

# MAINE STATE LEGISLATURE

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

**Daily Edition**

**Second Regular Session**

beginning January 8, 2014

beginning page H-1301

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE  
SECOND REGULAR SESSION  
13th Legislative Day  
Tuesday, February 18, 2014

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

Prayer by Reverend Steve Crowson, Trinity Episcopal Church, Lewiston.

National Anthem by Lisandro Berry-Gaviria, Bowdoinham.

Pledge of Allegiance.

Doctor of the day, Jay Hagerty, M.D., Bangor.

The Journal of Thursday, February 13, 2014 was read and approved.

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

**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

Bill "An Act To Revise the Description of Commercial Fishing Vessels That Are Exempt from Attachment" (EMERGENCY) (H.P. 1275) (L.D. 1778)

Sponsored by Representative COOPER of Yarmouth.

Cosponsored by Senator JOHNSON of Lincoln and Representatives: DILL of Old Town, KRUGER of Thomaston, KUMIEGA of Deer Isle, MORIARTY of Cumberland, PRIEST of Brunswick, SAXTON of Harpswell.

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

Committee on **JUDICIARY** suggested and ordered printed.

**REFERRED** to the Committee on **JUDICIARY** and ordered printed.

Sent for concurrence.

Bill "An Act To Expand Consumer Choice for Wine"

(H.P. 1276) (L.D. 1783)

Sponsored by Representative GIDEON of Freeport.

Cosponsored by Senator KATZ of Kennebec and Representatives: BEAULIEU of Auburn, FOWLE of Vassalboro, HAMANN of South Portland, HERBIG of Belfast, McCABE of Skowhegan, McLEAN of Gorham, SCHNECK of Bangor, TURNER of Burlington.

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

Committee on **VETERANS AND LEGAL AFFAIRS** suggested and ordered printed.

**REFERRED** to the Committee on **VETERANS AND LEGAL AFFAIRS** and ordered printed.

Sent for concurrence.

**REPORTS OF COMMITTEE  
Divided Report**

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-608)** on Bill "An Act To Require Forest Rangers To Be Trained in Order To Allow Them To Carry Firearms"

(H.P. 206) (L.D. 297)

Signed:

Senators:

DUTREMBLE of York

PLUMMER of Cumberland

Representatives:

DION of Portland

CASAVANT of Biddeford

KAENRATH of South Portland

LAJOIE of Lewiston

LONG of Sherman

MARKS of Pittston

PEASE of Morrill

TYLER of Windham

WILSON of Augusta

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

Signed:

Senator:

GERZOFISKY of Cumberland

Representative:

PLANTE of Berwick

**READ.**

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

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

**CONSENT CALENDAR**

**First Day**

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

(S.P. 661) (L.D. 1666) Bill "An Act To Simplify the Audit Procedures of the Maine Rural Development Authority" Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-388)**

(H.P. 534) (L.D. 783) Bill "An Act To Change the Voting Requirements for the Withdrawal of a Municipality from a Regional School Unit" (EMERGENCY) Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "B" (H-611)**

(H.P. 726) (L.D. 1031) Bill "An Act To Require a Mandatory Peer Review Process for the Restraint and Seclusion of Children in a Hospital or Children's Home" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-610)**

(H.P. 1162) (L.D. 1591) Bill "An Act To Amend the Process Controlling the Transfer of a Student between School Administrative Units" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-612)**

(H.P. 1223) (L.D. 1699) Bill "An Act To Fund the Maine HIV Prevention Education Program within the Department of Education" (EMERGENCY) Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-613)**

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

There being no objection, the Senate Paper was **PASSED TO BE ENGROSSED as Amended** in concurrence and the

House Papers were **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

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

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

**UNFINISHED BUSINESS**

The following matters, in the consideration of which the House was engaged at the time of adjournment Thursday, February 13, 2014, 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 (9) Ought to Pass as Amended by Committee Amendment "A" (S-380) - Minority (3) Ought Not to Pass - Committee on CRIMINAL JUSTICE AND PUBLIC SAFETY on Bill "An Act To Establish Reasonable Restrictions on the Use of Fireworks"**

(S.P. 57) (L.D. 168)

- In Senate, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-380)**.

**TABLED - February 13, 2014 (Till Later Today)** by Representative BERRY of Bowdoinham.

**PENDING - ACCEPTANCE OF EITHER REPORT.**

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

Representative FREDETTE 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. 495**

**YEA -** Beaudoin, Beavers, Beck, Berry, Boland, Bolduc, Briggs, Campbell J, Carey, Casavant, Cassidy, Chapman, Chenette, Chipman, Cooper, Daughtry, DeChant, Devin, Dickerson, Dill, Dion, Dorney, Espling, Evangelos, Farnsworth, Fowle, Frey, Gattine, Gideon, Gilbert, Graham, Grant, Hamann, Harlow, Hayes, Herbig, Hickman, Hobbins, Hubbell, Jones, Jorgensen, Kaenrath, Kornfield, Kruger, Kumiega, Kusiak, Lajoie, Libby N, Longstaff, Luchini, Marks, Mastraccio, McCabe, McGowan, McLean, Monaghan-Derrig, Moonen, Moriarty, Morrison, Nadeau C, Noon, Peoples, Plante, Priest, Pringle, Rankin, Rochelo, Rotundo, Russell, Rykerson, Sanborn, Saucier, Saxton, Schneck, Shaw, Stuckey, Theriault, Tipping-Spitz, Treat, Verow, Welsh, Werts, Wilson, Mr. Speaker.

**NAY -** Ayotte, Beaulieu, Black, Brooks, Campbell R, Chase, Clark, Cotta, Crafts, Cray, Davis, Doak, Dunphy, Fitzpatrick, Fredette, Gifford, Gillway, Guerin, Harvell, Jackson, Johnson P, Keschl, Kinney, Knight, Libby A, Lockman, Long, MacDonald S, Maker, Malaby, Marean, McClellan, McElwee, Nadeau A, Newendyke, Nutting, Parry, Pease, Peavey Haskell, Peterson, Pouliot, Reed, Sanderson, Short, Sirocki, Stanley, Timberlake, Turner, Tyler, Volk, Wallace, Weaver, Willette, Winchenbach, Winsor, Wood.

**ABSENT -** Bennett, Crockett, Duprey, Goode, Johnson D, Kent, MacDonald W, Mason, Nelson, Powers, Villa.

Yes, 84; No, 56; Absent, 11; Excused, 0.

84 having voted in the affirmative and 56 voted in the negative, with 11 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-380)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-380)** in concurrence.

**HOUSE DIVIDED REPORT - Majority (8) Ought Not to Pass - Minority (4) Ought to Pass as Amended by Committee Amendment "A" (H-593) - Committee on CRIMINAL JUSTICE AND PUBLIC SAFETY on Bill "An Act To Restrict the Sale, Purchase and Use of Fireworks in the State"**

(H.P. 93) (L.D. 111)

**TABLED - February 4, 2014 (Till Later Today)** by Representative BERRY of Bowdoinham.

**PENDING - ACCEPTANCE OF EITHER REPORT.**

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

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

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

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

Representative **LAJOIE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I stand this morning as a messenger, legislative messenger that would be, and I'd like to cover three areas, if I could, and the first one would be in regards to constituent complaints as well as citizen complaints through the state. As you know, I've been associated with LD 111 for quite some time and apparently my name is attached to it quite well, so I get phone calls from throughout the state which starts basically in Scarborough, the Bethel area, all the way up to Houlton, Presque Isle, as well as the Portland area and Sanford. All these calls basically are in regards to the consumer fireworks and they relate, number one, to nuisance with regards as to the time these activities begin and end. The thing is they're not time specific. They are unannounced. It could be during the daytime, because we've allowed that through the present bill, or they could be in the evening. We do have a curfew of 10 o'clock; however, many times it goes beyond that. I have had complaints from individuals that have had young children that put them to bed early because they go to school the next day, however, just to be woken up by consumer fireworks being set off in the community, around the area.

The other one, of course, and I know that many of us in this body have heard is around the farm areas with farm animals, specifically some that have come out. It would be the horses, riding stables, if you will. Again, the reason being is the unannounced times that these fireworks go off which the individuals that have these businesses cannot identify and many times their riders are out and the fireworks will go off. We also know through research that it does affect domestic animals as well - cats and dogs and house animals. Of course, the assumption would be that if it does the house animals, it will do

wild animals as well. We find that the smaller animals will try to seek shelter, hide under the beds, or, at times, get quite violent because they are so scared. The other areas are special needs children that there's a history of being affected by those and I have an individual in the City of Lewiston that has just that specific situation, but that happens throughout our communities in Maine. The other one which would be concerns that I received from lake regions where numerous fireworks go off at different times of the day, as well as in the evening, and they're worried about contaminants which is the fallout from the exploded fireworks once it's up in the air, which these fireworks do have a number of components in there that are very detrimental to our environment, as well as our feeding chain, if you will. Some of these items fall to the ground or in the water and are picked up by animals and either digested and/or brought someplace else. So on those bases, I think I've covered quite a wide view of areas.

The other area is basically in the nuisance aspect and, again, I want to repeat, it is the fact that they're lit up at any time of the day with no time consistency and sometimes with no respect to others with regards as to their privacy as well. The second one, also, would be based on past history and past history, I'm not talking about United States history. I'm talking about Maine history. Basically, the history that began in 1821, all the way to 1949 where a ban was put on consumer fireworks. During that time, they tried everything. Basically, individuals had to get permits from their clerk's office and sometimes in different towns, and they had to give the location, telephone number and all sorts of information, whereas we don't even have that today. So, still, now, we have an out of control situation.

The other thing is that small changes were made between the 1800s to mid-1930s where it became more pronounced that something had to be done about consumer fireworks because of the nuisance, and during that time, many of the injuries. However, also animal complaints with regards as to farm animals running away from their territory. In 1949, we had a bill that came through that banned the fireworks and what they did at that time, recognizing that fireworks were, you know, basically something nice to look at and listen to, but they were more controlled. Therefore, the commercial fireworks basically were put forward where they would be a specific location, a specific time and crowd control but all the safeties. Therefore, between the two, let's take the consumer fireworks which are any time of the day, we had a hard time controlling them and not only that, but cities and towns may have different types of laws to require citizens to follow and/or not follow, and it was a patchwork and it didn't work. So by going to the commercial fireworks, what they had is they had a specific place, specific time, crowd control, safety control and it seemed to work, and for the next 60 some odd years, 65 or 69 years, it worked fairly well. Of course, during that time, the industry has changed and younger individuals are born and grow up, and older individuals that had gone through the previous stages may no longer be around and therefore knowing what the effects of consumer fireworks had on the State of Maine was kind of forgotten. Many times, what would happen is the lack of enforcement due to knowing the individuals and/or not having enough people was not there. Therefore, it became more lax, until the point where a couple of years ago, or even before that, I believe in 2009, a bill came through to legalize consumer fireworks and the first one didn't go through. However, the second one went through and here we are today.

I bring all of that to you, as well as my first, or I should say the third point is that my past history in public safety and the calls that I responded to, some of injuries and many of them fires, so the background is there. I did note that in 1949, the statement was made that it was over 100 injuries during that particular year

or month that transpired and when we had the testimonies upstairs in Criminal Justice, I was told only -- and I like this word "only" -- 20 individuals had injuries. Well, you know, to me, 20 individuals is too much. But it also shows me one thing, that the commercial fireworks did their job. They work. They lessened the amount of injuries. They lessened the amount of complaints. They lessened the amount of time that your police department, sheriff and/or state police had to go out to respond to these calls. Therefore, I put my bill in to go back to the previous law that would eliminate consumer fireworks from the state, and I feel we would be a lot better, as well as the individuals that I've spoken to throughout the state feel the same way. Thank you, Mr. Speaker, Men and Women of the House.

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

Representative **WILSON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I wanted to just rise and share a little bit different view. I certainly appreciate the Representative from Lewiston, Representative Lajoie's candor. We've worked on this a lot in committee, so my rising today is only to share a quick story. I spent time getting to know some of the business owners that have invested millions of dollars into the fireworks industry in the State of Maine. You know, I want to let you know that they're not any different than any of us, that they've really, in many instances, committed everything that they have, every last red cent, in order to get these businesses up and running, and that's important for us to consider because a previous body made a decision. Whether we agree with that decision or not, I don't really think matters today. I think what does matter is that we did make that decision at a previous time and now these individuals have invested millions of dollars. In one instance, one of the owners that I know, he invested literally every last penny that he had. He has a family, just like you and I. He has children. He actually has a wife who has been battling health issues, so he's extremely concerned about this potential legislation's passage. The reason why he is concerned is, of course, because he has nothing. If we take this and we pass this bill, his business is gone. His livelihood is gone. Every bit of retirement that he had that he invested into the business is gone. As you can imagine, that's a scary position to be in. You know, he did that, again, on the promise that a previous Legislature made to him, that we wouldn't change our position just two years away, two years out from our initial passage. You know, I think we should stand by that promise, whether we like it or not.

You know, we need to be consistent in our support of our businesses and we certainly can't expect people to come into the State of Maine or expect Mainers to invest in our businesses if we're going to just go ahead and make a complete 180 degree turn just a couple years away. It makes it hard for us to attract business. You know, I want to make sure that we're considering that. You know, these people, they're citizens. They're good people. They have the same concerns that all of us have. They don't want people going out and firing off fireworks late at night, causing a nuisance. They want good citizens to behave and be good consumers of fireworks and not make improper decisions with them. In fact, every single one of them, they've all put in measures in order to try to address that, to educate consumers at their own expense, because they understand that if we don't educate consumers, if we don't stop these types of behaviors, their industry and their livelihoods are at risk. I just ask for you to consider the fact that today a vote in favor of this measure, you know, it affects a lot of people, not just the lives of people that are affected by an occasional fireworks from a nuisance and improper use of a citizen, but it affects the lives of Mainers and it affects the lives of business owners and, in some instances,

could cripple their financial health as they move forward. I just ask that you remember that a previous body did make a promise to them and I hope that you'll stand by that promise today. Whether you support this law or not, I hope that you will support them. Thank you, Mr. Speaker.

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

Representative **CHIPMAN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I hope you will join me in voting against the pending motion so we can move on to pass this bill. The economic benefits of consumer fireworks has been negligible at best on the state as a whole; however, this law that was passed two years ago has created a serious public safety threat to our residents. It's not just a nuisance, while in Portland alone we've received a couple of hundred calls on July 4th when the bill was passed compared to years before where it was just a handful. So it has been a nuisance, there's no doubt about that, but it's also been a serious public safety threat. In my district, a 20-unit apartment building was burned out because of the use of fireworks and people were left homeless on the streets. The problem is we're allowing residents with no training to light off explosive devices from their decks, some of them just a few feet apart from the building next to them, and the local ordinance issue saying, well, we can allow local towns to have their own ordinance to prohibit fireworks and limit the hours of use is a joke. People move from one town to another, from one city to the next. They don't know what the ordinance is from one town to the next. They don't follow it and it's not enforced. Please join me in voting against this motion. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Morrill, Representative Pease.

Representative **PEASE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm voting to support this Ought Not to Pass, but I wanted more than anything, most of you know that I don't get up to speak very often and when I do, I try to speak the facts. First of all, don't say this was non-negligible. In the first year alone, the sales of fireworks provided the state with over \$850,000 in new sales tax. That doesn't count the payroll tax for 100 employees that were created by this industry or for the taxes on construction to erect or remodel the places. So don't say it's negligible. The second thing is we heard the statistics of 22 injuries as reported by the Maine State Fire Marshal's office. Let's get the facts straight. Eleven of those 22 injuries were sparklers that you, as grandparents and parents, we allow our children to use and they decide to use them as torches and put them on their brothers and sisters and cousins and friends' arms. So let's eliminate those 11. Out of the 11 left, the State Fire Marshal's office testified that not one of those was based on a fireworks problem but of the fireworks. They are people problems, just like all other problems they deal with. They're not an issue of fireworks failing. It's the issue of people failing. So with just those two things, I just want to clarify the facts. It's not negligible as far as taxes and it's definitely, as far as injuries, we don't know what the injury rate was prior to 2012, but I'll bet that most of you here probably figure it was probably pretty close to that same 20 and it was 22 when they were legalized, so it really hasn't made that much difference. Thank you.

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

Representative **LAJOIE**: Thank you, Mr. Speaker. Forgive me for getting up a second time. Mr. Speaker, Ladies and Gentlemen of the House. With all due respect to Representative Wilson, who is a great individual and I respect the fact that he came up and stood for his values as well as the values of others;

however, as a small business individual and looking at the situation, I believe I would have checked into the past history of the product prior to going into a direction that was taken by these individuals. The reason I say that is you look at it as a feasibility study and there's a lot of money to be made, I understand that; however, there is a history behind the product and what transpires there is that history sometimes can be detrimental to the individuals that have taken it upon themselves to sell that particular product. I guess I would end by saying that whatever reaction, there's a reaction with the action that was taken two years ago by allowing consumer fireworks. There was a reaction. The reaction is where we are today and the information we brought forward from our constituents throughout the state. With this action, that I am going through now is a reaction and that would be the reaction from the industry with regards as to their thoughts on the subject. I should also point out to you that this is not something that is just Maine related, this is throughout the United States, and just to give you an instance for somebody going into business, there is an Alliance to Stop Consumer Fireworks, which is throughout the United States, and it's the American Academy of Pediatrics that founded the Alliance. It's the American Family Physicians, Health Care Physicians, Surgeons, Research and Policy, Nurses Association, Safety Officers Association, Arson, Fire Chiefs, Fire Fighters, Nurse Practitioners, the state Fire Marshal's office, School Nurses, Fire Council and Prevent Blindness in America, those are just a few in the coalition or in the Alliance to Stop Consumer Fireworks. So this is throughout the United States, it's not just in Maine. It's been known for a while, so this is just the beginning when you come down to it. If I were in business, which I have been before, in a small business, I would look at the situation and say, hey, I'm going to have to get ready for this. I'm going to have to fight it or I'm going to work with others to try to regulate it in some sort so it's beneficial for me as well as beneficial for the citizens of Maine. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Winterport, Representative Brooks.

Representative **BROOKS**: Mr. Speaker, may I pose two questions through the Chair?

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

Representative **BROOKS**: Thank you, Mr. Speaker. Number one, many communities have municipal ordinances that do not allow the using of firearms within a certain distance from the city or from the municipality. In those areas, can you still use fireworks? Number two, this bill, if we passed it, would it take us back to the pre, the days when we did not have the right to purchase fireworks as unlicensed civilians.

The **SPEAKER**: The Representative from Winterport, Representative Brooks, has posed two questions through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Brewer, Representative Verow.

Representative **VEROW**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In answer to the first question, in the City of Brewer, we do have an area where a discharge of firearms is permitted and the city council has tailored its ordinance on the fireworks to state that the discharge of fireworks is only permitted in those areas, the thinking being that, with firearms, you have noise as you do with fireworks. So that seems to have worked out quite well and has reduced the number of complaints that we have. Thank you.

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

**ROLL CALL NO. 496**

YEA - Ayotte, Beaudoin, Beaulieu, Beavers, Beck, Black, Campbell J, Campbell R, Cassidy, Chase, Chenette, Clark, Cotta, Crafts, Cray, Davis, DeChant, Dion, Doak, Dunphy, Evangelos, Fitzpatrick, Fowle, Fredette, Frey, Gattine, Gideon, Gifford, Gilbert, Gillway, Grant, Guerin, Hamann, Harvell, Hayes, Herbig, Hickman, Hobbins, Hubbell, Jackson, Johnson P, Jones, Jorgensen, Keschl, Kinney, Knight, Kumiega, Libby A, Lockman, Long, Longstaff, Luchini, MacDonald S, Maker, Malaby, Marean, Marks, McCabe, McClellan, McElwee, Monaghan-Derrig, Moonen, Nadeau A, Nadeau C, Newendyke, Nutting, Parry, Pease, Peavey Haskell, Peterson, Pouliot, Rankin, Reed, Russell, Sanderson, Saucier, Saxton, Schneck, Shaw, Short, Sirocki, Stanley, Theriault, Timberlake, Turner, Tyler, Verow, Volk, Wallace, Weaver, Willette, Wilson, Winchenbach, Winsor, Wood, Mr. Speaker.

NAY - Berry, Boland, Bolduc, Briggs, Brooks, Carey, Casavant, Chapman, Chipman, Cooper, Daughtry, Devin, Dickerson, Dill, Dorney, Espling, Farnsworth, Graham, Harlow, Kaenrath, Kent, Kornfield, Kruger, Kusiak, Lajoie, Libby N, Mastraccio, McGowan, McLean, Moriarty, Morrison, Noon, Peoples, Plante, Priest, Pringle, Rochelo, Rotundo, Rykerson, Sanborn, Stuckey, Tipping-Spitz, Treat, Welsh, Werts.

ABSENT - Bennett, Crockett, Duprey, Goode, Johnson D, MacDonald W, Mason, Nelson, Powers, Villa.

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

96 having voted in the affirmative and 45 voted in the negative, with 10 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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SENATE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (S-374)** - Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Allow County Jails To Apply Savings to Debt Service without a Reduction in State Payments"

(S.P. 192) (L.D. 502)

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

TABLED - February 6, 2014 (Till Later Today) by Representative BERRY of Bowdoinham.

PENDING - **ACCEPTANCE OF EITHER REPORT**.

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

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

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

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

Representative **SHORT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition of the pending motion. Last Friday, I had the opportunity to take a tour of the Somerset County Jail and I can tell you that it was well worth my time. I would encourage other Representatives in Somerset County to do the same. I would encourage Representatives from other counties to visit their county jails and become familiar with what is taking place there. During my tour, I was shown by the chief deputy and the administrator of Somerset County Jail a number of areas that they were very proud of in the way of education, medical reaching and achieving medical needs for their prisoners, and

assisting them with finding jobs when they finally do leave the prison. But, most importantly, was the effort of cost cutting. They've done a great job there of cutting the cost of operation of that facility and it is my belief, Mr. Speaker, that if this bill does not go through and you vote Ought Not to Pass, you're voting to discourage the cost savings efforts for not only the Somerset County Jail but other county jails as well. Thank you, Mr. Speaker.

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

Representative **DION**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just want to clarify this bill. It's not about the quality of service or the efforts of the Somerset County Sheriff's office in being a good steward of the tax money that's afforded to them by the county residents and the monies afforded to them by this body to manage their jail. What is at issue is whether or not the State of Maine should be obligated to pay down the debt on a facility that was approved by county voters. In the interim, we've developed a statewide corrections system. There are real financial challenges facing that system, one of them having to do with capital or how to maintain the facilities. The rejection of the Somerset County initiative was really an affirmation of that system that we would not fund individual counties piecemeal, one after the other, after the other, that they would be treated under the umbrella of the Board of Corrections, a structure that this body approved of in 2008. There is merit to the Somerset argument, but that merit is the right question and this is the wrong forum. It belongs before the Board of Corrections and that's why the committee majority voted the way that it did. What further complicates this is that the County of Somerset has initiated litigation in the Superior Court to answer some of these questions for purposes of clarity. All that serves as a backdrop to the commission that was initiated this summer by the Speaker of this House in conjunction with the President of the Senate. We have worked long and hard, we've held hearings and we are going to prepare a package of proposed language and statutes to address some of these funding cycles. Jails are costly and our current revenue platform is inadequate to meet their needs, and we propose to bring some solutions forward for your review in this House. That is why this bill has to fail and that's why we voted in the majority that it Ought Not to Pass so that we can address it as a system issue. Thank you, ladies and gentlemen.

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

Representative **WILSON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I want to start off by saying I love the county jails, but I hope that I never have to go. I rise against the pending motion and I appreciate the former sheriff/Representative from Portland, Representative Dion's comments. I just believe that, right now, what we have in place is a mentality of "spend it or lose it." My time in the military, the same attitude was applied there as well. If we didn't spend our budget by the end of the budget season, then the next year we would just get less money. Unfortunately, it's the same attitude that's taking place. If they don't spend their entire budget, they don't get the same amount. They can't argue for the same amount because, obviously, they are able to operate on less, so they are going to get less funding. I believe that, right now, the system in place does not adequately address their needs. Obviously, the Board of Corrections is struggling. Again, the Representative from Portland is correct. We are working to hopefully address some of those needs in another piece of legislation, but that's not what's in front of us today. What's in front of us today is a cost saving measure which will ultimately

lead to jails going out and seeking cost savings, so that way they can use that to apply towards their debt service. Again, we're only talking about debt service, debt service that county jails took on, yes, prior to the Board of Corrections inception, but nonetheless it's debt service that they still have and if they're not able to apply real savings that they've found to that debt service, I think that's unfortunate. They have an incredible amount of debt, specifically Somerset County, and we should not tie their hands. We should allow them to have the tools at their disposal in order to operate their facilities as efficiently as possible, and we should provide incentives for them to do so. Therefore, I speak out today against this motion and I hope that you will consider following me. Thank you.

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

Representative **SHORT**: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **SHORT**: I would like to ask the Representative from Portland, Representative Dion, if Somerset County Jail had a representative on the commission of which he was speaking?

The SPEAKER: The Representative from Pittsfield, Representative Short, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Dion.

Representative **DION**: Thank you, Mr. Speaker. In response to the question, there was a process that was outlined in a very transparent fashion as to how membership could be secured on that commission. Both the Speaker's office and the President's office worked on that specifically. In short form, all the relevant stakeholder associations, whether they be the Maine Sheriffs, the Maine Jail Administrators, the Maine County Commission, the Maine Municipal Association, the Maine Chiefs, all were asked to provide multiple candidates for the seats in question and that's how the selections were made.

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

Representative **PLANTE**: Thank you, Mr. Speaker. I must say I truly can understand and appreciate the argument coming from the Representative from Augusta and as well the Representative from Portland, the man of many titles, Chair Dion. The fact is what Chair Dion speaks of is that we don't have the proper forum for this bill. That's the most important fact here. Unfortunately, we could vote for this bill and move it to Appropriations. We just know the end result, unfortunately, is that the funding won't be there in its current form. So, at the current time, this approach is not the one that is best suited to address the problem and, hopefully in the future, we will bring forward a solution to this necessary growing problem. Thank you.

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

Representative **McCABE**: Thank you, Mr. Speaker. I just wanted to answer a question asked by the Representative from Pittsfield, Representative Short, in regards to the makeup and whether there was a representative from Somerset. The short answer is no there is not and there was not a representative from Somerset. The frank answer for the question is that Somerset did not follow the process and after the selection was made, became increasingly upset, so I guess the responsibility goes back to our county commissioners for not following the process. Thank you, Mr. Speaker.

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

Representative **WILSON**: Thank you, Mr. Speaker. I apologize for standing for a second time. Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **WILSON**: Thank you, Mr. Speaker. Could anybody in this body please tell me is there a fiscal note attached to this bill?

The SPEAKER: The Representative from Augusta, Representative Wilson, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Freedom, Representative Jones.

Representative **JONES**: Thank you, Mr. Speaker. In response to the good Representative from Augusta's question, allowing a county jail to retain savings generated from reduced jail expenditures to pay debt may increase the amount of funding the State Board of Corrections needs to support county jail operational costs. But the most salient feature of the fiscal note is this: The General Fund amount that may be required cannot be estimated at this time and will depend on the individual actions of the jails. So in response to the Representative's question, I think we can safely summarize and say the fiscal impact of this is unknown and not in the control of the state, but in the control of the actions of county jails. Thank you.

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

#### ROLL CALL NO. 497

YEA - Beaudoin, Beavers, Beck, Berry, Bolduc, Briggs, Campbell J, Carey, Casavant, Cassidy, Chapman, Chenette, Chipman, Cooper, Daughtry, Dickerson, Dill, Dion, Espling, Farnsworth, Fitzpatrick, Fowle, Frey, Gattine, Gideon, Graham, Grant, Hamann, Harlow, Herbig, Hobbins, Hubbell, Jorgensen, Kaenrath, Kent, Kornfield, Kruger, Kumiega, Lajoie, Libby N, Longstaff, Luchini, Marks, Mastraccio, McGowan, McLean, Monaghan-Derrig, Moonen, Moriarty, Morrison, Nadeau C, Noon, Peoples, Peterson, Plante, Priest, Pringle, Rankin, Rochelo, Rotundo, Russell, Rykerson, Sanborn, Saucier, Saxton, Schneck, Shaw, Stuckey, Theriault, Tipping-Spitz, Treat, Verow, Wallace, Welsh, Werts, Mr. Speaker.

NAY - Ayotte, Beaulieu, Black, Boland, Brooks, Campbell R, Chase, Clark, Cotta, Crafts, Cray, Davis, DeChant, Devin, Doak, Dorney, Dunphy, Evangelos, Fredette, Gifford, Gilbert, Gillway, Guerin, Harvell, Hayes, Hickman, Jackson, Johnson P, Jones, Keschl, Kinney, Knight, Kusiak, Libby A, Lockman, Long, MacDonald S, Maker, Malaby, Marean, McCabe, McClellan, McElwee, Nadeau A, Newendyke, Nutting, Parry, Pease, Peavey Haskell, Pouliot, Reed, Sanderson, Short, Sirocki, Stanley, Timberlake, Turner, Tyler, Volk, Weaver, Willette, Wilson, Winchenbach, Winsor, Wood.

ABSENT - Bennett, Crockett, Duprey, Goode, Johnson D, MacDonald W, Mason, Nelson, Powers, Villa.

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

76 having voted in the affirmative and 65 voted in the negative, with 10 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

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Pursuant to his authority under House Rule 201.1 (H), the Chair appointed Representative CHASE of Wells to serve as Speaker Pro Tem when the House convenes on Thursday, February 20, 2014.

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

Representative **PRINGLE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. In reference to Roll Call No. 492V on LD 1353, had I been present I would have voted yea. In reference to Roll Call No. 493 on LD 1762, had I been present I would have voted yea.

On motion of Representative DION of Portland, the House adjourned at 11:39 a.m., until 10:00 a.m., Thursday, February 20, 2014.

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

**SENATE PAPERS**

Bill "An Act To Prohibit Providers of Cloud Computing Service to Elementary and Secondary Educational Institutions from Processing Student Data for Commercial Purposes"

(S.P. 707) (L.D. 1780)

Came from the Senate, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed.

**REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** in concurrence.

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Bill "An Act To Amend Tidal Energy Demonstration Project Laws"

(S.P. 708) (L.D. 1781)

Came from the Senate, **REFERRED** to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** and ordered printed.

**REFERRED** to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** in concurrence.

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Bill "An Act Relating to Nursing Facility and Inpatient Hospice Patients and Medical Marijuana Use"

(S.P. 706) (L.D. 1779)

Came from the Senate, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.

**REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** in concurrence.

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**Pursuant to Statute**

**Criminal Law Advisory Commission**

Report of the **Criminal Law Advisory Commission** pursuant to the Maine Revised Statutes, Title 17-A, chapter 55 asks leave to report that the accompanying Bill "An Act To Make Technical Amendments to the Criminal History Record Information Act and the Intelligence and Investigative Record Information Act and a Related Provision in the Maine Revised Statutes, Title 20-A"

(S.P. 709) (L.D. 1782)

Be **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and printed pursuant to Joint Rule 218.

Came from the Senate, Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Bill was **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** in concurrence.

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