Wheeler.

Yes, 101; No, 41; Absent, 9; Excused, 0.

101 having voted in the affirmative and 41 voted in the negative, with 9 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-423)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, March 25, 2010.

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

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

**SENATE PAPERS**

**Non-Concurrent Matter**

Bill "An Act Regarding Document Fees at County Registries of Deeds"

(H.P. 1096) (L.D. 1554)

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-669)** in the House on March 16, 2010.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-669) AS AMENDED BY SENATE AMENDMENT "A" (S-449)** thereto in **NON-CONCURRENCE**.

Representative **BEAUDETTE** of Biddeford moved that the House **RECEDE AND CONCUR**.

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

Representative **BEAUDETTE**: Thank you, Madam Speaker. I just wanted to make a statement of legislative intent related to this bill. This bill is not the final word on the question of bulk copy sales. As many of you know, this is an issue that county, local and state agencies are all facing as various commercial and other interests attempt to secure information in government databases. Because of the many issues that have arisen around access to digital data in government databases, at least two examinations of these issues will soon be underway. The State and Local Government Committee has asked the counties to meet with interested parties including commercial vendors, to meet and come back to us early next year with recommendations on how to handle requests for bulk data and how we might handle access to that data through web portals. In addition, a bill coming out of the Judiciary Committee will assign to the Right to Know Advisory Council the task of developing recommendations on handling bulk data requests for all levels of government.

Subsequently, the House voted to **RECEDE AND CONCUR**.

**Non-Concurrent Matter**

Resolve, Directing the Maine Human Rights Commission to Report on Improvements

(H.P. 1081) (L.D. 1537)

(C. "A" H-662)

**FINALLY PASSED** in the House on March 11, 2010.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-662) AS AMENDED BY SENATE AMENDMENT "A" (S-457)** thereto in **NON-CONCURRENCE**.

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

**ENACTORS**

**Emergency Measure**

An Act To Amend Provisions of Certain Laws Relating to Fish and Wildlife

(S.P. 615) (L.D. 1650)

(C. "A" S-388; H. "A" H-774; S. "B" S-452)

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. 129 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.



**SENATE PAPERS**  
**Non-Concurrent Matter**

Resolve, Directing the Commissioner of Professional and Financial Regulation To Study the Complaint Resolution Process (H.P. 1136) (L.D. 1608) (C. "A" H-658)

**FINALLY PASSED** in the House on March 11, 2010.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-658) AS AMENDED BY SENATE AMENDMENT "A" (S-438)** thereto in **NON-CONCURRENCE**.

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

**UNFINISHED BUSINESS**

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

**HOUSE DIVIDED REPORT** - Majority (7) **Ought to Pass** - Minority (6) **Ought Not to Pass** - Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Amend the Standards by Which Game Wardens May Stop All-terrain Vehicles when Operating on Private Property"

(H.P. 1080) (L.D. 1536)

**TABLED** - March 9, 2010 (Till Later Today) by Representative PIOTTI of Unity.

**PENDING** - Motion of Representative MARTIN of Eagle Lake to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report. (Roll Call Requested)

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

Representative **CLARK**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I hope this evening when we take the vote, you do not vote with the presiding motion in front of you. It gives us an opportunity to put this back into the right posture to deal with the bill that we're dealing with in front of us. There is an amendment that's going to be introduced that all parties are agreeable to and I hope when you vote you vote in opposition to the motion pending here this afternoon. Thank you, Madam Speaker.

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

Representative **HARVELL**: This is just to speak on this issue for a moment. I know there was a lot of discussion in here last week about the Fourth Amendment. While I'm not a constitutional lawyer, I did have some historical research. The fact is that the Declaration of Independence almost read in the second paragraph *we hold these truths to be self-evident, that all men are created equal and endowed by their Creator with certain unalienable Rights, the right to life, liberty and property.* But it was so self understood by those people writing that, everybody knows that, they said. We don't have to put it in and it doesn't sound as good as pursuit of happiness. The fact is property rights have been central to this nation from its foundation and the fact is that in this state because we went with a commons approach to land, which was to allow access without what is called reverse posting in other states, we originally tickled the Fourth Amendment there and everything else we've done from that time on has been to continue that tradition that we've had. There has been a long history of humanity seeking to assert the rights of land and property over others, but I would suggest that those that think there is a Fourth Amendment issue here should we look back a little farther. The real Fourth Amendment issue

happened when we made landowners reassert their property rights.

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

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

Representative **MARTIN**: Thank you, Madam Speaker. You have before us now the pending motion which basically would keep the issue as we adopted it last year. If you still favor that position you will vote yes. If you are opposed to changing it then you would vote no. There has been talk about amendments. Those amendments are not before us and in fact those amendments will do the reverse of what you voted for the other day. Just keep that in mind. So if you want to keep the position that people, law enforcement officers should have a reason to stop you, then you will vote for the pending motion.

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

**ROLL CALL NO. 309**

**YEA** - Ayotte, Beaudoin, Beaulieu, Beck, Blanchard, Blodgett, Bolduc, Bryant, Burns, Cain, Carey, Celli, Cleary, Connor, Cornell du Houx, Crafts, Cray, Davis, Dill, Dostie, Driscoll, Eaton, Fitts, Flaherty, Flemings, Gifford, Hinck, Johnson, Joy, Lajoie, Legg, MacDonald, Magnan, Martin JL, McCabe, Miller, O'Brien, Perry, Pratt, Priest, Rotundo, Russell, Stevens, Stuckey, Sutherland, Tardy, Thibodeau, Thomas, Treat, Valentino, Wagner R, Webster, Wright.

**NAY** - Adams, Austin, Beaudette, Berry, Bickford, Boland, Browne W, Campbell, Casavant, Cebra, Chase, Clark H, Clark T, Cohen, Cotta, Crockett J, Crockett P, Curtis, Cushing, Duchesne, Eberle, Edgecomb, Eves, Finch, Fletcher, Flood, Fossel, Gilbert, Giles, Hamper, Hanley, Harlow, Harvell, Haskell, Hayes, Hill, Hogan, Hunt, Innes Walsh, Jones, Kaenrath, Kent, Knapp, Knight, Kruger, Langley, Lewin, Lovejoy, Mazurek, McFadden, McKane, McLeod, Millett, Morrison, Nass, Nelson, Nutting, Pendleton, Peoples, Percy, Peterson, Pieh, Pilon, Piotti, Prescott, Rankin, Richardson D, Richardson W, Robinson, Sanborn, Sarty, Saviello, Schatz, Shaw, Sirois, Smith, Strang Burgess, Sykes, Theriault, Tilton, Trinward, Tuttle, Van Wie, Wagner J, Watson, Weaver, Welsh, Willette, Madam Speaker.

**ABSENT** - Briggs, Butterfield, Goode, Greeley, Martin JR, Pinkham, Plummer, Rosen, Wheeler.

Yes, 53; No, 89; Absent, 9; Excused, 0.

53 having voted in the affirmative and 89 voted in the negative, with 9 being absent, and accordingly the Minority **Ought Not to Pass** Report was **NOT ACCEPTED**.

Subsequently, on motion of Representative CLARK of Millinocket, the Majority **Ought to Pass** Report was **ACCEPTED**.

The Bill was **READ ONCE**.

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

Representative SAVIELLO of Wilton **PRESENTED House Amendment "A" (H-759)**, which was **READ** by the Clerk.

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

Representative **SAVIELLO**: Thank you, Madam Speaker. Very quickly, what this amendment does is it simply treats ATVs the same as snowmobiles and the same as watercraft. The only

thing that we've done is we've added a sentence in there that they need to bring the policy of which they develop, the Fish and Wildlife game wardens, to the Fish and Wildlife Committee for approval. It is not perfect but it is better than what we have. It's met the approval of the landowners who are so gracious, the farmers and the forestry people to allow us to continue to use their land. Madam Speaker, I ask for a roll call.

The same Representative **REQUESTED** a roll call on **ADOPTION of House Amendment "A" (H-759)**.

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

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Adoption of House Amendment "A" (H-759). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 310**

**YEA** - Adams, Austin, Beaudette, Beaudoin, Beaulieu, Berry, Bickford, Blanchard, Boland, Bolduc, Campbell, Casavant, Cebra, Chase, Clark H, Clark T, Cohen, Cornell du Houx, Cotta, Crockett J, Crockett P, Curtis, Dostie, Duchesne, Eberle, Edgecomb, Finch, Fletcher, Flood, Fossel, Gilbert, Giles, Hamper, Hanley, Harlow, Harvell, Haskell, Hayes, Hill, Hogan, Hunt, Innes Walsh, Kaenrath, Kent, Knapp, Knight, Kruger, Langley, Lewin, Lovejoy, MacDonald, Mazurek, McLeod, Miller, Millett, Morrison, Nass, Nelson, Nutting, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Piotti, Prescott, Rankin, Richardson D, Richardson W, Robinson, Sanborn, Sarty, Saviello, Schatz, Shaw, Sirois, Smith, Stevens, Strang Burgess, Sutherland, Sykes, Theriault, Tilton, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Weaver, Welsh, Willette, Madam Speaker.

**NAY** - Ayotte, Beck, Blodgett, Browne W, Bryant, Burns, Cain, Carey, Celli, Cleary, Connor, Crafts, Cray, Cushing, Davis, Dill, Driscoll, Eaton, Eves, Fitts, Flaherty, Flemings, Gifford, Hinck, Johnson, Jones, Joy, Lajoie, Legg, Magnan, Martin JL, McCabe, McFadden, McKane, Pratt, Priest, Rotundo, Russell, Stuckey, Tardy, Thibodeau, Thomas, Webster, Wright.

**ABSENT** - Briggs, Butterfield, Goode, Greeley, Martin JR, Pinkham, Plummer, Rosen, Wheeler.

Yes, 98; No, 44; Absent, 9; Excused, 0.

98 having voted in the affirmative and 44 voted in the negative, with 9 being absent, and accordingly **House Amendment "A" (H-759)** was **ADOPTED**.

Subsequently, under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-759)** and sent for concurrence. **ORDERED SENT FORTHWITH**.

**REPORTS OF COMMITTEE**

**Divided Report**

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-776)** on Bill "An Act To Make Maine's Laws Consistent with the Federal Family Smoking Prevention and Tobacco Control Act"

(H.P. 1086) (L.D. 1542)

Signed:

Senators:

BRANNIGAN of Cumberland  
MARRACHÉ of Kennebec  
MILLS of Somerset

Representatives:

PERRY of Calais

PETERSON of Rumford  
JONES of Mount Vernon  
SANBORN of Gorham  
STRANG BURGESS of Cumberland  
STUCKEY of Portland  
EVES of North Berwick

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

Signed:

Representatives:

JOY of Crystal  
CAMPBELL of Newfield  
LEWIN of Eliot

Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the Majority **Ought to Pass as Amended by Committee Amendment "A" (H-776)** Report.

**READ**.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-776)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, March 25, 2010.

**UNFINISHED BUSINESS**

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

**SENATE DIVIDED REPORT** - Majority (8) **Ought Not to Pass** - Minority (5) **Ought to Pass as Amended by Committee Amendment "A" (S-390)** - Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Require a Pharmacist To Provide Prior Notification to and Obtain Consent from the Prescribing Physician before Changing from One Formulation or Manufacturer of an Antiepileptic Drug to Another"

(S.P. 644) (L.D. 1672)

- In Senate, Minority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-390) AS AMENDED BY SENATE AMENDMENT "A" (S-434)** thereto.

**TABLED** - March 23, 2010 (Till Later Today) by Representative PERRY of Calais.

**PENDING - ACCEPTANCE OF EITHER REPORT**.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-390)** was **READ** by the Clerk.

**Senate Amendment "A" (S-434)** to **Committee Amendment "A" (S-390)** was **READ** by the Clerk and **ADOPTED**.

**Committee Amendment "A" (S-390) as Amended by Senate Amendment "A" (S-434)** thereto was **ADOPTED**.

The Bill was assigned for **SECOND READING** Thursday, March 25, 2010.

On motion of Representative BICKFORD of Auburn, the House adjourned at 5:02 p.m., until 10:00 a.m., Thursday, March 25, 2010 in honor and lasting tribute to Dennis Sweetser, of Auburn.