

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
28th Legislative Day
Tuesday, March 25, 2014

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

Prayer by Reverend Matthew McDonald, West Gorham Union Church, Gorham.

National Anthem by Wagner Middle School Clipper Band, Samuel L. Wagner Middle School, Winterport.

Pledge of Allegiance.

Doctor of the day, Patrick Keaney, M.D., Yarmouth.

The Journal of yesterday was read and approved.

SENATE PAPERS

The following Joint Resolution: (S.P. 745)

**JOINT RESOLUTION RECOGNIZING THE 25TH
ANNIVERSARY OF THE KENNEBEC LAND TRUST**

WHEREAS, the Kennebec Land Trust was established 25 years ago and it has worked with private landowners, towns, lake associations and other partners to conserve working forests, farmland, ecologically important lands and properties that provide public access for outdoor recreation and hunting; and

WHEREAS, during these years, the Kennebec Land Trust has worked to permanently conserve 59 properties that encompass 4,860 acres in 21 towns in central Maine; and

WHEREAS, the trust connects more people with more places in the natural world in Kennebec County than any other private organization, which benefits hunters and hikers, birders and boaters and foresters and farmers; and

WHEREAS, since 1988, volunteers from Kennebec County, as well as college interns from across the country, have helped care for and monitor these lands by building trails, offering hikes for the public, presenting educational programs for schoolchildren, offering sustainable forestry demonstrations for adults and children, holding a summer nature camp and sponsoring an annual lecture series about the natural world; and

WHEREAS, in 2012, the trust's proactive and collaborative approach to conservation was recognized by the Land Trust Alliance, a national organization, as part of its Excellence Program; and

WHEREAS, in 2009, the Kennebec Land Trust and the Maine Forest Service founded the Kennebec Woodland Partnership, a project of 13 organizations working together to advance woodland conservation, and in 2013, with the support of 5 conservation partners, the trust launched the Local Wood Initiative; and

WHEREAS, the Kennebec Land Trust is working to acquire Howard Hill, the scenic forested backdrop to the State House, which the trust intends to permanently protect with a conservation easement for the preservation of its natural, historical and recreational resources; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-sixth Legislature now assembled in the Second Regular Session, pause in our deliberations to celebrate the 25th anniversary of the Kennebec Land Trust and we send our appreciation to the trust's members, past and present, for their commitment to steward in perpetuity the land the trust conserves; and be it further

RESOLVED: That a suitable copy of this resolution, duly authenticated by the Secretary of State, be transmitted to the Kennebec Land Trust with our best wishes for continued success.

Came from the Senate, **READ** and **ADOPTED**.
READ and **ADOPTED** in concurrence.

Non-Concurrent Matter

Bill "An Act To Allow for the Equalization of Truck Weights between Maine and Canada for Limited Use at the Border Crossings"

(H.P. 769) (L.D. 1076)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-642) in the House on March 4, 2014.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-642) AS AMENDED BY SENATE AMENDMENT "B" (S-444)** thereto in **NON-CONCURRENCE**.

On motion of Representative McCABE of Skowhegan, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

COMMUNICATIONS

The Following Communication: (H.P. 1328)

**STATE OF MAINE
OFFICE OF THE
SECRETARY OF STATE
AUGUSTA, MAINE 04333-0148**

March 18, 2014

Honorable Millicent M. MacFarland

Clerk of the House

2 State House Station

Augusta, Maine 04333

Dear Clerk MacFarland:

Enclosed please find my official certification to the 126th Legislature of the citizen initiative petition entitled "An Act To Prohibit the Use of Dogs, Bait or Traps When Hunting Bears except under Certain Circumstances."

Sincerely,

S/Matthew Dunlap

Secretary of State

**STATE OF MAINE
SECRETARY OF STATE**

I, Matthew Dunlap, Secretary of State, hereby certify that written petitions bearing valid signatures of 63,626 electors of this State were addressed to the Legislature of the State of Maine and were filed in the office of the Secretary of State on February 3, 2014, requesting that the Legislature consider an act entitled, "An Act To Prohibit the Use of Dogs, Bait or Traps When Hunting Bears except under Certain Circumstances."

I further certify that the number of signatures submitted is in excess of ten percent of the total votes cast in the last gubernatorial election preceding the filing of such petitions, as required by Article IV, Part Third, Section 18 of the Constitution of Maine, that number being 57,277.

I further certify this initiative petition to be valid and attach herewith the text of the legislation circulated on the petition's behalf.

In testimony whereof, I have caused the Great Seal of the State of Maine to be hereunto affixed. Given under my hand at Augusta on the eighteenth day of March in the year two thousand and fourteen.

S/Matthew Dunlap
Secretary of State

READ and with accompanying papers **ORDERED PLACED ON FILE.**

Sent for concurrence.

Representative BERRY of Bowdoinham moved that the Bill "An Act To Prohibit the Use of Dogs, Bait or Traps When Hunting Bears Except under Certain Circumstances"

(I.B. 1) (L.D. 1845)

and all accompanying papers be **INDEFINITELY POSTPONED.**

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

Representative BERRY: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I make this motion to Indefinitely Postpone this item out of respect for the process that Maine has of direct democracy and specifically the citizen initiated referendum. The proponents of this proposal have stated from the beginning that they want the people to have the ability to vote on this item, so by this body Indefinitely Postponing the bill, there is no statement of whether we support or oppose the proposed referendum. It is simply a means for us to send this item out to the people and, in the grand Maine tradition, let the people decide. Thank you, Mr. Speaker.

Subsequently, the Bill and all accompanying papers were **INDEFINITELY POSTPONED.**

The Following Communication: (H.C. 383)

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

March 25, 2014

Honorable Millicent M. MacFarland

Clerk of the House

2 State House Station

Augusta, Maine 04333

Dear Clerk MacFarland:

Please be advised that pursuant to Title 3, MRSA, §154, Governor Paul R. LePage has withdrawn his nomination of the following:

On March 24, 2014

Dana A. Saucier of Wallagrass for appointment as a member of the Loring Development Authority.

This nomination is currently pending before the Joint Standing Committee on Labor, Commerce, Research and Economic Development.

Sincerely,

S/Mark W. Eves

Speaker of the House

READ and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication: (H.C. 384)

**STATE OF MAINE
CLERK'S OFFICE
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0002**

March 25, 2014

Honorable Mark W. Eves

Speaker of the House

2 State House Station

Augusta, Maine 04333

Dear Speaker Eves:

Pursuant to Joint Rule 310, the following Joint Standing Committees have voted unanimously to report the following bills out "Ought Not to Pass:"

Criminal Justice and Public Safety

L.D. 1814

An Act To Create a Secure, Therapeutic Mental Health Unit

Energy, Utilities and Technology

L.D. 1628

An Act To Require a Timely Response by a Gas Company to a Municipal Request for Service Expansion

Labor, Commerce, Research and Economic Development

L.D. 1650

An Act To Create a Program To Provide Training for Unemployed Workers

Transportation

L.D. 1804

Resolve, To Require the Installation of a Fence on the Penobscot Narrows Bridge (EMERGENCY)

Veterans and Legal Affairs

L.D. 1775

An Act To Assist Military Service Members with Access to the Federal Uniformed Services Employment and Reemployment Rights Act of 1994

The sponsors and cosponsors have been notified of the Committee's action.

Sincerely,

S/Millicent M. MacFarland

Clerk of House

READ and with accompanying papers **ORDERED PLACED ON FILE.**

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Bailee Jiang Carol Bartash, of Lincoln, who has received the Girl Scout Gold Award. This is the highest award in Senior Girl Scouting and is given for excellence in skills development, leadership, personal growth and community service. For her Gold Award project, Bailee planned, developed and completed a project called "Jewels for Survivors." She taught the members of the Cancer Support Group at Penobscot Valley Hospital to make jewelry to sell. They used the money raised to help other cancer patients. We send our congratulations to Bailee on this accomplishment;

(HLS 789)

Presented by Representative GIFFORD of Lincoln.

Cosponsored by Senator CAIN of Penobscot.

On **OBJECTION** of Representative GIFFORD of Lincoln, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative GIFFORD: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In my eight years here. I've given out numerous Eagle Scout awards and I'm going to give out another one here today, but this is a special award because this young lady has attained a Girl Scout Gold Award. I've done some research on it and what I've found is it's evolved since 1919. The Girl Scout Gold Award was first introduced in 1980, but it had been known as a Golden Eaglet, the Curve Bow, the First Class Award, throughout Girl Scout history. The Girl Scout Gold Award is the highest award a Girl Scout between 14 and 18 can earn. Currently, between 5 and 6 percent of eligible Girl Scouts earn the Girl Scout award annually. The Gold Award

recognizes the work of Girl Scouts who demonstrate leadership, culminate in 80 hours or more of dedication towards a service project that has lasting effects in the community, and this young lady, Bailee Bartash, is the young lady that we're recognizing this morning. This Sunday, I'm going to give out the actual award, but I invited them down this morning to be represented here in the House. I will give one also to her brother, who is going to receive an Eagle Scout Award today. But the young lady that is getting this award, Bailee Bartash, has done 70 hours or more of work on a project called "Jewels for Survivors." Bailee taught the members of a cancer support group in Penobscot Valley Hospital to make jewelry to sell to different events and used the money raised to help other cancer patients. Ladies and Gentlemen of the House, I work here often discussing how we would get our young people to see the value of an education, employment and the community. I am pleased to recognize this young lady, Bailee Bartash, as she sees the value of hard work and giving back to the community through her Girl Scout award. Thank you.

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

Recognizing:

Riley Andrew Francis Bartash, of Lincoln, who has attained the high rank and distinction of Eagle Scout. This is the highest award in Boy Scouting and is given for excellence in skills development, leadership, personal growth and community service. For his Eagle Scout project, Riley planned, developed and built a picnic pavilion and a horseshoe pit at the new seaplane base campground and recreation area at the Lincoln Regional Airport in Lincoln. He also cut and burned brush at the campground. We extend our congratulations to Riley on this achievement;

(HLS 790)

Presented by Representative GIFFORD of Lincoln.

Cosponsored by Senator CAIN of Penobscot.

On **OBJECTION** of Representative GIFFORD of Lincoln, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **GIFFORD**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I stand once again to recognize this young lady's brother, Riley Bartash. Over the eight years, I've given out probably 12 or 15 Eagle Scout awards. It's an honor recognizing young men who have gone through the ranks of Boy Scouts and achieved the Eagle Scout Award. Out of 848,000 Boy Scouts, in 2012, only approximately 58,000 made it to become an Eagle Scout. Being an Eagle Scout has always carried a special significance, not only in scouting but also, these young men, when they had a higher education, business, industry or community service. I've seen that, over the years, people that I've met after I've given out these awards, people that go out into society and become successful, the Eagle Scout Award really has a great meaning to it, people really recognize it. Today, we're going to recognize Riley Bartash as he is one of the approximately 58,000 Eagle Scout recipients who considered hard work and perseverance important enough to pursue and receive this award. Riley planned, developed and completed a project in the Lincoln Regional Airport, where he built a 12 by 12 picnic pavilion in a horseshoe pit, along with clearing brush that will add to the camping experience at this campground. I also, ladies and gentlemen, would like to recognize his parents. They are in the gallery today, were recognized by the Speaker. But, you know, they made a big

sacrifice. They drove from Lincoln and for those of you who haven't been north of Bangor, it's about 2½ hours from here, so they had to get up real early this morning to bring their young people down here. So I not only want to recognize Riley and his sister, I would like to recognize the parents also. Thank you.

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

By unanimous consent, all matters having been acted upon were **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" (S-441)** on Resolve, To Terminate a MaineCare Transportation Contract

(S.P. 658) (L.D. 1663)

Signed:

Senators:

CRAVEN of Androscoggin
LACHOWICZ of Kennebec

Representatives:

FARNSWORTH of Portland
CASSIDY of Lubec
DORNEY of Norridgewock
GATTINE of Westbrook
PETERSON of Rumford
STUCKEY of Portland

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

Signed:

Senator:

HAMPER of Oxford

Representatives:

MALABY of Hancock
McELWEE of Caribou
SANDERSON of Chelsea
SIROCKI of Scarborough

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-441)**.

READ.

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

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

Representative **FARNSWORTH**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'll be very brief. This is an issue that we struggled with in the committee ever since the rollout of the new broker system for non-emergency transportation last August. Admittedly, this has created a lot of discussion within the committee and so there will obviously be a lot of different opinions, but, however, the majority felt as though this was the most fair way of approaching a resolution to the problems that have occurred in this particular rollout of the system. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Gattine.

Representative **GATTINE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in support of the pending motion. Implementing transformation and change in government is difficult and challenging. We all know that. But it is hard to imagine how the administration could have botched this MaineCare transportation situation any worse than it did. All of us have heard the stories about the tragic impact this has had on the lives of our most vulnerable citizens – children, the elderly, people with disabilities, the thousands of complaints and missed rides.

DHHS and its brokers have effectively denied services that people need and that they are entitled to. Some people have been put into actual physical danger – abandoned in dangerous situations. Children have been dropped off at the wrong place. The elderly have been left on the side of the road. This continues today, nine months after the system went live. Providers have lost revenue and lost business. These losses will never be recouped. This all could have been avoided but the Department erred every step of the way. It designed a flawed system, not taking into account the actual cost and impact and abandoning a homegrown network of community service agencies that had been built up over decades. It moved ahead with a flawed procurement, not properly vetting the bidders or checking their experience in other states. It mismanaged the implementation. Basic principles of project management were ignored. DHHS did not account for risk and allowed the system to go live before it was ready or properly tested. It negligently failed to make sure that basic contractual protections like the performance bond and payment bond were put into place. It didn't respond to problems quickly as they arose, and now after nine full months, the system isn't much better today than it was last August. This is no way to run a business and people have a right to expect more from their government. Now, to add insult to injury, we've learned that the vendor that has been the poorest performer has asked the Department for more money and it looks like the Department actually paid them another million dollars. Another million dollars thrown away at a contract that is bringing no value. This is sadly becoming a common theme at DHHS.

The Department has had nine months to fix this problem and it hasn't. What's worse is that the Department's solution is to simply rebid the six of the eight regions under the same terms and conditions, with the same flaws, under the same unrealistic implementation schedule. Believe it or not, it's highly possible that the same awful vendor might actually win back one or more of these regions.

We've all heard that the definition of insanity is doing the same thing over and over again expecting different results. This really is insane. People are frustrated. People are tired. People are scared and people want change. People do not trust the Department to fix this and they have lost confidence. They look to us, as their elected Representatives, to help and to fix this problem that the Department seems unable or unwilling to fix.

So what this bill does is that it requires the Department to start over in all regions and move ahead with a program that brings real benefit to the people it serves. It makes the Department implement in a saner, more realistic way with more time for testing and quality assurance. It makes the Department utilize the existing network of local agencies who gave good service to Maine people for a generation. It won't allow the Department to reward vendors who have already failed and it makes the Department have in place a contingency plan in case there are problems.

This bill is extraordinary. It is frankly unfortunate that we need to take these steps, but the stakes are high. People's lives are at risk, they have suffered too long and they are looking to us for help because they can't trust the administration to help them. We cannot ignore these cries for help and need to do what we can to keep our people safe. I hope that you will follow me in supporting the pending motion. Thank you, Mr. Speaker.

Representative **BERRY** of Bowdoinham **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 Mapleton, Representative Willette.

Representative **WILLETTE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I had originally just planned on standing and asking for a roll call, but after hearing the first little bit of the debate, I wanted to stand up and correct a few things. The whole reason why we're here and I've been dealing with this issue for Aroostook County since 2010 when I got elected, is because the federal government forced us to. Working with the second floor, we were trying to save the Aroostook Regional Transportation System from having to change because they were doing an excellent job and are trying to do their best that they can do under the current circumstances, but it was the federal government forcing us to do it because Maine was out of compliance. This isn't the administration working in bad faith. Maybe the contract could have been a little bit better, or maybe we could have had some more protections. But this is the federal government forcing Maine to screw up a program that was working well. So I think we really need to focus and put the blame where it really is due and that's the federal government once again letting us down.

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

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

The SPEAKER: The Representative may pose her question.

Representative **TREAT**: Was the State of Vermont subject to the same federal regulations and did the State of Vermont end up pursuing a similar model to that being pursued in the State of Maine, to anyone who may be able to answer.

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

Representative **GATTINE**: Actually, yes, the State of Vermont is subject to the same regulations. The State of Vermont implemented a program that actually has worked for the people of the State of Vermont. One of the options, what this bill does is it directs the Department to prepare a waiver to submit to the federal government, if the next implementation goes badly, to do exactly what Vermont did. There are a lot of different ways to implement a successful system and, you know, we can try to point the fingers down to Washington, but, you know, other states have done this successfully and we need to follow course.

The SPEAKER: The Chair recognizes the Representative from Chelsea, Representative Sanderson.

Representative **SANDERSON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Yes, it had a rocky rollout. Some of the vendors, who the good Representative from Westbrook said were doing a fine job, they didn't even bid in the RFP process. How could they have been awarded a contract if they didn't even bid? The Department has taken steps to make sure that the biggest offender for providing services that were

below par will not be going forward. They have cancelled that. They have let that vendor know that they're cancelled will not be renewed going forward. What this bill does, or tries to do, is it prohibits the Department from renewing any contracts beyond 6/30/2014. It also seeks to cancel the RFPs, which would cover services once the current contracts are done, that were sent out on February 6, 2014. Any changes implemented in the system, right now, are going to take longer than June 30, 2014, to cancel any RFPs that are currently in the process. To get a vendor following up behind the ones that we have now, I think, is foolish and foolhardy. It also overextends one branch of government into another branch of government. The Department is taking steps. They have put out corrective action plans and when that particular vendor in mind did not meet the criteria, that's when they were told they would not be renewed. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **CAMPBELL**: I just heard that the federal government got blamed for everything. Did the federal government tell us to pay another \$1,200,000 to this company for doing a bad job?

The SPEAKER: The Representative from Newfield, Representative Campbell, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Chelsea, Representative Sanderson.

Representative **SANDERSON**: We were required by the federal government to change the way that we provided transportation services. There were different models that we could adopt. This model is what we decided to adopt. Has it had a rocky rollout? Yes. Is the Department working on making those corrective action plans? Absolutely. Are they trying to hold the providers of these services feet to the fire to make sure that our people are picked up properly and gotten where they need to be? Absolutely. Thank you.

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

Representative **STUCKEY**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Until eight months ago, Maine had a well-integrated, efficient and responsive community-based regional transportation system. It was the product of over four decades of thoughtful regional planning and collaboration, shared resources including funds from DOT, Department of Education, MaineCare, other DHHS programs, municipalities, local United Ways, other philanthropic dollars, and an extensive network of volunteer drivers, all managed by community-based nonprofit organizations, were providing transportation to folks all over the state. Some was for MaineCare members' non-emergency medical appointments, some was for seniors, for non-medical appointments and shopping, some was from children to get to and from non-medical services, but all of it was to help people without access to other transportation get where they needed to go.

Mr. Speaker, about four years ago, the federal Centers for Medicaid and Medicare Services advised the State of Maine that they had concerns about our MaineCare non-emergency transportation program. They were concerned that our system organizations responsible for scheduling could assign too many rides to themselves. There were never any findings made or funds recalled, but CMS said the system needed to change.

Mr. Speaker, the second floor's solution to the CMS concerns went way, way further than necessary. It could have been as simple as changing the Medicaid/MaineCare cost sharing formula

with CMS from the direct service's rate of about two-thirds federal to one-third state, to an administrative rate of 50/50. That would have cost the state about \$6 million, and that's a lot of money. But, Mr. Speaker, by pulling the MaineCare funds out of our regional transportation system, we may have compromised the other components of our local networks, limiting their flexibility and reducing their ability to respond to other transportation needs in their communities. I am almost positive this consideration was not part of the DHHS plan. And I fear that, in the end, Mr. Speaker, this loss of flexibility and shared resources may cost us way more than \$6 million.

We've bifurcated a good and proven, efficient and responsive regional transportation system, extracting a major component with little or no regard for the other pieces. And the capitated per member per month payment contracts, 7 of the 8 of them with large, out-of-state, for-profit providers, look an awful lot like managed care. That's the strange system that says, "the less service you provide, the bigger your profits."

Mr. Speaker, I know that there are people in this building who really believe that instead of providing so many services, government should be encouraging folks to take more responsibility for themselves. Some of them may even feel that the difficulties that have arisen with these transportation contracts may really be a good thing. Forcing people to do more for themselves will make them feel better in the long run and will mean we can cut back government. Some might even argue that this was the plan all along. Well, Mr. Speaker, I hope it wasn't the plan because I don't think it really works that way. It seems to me a strange way to serve the common good, Mr. Speaker. Most of the folks who depend on this program don't own a car. Many of them aren't even allowed to drive. They're too young or too old. They depend on their community to help them get where they need to go and that's why I support this bill. It will give our regional transportation organizations the chance to reintegrate all their resources, knowledge, experience and expertise back into a responsive community program. Thank you, Mr. Speaker.

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

Representative **SIROCKI**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. A lot of information has been tossed around today, and I think that it is important to remember that, yes, the federal government did come to the Department of Health and Human Services, did identify that we were out of compliance, that several options were made known to us. It had been previously approved that we would move to this particular brokerage model. That would be maximizing the federal match, meaning that if we were to go back to the previous system, we would lose \$6 million in federal funds. It was never the intention, that I recall, ever, of this new system to delay or cause hardship, or to cause a reduction of services and usage of provider services. It's unfortunate that this particular brokerage rollout has been difficult, but one of the providers is not going to be having a renewed contract. The Department is looking at opening that up again to secure a different broker, and it's not the model that is having a problem. It's the actual, that particular broker. There are some successes with this as well and the goal was actually to improve access and quality for the members, and that is what we're moving toward and we have had success with that, and I think we will see improved success going forward. Thank you.

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

Representative **FREDETTE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I appreciate the words of our folks on the other side of the aisle. Representative

Gattine, the good Representative from Westbrook, indicated that this was a bad rollout, and I agree with him. If it's a bad rollout, maybe we shouldn't adopt it. The federal government rolls out a plan and it doesn't work, let's not adopt it. I think that's a good model to follow. And the good Representative from Portland, Representative Stuckey, seems to indicate that \$6 million is really no issue to really be looking at. It's really a matter of, you know, simply providing these services the way we provided them because we will just have to come up with the \$6 million which really means one of two things, further cuts in other departments, like the Department of Ag or the Department of Marine Resources, or maybe we simply raise taxes. So the argument here that there shouldn't be a dollar quantifying issue is really a little bit surprising to me. I think, at the end of the day, this is yet another mandate from the federal government. The State of Maine, the Chief Executive, has taken a responsible approach to try to provide these services in a meaningful way. In some ways, there certainly were some hiccups along the way. Those hiccups have been addressed. We want to continue to move forward in a responsible way doing both things, which provides the proper balance between providing the service to those that need them in a responsible way that funds the program. So I think that there is a good balanced approach and I think it's a good way to move forward rather than trying to look at this and play politics with this particular issue. And, Mr. Speaker, I would ask that the Clerk read the Committee Report.

The same Representative **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 Skowhegan, Representative McCabe.

Representative **McCABE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Where does the buck stop? Where does the buck stop? Let me tell you, this is another example of mismanagement. This is another example of our CEO for this state being a bad CEO.

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

Representative **MORRISON**: Thank you, Mr. Speaker. Good morning, Ladies and Gentlemen of the House. I'm going to rise to share with you a story. My stepmother happens to be the program director for STRIVE which is an organization in Portland who supports developmentally disabled individuals, young adults, and these are horrific stories that I've heard. Even before this bill was written, before we entered into the second session here, their clients are struggling and they need our help, and these are real stories, folks. These are real stories. Though their clients get picked up at the wrong time, get dropped off at the wrong place, one particular client from STRIVE actually was driven to the driver's personal home and was scared out of their minds because this happened. When they expect to be picked up at a specific time, brought to specific location for an appointment and don't end up in that place, stand out in the cold for hours, it's time we make a change here, folks. I don't care about the politics of it. We have to help those in need and these developmentally disabled individuals here in the state need our help. It's not about who did what and when, it's about fixing it now. We need to end this contract and regroup, start again. I've heard these stories over and over again from my stepmom who is so passionate about her work at STRIVE, and she worked so hard and all of them in that agency work incredibly hard to find solutions to these problems for their clients, and those people need our help and they have nowhere to go but us. It's time to end this contract and regroup. Please support this measure before us. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Chelsea, Representative Sanderson.

Representative **SANDERSON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am just shocked, shocked to think that my colleagues across the aisle think that this administration is the only administration that has had a little bit of a rocky rollout of a brand new system. Let's take a walk back in history. Let's look at 2005 with the MaineCare billing system called MECMS. Now, if that wasn't a disaster, I don't know what was, and it didn't even live up to the promise because, in 2010, we had to go live with yet another billing system called MIHMS because MECMS wasn't even HIPAA compliant. Now, MIHMS also had its share of problems, as I'm sure the good Representative from Westbrook, Representative Gattine, knows. It was pretty rough and rocky there, and some of the information coming out of that system wasn't even accurate. Now this administration alone is not responsible for all the new rocky implementations of any of the systems that we've had in the state. It happens. It's unfortunate that it happens. But to have someone stand up on the other side of this chamber and accuse folks in this building of thinking that the difficulties with this rollout in the transportation system might think that this is a good thing, that we planned it, really, that's not true and you know that. We all want the best for the individuals in this state who need services. We all want these individuals to be able to get to their doctors' appointments, get to their therapy appointments, get to their jobs. We want that. Has this been a rocky rollout? Yes. But to stand and accuse this administration alone of not being capable, that's just wrong.

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

Representative **CAMPBELL**: Thank you, Mr. Speaker. I'm sorry to rise again, but I'm shocked and shocked at Representative Sanderson, when I asked the question, and it's a very simple question, who authorized the \$1,200,000 to a company that's doing a bad job and why. I don't want to hear anything else, just an answer. Was it DHHS or was it the federal government that authorized the \$1,200,000? If you can answer that, please. Thank you.

The **SPEAKER**: : The Chair would remind all members to direct debate through the Chair.

The Chair reminded all members to address their comments toward the Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Mapleton, Representative Willette.

Representative **WILLETTE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I just wanted to respond to my good friend from Skowhegan, Representative McCabe, where does the buck stop. Sixty plus percent of the funding here comes from the federal funds which also comes with these crazy federal mandates that require us to do things that we may or may not want to do. I think, to respond to him, this is just another example of America having a bad CEO, implementing health care policies that hurt Mainers and hurt the American people.

The **SPEAKER**: The Chair recognizes the Representative from Chelsea, Representative Sanderson, who is proceeding to respond to the question.

Representative **SANDERSON**: I would need clarification of which contract is he referring to. Is he referring to the transportation contract or perhaps maybe another contract?

The **SPEAKER**: The Representative from Chelsea, Representative Sanderson, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative **CAMPBELL**: Thank you, Mr. Speaker. I'm talking about the \$1,200,000 that was just awarded, over and above, to the company that's doing such a bad job.

The **SPEAKER**: The Chair recognizes the Representative from Gardiner, Representative Grant.

Representative **GRANT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to share with you a couple of hours that I spent last fall speaking to folks at the Kennebec Behavioral Health's Capitol Clubhouse. There were about 30 people there. Some of them were my constituents. Some of them were constituents of my other colleagues here in this body. I ask you to think about the arguments that have been put forward today on the floor, how those arguments would have played before a group of individuals who have missed appointments like dialysis appointments, who have been left stranded in Augusta and had to walk in the dark back to Gardiner because they had no other ride. How about the parents who have been used to bringing their small children on their medical appointments, with the understanding with their previous drivers with whom they had collegial relationships of trust, having to be told, "I'm sorry, you can't bring your child with you." and having no other option for that child at that moment. Imagine being the gentleman who told me he was picked up by a driver who was clearly inebriated. He didn't get in the car, thankfully. Was that issue resolved adequately? I would say that issue became a police issue. But I have to make you understand, if you don't already, that the folks who rely on these rides are already our most vulnerable citizens. This group of folks have serious and persistent chronic mental illness, issues like depression, agoraphobia. These people have a hard enough time getting up and making these appointments, coming to places like the Capitol Clubhouse. Imagine standing up in front of them, as I was that day, and saying, "Gee, it's because of the federal government. We can't do anything about that." or, "Gee, we're going to try harder next time." and months and months later, where are we? That's what I ask you to think about as you're casting your vote. Think of the people who are dependent on these services and who have asked us to do something about it. I, for one, plan to do so with my vote. Thank you, Mr. Speaker.

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

Representative **SIROCKI**: Thank you, Mr. Speaker. I just would like to provide some clarification for the good Representative that just spoke, just to remind folks that the brokerage system schedules the rides. The actual drivers are existing drivers. They are two different entities. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Norridgewock, Representative Dorney.

Representative **DORNEY**: Thank you, Mr. Speaker. I wasn't going to speak on this topic, but over the last nine months or so, I've had so many emails, phone calls, concerned patients who are not able to get to appointments, patients who missed their counseling sessions, that this has really been an issue that's been ongoing. The problem is that it's still an ongoing problem. There's no good solution to this problem. It seemed, from the committee's point of view, the fairest thing to do, since there is still ongoing problems with the ride system, is to basically start over with the contract system, which is what this bill would do. The one company that seemed to be doing the best was Penquis and it does give them a disadvantage to have to rebid on the contract, but, overall, I think we decided this was the fairest way to reset the whole system to try again and hopefully have a better outcome next time. Thank you very much.

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

Representative **VILLA**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This rollout is nothing short of a disaster. I spoke with some members of the Western Maine Special Olympic Team and their parents, and a lot of these individuals, they take time and they need continuity and they have to build trust with the people who are picking them up and dropping them off. Sometimes it can take six months just to get them to go outside and be a part of their ski team, to put on skis and go down a hill. These things, what's happened here is we've taken away months and months of work that people who are providing them services just to get them to go outdoors, we've taken it back because a lot of these individuals have had to be picked up by taxis, have been dropped off at the wrong house, and they also don't even know the people who are picking them up. So you set them back six months, a year, and it's just plain wrong. I have seen more taxis in rural, western Maine in the last year than I've ever seen in the 17 years that I've been there. A lot of these people don't even know where they're going or how to get there. We have to stand up for the people who need the help the most. This is a disaster and it needs to end now. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from York, Representative McGowan.

Representative **McGOWAN**: Thank you, Mr. Speaker. Mr. Speaker, Women and Men of the House. I sit here and listen to this debate. You choose to call it a bad rollout, a hiccup for children, the elderly and most vulnerable who failed to get access to health care and other vital services, an administration that daily degrades the poor and accuses them of fraud...

The **SPEAKER**: Will the Representative defer? The Chair recognizes the Representative from Newport, Representative Fredette.

Representative **FREDETTE**: Thank you, Mr. Speaker. I think the comments are well out of line and should be admonished. Thank you.

On **POINT OF ORDER**, Representative **FREDETTE** of Newport asked the Chair if the remarks of Representative **McGOWAN** of York were germane to the pending question.

The **SPEAKER**: The Chair would remind the Representative and all Representatives to not use disparaging remarks of the Chief Executive or any member of this body. With that in mind, the Representative may proceed.

The Chair reminded Representative all members to not use disparaging remarks when referring to the office of the executive or any other member of this body.

Representative **McGOWAN**: Thank you, Mr. Speaker. I'm simply commenting on what I see in the paper every day. Now, that same administration declares that it is the fault of the federal government that this implementation has been a failure. Caring without action is useless. Thank you, Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Hancock, Representative Malaby.

Representative **MALABY**: Thank you, Mr. Speaker. Ladies and Gentlemen, good morning. Yes, indeed, it has been a bad rollout and the important thing at this juncture is to learn from our mistakes. Many have identified issues that have confronted some of our disabled populations. This is certainly not something that we want to see recur, so it is important to learn from our mistakes. But, to be frank, to call it a bad rollout, I think you're referring to the Affordable Care Act.

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

Representative **DeCHANT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise to speak on

this as a member of the board of the Elmhurst organization in Bath, which is dedicated to increasing the independence and promote the well responsibilities of people with intellectual disabilities and mental illness and autism in the Midcoast area. While we are taking up time and blaming and pointing fingers of who did this and whose mistake was that, we are losing sight of what was really important and it's providing the consistent training and services for the people that have been mentioned today, that are folks within all of our regions. So I encourage folks to consider this, that they were hired for a job. They did a poor job in executing those things. They should be fired. Let's move on.

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. 560

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

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

ABSENT - Boland, Chapman, Crockett, Gideon, Hickman, Johnson D, Kaenrath, Libby A, MacDonald W.

Yes, 86; No, 56; Absent, 9; Excused, 0.

86 having voted in the affirmative and 56 voted in the negative, with 9 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Resolve was **READ ONCE**. **Committee Amendment "A" (S-441)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Resolve was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-441)** in concurrence.

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

COMMUNICATIONS

The Following Communication: (H.C. 385)

**STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0001**

March 24, 2014

The 126th Legislature of the State of Maine

State House

Augusta, Maine

Dear Honorable Members of the 126th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1589, "Resolve, To Ensure Notification to the Public of the Location in Maine of Persons Convicted in Foreign Countries of Certain Crimes."

This bill comes to my desk in the form of a resolve that would mandate that the Commissioner of the Department of Public Safety convene a task force in order to develop a procedure for notifying members of the public of the presence in their community of someone who was convicted of a sex offense in a foreign country. While I see that the goals of this bill are laudable, my concern is that they simply are not reachable given the sparse resources that are assigned to the task. I do not veto this bill because of its intent. I veto this bill due to its lack of practicality. In order to notify communities of the presence of sex offenders who are convicted in foreign countries, law enforcement would have to verify the accuracy of the information they receive or seek out. This means that law enforcement would have to embark on a quest for information that would span a multitude of countries each with a unique criminal code. Many of these countries have justice systems that are completely different than that of Maine. Further many countries do not have publicly accessible databases that can be searched. It is likely that in order to accomplish the goal of gathering and verifying foreign information, law enforcement would need to hire interpreters before inquiries could be made. Many countries keep their sex registers confidential. It is hard to imagine how law enforcement would be able to get around these very real difficulties. The resolve mandates that the task force submit a report that would have to solve these issues. It is simply not practical to assume that such a task force could prepare such a report by December of this year.

I also have concerns about the constitutionality of this resolve as it relates to those convicted in countries that do not afford criminal defendants the same due process protections that are afforded in this country. In Maine a sex offender's name is only placed on the sex registry after a full criminal proceeding that affords a defendant all due process. It appears that similar protections would not be afforded to those who are convicted in foreign countries before police would begin telling their neighbors that they are sex offenders.

Rather than keeping our children safe, this bill to a large extent provides a sense of false security to the threat that is posed by would-be sex offenders. For these reasons, I return LD 1589 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,
S/Paul R. LePage

Governor

READ and ORDERED PLACED ON FILE.

The accompanying item Resolve, To Ensure Notification to the Public of the Location in Maine of Persons Convicted in Foreign Countries of Certain Crimes

(H.P. 1160) (L.D. 1589)

(H. "A" H-619 to C. "A" H-600)

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

Representative **MAKER**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I stand today not only in opposition of the Chief Executive's veto of LD 1589, but I stand on behalf of all our children in Maine. I have been wearing a bracelet that states "Begin by believing." It is the motto of the Maine Coalition Against Sexual Assault. They state on their page

"Begin by believing... that one in five Mainers will be a victim of sexual violence in their lifetime." Read the papers every day and you will find another predator that we have in the State of Maine. We are giving the predators a free range, when they are deported for sexual abuse of children, to enable them to assault again without any knowledge of their previous attack. Through compromise, we were able to create a task force to find out if there is anything we could do to protect our children. How come the predator's right is more important than our children? That seems like a wrong message for this body to send.

I have a poem that I would like to read about being a child:

Being a Child is not what it seems!
 A world full of hopes,
 A heart full of dreams.
 The ice cream parlor, Where every one goes.
 The little Secrets that no one knows!
 Going to sleep a heart full of fear!
 Wiping away the last little tear!
 It's searching for love,
 And no one's around.
 And searching for help that can't be found.
 It's going to sleep and wanting to die!
 How much more can I cry?
 It's closing you're eyes and wishing him gone.
 It's minding your heart where it's been torn!
 It's taking a bath to wash it way
 Only to find it's here to stay!
 It's wanting your mother to protect you at night.
 It's wanting her arms to hold to tight!
 Money and cokes and basketball cheers,
 Spending the night a heart full of fears!
 Laughing playing and having fun,
 Where never a part of being young!
 A world of lost hopes and shattered dreams
 This child's life is not what it seems!

For some reason, I have been selected to be their voice, to stand up and fight for their rights. I have been fortunate enough to have every one of you stand with me, and I hope today that you will continue to fight for our children by following my light.

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 just wanted to point out a couple quick points about the bill. I'm on the committee of jurisdiction that looked at this bill and I thank the sponsor for bringing it forward. But, first off, I just want to say this bill places nobody on the registry at all, which we decided was not a good idea and was not practical to do because of due process issues and a whole number of other concerns. But the point is it doesn't put anybody on the registry. All it does is it doesn't put anybody on the registry. All it does is convene a task force charged with identifying methods of communicating foreign convictions for sex offenders. Some towns and sheriffs are already doing this. They're just simply putting flyers up, if they're aware of foreign convictions, or if convictions that happened in other jurisdictions, they're putting up flyers to make sure that individuals are aware of the convictions. Even though those convictions may not have resulted in them being on our sex offender registry in the State of Maine, they're already doing that. So what this bill does, it helps identify the shortcomings in the current process that exists. It helps them try to find opportunities to better communicate those foreign convictions. Basically, to be brief, the bottom line is I feel strongly that the bill, as currently drafted, provides an opportunity to prevent the most heinous of crimes. Those are, of course, sex offenses, in my opinion. I

guess the bottom line for me is I know who I'll stand with. I'll stand for those that are the victims, as was mentioned before. Again, I want to thank the Representative from Calais for bringing forward this. I urge you all to override this veto.

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 rise and urge your vote to override this decision from the Executive. Let me begin by first admitting that when I received the veto letter, I was surprised. I have it here in hand, I read it and I have no dispute with the Executive's analysis of an issue. My disagreement is the incorrect issue. Representative Maker came to us with a problem that an American citizen had been convicted in a foreign jurisdiction of a crime of molestation, and we were unable to provide adequate warning or notice to communities. To be fair, the committee worked this very diligently and came to conclusions that are very much in line with the Executive's veto message. He's not wrong, but he's not right. Because the committee took it a step forward and felt that we owed it to our colleague from Washington County to provide some solution to a very real problem that her law enforcement representatives had engaged, and that was the existence of this type of offender. The argument from the Executive here points to the difficulty that we confront when we want to make a decision to put somebody on a sex offender registry. It could tie up the courts and law enforcement in extended proceedings in searching and evaluating other foreign jurisdictions and their practices, and Representative Maker and I had long conversations about that, prior to our decision, informing her that we would probably vote Ought Not to Pass. Think about it. She has a real problem and we could comfortably come to a conclusion that would look her squarely in the eye and say, "No." It didn't seem fair, so we searched for another answer. If one door is blocked, there has to be one that's unlocked, and the one that we found safe harbor in, from a legal point of view, was to apply the notification law. A sheriff, police chief, a troop commander can engage in the notification to his or her community of an individual's conviction. It gives us the latitude we need to ensure the public's safety and protect our children. It's not hypothetical, folks. If we fail to notify, even if one child and one family is torn apart from this, am I the one to visit them and say, "But we had one heck of a legal argument as to why we could not intervene?" So we thought the notification process was a way to do it. Current law said it was okay. We checked with the Department of Attorney General as to our reading of the notification law. It wasn't done shooting from the hip. We were trying to craft a reasonable answer to Representative Maker's question.

Now, to take it a step forward, some of us spoke with the Maine Chiefs and the Maine Sheriffs. They were willing to work on this issue. They currently have notification policies in place, but they need to have a conversation as to how they want to go about doing so with someone who is convicted in another jurisdiction, and that information would come from border enforcement and that's the only fact we would work with, and we would put the community on notice that those are the facts we're working with. This is a chance to provide Representative Maker and the families that she represents, by virtue of this bill, with some kind of solution. I'm not willing to say here that it provides a false sense of security. I never thought that was a great opening line to any family who has been traumatized or could be traumatized by the presence of an offender in their neighborhood. This was an opportunity to develop a reasonable policy that could marry existing law and they would report back to the committee. I trust my former colleagues to come up with such a policy. I trust

in their common sense, and I ask you today to support Representative Maker's initiative and extend that protection and common sense to the families of this state. Thank you.

After reconsideration, the House proceeded to vote on the question, 'Shall this Resolve become a law notwithstanding the objections of the Governor?' A roll call was taken.

The SPEAKER: The pending question before the House is 'Shall this Resolve become a law notwithstanding the objections of the Governor?' All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 561V

YEA - Ayotte, Beaudoin, Beaulieu, Beavers, Beck, Bennett, Berry, Black, Bolduc, Briggs, Brooks, Campbell J, Campbell R, Carey, Casavant, Cassidy, Chase, Chenette, Chipman, Clark, Cooper, Cotta, Crafts, Cray, Daughtry, Davis, DeChant, Devin, Dickerson, Dill, Dion, Doak, Dorney, Dunphy, Duprey, Espling, Evangelos, Farnsworth, Fitzpatrick, Fowle, Fredette, Frey, Gattine, Gifford, Gilbert, Gillway, Goode, Graham, Grant, Guerin, Hamann, Harlow, Harvell, Hayes, Herbig, Hobbins, Hubbell, Jackson, Johnson P, Jones, Jorgensen, Kaenrath, Kent, Keschl, Kinney, Knight, Kornfield, Kruger, Kumiaga, Kusiak, Lajoie, Libby N, Lockman, Long, Longstaff, Luchini, MacDonald S, Maker, Malaby, Marean, Marks, Mason, Mastraccio, McCabe, McClellan, McElwee, McGowan, McLean, Monaghan-Derrig, Moonen, Moriarty, Morrison, Nadeau A, Nadeau C, Nelson, Newendyke, Noon, Nutting, Parry, Pease, Peavey Haskell, Peoples, Peterson, Plante, Pouliot, Powers, Priest, Pringle, Rankin, Reed, Rochelo, Rotundo, Russell, Rykerson, Sanborn, Sanderson, Saucier, Saxton, Schneck, Shaw, Short, Sirocki, Stanley, Stuckey, Theriault, Timberlake, Tipping-Spitz, Treat, Turner, Tyler, Verow, Villa, Volk, Wallace, Weaver, Welsh, Werts, Willette, Wilson, Winchenbach, Winsor, Wood, Mr. Speaker.

NAY - NONE.

ABSENT - Boland, Chapman, Crockett, Gideon, Hickman, Johnson D, Libby A, MacDonald W.

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

143 having voted in the affirmative and 0 voted in the negative, with 8 being absent, and the Veto was **NOT SUSTAINED**. Sent for concurrence.

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

Divided Reports

Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-442)** on Bill "An Act Regarding Bad Faith Assertions of Patent Infringement"

(S.P. 654) (L.D. 1660)

Signed:

Senators:

VALENTINO of York
BURNS of Washington
TUTTLE of York

Representatives:

BEAULIEU of Auburn
CROCKETT of Bethel
DeCHANT of Bath
GUERIN of Glenburn
MORIARTY of Cumberland
PEAVEY HASKELL of Milford

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-443)** on same Bill.

Signed:

Representatives:

PRIEST of Brunswick
MONAGHAN-DERRIG of Cape Elizabeth
MOONEN of Portland
VILLA of Harrison

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-442)**.

READ.

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

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

Representative **PRIEST**: Thank you, Mr. Speaker. Mr. Speaker, Fellow Representatives. This is LD 1660, "An Act Regarding Bad Faith Assertions of Patent Infringement," the so-called "patent troll bill." It enacts Chapter 757 in Title 14 and provides for court actions for bad faith assertion of patent infringement. It is based on a Vermont law which was recently enacted. The bill says that "A person may not make a bad faith assertion of patent infringement against another person." A person here includes a corporation. The bill provides that the target of a bad faith assertion of patent infringement may bring a civil action against the person making a bad faith assertion and can get relief, including damages, costs and fees, attorneys' fees, as well as punitive damages equal to \$50,000 or three times the total damages, cost and fees, whichever is greater. Both the Minority and the Majority Reports have the same provisions governing bad faith assertion of patent infringement. I want to repeat that. Both the Majority and Minority Reports have the same provisions governing bad faith assertion of patent infringement. Both have the bill that was submitted by the banks and the credit unions on this matter. The credit unions and the banks want this bill. Why, because they've been hit with so-called patent trolls asking for money not to bring suits against the banks and credit unions for asserted patents involving ATMs, even though those asserted patents will probably not hold up in court. So what's the problem? The problem is that the Majority Report exempts Pharma, that is drug manufacturers, from the statute regarding bad faith assertions of patent infringement. The Minority Report does not exempt Pharma from the statute regarding bad faith assertions of patent infringement.

So why should Pharma be exempt from the bad faith prohibition, unlike everybody else? At the hearing, when we asked why Pharma should be exempted, we got no answer. A month later, another lobbyist came in and said the reason was the biopharmaceutical industry relies on innovative patents and on protecting those patents by allegation of patent infringement, determining how much someone will pay for settling the allegation and bringing lawsuits over disputed patents. They said that being subject to the bad faith requirements unnecessarily complicates the patent enforcement landscape of the biopharmaceutical industry. But isn't that true for any company that works with innovative patents? For example, Apple, Samsung, Boeing, Bath Iron Works, Microsoft or Toyota. Why should the pharmaceutical industry, of all the industries in this state and in the country, be free of any bad faith accusation while all the other companies are not? Why shouldn't the patent infringement bill apply to them? We really got no answer.

Therefore, the Minority Report said let's pass the bill that the banks and the credit unions want, but let's pass it without the Pharma exemption. That's the reason for the Minority Report and I ask that you adopt that report. Thank you, Mr. Speaker.

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

Representative **FREDETTE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I bring your attention to 6-2, the report on your calendar, where it states down at the very bottom that it comes from the other body with the amended version "A"...

The SPEAKER: Would the Representative defer? We cannot speak about the actions of the other body. The Representative may proceed.

The Chair advised all members that it is inappropriate to refer to the potential action of the office of the executive or the other body in order to influence the vote of the House.

Representative **FREDETTE**: And I would also ask that you look at the important work on this bill that was done in a bipartisan fashion. That means Republicans and Democrats working together. Now, here we have a bill that is supported by credit unions and banks. I've been a credit union board member for nearly 20 years now. I appreciate the hard work that they do in our state and I've talked to them about the importance of this bill, and it seems to me odd that the good Representative who moved Committee Amendment "B" moves the Minority Report. I would therefore ask the Clerk to read the Committee Report, and I would ask, Mr. Speaker, for a roll call.

The same Representative **REQUESTED** that the Clerk **READ** the Committee Report.

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

The same Representative further **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 Harrison, Representative Villa.

Representative **VILLA**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I sit on the Judiciary Committee and in the committee, this bill was presented as a good bill and initially was supported by the majority; however, we had a public hearing. After that public hearing, we had a work session and this amendment was presented without the benefit of a public hearing. This amendment exempted pharmaceutical companies. Pfizer was kind enough to send a representative who couldn't explain the amendment, nor could she provide a good example as to why pharmaceutical companies should be exempt. After some discussion, 35 U.S.C. § 271(e)(2) is the Hatch Waxman Act which offers protection from the generics. It basically exempts pharmaceuticals from trolling and bad faith accusations, doing the exact opposite of what we want to protect our credit unions from.

The bill without the amendment is a good bill, but to add pharmaceuticals without a public hearing, without fully understanding the adverse economic effect it will have on small Maine biotechnology companies or future startups is irresponsible. Pharmaceutical companies have the best patent protection laws not only under the federal government but on a global level as well. Under the Agreement on Trade-Related Intellectual Property Rights, the World Trade Organization members are required to enforce product patents for pharmaceuticals globally. Pharma patents are protected for 20 years before generic versions may be produced. Initially, it was bipartisan. It is no longer bipartisan. What is odd about this is

that the Chief Executive said he will veto this bill if we don't add the Pharma exemption...

The SPEAKER: The Chair would ask the Representative to defer. In the same way that we cannot speculate about the actions of the other body, we cannot also speculate about the actions of the Chief Executive. The Representative may proceed.

The Chair advised Representative VILLA of Harrison that it is inappropriate to refer to the potential action of the office of the executive or the other body in order to influence the vote of the House.

Representative **VILLA**: Even though it wasn't speculation?

The SPEAKER: You cannot speculate.

Representative **VILLA**: I'm sorry, thank you. This is not about Pharma. This bill was not intended to be about pharmaceutical companies. We need to be able to protect our individuals, our credit unions and our banks from patent trolls. But pharmaceutical companies, once again, have the best, strictest patent protection laws in the world. I ask you to accept the Minority Ought to Pass as Amended Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Glenburn, Representative Guerin.

Representative **GUERIN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today as a member of the Judiciary Committee in opposition to the pending motion. I am on the Majority Report which is supported by the Maine Retail Association of Maine, the Maine Association of Broadcasters, the Maine Bankers Association and the Maine Society of CPAs. This is indeed an important bill for our business community. The use of frivolous patent lawsuits has increased drastically across our country and, at this time, we need to deal with this problem. The pharmaceutical industry was especially concerned about being exempted from this and the Majority Report protects the pharmacy industry from frivolous patent lawsuits against an industry that is based on patent protection for their long-term investment of time and money in the pharmaceutical industry, which is different than many other industries in that the time and commitment is years and years to get FDA approval. The bankers fully support this. There has been a problem with the ATM machine, frivolous lawsuits coming out of the trolling "industry," and they are happy to have the pharmaceutical industry exempted and I hope you will all join me in defeating this motion and, in turn, supporting the Majority Report.

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

Representative **MOONEN**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. When this bill came to our committee, we heard a lot from the banks and the credit unions about how they were getting these frivolous claims of patent infringement, especially with the technology of the ATMs they were using, and they said they needed protection. The committee was unanimous in understanding that the banks and the credit unions were victims of these frivolous claims and that we should protect them, so 99 percent of the Majority Report and the Minority Report are exactly the same and give those institutions the protection that they need, and we're all in support of that. The only difference between the two reports is the exemption for the pharmaceutical companies, and the Representative from Brunswick had it right when he said that they couldn't even explain why they needed the exemption. They were given multiple opportunities and couldn't explain it, and I think that's unfortunate because if they had given me a reason, I probably would have supported it, but they couldn't give any reason whatsoever and that was what was so frustrating about it.

The bill lays out very, very basic criteria that will help protect banks, credit unions and the folks who say they need protection from these frivolous claims. First, these claims have to include the patent number that the person says is being infringed upon, the name and address of the patent owner, and factual allegations about the areas of infringement of the patent. This is a very, very simply criteria, and I can understand that the pharmaceutical companies want to protect their patents, as they should, and it seems to me that if they want to protect their patents, they should be able to provide the patent number that they say is being infringed upon, their name and address if they are the owner, and the allegations of infringement. It's very, very basic criteria and when we asked them about this in the committee, we said, "You know, it's very simple to meet this criteria and have a good faith assertion of patent infringement. Are you saying that you would be able to make good faith assertions of patent infringement when you are protecting your patents?" And they said, "No, no, of course our assertions of patent infringement will be made in good faith." And then, of course, then the question is "Well, if your assertions are going to be made in good faith, why do you need an exemption from a crackdown on bad faith infringements?" You know, if you're doing everything right, why do you need an exemption from the crackdown on the people who are doing it wrong? Again, there was no answer to that. They could not give an answer. So it's disappointing because the committee unanimously agrees that the banks, the credit unions, need protection from these frivolous claims and we just couldn't agree on whether pharmaceuticals should be exempted. So I urge you to support the pending motion because, without an explanation, there is just no reason to do it. Thank you, Mr. Speaker.

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

Representative **BEAULIEU**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I heard mentioned, just briefly a while ago, that this isn't about pharmaceutical companies yet we're spending a lot of time talking about pharmaceutical companies, though this bill is not about them. I'd like to say that, for the most part, I think that the pharmaceutical companies came with the expressed intent to support the interest of the parties that were in that room, the Judiciary Committee room, when they were worried about patent trolling and they didn't ask, of course, that the bill be defeated. They didn't suggest that we Ought Not to Pass that proposal. They requested an exemption, an exemption that we give every day to a lot of groups, a lot of individuals I've seen over the years. The fact of the matter is that they are under patent laws at the federal level. They have been impinged upon by strict federal laws by the Food and Drug Administration, and so they have to abide by regulations and concerns, and now they're going to have to abide by another set of standards established by the state courts. I think it fair, really, for the most part, since we listened to those who were concerned about these bad faith processes that were taking place, that we also listen to those who don't really see the need for them, yet are willing to accept it to benefit the rest of the business community. So I encourage you to defeat this measure, so that we can move to the Majority Report when the debate is concluded. Thank you very much.

The **SPEAKER**: The Chair recognizes the Representative from Mapleton, Representative Willette.

Representative **WILLETTE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Cigarette taxes and patent trolls, what do these two things have in common? They are the two things that people have emailed and called me more about than any other issue this session. The County Federal

Credit Union gave me my first loan when I was fresh out of high school and local credit unions and banks, each year, invest millions in our communities. Let's not put this bill in jeopardy by putting it in a posture that could compromise its passage. Let's work together and vote against the pending motion in support so we can get to the other Committee Amendment to put it in a bipartisan position, so we can get things done for the people of the State of Maine.

The **SPEAKER**: The Chair recognizes the Representative from Yarmouth, Representative Cooper.

Representative **COOPER**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in favor of the pending motion. I find it highly ironic that the most profitable industry in our nation, the pharmaceutical industry, which has been a master at manipulating the patent laws of this country in its favor by extending the length of patent protection beyond the normal 20 years to several more periods of such time by minor charges to existing pharmaceuticals, should claim that they need special protection under this law. There is no need for this special protection. They are the most protected industry under the patent laws of any industry in the nation and it amounts to pure blackmail to claim that they need this protection. Thank you.

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

Representative **MORIARTY**: Thank you, Mr. Speaker. Good morning, Fellow Members of the House. I rise as a member of the Judiciary Committee and want to begin by expressing my utmost respect for all of my colleagues. I particularly respect the comments made by my chair, Representative Priest, by my colleague, Representative Villa, here, this morning, about our process and what we heard. I, too, was dissatisfied by the presentation made by Pharma and share some of their concerns. I want to thank my colleague, Representative Guerin, for reminding the body that this just isn't an issue that pertains to the financial industry in Maine, but that it has much more broader support than that. And so my position comes down to this. Here's the thing, as it were, the issue before us is the overriding importance to take real and significant action against the systemic extortion that patent trolling represents. I doubt that this bill, the Majority version bill, will represent the final piece of legislation that we will see in the next several years on this issue as this pernicious practice spreads and takes on perhaps different forms than we can foresee today. The bill today need not be the final word on the subject. My colleague, Representative Priest, is correct in pointing out that very little divides the Majority from the Minority. But in view of the fact that we have a Majority Report which addresses the concerns of a broad range of Maine based businesses, I urge the body to go with the Majority Report, get this process started, attack patent trolling immediately, and then proceed further, if necessary, at the appropriate time, perhaps in the next session. Thank you, Mr. Speaker.

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

Representative **CAREY**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. This bill is critically important to protect the innovation that drives so much of Maine's economy and that of our nation. It's said that the pharmaceutical industry has an interesting business model and that it costs millions or billions to develop the first pill and the next one is almost free, and I wonder that whether that's the rationale that they should be treated differently than others. But then I think of a company like Microsoft which also spends billions developing a product like Windows or Office and yet when I was travelling in

another country, I saw Microsoft Office photocopied, the jacket photocopied and the software copied on another disc. So if I may ask a question to the body through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **CAREY**: I ask a question for anyone who may choose to answer. Why are we picking and choosing one industry to protect to the exclusion of any others that we could do so?

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

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

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. 562

YEA - Beaudoin, Beavers, Berry, Bolduc, Briggs, Brooks, Campbell J, Carey, Cassidy, Chenette, Chipman, Cooper, Daughtry, DeChant, Devin, Dickerson, Dill, Dion, Dorney, Evangelos, Farnsworth, Fowle, Frey, Gattine, Gilbert, Goode, Graham, Grant, Hamann, Harlow, Herbig, Hobbins, Hubbell, Jones, Jorgensen, Kent, Kornfield, Kruger, Kumiega, Libby N, Longstaff, Luchini, Marks, Mastraccio, McCabe, McGowan, McLean, Monaghan-Derrig, Moonen, Nadeau C, Noon, Peoples, Plante, Powers, Priest, Pringle, Rankin, Rochelo, Rotundo, Russell, Rykerson, Sanborn, Saucier, Saxton, Schneck, Shaw, Stuckey, Theriault, Tipping-Spitz, Treat, Verow, Villa, Welsh, Mr. Speaker.

NAY - Ayotte, Beaulieu, Beck, Bennett, Black, Campbell R, Casavant, Chase, Clark, Cotta, Crafts, Cray, Davis, Doak, Dunphy, Duprey, Espling, Fitzpatrick, Fredette, Gifford, Gillway, Guerin, Harvell, Hayes, Johnson P, Kaenrath, Keschl, Kinney, Knight, Kusiak, Lajoie, Lockman, Long, MacDonald S, Maker, Malaby, Marean, Mason, McClellan, McElwee, Moriarty, Morrison, Nadeau A, Nelson, Newendyke, Nutting, Parry, Pease, Peavey Haskell, Peterson, Pouliot, Reed, Sanderson, Short, Sirocki, Stanley, Timberlake, Turner, Tyler, Volk, Wallace, Weaver, Werts, Willette, Wilson, Winchenbach, Winsor, Wood.

ABSENT - Boland, Chapman, Crockett, Gideon, Hickman, Jackson, Johnson D, Libby A, MacDonald W.

Yes, 74; No, 68; Absent, 9; Excused, 0.

74 having voted in the affirmative and 68 voted in the negative, with 9 being absent, and accordingly the Minority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "B" (S-443)** 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 "B" (S-443)** in **NON-CONCURRENCE** and sent for concurrence.

Majority Report of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-439)** on Bill "An Act To Amend the Motor Vehicle Franchise Laws"

Signed:

Senators:

CLEVELAND of Androscoggin
CUSHING of Penobscot

Representatives:

HERBIG of Belfast
DUPREY of Hampden
GILBERT of Jay
HAMANN of South Portland
LOCKMAN of Amherst
MASON of Topsham
MASTRACCIO of Sanford
VOLK of Scarborough
WINCHENBACH of Waldoboro

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

Signed:

Senator:

PATRICK of Oxford

Representative:

CAMPBELL of Newfield

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-439)**.

READ.

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

The same Representative **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. 563

YEA - Ayotte, Beaudoin, Beaulieu, Beavers, Beck, Bennett, Berry, Black, Bolduc, Briggs, Brooks, Campbell J, Campbell R, Carey, Casavant, Cassidy, Chase, Chenette, Chipman, Clark, Cooper, Cotta, Crafts, Cray, Daughtry, Davis, DeChant, Devin, Dickerson, Dill, Dion, Doak, Dorney, Dunphy, Duprey, Espling, Evangelos, Farnsworth, Fitzpatrick, Fowle, Fredette, Frey, Gattine, Gifford, Gilbert, Gillway, Goode, Graham, Grant, Guerin, Hamann, Harlow, Harvell, Hayes, Herbig, Hobbins, Hubbell, Johnson P, Jones, Jorgensen, Kaenrath, Kent, Keschl, Kinney, Knight, Kornfield, Kumiega, Kusiak, Lajoie, Libby N, Lockman, Long, Longstaff, Luchini, MacDonald S, Maker, Malaby, Marean, Marks, Mason, Mastraccio, McCabe, McClellan, McElwee, McGowan, McLean, Monaghan-Derrig, Moonen, Moriarty, Morrison, Nadeau A, Nadeau C, Nelson, Newendyke, Noon, Nutting, Parry, Pease, Peavey Haskell, Peoples, Peterson, Plante, Pouliot, Powers, Priest, Pringle, Rankin, Reed, Rochelo, Rotundo, Russell, Rykerson, Sanborn, Sanderson, Saucier, Saxton, Schneck, Shaw, Short, Sirocki, Stanley, Stuckey, Theriault, Timberlake, Tipping-Spitz, Treat, Turner, Tyler, Verow, Villa, Volk, Wallace, Weaver, Welsh, Werts, Willette, Wilson, Winchenbach, Winsor, Wood, Mr. Speaker.

NAY - NONE.

ABSENT - Boland, Chapman, Crockett, Gideon, Hickman, Jackson, Johnson D, Kruger, Libby A, MacDonald W.

Yes, 141; No, 0; Absent, 10; Excused, 0.

141 having voted in the affirmative and 0 voted in the negative, with 10 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-439)** 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-439)** in concurrence.

Majority Report of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought Not to Pass** on Bill "An Act To Retain Call Centers in Maine"

(S.P. 676) (L.D. 1710)

Signed:

Senators:

CLEVELAND of Androscoggin
CUSHING of Penobscot

Representatives:

DUPREY of Hampden
LOCKMAN of Amherst
MASON of Topsham
VOLK of Scarborough
WINCHENBACH of Waldoboro

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-420)** on same Bill.

Signed:

Senator:

PATRICK of Oxford

Representatives:

HERBIG of Belfast
CAMPBELL of Newfield
GILBERT of Jay
HAMANN of South Portland
MASTRACCIO of Sanford

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

READ.

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

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

Majority Report of the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-727)** on Resolve, Regarding Legislative Review of Chapter 201: Provider of Last Resort Service Quality, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY)

(H.P. 33) (L.D. 38)

Signed:

Senators:

CLEVELAND of Androscoggin
JACKSON of Aroostook

Representatives:

HOBBS of Saco
GIDEON of Freeport
RUSSELL of Portland
RYKERSON of Kittery
TIPPING-SPITZ of Orono

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-728)** on same Resolve.

Signed:

Senator:

YOUNGBLOOD of Penobscot

Representatives:

BEAVERS of South Berwick
DUNPHY of Embden
HARVELL of Farmington
LIBBY of Waterboro
NEWENDYKE of Litchfield

READ.

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

Majority Report of the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** reporting **Ought Not to Pass** on Bill "An Act To Expand Benefits from Maine's Wind Resource"

(H.P. 1282) (L.D. 1791)

Signed:

Senators:

CLEVELAND of Androscoggin
JACKSON of Aroostook

Representatives:

HOBBS of Saco
GIDEON of Freeport
RUSSELL of Portland
RYKERSON of Kittery
TIPPING-SPITZ of Orono

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-726)** on same Bill.

Signed:

Senator:

YOUNGBLOOD of Penobscot

Representatives:

BEAVERS of South Berwick
DUNPHY of Embden
HARVELL of Farmington
LIBBY of Waterboro
NEWENDYKE of Litchfield

READ.

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

CONSENT CALENDAR

First Day

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

(H.P. 992) (L.D. 1389) Bill "An Act To Expedite the Foreclosure Process" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-734)**

(H.P. 1237) (L.D. 1729) Bill "An Act To Increase the Period of Time for the Calculation of a Prior Conviction for Operating under the Influence" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-729)**

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

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

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

ENACTORS

Emergency Measure

An Act To Allocate a Portion of the Reed Act Distribution of 2002 To Use for the Administration of the Unemployment Insurance and Employment Services Programs

(S.P. 719) (L.D. 1802)
(C. "A" S-437)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 137 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Acts

An Act To Create Parity for Proprietary Information Submitted to the Department of Marine Resources

(H.P. 1210) (L.D. 1687)
(C. "A" H-715)

An Act To Make Changes to and Clarify Maine Traveler Information Services Laws

(H.P. 1231) (L.D. 1721)
(C. "A" H-716)

An Act To Clarify the Enforcement Provisions Relating to Motor Carrier Registration

(H.P. 1279) (L.D. 1787)

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

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

UNFINISHED BUSINESS

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

Bill "An Act To Allow the Passamaquoddy Tribe To Operate Slot Machines in Washington County in Conjunction with High-stakes Beano"

(H.P. 1091) (L.D. 1520)

- In House, Minority (3) **OUGHT TO PASS AS AMENDED** Report of the Committee on **VETERANS AND LEGAL AFFAIRS READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-630)** on March 6, 2014.

- In Senate, Reports **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**. TABLED - March 20, 2014 (Till Later Today) by Representative BERRY of Bowdoinham.

PENDING - **FURTHER CONSIDERATION**.

Subsequently, the House voted to **INSIST**.

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (H-684)** - Minority (5) **Ought Not to Pass** - Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Cancel the No-bid Alexander Group Contract To Produce Savings in Fiscal Year 2013-14" (EMERGENCY)

(H.P. 1286) (L.D. 1794)

TABLED - March 19, 2014 (Till Later Today) by Representative FARNSWORTH of Portland.

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

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

Representative **FARNSWORTH**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to ask you to consider this as an issue that relates to common business practice as much as anything. Having been a CEO of a fairly good sized nonprofit for a number of years, you learn to work within certain kinds of rules and that's one of the concerns that I had. First of all, it seems as though when this contract was originally put through, it defied the basic rules of single source contracting which have been established within the state to essentially protect the state and the taxpayers from misuse of those valuable funds. The sole source criteria include uniqueness that must be described and justified timeframes that must be achieved within specific, aspects of the contract must be achieved within specific timeframes, the only exceptions, basically around cost, if the contract is for less than \$10,000. But, finally, the qualifications are best determined by competitive process and in this particular case, this contract was not put out on a competitive bid basis. It seems to me as though the initial phase of this was flawed to begin with.

Secondly, the contract does have very specific kinds of aspects of what things need to be achieved. There are two components. One is there is a regular payment that goes on a monthly basis of a standard amount of \$61,680. That goes up to May 15. Number two, there are deliverables that are supposed to be due around December 15. There are two of them. Another one December 1, then May 15 and March 15. To date, we only have, I believe, a part of one of those deliverables in our possession.

Number three, the dates at which the contract was signed dates back early this year, but we did not discover, that was in September, we did not discover that this contract had been let until December. And it seems to me as though that flies in the face of good transparency, public awareness of what's going on within the state government and something that we definitely need to follow up on.

Fourth, it is assumed that the criteria for payment would be based upon the quality of the data and upon the recommendations of the report that we have. It seems as though much of the data that was collected in the first part of the report, the single deliverable that we have received, was grossly flawed and I think raises into question the recommendations to the point of maybe nullifying the value of the report. The first report was received December 16. It was due December 1. It did not become public until January 10. Further dates for submission of reports have been waived, raising questions about timing of payments and, once again, being in compliance with the contracting process. I believe that the standards that were followed in this particular contract obviously portray glaring missteps. These are funds that are really very too valuable and too precious in our state to be misspent for any agency that fails to perform. Unfortunately, with the failure of the Chief Executive to exercise administrative discretion to terminate the contract, it must become the responsibility of a legislative body which is responsible for the apportionment of funds to set limits and to take steps to maintain the integrity and credibility of our financial management with the citizens of the State of Maine, as they are the ones footing the cost of this.

Finally, the portion of the contract that represents General Fund expenditures, money that can be used for a number of different things, was about \$454,875 and, pardon me, 17 cents. That's just the way the contract reads. In some quick mathematics, had we used that money for providing waiver services for people with disabilities, under Section 21, it would have provided slots for about 12 individuals on the waiting list. Had we used it for Section 29, it would have provided services for about 40 individuals on the waiting list. It seems to me that that is a much better use for the funds than a contract that is not producing anywhere near of what it was supposed to produce. Thank you very much.

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

Representative **McCABE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. If you will, for a moment, picture, picture what a million dollars would do, picture what a million dollars would do for your community back home, the roads are in pretty bad shape. Picture all of us have some tie to some sort of policy committee. Picture what a million dollars would do in that area of subject, whether it's IF and W, whether it's the ACF Committee. Or just picture your school district, what a million dollars would do for your school district. We've all seen the headlines. We've read the past of Director Alexander and his past mismanagement in Pennsylvania. We've all seen the headlines. You know, it speaks for itself. But I think today it's really about thinking about what a million dollars is. Appropriations is trying to find a million here, a million there for things that we prioritize, prioritize as legislators. And then I also think back to my own community, back to my own community where people on the streets recognize that this does not pass the straight-face test. If you were to give this the litmus test, people back home think this is a shoddy political report that cost us a million dollars. So I leave you with three things, folks. A vote today to continue this contract is a vote to continue wasting taxpayers' dollars. If we do not step in, the contract will cost us an expected \$1 million. And third, I say the taxpayers of Maine should not have to foot the bill for a flashy campaign report for the Chief Executive and, for that reason, I request a roll call.

The same Representative **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 Mapleton, Representative Willette.

Representative **WILLETTE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. It seems like my good friend, the Representative from Skowhegan, and I will be going back and forth a few times today, but I just wanted to point out a few things. What would we do with a million dollars if we could spend it anywhere? He's probably right. I'd probably put it to the roads somewhere in Aroostook County. But the reality is, like many of the programs that the federal government passes money through, which is how this report is largely funded, it comes with strings attached. Now, if this bill, if there was an amendment to this bill to allow me to put the million dollars in some other great program, maybe I would do it. But, at the end of the day, this money has to be spent on a report and this report appears to be doing the job. Thank you.

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

Representative **HARVELL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I share the view of the good Representative from Portland that the desire to save the taxpayers money, I believe that was the goal of the report. But in the modern world, you're not allowed to shoot the messenger. Apparently, it's just don't pay him. You know, I was asked what a million dollars could do. I'll be a little more specific than Aroostook County. If you want to get my road paved, maybe we'll stiff him. Other than that, let's pay him.

The SPEAKER: The Chair recognizes the Representative from Hancock, Representative Malaby.

Representative **MALABY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I find there are a number of areas of criticisms of this report. To be quite frank, there's one reason that I support this report as being a sole source report and I will read you the first sentence of the scope of the work of the service description. The scope of work supports the department's efforts to evaluate the entire public welfare system including the Medicaid program for potential reforms and increased flexibility through a possible 1115 (b) global waiver. Ladies and gentlemen, for those of you who don't participate in the HHS discussion, a global waiver is something that would allow the department to basically throw out all the rules. It would allow the department, it would cap their spending and it would allow them to achieve the same goals, absent all those rules that we just discussed not so long ago about non-emergency medical transportation, because I must tell you that the medical community is bound by rules and rules and rules and our doctors want to deliver care. They don't want to document it. So we've placed this report with Gary Alexander. Now, why would we do that because there is only one state in the union which has ever received a global waiver and that was the state of Rhode Island, and the commissioner of their Department of Health and Human Services, the only person who has ever procured a global waiver, goodness, it was Gary Alexander. So if you're going to do a sole source report and you want to find out how to do something, we think perhaps it's best to go to that person who has already received same. Just, I'll tell you a little bit about the Rhode Island Compact, as they call it. It is the most comprehensive attempt to functionally change the Medicaid system. It ends the existing form of entitlement and crafts a new system designed to engage consumers in their own health care and use taxpayer dollars wisely. It has saved Rhode Island millions of dollars. It has increased enrollment while doing so. Rhode Island wraps its flexibility around five goals: rebalance and reduce institutional

bias; mandate care coordination and implement a primary care medical home for all recipients; institute competitive and value-based purchasing approaches and ensure all payers and recipients contribute an appropriate and fair share; obtain federal matching funds to support the continuation of state-funded programs that delay high-cost institutional care; and focus on program integrity to combat waste, fraud and abuse. Ladies and gentlemen, I believe it is the Executive's prerogative to implement a sole source contract with the only person who has ever obtained that, which is his goal, and I thank you for your time.

The **SPEAKER**: The Chair recognizes the Representative from Freedom, Representative Jones.

Representative **JONES**: Thank you, Mr. Speaker. I have a few peripheral comments that are, I hope, germane, and then I'd like to pose a question before the House. First of all, I was shocked and surprised that the state doesn't engage in no-bid contracts of this magnitude, especially sole source contracts. Given my experience as a selectperson, I know that the ramifications of engaging in that kind of responsibility of the public's money is a sure path to the road out of town on the rails. The second thing is I would certainly hope there is general agreement among the men and women of the House that this study is indeed flawed and there have been some accusations, although I won't address that of this thing being politically motivated. The question I do have before the House though and this gets to the good Representative from Hancock. Thank you. I was trying to remember where you're from, Richard. The question is engaging in contracts is an executive function and the question I have for the House is is there a precedent. Now, please remember, let me go back. What we just voted on before was not determination of a contract for the ride program. What we did is we voted not to renew contracts. The question I have, is there a precedent for the Legislature evaluating and voiding a contract that has been engaged in directly by the legislative branch? Thank you, Mr. Speaker.

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

Representative **SANBORN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The Alexander Group contract should be cancelled because it is a clear waste of taxpayer dollars when Maine doesn't have a penny to spare. As a member of the Appropriations Committee and a former member of the HHS Committee, I find this waste of taxpayer dollars especially troubling. This session, members of both caucuses in AFA have spent hours and hours scouring budget documents to find savings initiatives, unexpended funds, other special revenues and so on to find much needed funding for crucial state programs. We have seen chronic mismanagement at the Department of Health and Human Services under our Chief Executive and commissioner of DHHS. This contract is one of the most egregious examples. Not only is this contract completely political, it takes money meant to feed struggling families and uses it to pay an unqualified contractor for a political report. Taking such liberties with taxpayer dollars must stop. I will be voting green in support of this bill. Thank you.

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

Representative **HAYES**: Thank you, Mr. Speaker. Mr. Speaker, Women and Men of the House. I'm going to be voting against the pending motion, not because I don't necessarily agree with it but frankly I'm challenged about the vehicle that's in front of us. We have three different branches of government, we have a separation of powers and we have checks and balances

built into the system, and what troubles me the most is that I can't imagine anybody wanting to contract with our executive branch if the Legislature is going to step in and void the contract at some point. I think there is a better vehicle we could use, a Joint Resolution, for example, that would call the Chief Executive to task for this and encourage that individual and folks who engaged in this contract to withdraw. I am very concerned that we are overstepping our constitutional role here as a legislative branch and I don't want my vote to be misconstrued as support for the contract. It's not. But I don't think this is the vehicle, passing a law that says you can't now make good on the contract you entered. I think there are other tools available to us, we should have used them, and I will be voting against the pending motion for that reason, not because I support the contract in and of itself, but I don't think I have the authority to renege on that as a member of the legislative branch not as the Chief Executive. Thank you.

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

Representative **SIROCKI**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just want to point out that the Department of Health and Human Services spends about \$3 billion a year, that's "b," a capital "b" on that, and this long overdue, I think, study of the whole department is a \$1 million contract. That being said, the federal government felt strongly enough that they matched us dollar for dollar on this initial report. So they felt we needed this information. They were willing to step up to the plate and match us dollar for dollar to initiate this report and that information has been and is very helpful. I understand the concern about a million dollars and it is a lot of money. We've also talked about another contract this morning and breaking that one which would actually result in us losing \$6 million. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Westbrook, Representative Gattine.

Representative **GATTINE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in support of the pending motion. I think this is an important bill. I think it's extremely important that we take a firm stand and send a strong message to our constituents that we value government that is transparent, accountable, well managed and that the process of spending money on contracts is fair. We really need to ask ourselves are we going to put our rubber stamp on bad government, bad management and turn a blind eye while taxpayer dollars are throw in a contract dictated more by politics than they are by principles of good government. Are we going to allow this administration to turn its back on procurement laws and its own regulations designed to make sure the contracts are awarded according to a transparent process, and are we going to say it's okay for our Department of Health and Human Services to accept work that is delivered late, full of flaws and doesn't even address the issues it was asked to address? Frankly, this whole episode is a charade. It's a joke and it's a joke that isn't funny. It's a joke that sad and it's embarrassing to our government and to the whole State of Maine, and the worst part is the Department doesn't really seem to care. The Department doesn't feel accountable. The Department doesn't even believe it needs to answer questions from the public or the press or the Legislature. The Department didn't even bother to show up at the public hearing in front of the Health and Human Services Committee or the work session to answer questions or defend the contract. Technically, the Department doesn't really oppose this bill, so maybe that's good enough reason to support it. But the fact is that this contract never should have been awarded outside of a public bidding process. Maine law requires that contracts be

awarded in a public, transparent process and sole source contracts are only allowed in narrow circumstances. There is no exception to the public bidding process for these types of consulting contracts.

Now, opponents to this bill, such as my colleague, the Representative from Hancock, may argue that Mr. Alexander has special expertise, but even if that were true, that's not criteria for allowing a sole source contract. In fact, Maine's purchasing regulations say specifically that special or unique expertise is not a criteria for awarding a sole source contract. In awarding this contract outside the public bidding process, the administration broke its own rules. But in any event, the administration's argument about the Alexander Group's expertise is frankly kind of silly. The national landscape is littered with former state Human Services officials like Mr. Alexander who leave government service and try to sell their services on the open market. There are scores of consulting companies, large and small, old and new, who do exactly the kind of work that the state is seeking here. What's obvious here is the Department didn't want a vendor who was independent or objective or even very experienced. The Alexander Group was founded in 2013. The Department was willing to pay a million dollars to a vendor and the only obvious criteria is that the vendor needed to give the Department the answer it wanted. In this respect, at least, the Department got what it paid for.

Why is public bidding important? Well, that's probably obvious to most of us. The problem is it isn't obvious to the executive branch. Public bidding is important because it maintains the integrity of our contracting process and makes sure that taxpayer dollars are handed out to vendors who are qualified, experienced and ready to deliver quality work. This contract was procured in secret. Even with a million dollars in taxpayer dollars at stake, no one outside of the administration's inner circle even knew about it. It wasn't publicly disclosed until two months after the contract was signed. Since that time, the administration has refused to answer any questions or subject itself to any scrutiny with respect to how it was procured or the work being done. The Department won't answer the tough questions and it has never allowed Mr. Alexander to answer those questions either. Serious issues about the quality of Mr. Alexander's work in Pennsylvania have arisen. These issues could have been scrutinized during the bidding process, but there was no bidding process. The administration has refused to answer questions about Mr. Alexander's previous work or experience. Maine people deserve better from their government than to have a million dollars thrown away in such a careless matter. I hope you will support the pending motion. Thank you, Mr. Speaker.

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

ROLL CALL NO. 564

YEA - Beaudoin, Beavers, Beck, Berry, Bolduc, Briggs, Brooks, Campbell J, Carey, Casavant, Cassidy, Chenette, Chipman, Daughtry, DeChant, Devin, Dickerson, Dill, Dion, Dorney, Evangelos, Farnsworth, Fowle, Frey, Gattine, Gilbert, Goode, Graham, Grant, Hamann, Harlow, Herbig, Hobbins, Hubbell, Jorgensen, Kent, Kornfield, Kruger, Kumiega, Lajoie, Libby N, Longstaff, Luchini, Marks, Mason, Mastraccio, McCabe, McGowan, McLean, Monaghan-Derrig, Moonen, Moriarty, Morrison, Nadeau C, Nelson, Noon, Peoples, Peterson, Plante, Pouliot, Powers, Priest, Rankin, Rochelo, Rotundo, Russell, Rykerson, Sanborn, Saucier, Saxton, Schneck, Shaw, Stuckey, Theriault, Tipping-Spitz, Treat, Villa, Welsh, Werts, Mr. Speaker.

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

ABSENT - Boland, Chapman, Crockett, Gideon, Hickman, Johnson D, Kusiak, Libby A, MacDonald W, Pringle, Wilson.

Yes, 80; No, 60; Absent, 11; Excused, 0.

80 having voted in the affirmative and 60 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" (H-684)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-684)** and sent for concurrence.

An Act To Prohibit Motorized Recreational Gold Prospecting in Class AA Waters and Certain Atlantic Salmon and Brook Trout Habitats (EMERGENCY)

(S.P. 646) (L.D. 1671)

(C. "A" S-424)

TABLED - March 21, 2014 (Till Later Today) by Representative BERRY of Bowdoinham.

PENDING - **PASSAGE TO BE ENACTED**.

Representative WELSH of Rockport **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: The Chair recognizes the Representative from Wilton, Representative Black.

Representative **BLACK**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise today to speak in support of LD 1671, An Act To Prohibit Motorized Recreational Gold Prospecting in Class AA Waters and Certain Atlantic Salmon and Brook Trout Habitats. As you may remember, the Legislature first considered the impact of motorized recreational gold dredging and prospecting last year, when the committee considered and passed a bill I sponsored, LD 1135, "An Act To Provide Consistency in the Regulation of Motorized Recreational Gold Prospecting." In that bill, the Environment and Natural Resources Committee, representatives of the Maine Gold Prospectors Association and representatives from Trout Unlimited worked hard to reach a compromise that balanced protection of the state's important brook trout habitat with allowing recreational gold prospecting, a popular activity in my part of the state. Unfortunately, Maine DEP opposed the provision in my bill for a rulemaking process to determine whether any streams should be closed altogether, as 85 streams already were in LUPC's jurisdiction.

LD 1671 proposes to address DEP's objection by closing a small number of streams by statute rather by rule. These 12 streams represent the "best of the best" brook trout rivers in the State of Maine and around the world. Each has been identified by the Maine Department of Inland Fisheries and Wildlife as "critical habitat" areas where motorized prospecting would have a high impact. These rivers are the best brook trout rivers in the

nation. They support sporting camps, guides and drive tourism in my part of the state that desperately needs business. Importantly, they support wild populations of brook trout, so the state can avoid the need for expensive restocking. For example, South Bog Stream, a tributary to Rangeley Lake, supports 100 percent of the brook trout fishery in Rangeley Lake. The state and private partners have invested nearly \$500,000 to restore and protect spawning habitat in South Bog Stream.

Nothing in this bill will affect non-motorized gold panning or prospecting with hand tools which will remain legal in all Maine streams with no restrictions. LD 1671 will continue to allow motorized gold prospecting in more than 95 percent of Maine's river and stream miles, under the conditions contained in my last year's bill. Several streams originally proposed to be closed in that bill were removed from the bill at the request of the Central Maine Gold Prospectors because those streams are the more popular sites for gold prospecting in Maine and support important recreation economy in our area.

I want to thank my colleagues on the Environment and Natural Resources Committee for a thorough and lengthy committee process on this bill that resulted in a true compromise, one supported by both Trout Unlimited and the Central Maine Gold Prospectors. The final language of this bill was literally co-drafted by the Central Maine Gold Prospectors and Trout Unlimited. It is an example of the best work in Legislature where a balance can be created by both interests and serve both interests as well. It is a common sense compromise bill that extends special protection to a handful of truly special trout rivers and is designed to minimize the impacts of those who enjoy prospecting for gold. I urge you to support this bill. Thank you.

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

Representative **AYOTTE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I do want to mention that because mechanical gold prospecting or mechanized gold prospecting can only be accomplished or done at certain times of the year, there is ample evidence to show that this does not affect the habitat or have a negative impact on the wildlife or the fish of the river. I have grave reservations about placing the recreational ability of one group over the recreational ability of another group. I believe the streams in Maine, the rivers and streams were made for all the people of Maine and not one group should be selected over another group. There is hard evidence to show and I reported this to the committee that there is hard evidence to show that this does not, because it is limited to certain times of the year, this does not affect the habitat or the population of fish in whatever stream you're referring to. It's limited to certain times of the year. And again, I'm going to state we should not place the importance of the recreation of one group over the importance of the recreation of another group. The streams in Maine are made for all the people of Maine, not just one select group. Thank you, Mr. Speaker.

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

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken.

ROLL CALL NO. 565

YEA - Beaudoin, Beaulieu, Beavers, Beck, Bennett, Berry, Black, Bolduc, Briggs, Brooks, Campbell J, Campbell R, Carey, Casavant, Cassidy, Chenette, Chipman, Cooper, Daughtry, DeChant, Devin, Dickerson, Dill, Dion, Doak, Dorney, Dunphy, Espling, Evangelos, Farnsworth, Fowle, Fredette, Frey, Gattine, Gilbert, Gillway, Goode, Graham, Grant, Guerin, Hamann,

Harlow, Harvell, Hayes, Herbig, Hobbins, Hubbell, Jackson, Johnson P, Jones, Jorgensen, Kaenrath, Kent, Keschl, Kinney, Knight, Kornfield, Kruger, Kumiega, Kusiak, Lajoie, Libby N, Longstaff, Luchini, MacDonald S, Marean, Marks, Mason, Mastraccio, McCabe, McElwee, McGowan, McLean, Monaghan-Derrig, Moonen, Moriarty, Morrison, Nadeau C, Nelson, Newendyke, Noon, Nutting, Parry, Pease, Peoples, Plante, Pouliot, Powers, Priest, Pringle, Rankin, Reed, Rochelo, Rotundo, Russell, Rykerson, Sanborn, Saucier, Saxton, Schneck, Shaw, Short, Stanley, Stuckey, Theriault, Tipping-Spitz, Treat, Tyler, Verow, Villa, Volk, Wallace, Welsh, Werts, Winchenbach, Wood, Mr. Speaker.

NAY - Ayotte, Chase, Clark, Cotta, Crafts, Cray, Davis, Duprey, Fitzpatrick, Gifford, Lockman, Long, Maker, Malaby, McClellan, Nadeau A, Peavey Haskell, Peterson, Sanderson, Sirocki, Timberlake, Turner, Weaver, Willette, Winsor.

ABSENT - Boland, Chapman, Crockett, Gideon, Hickman, Johnson D, Libby A, MacDonald W, Wilson.

Yes, 117; No, 25; Absent, 9; Excused, 0.

117 having voted in the affirmative and 25 voted in the negative, with 9 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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-733)** on Bill "An Act To Amend Laws Relating to Health Care Data"

(H.P. 1246) (L.D. 1740)

Signed:

Senators:

CRAVEN of Androscoggin
HAMPER of Oxford
LACHOWICZ of Kennebec

Representatives:

FARNSWORTH of Portland
CASSIDY of Lubec
DORNEY of Norridgewock
GATTINE of Westbrook
MALABY of Hancock
McELWEE of Caribou
PETERSON of Rumford
SANDERSON of Chelsea
SIROCKI of Scarborough

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

Signed:

Representative:

STUCKEY of Portland

Representative BEAR of the Houlton Band of Maliseet Indians - of the House - supports the Majority **Ought to Pass as Amended by Committee Amendment "A" (H-733)** Report.

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-733)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-733)** and sent for concurrence.

CONSENT CALENDAR

First Day

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

(H.P. 1190) (L.D. 1618) Bill "An Act To Enhance the Sustainability of the Corinna Water District" Committee on **ENERGY, UTILITIES AND TECHNOLOGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-736)**

(H.P. 1193) (L.D. 1621) Bill "An Act To Create the Newport Natural Gas District" Committee on **ENERGY, UTILITIES AND TECHNOLOGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-737)**

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

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

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

On motion of Representative KORNFIELD of Bangor, the House adjourned at 12:26 p.m., until 9:00 a.m., Wednesday, March 26, 2014.