

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
32nd Legislative Day
Monday, March 31, 2014

Representative BEAUDOIN of Biddeford assumed the Chair.
The House met according to adjournment and was called to order by the Speaker Pro Tem.

Prayer by Honorable Thomas R. W. Longstaff, Waterville.

National Anthem by Maisie Hurd, Orono.

Pledge of Allegiance.

Doctor of the day, Honorable Ann E. Dorney, M.D., Norridgewock.

The Journal of Friday, March 28, 2014 was read and approved.

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

COMMUNICATIONS

The Following Communication: (H.C. 388)

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

March 31, 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:"

Appropriations and Financial Affairs

L.D. 713

An Act To Return Local Revenue Sharing to Full Funding (EMERGENCY)

L.D. 940

An Act To Reestablish State-municipal Revenue-sharing as a Compact between the State and Municipal Governments

Health and Human Services

L.D. 1636

An Act To Provide a More Efficient and Reliable System of Nonemergency Transportation for MaineCare Members (EMERGENCY)

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.

The Following Communication: (S.C. 856)

**MAINE SENATE
126TH LEGISLATURE
OFFICE OF THE SECRETARY**

March 28, 2014

Honorable Mark W. Eves

Speaker of the House

? State House Station

Augusta, Maine 04333

Dear Speaker Eves:

In accordance with 3 M.R.S.A. §158 and Joint Rule 506 of the 126th Maine Legislature, please be advised that the Senate today confirmed the following nominations:

Upon the recommendation of the Committee on Energy, Utilities and Technology, the nomination of Lenora Burke of Brunswick for appointment to the Efficiency Maine Trust Board.

Upon the recommendation of the Committee on Energy, Utilities and Technology, the nomination of Scott C. Dunning of Hampden for appointment to the Efficiency Maine Trust Board.

Upon the recommendation of the Committee on Energy, Utilities and Technology, the nomination of Honorable Kenneth C. Fletcher of Winslow for appointment to the Efficiency Maine Trust Board.

Best Regards,

S/Darek M. Grant

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

ORDERS

On motion of Speaker EVES of North Berwick, the following Joint Resolution: (H.P. 1334) (Cosponsored by Senator KATZ of Kennebec)

JOINT RESOLUTION REAFFIRMING THE FRIENDSHIP BETWEEN MAINE AND TAIWAN AND SUPPORTING OUR BILATERAL TRADE RELATIONS AND TAIWAN'S PARTICIPATION IN INTERNATIONAL ORGANIZATIONS

WHEREAS, the United States and Taiwan, the Republic of China, share a most important relationship supported by our common values of freedom, democracy, rule of law and a free market economy; and

WHEREAS, Taiwan's President Ma Ying-jeou has worked tirelessly to uphold democratic principles in his nation, ensure the prosperity of Taiwan's 23,000,000 people, promote Taiwan's international standing and further improve relations between the United States and Taiwan; and

WHEREAS, the United States, and in particular the State of Maine, and Taiwan share a historically close relationship, marked by strong bilateral trade, educational and cultural exchange, scientific and technological interests and tourism; and

WHEREAS, Taiwan now is a member of the United States Visa Waiver Program, reflecting the friendship, trust and cooperation shared between our 2 countries and making travel between Taiwan and the United States for business and tourism even more convenient; and

WHEREAS, the United States ranks as Taiwan's 3rd-largest trading partner and Taiwan ranks as the 11th-largest trading partner of the United States with approximately \$85,000,000,000 in 2013 in goods and services traded between the United States and Taiwan, with New England exporting \$1,400,000,000 in goods to Taiwan and Maine exporting \$19,000,000 in goods, including machinery, transportation equipment, computer and electronic products and paper; and

WHEREAS, the Asia-Pacific region is the largest market in the world for American exports and many of Maine's exports went to markets in the Asia-Pacific region, the export of Maine goods supports an estimated 21,000 jobs and recent data indicate that 1,347 companies exported goods from Maine; and

WHEREAS, Taiwan is the 18th-largest trading economy in the world and a member of the Asia-Pacific Economic Cooperation forum, which promotes free trade and economic cooperation throughout the Asia-Pacific region; and

WHEREAS, the United Nations Framework Convention on Climate Change is the world's key instrument to deal with climate

change, a concerted global effort to combat the challenges posed by climate change requires that Taiwan also be included in the work of the convention and Taiwan has expressed a keen interest to participate in the global effort to address climate change; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-sixth Legislature now assembled in the Second Regular Session, on behalf of the people we represent, reaffirm the friendship between Maine and Taiwan, the Republic of China, and we continue to support efforts to further strengthen Maine-Taiwan trade relations and support Taiwan's participation in international organizations and agreements, including the United Nations Framework Convention on Climate Change; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the members of the Maine Congressional Delegation, Governor Paul LePage, President Ma Ying-jeou of Taiwan and Anne Hung, Director-General of the Taipei Economic and Cultural Office in Boston.

READ and ADOPTED.

Sent for concurrence.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Joint Order

Report of the **Joint Standing Committee on Education and Cultural Affairs** on Resolve, To Establish the Commission To Study College Affordability and College Completion (EMERGENCY)

(S.P. 748) (L.D. 1849)

Reporting **Ought to Pass** pursuant to Joint Order, S.P. 721).

Came from the Senate with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-468)**.

Report was **READ** and **ACCEPTED**.

The Resolve was **READ ONCE. Senate Amendment "A" (S-468)** 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 Senate Amendment "A" (S-468)** in concurrence.

Change of Committee

Report of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Provide Former Employees of the Maine Military Authority the Ability To Sue for Severance Pay"

(S.P. 740) (L.D. 1837)

Reporting that it be **REFERRED** to the Committee on **VETERANS AND LEGAL AFFAIRS**.

Came from the Senate with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **VETERANS AND LEGAL AFFAIRS**.

Report was **READ** and **ACCEPTED** and the Bill was **REFERRED** to the Committee on **VETERANS AND LEGAL AFFAIRS** in concurrence.

CONSENT CALENDAR

First Day

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

(S.P. 618) (L.D. 1627) Bill "An Act To Amend the Reporting Requirements for the Business Equipment Tax Exemption" (EMERGENCY) Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-462)**

(H.P. 1238) (L.D. 1730) Bill "An Act To Assist Victims of Human Trafficking" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-763)**

(H.P. 1244) (L.D. 1738) Bill "An Act To Improve Maine's Involuntary Commitment Processes" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-764)**

(H.P. 1281) (L.D. 1789) Bill "An Act To Modernize and Improve the Efficiency of Maine's Courts" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-765)**

(H.P. 1283) (L.D. 1792) Bill "An Act To Protect Jobs in the Forest Product Industry" (EMERGENCY) Committee on **ENERGY, UTILITIES AND TECHNOLOGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-758)**

(H.P. 1315) (L.D. 1826) Bill "An Act To Protect the State's Authority in Issues Concerning Federal Relicensing of Dams Located in the State" Committee on **ENVIRONMENT AND NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-766)**

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

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

(H.P. 1254) (L.D. 1747) Resolve, Regarding Legislative Review of Chapter 180: Performance Evaluation and Professional Growth Systems, a Major Substantive Rule of the Department of Education (EMERGENCY) Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-757)** (Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - opposed)

On motion of Representative BERRY of Bowdoinham, was **REMOVED** from the First Day Consent Calendar.

The Unanimous Committee Report was **READ**.

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

ENACTORS

Emergency Measure

An Act To Fund Invasive Species Prevention and Control

(H.P. 1198) (L.D. 1626)

(H. "C" H-750 to C. "A" H-692)

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

Emergency Measure

An Act To Establish Municipal Cost Components for Inorganized Territory Services To Be Rendered in Fiscal Year 2014-15

(H.P. 1294) (L.D. 1803)
(C. "A" H-748)

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

Emergency Measure

An Act To Amend the Law Concerning the State Cost-share Program for Salt and Sand Storage Facilities

(H.P. 1304) (L.D. 1817)
(C. "A" H-751)

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. 123 voted in favor of the same and 2 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Directing a Study of Social Media Privacy in School and in the Workplace

(H.P. 838) (L.D. 1194)
(S. "A" S-447 to C. "A" H-640)

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

Representative FREDETTE of Newport **REQUESTED** a roll call on **FINAL PASSAGE**.

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

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

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. 595

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

NAY - Cray, Gifford, Libby A, Lockman, Wallace, Weaver.

ABSENT - Ayotte, Boland, Devin, Fitzpatrick, Johnson D, Johnson P, Kusiak, Marean, McGowan, Morrison, Noon, Pease, Peavey Haskell, Pringle, Rochelo, Theriault, Wilson, Winsor.

Yes, 127; No, 6; Absent, 18; Excused, 0.

127 having voted in the affirmative and 6 voted in the negative, with 18 being absent, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, To Create the Task Force To End Student Hunger in Maine

(S.P. 729) (L.D. 1819)
(C. "A" S-454)

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

On motion of Representative BERRY of Bowdoinham, **TABLED** pending **FINAL PASSAGE** and later today assigned.

Acts

An Act To Improve the Availability of Mail-in Rebates in the State

(S.P. 253) (L.D. 704)
(C. "A" S-460)

An Act To Expand Coverage of Family Planning Services

(H.P. 881) (L.D. 1247)
(C. "A" H-655)

An Act To Improve Maine's Economy and Energy Security with Cost-effective Technologies

(H.P. 886) (L.D. 1252)
(H. "C" H-744 to C. "A" H-650)

An Act To Clarify What Constitutes a Contribution to a Candidate

(S.P. 622) (L.D. 1631)
(C. "A" S-446)

An Act To Amend the Workers' Compensation Laws as They Pertain to Employee Representation

(S.P. 632) (L.D. 1641)
(C. "A" S-433)

An Act To Clarify the Confidentiality of Wood Processor Report Information

(S.P. 660) (L.D. 1665)
(C. "A" S-452)

An Act To Improve the Job Creation Through Educational Opportunity Program

(H.P. 1228) (L.D. 1718)
(C. "A" H-746)

An Act Regarding the Registration of Motor Vehicles of Deployed Members of the National Guard or Reserves of the United States Armed Forces

(H.P. 1241) (L.D. 1733)
(C. "A" H-747)

An Act To Facilitate Informed Planning for Higher Education and Careers

(H.P. 1253) (L.D. 1746)
(C. "A" H-743)

An Act To Establish the Criminal Law Revision Commission

(S.P. 700) (L.D. 1765)
(H. "A" H-741 to C. "A" S-426)

An Act To Eliminate Inactive Boards and Commissions

(H.P. 1293) (L.D. 1801)
(C. "A" H-742)

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.

Resolve, To Review and Make Recommendations on Challenges, Gaps and Inefficiencies in Maine's Emergency Crisis Hotline and "Warm Line" Services

(H.P. 1165) (L.D. 1594)
(H. "A" H-745 to C. "A" H-683)

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

On motion of Representative FREDETTE of Newport, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **FINAL PASSAGE**.

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

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

ROLL CALL NO. 596

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

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

ABSENT - Ayotte, Boland, Devin, Dorney, Fitzpatrick, Hubbell, Johnson D, Kusiak, Marean, McGowan, Morrison, Noon, Pease, Pringle, Rochelo, Theriault, Wilson, Winsor.

Yes, 83; No, 50; Absent, 18; Excused, 0.

83 having voted in the affirmative and 50 voted in the negative, with 18 being absent, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

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

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

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, March 28, 2014, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Report "A" (7) **Ought to Pass as Amended by Committee Amendment "A" (H-669)** - Report "B" (5) **Ought to Pass as Amended by Committee Amendment "B" (H-670)** - Report "C" (1) **Ought Not to Pass** - Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Enact the Maine Small Business Investment Protection Act"

(H.P. 1043) (L.D. 1458)

TABLED - March 19, 2014 (Till Later Today) by Representative HERBIG of Belfast.

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

Representative FREDETTE of Newport **REQUESTED** a roll call on the motion to **ACCEPT** Report "B" **Ought to Pass as Amended**.

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

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 Belfast, Representative Herbig.

Representative **HERBIG**: Thank you, Mr. Speaker. Mr. Speaker, Women and Men of the House. I stand here asking you to support Committee Amendment "B." As a sponsor of the Maine Small Business Investment Protection Act, I want to tell you first and foremost that the provisions included in the Minority Report will not hurt small Maine businesses, will not decrease economic investment, and, most assuredly, will not kill jobs in Maine. The Minority Report offers basic protections to the franchise owners, basic protections to the business women and men who own and operate more than 3,200 small businesses up and down the state, small businesses that employ more than 36,000 Mainers. This is 36,000 jobs. It will help franchise owners protect their investments and their business, and help them continue to play an important role in Maine's economy. The Minority Report levels the playing field, offering fair and reasonable safeguards to Maine franchise owners. At the same time, the Minority Report specifically protects the franchisor. It is simply not true that provisions in the Maine Small Business Investment Protection Act will negatively impact the brand quality standards or customer loyalty. LD 1458, as amended by Committee Amendment "B," is straightforward, very simple, three points. It calls for the franchisor and the franchisee to act in good faith, and further requires that the terms and the provisions of the agreement are reasonable. It requires good cause for cancelling, terminating and not renewing franchises before a contract expires, and it seeks to maintain the value of a franchise in the event of transfers in survivorship. This is just so Maine families can pass their business on to their child.

The protections that this legislation proposes are not unique. In 1975, the Maine Legislature enacted comprehensive legislation that regulated the business relationship before motor vehicle manufacturers and local auto dealers. The Legislature has also adopted legislation regulating the business dealings between manufacturers and farm equipment and watercraft dealers. Should we not attempt to protect other franchise owners with similar regulations similar to those that protect auto dealers, farm equipment dealers and watercraft dealers? LD 1458 is good for Maine's economy and good for Maine's small business owners. These folks are our constituents, not the out-of-state corporations that have so heavily lobbied this issue. I urge you to support the current motion. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Palmyra, Representative Cray.

Representative **CRAY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I don't speak on the floor much, but I'm speaking today because I think it is important that we pass the Minority Report. I'm in support of the Minority Report. I've got two stories I'd like to share with you. The first story is about a good friend, a former legislator and someone that many of you know. Thirty years ago, Bob's father owned one of the oldest farm equipment franchises in the Northeast. Over the years, Bob has worked long hours with his dad and expected to take over the company, but he learned that that wasn't to be. What happened with this was, when Bob's father passed away, the national franchisor told him that he couldn't continue the franchise unless he located the business closer to the city, invested a bunch of his own money into a new building. They told him that he couldn't do that, that that was what he had to do to take it over, and Bob couldn't do that and he ended up losing the franchise. Since then, the Legislature has passed laws protecting owners of farm equipment dealers and the laws are on the books now. Unfortunately, those laws only apply to farm equipment franchises, that they didn't help my son and his wife when they started a different kind of franchise. I won't get into all the details but the agreement they signed required them to resolve legal disputes in the State of Texas. It was a pretty one-sided document and I guess they should have probably checked it out closer before they signed it, but they were 25 years old and they thought they were starting a franchise and it was their dream to start this business. It took a lot of money to get them out of this, to get it straightened out. So, Mr. Speaker, we have laws that protect auto dealers, motorsports dealers, appliance franchises, but the laws didn't protect my son in this situation. As I understand it, the Minority Report gives franchisees, the local owners, the same handful of protections and protect their projects the same as other small businesses. Mr. Speaker, I am supporting the Minority Report. Thank you.

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

Representative **MASON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the Minority Report and what I'd like to make clear to start with is that those of us on the Majority Report, and I think everybody here, supports Maine franchisees. The issue is does the Minority Report do it in a fashion that benefits all franchisees? This bill, as it was originally crafted, and as it exists now, is literally a Dunkin' Donuts fast-food franchisee bill, and we've heard that motor vehicle dealers and farm equipment dealers have laws that regulate them. That's fine because that's a narrow segment. This bill goes to all franchisees. It affects your hotel operators who are also in your community, your tax accountants, your massage people, any other franchisee. The breadth of the bill and the protections that are trying to be given here haven't really been studied in enough detail to really understand how does the offer of good faith in a contract affect the contract and affect all sorts of franchisees, not just the fast-food franchisee. So what the Majority Report is trying to do is say let's bring these people in and let's study this and let's find out because no one is insensitive to the fact that a franchisee is given a contract that is as big as a telephone book. They usually have to hire lawyers and they're putting significant resources, hundreds of thousands of dollars into this business. So we appreciate that there is a potential balance or imbalance of power that needs to be studied. The Minority Report bill is giving these protections without truly a full vetting and that's interesting because I know we're all thankful that this bill is over because it's been heavily lobbied. That's what's interesting about it is you have franchisees on both sides of this issue. There isn't

uniformity from all franchisees saying, "We need this bill" and the franchisors fighting against this. There is many, many franchisees who have come out against this bill or against the Minority Report.

There's been many things that have been said, that many states have franchise protections. The states, there is approximately 18 states that have franchise protections, but they're, again, even narrower than what is being given in this bill. They generally go to registration or disclosure requirements. Interestingly, no state since 1994 has passed comprehensive franchise law. What's been done in the last few years is exactly what the Majority Report is trying to do, is have some resolves. Massachusetts and New Hampshire is doing the same thing. They passed resolves, let's study this issue. Let's study what are the real issues that affect all franchisees, not just a few franchisees. The Maine Innkeepers Association, in their testimony, said, "The franchisors of our hotels have many obvious concerns about [the] legislation...have expressed those concerns to me and...the IFA, the International Franchise Association..." Those concerns have been shared with me by the franchisees. The vast majority of hotel franchise properties believe the franchise agreements be tough yet fair. They see value with their affiliation and are quite concerned about changes that may occur if the legislation is passed. Having said that, there are also franchisees who feel there may be good cause for using some portions of the legislation. The area where there is complete agreement among franchise hotel properties is if that the bill is too complicated and too important to rush through the Legislature with a couple weeks left. There needs to be an opportunity to properly deliberate and assess the potential outcomes. That didn't occur in session or in committee. The Ground Round franchisor is here in Maine. He testified, "I [know] you find it interesting that there are franchisees here today speaking out with concerns for the implications of this bill and franchising here in Maine. What about the good operators, who meet the standard and are good stewards of [the] brand. They rely on [the] franchisor and the standards [to be] upheld, if operators in the system are putting the brand and name at risk in their actions and risking...the livelihood of the...franchisees who operate under the same name and are concerned with operators damaging the same brand and reputation they rely on for their business." That's what we heard over and over by the franchisees that testified against this, that you have to understand that the franchisee that's in Portland may be doing a good job, but what about the franchisee in Bangor and if he's doing a poor job that affects, so there needs to be making sure that there is uniformity of standards across the state. The Maine Restaurant Association stated that this "is the kind of bill we truly hate to see before any legislative Committee [because it] splits the business community and seeks to inject the state into the private, contractual obligations and conflicts between business entities..." That, again, needs to be reiterated. These are private contracts, so assuming that the Minority Report gets passed today and these protections go in, not one franchisee that exists right now gets any of these protections because they already have their contract. These protections only go into effect for renewals and future franchise agreements, so there is no rush to do something, to provide protections that we're unsure how they're going to affect all franchisees. We had the franchisee from McDonald's, here in the state, who owns many McDonald's, who started out by reaffirming that all existing franchise contracts will remain in place because this legislation can't affect the contract that's already in existence.

An issue that was brought up that many people are concerned with is the right of people to transfer ownership from

themselves to their sons, daughters and other people in their family. His point, and he talked about this, in the State of Maine, next generation or spousal approval is very common. Then he goes down and I'm not going to name the names, but he talks about a family generational change in northern Maine, in Bangor, himself, Waterville, Portland, South Portland, Lewiston, Sanford, southern Maine, all of these, the locations have franchises that were passed down. What his point is, does every family member complete the process? The short answer is no and the reasons are many, but in some cases they don't have the qualifications, ability, work ethic or desire. In any case, when you sign your franchise agreement, you know that you alone are being offered a franchise for a specific period. Your family doesn't sign on to the franchise agreement. You, alone, are signing on to the franchise agreement. So in order to pass it on, whoever you're passing it on to has to be able to have those same qualifications in order to protect the brand.

I think I'm just going to end this by saying that or reiterating again that the Majority Report is not insensitive to the needs of the franchisees. It's simply saying we don't have enough information, this wasn't worked enough in committee to get a true understanding of how this affects anybody besides fast-food franchisees at this point. So I would urge you to vote no on the pending motion and vote in favor of the Majority Report.

The SPEAKER: The Chair would remind all members to keep the remarks to the report that is before us which is the Minority Report "B," Ought to Pass as Amended.

The Chair reminded all members to stay as close as possible to the pending question.

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

Representative **DION**: Good morning, Mr. Speaker, Ladies and Gentlemen of the House. I'm a franchisee. I'm married. I want to say that because there is a certain imbalance of power. Recently, I had an argument with my wife over the rules of the dishwasher. I know it seems silly. I made my point. She sent me a signal with her eyebrow that oral arguments were over. As I walked off, my youngest daughter said, "Ma, it doesn't seem fair. You didn't let Dad finish." She turned, I could hear the spin, and she said, "If I let him talk long enough, he can only prove he's not wrong." Let's think about that for a minute. I could only prove I was not wrong, which is never a concession that I would be right, so I understand where the franchisees are in their relationship with the franchisor. Listen, those contracts are "take it or leave it," and they should be, on some level, when it comes to protecting the business interest, the status of the brand, and the ability to replicate a customer experience in many communities. That's a singular and important interest of the franchisor, and the contract should protect it and you should know that going in. That was the same I got when I got married. I thought I knew what the contract said. I thought I'd be treated as an equal partner and I've been practicing law in front of my wife's board for 30 plus years and the best I can do is I'm not wrong, all right? So when I explored this issue for the franchisees, I hear the business interest that says protect the brand. But it wasn't supposed to be turned into a club to beat down the legitimate interests of the franchisee as it applies to the things that she or he thought they purchased with sweat equity, business acumen, relationship with the community, those were the things that the franchisees I've spoken with are most concerned about. They want to preserve the brand. Now, this idea that we would gild them a tool of good faith and reasonable expectation is simply that, a tool. It will allow them to petition a court for the opportunity to be heard, and I hope for them a better result than I, that maybe they'll be told they were right and not

simply not wrong, and that's the experience that they're having at this time and we should do something. Now, we shouldn't do it lightly. Contracts, as a legal idea, are centered to our practice, our economy and our judicial thinking. But whenever you read a case, the court always reminds us that we can intervene on matters of public policy, and I think my daughter was right. "Ma, he just wants to be heard out." That's all the franchisees expect from that provision of law that we consider today, an opportunity to level the playing field, an opportunity to present their case and their right to protect what is truly their interest – succession, management of the business, protection of their good will in the community. Those are central. It has nothing to do with an attack on the brand or the power of the franchisor. Thank you, ladies and gentlemen.

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. It's always interesting to watch the social experiments that take place in this House and I have a feeling today that we may see that Oscar Wilde was right when he said that the last refuge of the unimaginative mind was consistency, for last Monday we had a bill dealing with all the franchisees. It was 141-0 and I feel that that is not going to happen today, so that will be interesting to find how imaginative our minds here are here in this body. The reality is that the family franchise in Maine is under assault. I eat breakfast every morning with an individual who had just sold the last Coca-Cola franchise in Maine and New England. It had been in his family for decades. We know that the total number of franchises in this state, within the last decade alone, has dropped by 750 and it is continuing a trend downward and if this trend continues downward, we will be having to put the family franchise on the protected species list, and if it continues even farther they're going to go the way of the dodo bird. This is not an unreasonable request. We do the same for farm equipment, auto dealers, boat dealers and appliance dealers. My son's first job was serving coffee in a Dunkin' Donuts from a person who owned this around the street. The good Representative from Topsham is right. This does not change anything today, but it sets a precedent going forward and the first journey of 1,000 miles begins with a single step. Let us take that step.

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

Representative **VOLK**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'd like to thank the Representative from Topsham who, as an attorney, certainly understands the potential implications of this legislation very well, and I call your attention to the yellow sheet on your desk which is a letter going over some of what we heard on this bill in our committee. As you know, in committee you are able to really delve into the details of any bill. We are the ones who hear from everybody on both sides of an issue and sometimes there's more than two sides of an issue. The good Representative from Farmington just mentioned that we did deal with a bill regarding auto dealers, and Maine has passed franchise legislation about dealing with auto dealerships and also dealing with farm equipment dealerships. That is very true. However, when you consider that you are talking about very different business models, auto dealers in the State of Maine are not building those automobiles. They are at their facilities. They are really just distributors. They are taking delivery from the manufacturer of a product. That product is then distributed or sold to the consumer. Not so for most of the franchises that we are talking about that this bill would affect, so there is a very, very big difference and a very, very large distinction to be made here.

Between last year's session and this, our committee heard a lot of testimony from franchisees who supported the legislation in LD 1458 and a nearly equal number, from a more diverse, and that's very important, a more diverse group of franchisees, who opposed it. We also heard from franchisors, the parent companies who sell the franchises. They were, of course, opposed, understandably. Franchise or relationship law, as we learned to call it, is very complicated and regulated mostly on the federal level. Contracts are long and full of legalese. Any party who enters into such a contract without legal counsel does so at their own risk.

We've all had these sorts of bills in our committees. They sound good when you're talking to one party until you hear the other side of the story. You just wish everyone could negotiate a reasonable resolution. Unfortunately, even though this was a carryover bill, that did not happen and the majority of the committee was basically left wondering who to believe. We all believe in supporting small businesses, let's make that clear, but we must also be very careful about inserting ourselves into private contracts, not to mention passing legislation that inadvertently prevents business growth in Maine. Above all, it is our responsibility to ensure that Maine is not an outlier. We've seen the effects of Maine being an outlier over and over and over and over.

The limited number of supporters of LD 1458's Minority Report have consistently misconstrued facts in their attempt to justify the need for Maine to pass what would be the most far-reaching franchise bill ever considered. Of note, 33 states have no franchise law at all. Of the remainder, a number of states have a simple disclosure requirement. No state has passed meaningful franchise legislation since 1994. That's nearly 20 years. That law, passed in Iowa, was significantly scaled back several years later following a 42 percent decline in franchise development compared to adjacent states. Just in the last year, Massachusetts, New Hampshire and California all refused to pass legislation similar to this Minority Report.

What happened in Iowa should be a lesson for Maine. Franchisors either stopped opening new franchises in Iowa or they opened corporate stores. A corporate-store model, such as Starbucks, versus a franchising model has one distinct, very important, difference. Starbucks corporate model does not create any opportunities for Mainers to generate wealth for themselves by owning a franchise small business. Both models do create jobs and provide consumers with great coffee, but Starbucks only makes money for Howard Schultz and his shareholders, while Dunkin' Donuts gives Mainers the opportunity to grow and own their own business, part of the American dream. Passage of this legislation has the potential to take opportunities away from prospective franchisees, or limit homegrown Maine franchisors like Ground Round, Aging Excellence and Coffee News from franchising in their home state.

The Minority Report does represent a significantly scaled back version of the original bill, which was huge, and I commend its supporters for coming as far as they did. However, I would like to walk through its parts. Termination & Renewal. Currently, detailed agreements between franchisors and franchisees, usually 5-20 years in duration, explain in great detail how each party can terminate or choose not to renew the agreement.

The Minority Report would significantly limit franchisors' ability to terminate or not renew, even if the franchisee fails to follow the rules that all other franchisees follow. Franchisors would lose control of their brand because they would be unable to terminate non-compliant franchisees. The brand would suffer, and the fellow franchisees who are following the rules will end up with diminished equity in their businesses. Consistency of brand is

very important. Consumers expect a strawberry glazed donut from Dunkin' Donuts in Florida to taste the same as a strawberry glazed donut in Maine.

Transfers. The Minority Report would allow a franchise to be transferred without any real assurance that the person taking over is qualified. If that person ends up being unqualified, the franchise may underperform, leaving customers with a negative impression with a general brand. That sort of negative experience then harms every other franchisee of that brand and could even put Maine's consumers at risk. Again, consistency of brand is the whole point of a turnkey business, such as a franchise. Otherwise, you could open Amy's Doughnuts and Coffee Shop.

"Good Faith." The Minority Report would impose a one-sided, amorphous duty of "good faith" on franchisors only. While it sounds good in theory, the concept of "good faith" only creates uncertainty as to the enforceability of the contracts and standards. A "good faith" clause would allow franchisees to unilaterally change franchise agreements. It creates incentives for more litigation, as we even heard from the good Representative from Portland, by moving disputes into the courts. Only three other states have good faith requirements at all. Talk about an outlier. Maine would be the only state with a one-sided "good faith" requirement to franchisors only. Franchisees could act in "bad faith" with no recourse available to the franchisor.

Interfering with Private Contracts. Currently, Maine law respects the terms of existing valid contracts between two consenting business entities. The Minority Report would impose these terms to some existing contracts between franchisors and franchisees. Amending any existing contract, even in a minor way, would also immediately trigger these new terms and alter the relationship that the parties voluntarily negotiated at the outset. In addition, some or all of the provisions of the Minority Report would be unconstitutional by changing the parties' existing contract rights.

Like any business, franchise companies will consider the regulatory environment when choosing where to invest. States that pass such legislation will make it extremely difficult to protect the brand, enforce contractual agreements, and maintain quality standards, which will be less attractive than states that respect these rights. Those are the actual truths about this bill.

Franchises have added jobs faster than other businesses throughout the latest economic recovery. In Maine, the 3,500 franchises, most of whom we did not hear from on this bill, and that's very important. We didn't hear from enough franchises on either side for the majority of the committee to feel comfortable making these sweeping changes which have not been made in almost every other state. Franchise establishments generate nearly \$3 billion in economic output and employ more than 38,000 workers in the State of Maine. Maine should work to foster a business environment that helps franchises grow, and avoid policies like this Minority Report, which is bad for jobs, bad for business and bad for Maine's economy. Please allow us to better understand the implications of these sorts of regulations on all of the franchises and franchisees in Maine, as well as our homegrown franchisors, by opposing the pending motion. I thank you so much for your attention.

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

Representative **PLANTE**: Thank you, Mr. Speaker. Mr. Speaker, Colleagues of the House. I feel this is a good bill to support. I appreciate the words from my colleague, the Representative from Portland, and especially the Representative from Farmington. I think they both have nailed it quite accurately. The Representative from Scarborough pointed out the idea of

distribution center argument, that certain places are different in terms of auto dealers versus, say, Dunkin' Donuts. But I don't believe a lot of these Dunkin' Donuts actually make their own product. They're actually just essentially a distribution unit because they'll bring in the doughnuts. They'll bring in the coffee. They just sell it, so they're not the ones that make it. So that argument, I think, isn't completely accurate in comparison with auto dealers to try and create a divide. All we're looking at here is creating more protections so that those who is on the end of the franchisee can guarantee that when it comes to issues of turning it over to a family member, a potential cancellation/termination of the contract, that there is a fairness policy put in place so that they are able to have a heads up and be able to work with the franchisor to either fix the problem or have a more adequate way of ending the contract as it is. This is the best thing we can do, I think, is to create some clarity for the franchisee and support them because they create jobs and help Maine businesses across the state. Thank you.

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

Representative **CAMPBELL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. We voted on an automotive bill last week, Mr. Speaker, between the manufacturers and the car dealers. I was against that too, but I voted for it because the two parties got together and fixed it themselves. So that was an easy one. These two parties don't want to get together. They don't want to agree to anything. When we heard testimony over there, one fellow that owned 28 franchises was crying the loudest and then the gentlemen approached me and told me he actually owns 80 of them, all the way up to Rochester, New York. We shouldn't be deciding when these people sit down and sign contracts, especially 28 or 80 businesses. I would hope they have a lawyer with them and they know what they're getting into. They don't wait until they own 80 of them to start crying and want the Legislature to make laws for them. They're big enough and if they've got enough money to get involved that deep, they should know what they're getting into. I am against "A" and I am against "B." I am against the whole bill and I hope you would follow my light. Thank you.

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

Representative **GILBERT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I stand in support of LD 1458, Amendment "B." Please let me read part of an email from Dan Silvestre. "...I [have] a small business...in our community, [and I am] a franchise owner. I currently employ an average 70 to 80 people in Farmington and Livermore Falls. Since our first store in Farmington, we have worked hard to succeed and support our community in many local events, sponsorships [and] donations. This legislation would protect what we [work] so hard...for."

Franchises are part of the local community. They provide jobs in Maine towns. They help and support community charitable, fraternal, civic and veteran organizations in our community, and we should support them now. Also, any business owner should expect to have the right to pass their business on to a spouse or other family member. This bill helps them to retain their family business. This bill does just that. Support Committee Amendment "B."

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 stand today in support of the pending motion. As the owner of a food service equipment company, I have been approached many times since

last summer by the small businessmen and women who support this motion but have not felt comfortable taking a public stand for fear of repercussions from the national office. These people represent many different franchise brands that were not represented at the hearing and, I repeat, they were in fear of repercussions from the national franchise office. Important protections allowing franchisees to pass the business they have developed through sweat equity, financial and family sacrifice on to their children has been a common theme. They have no desire to lower the standards of the national franchise, but only to be allowed to pass their well-run companies on to their families. Some members have asked if this will affect existing contracts. It will not. It applies only to prospective contracts only. Please join me in supporting the motion.

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Parry.

Representative **PARRY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the pending motion. I think there are a lot of good things in Report "B." I think it needs to be a little easier to transfer from current franchisee to a family member. I believe, though, there would need to be rules set up to do that if you're transferring it to somebody that has never been in the business at all. That could be a real problem for the franchisor. If you're transferring to a family member that's worked side by side with a franchisee prior, then I don't think there would be a problem there. My biggest issue with it is us, here, in this body, setting rules for that. If a franchisee in Maine that owns a 7-Eleven franchise decides not to be open 24 hours, that could be a huge damage to the 7-Eleven brand because their whole business plan is being open 24 hours. If a franchisee just decides, "I don't make any money overnight so I'm going to close," what happens when people pull up thinking at a 24-hour store and they're not open? I mean I think this needs to be worked a little bit more and I think the other report would do that. I agree with my good friend from Farmington talking about the family franchisees going away, but I think that may have a lot more to do with the cost to set up franchisees more than them actually going away for any other reason. Thank you, Mr. Speaker.

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

Representative **HAMANN**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in support of the pending motion. One reasonable protection that seems to make a lot of sense to me in the Minority Report is that it gives franchisees, small Maine family businesses, the right to request that a Maine judge hears the case within the State of Maine if there is a disagreement between the two parties; the out of state corporate franchisors, and the Maine franchisees. Maine franchise owners simply don't have the resources to mount a defense in a faraway state. By and large, these local franchise owners don't necessarily have the means to travel to New York, Washington, D.C., Seattle, Nebraska, or wherever else the corporate headquarters might be in order to defend itself in court. That's expensive, corporate knows it, and the burden of defending themselves is simply not fair to Maine franchise owners. These are your neighbors, their kids go to your kids schools, and they pay taxes in your community. The Minority Report simply gives these small business owners the right to request that a Maine judge require a case to be heard within the State of Maine. I believe this is fair protection, it's reasonable, and it will give small Maine family business franchisees appropriate protection. Please support the pending motion on behalf of Maine's small family business franchisees. 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 asked the Clerk to read the Committee Report earlier and when she did, she indicated that there was a 7-5-1 report. What that indicated is that the motion that is being moved in fact was the 5 report. So out of a committee of 13, 5 people voted for Committee Report "B," the one before us today, and so doing the simple math, what that would indicate to me is that 5 out of the 13 were supportive of Committee Amendment "B." Also, when the Clerk read the Committee Report and she indicated Report "A," which was supported by a majority of the committee, was in fact supported in a bipartisan fashion which is not the same of Committee Amendment "B," and so I will be voting against the motion and I would ask that you follow my light.

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. I rise today in support of the pending motion and I echo my colleagues in the room, my bipartisan colleagues in the room, who have stood today to stand up for Maine people, to stand up for our friends, our family, our neighbors and to support the pending motion. It's always a great day when I can rise and be on the same side of an issue as my good friend from Palmyra, Representative Cray, and it is a good day for that reason. I think, as legislators, we are regularly asked to come to find a balance to competing interests and today we have. The committee worked this bill, they carried it over, and they got to somewhat of a compromise. I think today we have an opportunity to vote on that compromise. I think a lot of us wish that that compromise had gone farther. I think it's clear. It's clear that there's not a lot of interests from out of state to support this bill. I think we've seen the dumping of money, negative ads that we've never seen before, in my time here, to oppose this bill. It's alarming to me. It's alarming that that would occur. And we've talked a lot about our friends, our neighbors, so I really just want to take a moment and I want to talk about who those people really are.

I think of my good friends and constituents, the Bailey family. Ed and Colleen live over in Norridgewock, in the neighboring district, and their son Matt lives in my district. The Baileys own and operate several Dunkin' Donuts franchise stores in my area. They've met with me numerous times. They've been in the hallway to meet with us. They've taken time away from their business to talk about how important this is. They've invested nearly 20 years building their family-owned business. They need these protections today, just as we, as a community, need the Baileys. We need the Baileys to be creating jobs. We need the Baileys to be expanding as they have done, expanding out of the Skowhegan area, down the road. We also need those folks at all of our community events. When my children graduated preschool, it was the Baileys that provided food, they provided coffee and they were there for the community. It's the Baileys that, frequently, when we have issues before this body, I talk to, to see how this would affect their business. Eighteen other states have these laws on the books to protect their citizens, and I think that is key. This is to protect their citizens. We've heard a lot, the sky may fall, but in those 18 states the sky has not fallen. This is an amendment from the original bill. It's an attempt to balance the interests that have been brought forward. It's a balance to stand up for Maine people, Maine citizens who invest in their franchise. It's really easy for me. This is a simple vote today.

Each day, when I have the privilege when we're not here too early and I have the privilege to drop my children off at school, I

often run into Matt. Matt often is dropping his daughter off before he runs to one of the many locations that his family has, and I think today it's clear for me that I'll be supporting the pending motion. There was some discussion earlier as it related to the auto franchise bill and it was really exciting to see that day, the day when we voted together, we voted for Maine businesses and I hope that we can see that today. I think it's interesting we heard a little bit about the auto dealers and the auto franchises. There was some discussion that they are really just a distribution center and I really want it to go beyond that. I think that our auto dealers are beyond just a distribution point. Twenty percent of their business actually comes from repair of warranty work. So, this, to me, is very similar, similar to the work that the auto dealers do, similar to the work that our power sports people do, similar to the work that farm equipment does. So today when we vote, I hope we'll vote for our neighbors, our friends, and not out of state interests. Thank you, Mr. Speaker.

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

Representative **MASON**: Thank you, Mr. Speaker. I apologize for rising a second time. I just want to make clear that those of us who oppose the Minority Report do not oppose the Baileys. The issue is that the Baileys are running the Dunkin' Donuts. This is the "Dunkin' Donuts" bill. Those of us who oppose the Minority Report support the realtors. We support the message – well, we don't support the Zumba, but maybe we do. That's what happens when you speak off the cuff. But my point is we don't have enough information about the effects of what this bill is going to do for those people beyond the Baileys who own the Dunkin' Donuts. We're trying to protect all of the Maine franchisees. I appreciate the idea that Maine franchisees, they're just the small mom-and-pop, and that may be true in a number of circumstances. We were given some information about a market research firm that did a survey just here in Maine and they noted that 94 percent of franchisees enjoy operating their franchise, and they also noted that the average pretax income for all franchise owners is \$103,000 in change. The people that go into these franchises have to put down hundreds of thousands of dollars, so these franchise owners, or these franchisees, are generally, I'm not saying in all instances, but are generally people of means and they're trying to protect their interests. That's fine and those of us on the Majority Report recognize that. We're simply saying we don't have enough information. Again, the sky isn't falling in the 18 states that have these laws because these 18 states don't have this law. They don't have laws that go this far. So let's take some time, like they did in Massachusetts and New Hampshire and California, and study this so that we protect the Baileys and everybody else who put many at risk as a franchisee. Thank you.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Libby.

Representative **LIBBY**: Thank you, Mr. Speaker. Mr. Speaker, I rise in opposition to the pending motion. We're talking about a contract between two consenting adults. I don't care if we're talking about drugs, prostitution or franchise, this is a contract between two consenting adults and the state should not interfere. Thank you.

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

ROLL CALL NO. 597

YEA - Beaudoin, Beavers, Beck, Berry, Bolduc, Briggs, Carey, Cassidy, Chapman, Chenette, Chipman, Cooper, Cray, Crockett, Daughtry, DeChant, Devin, Dickerson, Dill, Dion, Dorney, Dunphy, Evangelos, Farnsworth, Fowle, Frey, Gideon, Gilbert, Goode, Grant, Guerin, Hamann, Harvell, Herbig, Hobbins, Hubbell, Jones, Jorgensen, Kaenrath, Kent, Kornfield, Kruger, Kumiega, Lajoie, Libby N, Longstaff, Luchini, MacDonald S, MacDonald W, Marks, Mastraccio, McCabe, Moonen, Nadeau C, Peterson, Plante, Pouliot, Powers, Priest, Rankin, Rotundo, Russell, Rykerson, Sanborn, Saucier, Schneck, Shaw, Short, Stanley, Stuckey, Tipping-Spitz, Treat, Villa, Welsh, Mr. Speaker.

NAY - Beaulieu, Bennett, Black, Brooks, Campbell J, Campbell R, Casavant, Chase, Clark, Cotta, Crafts, Davis, Doak, Duprey, Espling, Fredette, Gifford, Gillway, Graham, Harlow, Hayes, Hickman, Jackson, Johnson P, Keschl, Kinney, Knight, Libby A, Lockman, Long, Maker, Malaby, Mason, McClellan, McElwee, McLean, Monaghan-Derrig, Moriarty, Nadeau A, Nelson, Newendyke, Nutting, Parry, Peavey Haskell, Peoples, Reed, Sanderson, Saxton, Sirocki, Timberlake, Turner, Tyler, Verow, Volk, Wallace, Weaver, Werts, Willette, Winchenbach, Wood.

ABSENT - Ayotte, Boland, Fitzpatrick, Gattine, Johnson D, Kusiak, Marean, McGowan, Morrison, Noon, Pease, Pringle, Rochelo, Theriault, Wilson, Winsor.

Yes, 75; No, 60; Absent, 16; Excused, 0.

75 having voted in the affirmative and 60 voted in the negative, with 16 being absent, and accordingly Report "B" **Ought to Pass as Amended** was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "B" (H-670)** 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" (H-670)** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "C" (H-638)** - Minority (5) **Ought Not to Pass** - Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Amend the Expedited Permitting Area for Wind Energy Development under the Jurisdiction of the Maine Land Use Planning Commission"

(H.P. 435) (L.D. 616)

TABLED - March 5, 2014 (Till Later Today) by Representative **HOBBINS** of Saco.

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

The **SPEAKER**: The Chair recognizes the Representative from Embden, Representative Dunphy.

Representative **DUNPHY**: Thank you, Mr. Speaker. You caught me off guard. This is the infamous LD 616 and it's the very same bill that was not referred to in a debate last week, so just a heads up. This bill is not a wind bill. This bill will not, as you are being told, prevent billions of dollars from being invested in Maine. In fact, the truth is that about 44 percent of the wind capacity in Maine was built under the very laws that this bill will restore in the unorganized territories. This bill is quite plainly and simply a citizens' rights bill, not new rights but a restoration of rights, a restoration of citizens' rights that were taken from approximately 1 percent of Maine citizens by this illustrious body, rights that I believe everyone serving in this House currently

have. For some reason that I am unable to uncover, a small segment of Maine's population was singled out for a denial of rights under the expedited wind law. The UT residents and property owners were placed in the expedited wind law and, as a result, have lost their rights to participate in the community's future. The vast majority of Maine citizens can be heard. The good news is this bill corrects that inequity, restores citizens' rights and provides a mechanism for a specified time for citizens in the unorganized territories to be removed from the expedited area.

There was a handout that was just distributed and I'd like to address, there are six issues on there. Issue number one, this bill has absolutely positively nothing to do with the Chief Executive officer in the State of Maine. It has nothing to do with Democrats. It has nothing to do with Republicans, Greens or Independents. This is simply a citizen's bill. Item number two, the Majority Report effectively creates a two-year moratorium. That's not exactly true. It creates a moratorium only if an official petition to remove a location has been received by the LUPC. Many townships have few residents, no kidding, and this in no way prevents wind development, no way. Less than 5,000 registered voters reside in the UT. That's absolutely correct. But never doubt that a small group of thoughtful committed citizens can change the world, and they have. Much of the acreage in the UT is owned by timber companies. That's absolutely correct, but does that negate voter rights? In fact, I ponder how much of the statistical data, the polling that is being done, was actually taken by citizens in the unorganized townships. And number six, according to Goodwin Simon, there is a poll here that says 87 percent of the people in Maine support wind, and I would suggest that 96.5 percent of all statistics are made up right on the spot because, in my district, this number is hokey. So the issue here isn't popularity; it isn't wind; it isn't renewables. It is only about citizens' rights. That's why I ask you that you would vote again; the pending motion and let's pass something that will actually restore rights to the citizens of Maine. Thank you, Mr. Speaker.

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

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

The **SPEAKER**: The Chair recognizes the Representative from South Berwick, Representative Beavers.

Representative **BEAVERS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I oppose the motion on the floor. I do support wind development, but I support people and justice first. This is a justice issue. This is a people's bill. The Majority Report is a beautiful compromise with bipartisan support. We have an opportunity to do what former U.S. Senator George Mitchell told us to do a few weeks ago, listen. Section 15 of Article I of the Constitution of Maine states that "...people have a right at all times in an orderly and peaceable manner to assemble to consult upon the common good, to give instructions to their representatives, and to request, of either [body] of the government by petition or remonstrance, redress of their wrongs and grievances." The peoples of a few UTs have done this for four years. Their request was taken into consideration in the preparation of the March 2012 Maine Wind Energy Development Assessment by the Governor's Office of Energy that resulted from the 2011 legislation. This report recommended amending the law to provide a process for certain areas to be exempted from the expedited permitting area. The Majority Report does just that. And, by the way, the Wind Act allows people to opt in, so it seems only fair that people should be able to opt out.

I would like to correct some inaccuracies floating around. People who choose to live in the unorganized territories have not forfeited their First Amendment rights. Some UT communities have been designated in the expedited permitting area, henceforth known as EPA, and some have not. Some UTs have permanent residents; some do not. Some UTs support wind development; some do not. We need to let people in the few UTs who do not support wind development have a say in the development in their communities. The Majority Report absolutely does not put a moratorium on DEP permitting in this area. LD 616 simply requires LUPC to develop rules for an opt out process, establish a petitioning process and hold a public hearing when the application is received. There is no guarantee; it will be granted. At least 50 percent of the residents of a UT have to agree to the concept of even applying for this possible removal. It allows only two years from the date of the rules completion for them to even be able to apply for this opt out. And, finally, the applicant must prove that their removal will not interfere with the 2008 Wind Act goals. The fiscal note is less than \$20,000 for FY '15 to cover the cost of an estimated 22 public hearings. I doubt there will be anywhere close to that many. There are hundreds of UTs located in all but a couple of counties in Maine, but only about 3 dozen have year-round residents. Please listen to the few UTs who, over the past six years, have patiently requested in the Maine Legislature that their rights be returned, to have a process and a say in the future of their communities from a planning perspective. Please oppose the motion on the floor so we can vote for the Majority Report on LD 616. It is the right and just thing to do for the people of Maine. And, finally, I just want to say I heard some wonderful statements this morning, one called "leveling the playing field," one called for "a request for fairness," and I think both of these apply to the Majority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lubec, Representative Cassidy.

Representative **CASSIDY**: Thank you, Mr. Speaker. Mr. Speaker, Women and Men of the House. I rise in strong opposition to the pending motion. As you know, this bill was passed by a bipartisan vote of the House last summer. With some embarrassment, I must admit that I voted against this bill. This was a mistake on my part. I thought I knew what the bill was about, but in fact I missed the point. I thought it was some sort of anti-wind energy bill. Clearly, it is not. I thought it might constrain the property rights of landowners. Clearly, it does not. What I failed to recognize is that this bill is about equal treatment of all of Maine's citizens – the cornerstone of our government.

I come before you today to express my strong support for LD 616. It has been through public hearings and work sessions and has been amended to reflect suggestions made. It is a simple and necessary bill with a well-deserved measure of bipartisan support. It allows all of us once again to demonstrate our commitment to fair play and a level playing field.

Let me give you a quick portrait of Trescott Township in my district. At the outset, I will tell you that it is one of the entire townships identified in current law as an "expedited permitting area for wind energy development" under the jurisdiction of the Maine Land Use Planning Commission. Maine Revenue Services assesses and taxes 505 real estate accounts in Trescott Township. More than 100 year-round residences exist in the township, and there are slightly more than 200 registered voters. It is a diverse and vibrant community. All of us have received thoughtful correspondence from members of this community and similar communities in recent days.

Citizens of Trescott Township have an immediate and legitimate interest in seeing the defects and inequities of the

expedited siting area law corrected. This interest is based on the fact that, since mid-2010, a major wind energy developer has steadily and quietly acquired long-term leases from six absentee owners of land in the township. More than 2,500 acres has been leased out of the 15,432 acres of land in private ownership in the township. In reality, a substantial fraction of the township has been approved for development without the knowledge or consent or participation of local residents in the decision-making process. As residents recently have become aware that their township was rezoned by legislative action in 2008 to allow wind energy development as a permitted use with no public rezoning hearing, as they realize that their rights of participation in public discourse that could irrevocably shape their community were revoked while those of other communities were not, they rightfully are calling "Foul." And they should call "Foul."

We are loud and clear in our opposition to a lack of process that unjustifiably marginalizes us, silences our voices, tells us what is best for our community, and makes us second-class citizens in a state where equal treatment for every community has always been the rule and the goal. The right to speak in a structured public meeting run by a respected public agency has, perhaps inadvertently, been stolen from us. There is no doubt about this. Since the passage of the law establishing expedited permitting areas for wind energy development, residents of Trescott Township have been short-changed. Their rights to participate in decisions that shape their community have disappeared, and the current law provides them no way out. LD 616 is a simple restoration of fairness and makes no judgment and infers no prejudice against wind energy. The developers retain their rights to advocate for projects, but the community is restored to its rightful place in the decision-making process. Please vote no on the pending motion. Thank you.

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

Representative **TURNER**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today against the pending motion, but I rise in support of LD 616. I hope we will vote down this motion. I am not sure if this had been stated yet or not, but it bears repeating. LD 616 is about giving rights back to citizens. It is not an anti-wind power bill. I am asking you to allow the citizens living in the UTs to have a right to have their voices heard. Removal from the expedited permitting area does not – does not – prevent a developer from seeking a permit for wind development within the effective communities, nor would it be in wind development in these communities. I ask you if the only way to get a wind project into an area is to take residents' voices away, then why are there 12 windmills in my organized town? Also, there are, in the towns of Lincoln, Winn and Lee, just to name a few, and they all have the right to speak. I have several wind projects in my district. The only one that I have ever testified against was the Passadumkeag wind project, as 100 percent of my constituents that contacted me were opposed. In other projects, I have been a resource for both sides of the issue. Today, this bill is about giving citizens that live in an unorganized territory a voice, just like any of us sitting here today who live in an organized town or city. I would urge you today to vote for those people in the unorganized territory by voting down this pending motion and then voting for LD 616 so all voices in this great state could be heard. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Litchfield, Representative Newendyke.

Representative **NEWENDYKE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This bill has the word "wind" in its title, but the focus of the bill concerns

something entirely different. It's about righting a wrong, about giving a voice to citizens whose voice was taken away by a former Legislature. I am on the committee that worked this bill. Many concerned citizens came to the bill's public hearing and spoke in favor of the bill. These were citizens living in unorganized territories, as well as many other areas of the state. In 2008, the Maine Legislature passed the Wind Energy Act. For some reason, a group of unorganized territories were singled out and declared to be areas where the normal permitting process would not be required. This meant that the usual process of holding public hearings where local citizens are allowed to participate in the process were denied this right, a right which the people of all other areas of the state have. What's at stake with this bill is not the future of renewable energy in Maine. What is at stake is the principle, the respect we have for the process, the respect we have for the rights of our people, our constituents, our neighbors, and for doing what is right. A former Representative, a member of the Legislature that enacted the wind energy bill, testified before our committee regarding LD 616. He said that it is time to correct the mistake that was made in the original bill. He called it one of the unfortunate, unintended consequences of late session emergency bills. He also asked us to make this situation right. In summary, this bill is not about wind power, either pro or con. It's about righting a wrong. It's about being fair. It's about giving equal rights to all of our citizens. Please support the passage of LD 616 and vote against the pending motion. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Rykerson.

Representative **RYKERSON**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. You may have heard that voting for this bill would kill wind power in Maine. You may also have heard that to vote against this bill you're taking away the rights of citizens. I think that neither is completely true. I strongly support renewable energy, but in 2008, we established areas in the unorganized territories that would not need to be rezoned to build wind power, the expedited permitting areas. They are now just like areas where another activity, logging, occurs and do not need to be rezoned. This classification removes a rezoning process for citizen participation. I support the amended bill which allows areas to be removed from the expedited zoning only if they petition with a majority of registered voters within two years. Although I do strongly support clean energy by wind, I also have to support Mainers who live in remote areas who have made a clear choice to live far away from human intervention. I support their privilege to have a say in the zoning of their communities and I will support that privilege with my vote against Ought Not to Pass. 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. Earlier today, a pamphlet was handed out by MREA – I guess that would be "Maria" or "Marie" – the Maine Renewable Energy Association, whereby it showed a poll how that Mainers strongly support wind power. I suggest that maybe it has something to do with the way it was asked. It probably went along these lines: "Do you support renewable energy/sustainable energy that will benefit all Mainers?" Had they asked the question "Would you like it in your backyard?" the answer may have been very different. This is a classic case of another acronym, which is NIMBY, "Not In My Back Yard." And it is a question, are we now actually saying that we're going to put these in places where a lot of people don't exist and not even ask them or not even give them a right to have any such input? Democracy works best when all members

participate. I believe we all believe that. I ask you to vote against the pending motion and I would request that the Clerk read the Committee Amendment.

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 Portland, Representative Harlow.

Representative **HARLOW**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Obviously, this bill does not directly impact my constituents and I support alternative energy sources. My constituents would want me to. However, my constituents would also want me to support a fair process and that's why I will be opposing the current motion on the floor. Thank you, Mr. Speaker.

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

Representative **JONES**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. The right to petition the government has a very long tradition dating back to 1215 with the Magna Carta. That's an 800 year old tradition of the citizens right to petition their government. Petitioning the government, Mr. Speaker, is a method of creating individual efficacy in a governmental construct. It's also protected by our U.S. Constitution, regardless of your municipal affiliation. Some may say that, well, if you want to have a say in your back yard, why don't you form a town? Mr. Speaker, I reject the notion that forming a municipality is a requirement for petitioning your government properly. The motion before us would perpetuate the removal of that right, regarding certain aspects of development, and in the interest of participatory democracy, I would urge us to reject the current motion and ask ourselves, whom do we indeed serve? Thank you, Mr. Speaker.

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

Representative **MacDONALD**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise as one member of this body, I think the remaining member of this body, who was in fact a member of the Wind Power Task Force that's been referred to so many times today. I think it's a little unfortunate that because of term limits and because of passage of time some of the institutional memory that's embodied in the work that we do gets forgotten or misstated. I am rising in support of the current motion, Ought Not to Pass, not because I don't value the kinds of things that have been talked about in terms of individual rights to petition government and to be a part of the process, but because I think that this whole question of wind power development is such a large and huge and important question for the state to deal with, that I think what should happen is that instead of a piecemeal chipping away at different pieces of what was done in 2008, this should be recommissioned, a new task force, to look at this issue in its entirety. In its entirety, not just in terms of the citizen participation but in terms of the whole question of how we want to approach wind power development. I will say, as a member of that task force which was bipartisan, there were two members of the House, two members of the other body, it was a bipartisan membership and in addition to the legislative membership, DEP, Inland Fisheries, the Department of Conservation were all involved. The process that we used over a nine-month period before making a recommendation back to the Legislature was an open process. We did hear from citizens from the potentially affected areas during that process and their testimony was taken into account so there was a petitioning at that time, Mr. Speaker. There was a petitioning by those who cared, at that time, to come forward. They did come forward and

we did hear them. The siting that was done that was proposed by the task force was not done arbitrarily or unreasonably. It was based upon the best wind power maps that were available at that time. We all knew that this would not be a perfect process, but we did not want it to be an arbitrary process. It was a reasonable step forward and we knew at the time that it was going to have to be revisited at some time because it's never going to be a perfect process, and I submit to you that when it's revisited, as it should be, it will be not be perfect again and there will be pieces and parts that will need to be fixed. But I don't think the way to go about this is piecemeal, as this bill suggests. I think that we really need to have a reconvening of the whole process to look at wind power development in this state, to look at how citizens' voices ought to be accommodated in that process, but also to look at how, as a state, we choose to move forward in developing alternative resources. We know that climate change is upon us. The United Nations has just issued a rather new and devastating report just this week. We, as citizens of Maine, the entire state, need to have a role, a positive role in addressing that issue for the citizens of our state, for the country and for the world as a whole. I think that this is a much bigger issue than just the issues that are brought forward in this bill. I think this bill is a piecemeal approach to a much larger problem and, for that reason, I submit, I stand in support of the Ought Not to Pass and hope that the Legislature will consider the idea of reconvening a study on the much larger project that this involves. Thank you, Mr. Speaker.

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

Representative **CHAPMAN**: Thank you, Mr. Speaker. Mr. Speaker, Friends and Colleagues of the House. I will be very brief. I worked in the wind power industry. I believe it's an important industry for Maine. As for climate change and reducing our use of fossil fuels, there are a variety of ways that we can make significant improvement in that. Wind power is only a small part of the overall solution to that problem and so I rise in opposition to the pending motion. This is not primarily about climate change. This is primarily about a process for moving forward. Thank you.

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

Representative **GIDEON**: Thank you, Mr. Speaker. Mr. Speaker, Women and Men of the House. I rise in support of the pending motion. This bill is about wind. It is about a clean, renewable energy source that belongs to 1.3 million Maine people. This bill should not be about wind developers. And though I'm sensitive to any person's desire to protect the land close to the land they own, it's incumbent on us to recognize the existing process for people in the unorganized territories. Here are some of the things that the State of Maine decides on for the unorganized territories: Forestry, budgets, land use, education, contract roads work, forest fires and land use planning as well. I've heard it said today that the UT has no say in the process of wind development and the expedited permitting area. I will tell you that this is not so. Zoning is different than permitting and in the DEP permitting process, there is specifically a public hearing where people from the unorganized territory can come and have their views heard during the permitting process and before any decision is made. I've also heard it said today that petitioning your government, you shouldn't have to form a local government to petition your government. However, I would say that it is a means to have local control. Lastly, I just want to, well, actually that's it. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from South Berwick, Representative Beavers.

Representative **BEAVERS**: Thank you, Mr. Speaker. I just wanted to point out that even if a UT is granted the ability to opt out does it still not prevent wind permitting in that area. They still have the opportunity for development in that territory. I would like to ask a question through the Speaker.

The SPEAKER: The Representative may pose her question.

Representative **BEAVERS**: On that 2008 commission, were there any members of the UT on the commission, and two, if it was a public hearing, is the testimony of those people that testified from UT available to us now? Thank you.

The SPEAKER: The Representative from South Berwick, Representative Beavers, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Saco, Representative Hobbins.

Representative **HOBBS**: Thank you, Mr. Speaker. Mr. Speaker, Women and Men of the House. To first address the question of the gentle lady from South Berwick, Representative Beavers, the answer is that there were 17 members of the Governor's Task Force on Wind Power Development. There were no members that I know of from the unorganized territories, but I think there's a misconception. There are, out of the total number of acres of the unorganized territories, two-thirds of that area is not within the expedited district that was established. Only one-third of the whole amount of acres were from the unorganized territories. I'll defer my other remarks for later, but I wanted to make sure that that question was answered. For the other part of the question, there were public hearings that were held in a very transparent manner by this particular commission that was appointed, and during my remarks, I'll go through the membership. Thank you.

The SPEAKER: The Chair would advise the Representative that nobody else is in the queue. If the Representative would like to proceed, you may proceed.

Representative **HOBBS**: Thank you, Mr. Speaker. Mr. Speaker, Women and Men of the House. As you can see from those who have testified before me and who have presented their remarks to this body before me, those remarks were made, which were very articulate, very thoughtful, very forceful and came from the heart of most of those, if not all of those individuals, and the content should be considered in your deliberations on this issue today. I just wanted to give you the backdrop of how we arrived at where we are this afternoon. I served as a regular member of the Energy and Utilities Committee during the time when the Chief Executive appointed the special task force, Governor Baldacci, on wind power development. That committee which was made up of 17 individuals and it was chaired by R. Alec Giffen who was the Director of the Maine Forest Services. Also, membership included four legislators – Senator Philip Bartlett who was the Majority Leader of the Legislature, also Representative Stacey Fitts who used to chair that committee and was the lead Republican of the committee, Senator Walter Gooley, who many of you know, served with honor in the Maine Legislature from the Farmington area, and Representative, who we serve with, Bruce MacDonald, which I have the highest respect for his intellect. This committee met on numerous occasions and received testimony and correspondence for many, many, many individuals from different areas. The task of the special Wind Power Development Task Force was to basically write a report and try to decide how wind power would play out in the overall energy policy of the State of Maine, and Governor Baldacci essentially set up the idea of Maine becoming a leader in wind power development, not just for the State of Maine but for the region, because energy resources were and are now part of a regional process of delivering efficient energy sources to the

State of Maine, as is all of New England. In that process, the benefits that then Governor Baldacci wanted to achieve was to have wind energy help our economy, help our environment and, lastly, the people of the State of Maine. But to achieve all of these goals simultaneously, the report from the Task Force said it was going to require very careful planning and balanced decision-making. This report which I hope you get a chance to look at and I will provide, if you would like, executive summary remarks on this report and a copy of the membership which I believe many of you will know and respect the names on that report. The Task Force looked at this issue very carefully and one of the issues that they decided to recommend in their lengthy report was the establishment of expedited review areas in Maine which would include all organized towns and a portion of the Land Use Regulation Commission's, as it was called then, jurisdiction. The Task Force mapped out and developed a mapping system that delineated the boundaries of the areas it recommended for the expedited process, which they were going to propose, which became law within the Wind Act. For unorganized territories within these areas, a rezoning application would not be required since wind power would be designated as an allowed use with a development permit. In Maine's organized towns, in those areas which were within the expedited, within the unorganized territories, wind power permitting would be streamlined and projects would be judged by a visual impact standard appropriately customized to wind power development. In designating these areas for expedited review, Maine would be sending a clear signal to wind power developers about the areas within the state that appear to be most appropriate for wind development. Now, that was only part of the process that they developed because the Task Force recognized something very important and that is that wind power could be, in fact, an important part of Maine's energy and climate strategies. But they summarized and concluded that the Task Force concurred that Maine and the region must work hard collectively to dramatically increase energy efficiency, encourage development of other cost-effective renewable energy technologies, and reduce greenhouse gas emissions from a full range of sources. The Task Force concluded that accomplishments were needed with all of these strategies and the progress in any one area would not obviate the need for action elsewhere. To increase our energy security, reduce our reliance on fossil fuels and help curb the threat of climate control, this Task Force concluded that they need all of those, not just wind, not land wind, but all of those, and that, in fact, Maine became a leader in wind power development, that for that to occur, that the regulatory process for wind projects and a planned approach must be established to help guide wind power projects to appropriate sites. That was one of the overall goals to play a part in the overall strategy for energy, not only here in Maine but in New England. I realize that the piecemeal approach to this process sounds like the silver bullet, but that's not the case, if, in fact, this bill were to become law in the present form. Because if the bill became law in the present form, the brakes would be on and it would be completely a shutdown of the process for those sites that might be in the queue for consideration, because any area that was in the expedited area of those processes could essentially stop the process for a two-year period. In fact, you don't like to use the word "moratorium," but it would slow down significantly and I believe would not only slow down but take away the financial benefits that we have been accustomed to.

Last Saturday night, I had an opportunity to go to the University of Maine in Orono to an event of my former fraternity, and I ran into one of the alumni who just graduated from the University of Maine and he was a member of the selectmen of

Oakfield. He said to me that he believed that we needed to be careful about where we put wind and where we didn't put wind, but he said there are benefits with the proper approach and he took his hometown of Oakfield as an example, which fortunately, he found out the benefits of the local community and that they sent out checks to every member of the community who is a citizen of \$2,000 as part of, and that particular proposal is still in the proposal stage and has not been built. I'm not saying that we should just take \$2,000 and run, but in this particular case, this was a benefit to his community and he was impressed with the presentation that was made by the developer. Each community is different, but I would hope that we look long-term and not for a short-term look at three to five towns of expedited areas within the expedited unorganized territories. I think what we need to do that was recommended by someone, by a Representative who went through a Task Force proposal, our good friend from Boothbay, we should look long-term and consider a totality of issues within a relook at the wind law that was adopted eight years ago. Thank you.

The SPEAKER: The Chair recognizes the Representative from Embden, Representative Dunphy.

Representative **DUNPHY**: Thank you, Mr. Speaker. Thank you for allowing me to speak a second time. I heard the term NIMBY, "Not In My Back Yard." You bet you. And if anyone in here had their rights removed simply by the stroke of a pen or the clicking of a button, there would be some NIMBY involvement there. We're talking about basic rights. We're not talking about greenhouse gas. We're not talking about energy efficiency. We're not talking about stopping wind. We're talking about simply restoring the basic rights to about 1 percent of Maine's citizens. There was a discussion or comment made about the shutdown of projects in the queue. This bill was brought before the House last year. It was sent back to our committee, referred back to our committee by the other body. I don't know if any permits were put in, but there was certainly a one year extension on everything going. Again, this will not shut down any projects unless the LUPC has a formal request, a formal petition in their hands. The comment was just made that each community is different and yes, it is. Every community is different. But what makes this 1 percent so different in a negative sense is the fact that their rights were taken away. They're not talking about wind. They're not talking about anything except they're requesting that this body, that this group of legislators restore their basic rights that were taken by this Legislature in the expedited wind process. So please, let's kill this and move on and do the right thing. Thank you, sir.

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

Representative **HARVELL**: Thank you, Mr. Speaker. While my opus will not be quite as long as the Representative's from Saco, his opus reminded me of a statement about bikinis once. What they reveal is suggestive but what they hide is vital. The expedited Wind Energy Act came about at a time when peak oil was in its ascendancy. It was when authors like Matt Simmons's *Twilight in the Desert* and James Kunstler's *The Long Emergency* all told us of a fate that was right around the corner with peak oil. But an event transpired within those few years called fracking which has absolutely blown a hole in that theory upon all of the conditions that were in play then. Are we now then to still say that we're to continue on that path when the road has been removed? No, I think if we do that we'll be doing what Lao Tzu said which is if you don't change direction, you may end up where you're heading.

The SPEAKER: The Chair recognizes the Representative from Fort Kent, Representative Nadeau.

Representative **NADEAU**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. LD 616 does nothing to obstruct the wind projects, and I have yet had an issue or a bill that I've had so much communication from the people from the territories just wanting their voice and saying, if we let their voices be taken away and we take away their rights to participate in this, whose next? All they want is the same rights that we all have here in this chamber. That's all they're asking for. Thank you.

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. Alan Mishka, who lives in the 1 percent, in the unorganized territories, wrote an op-ed to the *Bangor Daily News* and he asked them a really important question. In it, he says, "The real issue is this: Should the state ever eliminate a basic right of its citizens simply to give economic advantage to a few corporate interests, regardless of the industry involved?" He goes on to say, "LD 616 is about a Maine resident's basic rights, period. It's about having access to a fair and meaningful process. It's about having a say in matters that might directly and substantially impact a person and his or her family. Most important, it's about the ability of powerful corporate and special interests to divest residents of their rights through the legislative process." Corporations and industries have lobbyists and they're accountable to shareholders, not the citizens of Maine. We, as legislators, are lobbyists for the citizens of this state. The citizens of this state are our shareholders and we should never divest their rights through the legislative process that they entrusted us with. Thank you.

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. I've heard the arguments about citizens' rights, and I'm certainly sympathetic to that argument and I think everybody would be, and I've heard that this bill will allow a majority of the voters in these areas to petition for a change from the expedited permitting zone. I guess my concern that has not been addressed in this bill is perfectly demonstrated by the example of Glenwood Plantation. Glenwood Plantation has five registered voters and so because of that, the majority would be three, and so in this situation a majority of three people would be able to petition to have that plantation removed from the expedited permitting zone, and those three people could own as little as 3 acres in Glenwood Plantation and yet removing it from the expedited permitting would remove 23,000 acres. So while I'm certainly sympathetic to the idea that folks should be able to weigh in, I can't disagree with that. I question how much power we should give those three people to affect that many acres that aren't even theirs. There may be a solution to my concern and maybe it just hasn't come forward yet, but until that gets addressed I question what the consequences of an action like that might be. So that's why I support the pending motion. Thank you, Mr. Speaker.

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

Representative **RUSSELL**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in support of the pending motion. I was in opposition of the pending motion just last year, but we debated this and negotiated this and, frankly, I went further than I felt comfortable with, with an amended version last year, and it died in the other body. I don't foresee a better outcome this year, but one of the things that I keep hearing is that his bill and others that we have heard are not about wind. If this bill is not about wind, let me read the title to you: "An Act To

Amend the Expedited Permitting Area for Wind Energy Development under the Jurisdiction of the Maine Land Use Planning Commission." This bill is about wind. It's about wind siting. It's about wind permitting. And the sad part about this is that we have actually done, this body did do much of what is being asked for in this bill last year already and we have not given it a chance to take effect. As drafted, a handful of individuals can stop the permitting process from moving forward if we were to move forward with this bill. There are considerable amounts of money that go into the process before anyone ever files a permit or an application to put up a wind site, and what we're talking about is creating an environment that, unfortunately, creates unpredictability for the business climate. That said I am not immune to the arguments that folks have come to us on. They have said we would like a way to deal this, we would like to be heard, and if you look at LD 385 from last year, we did that. We created a public process. We created a public hearing. We even created an adjudicatory hearing by which folks could be heard and that they could have their concerns brought forward in a very public manner. Make no mistake that if this bill passes, and there's a very real chance it may, that it will create an environment that will set us back on wind power. It will potentially cause a short circuit future development of wind, and maybe that's what people want. Maybe that's what folks want. Maybe they do want it to end wind and this certainly provides the economic and the uncertainties to create that outcome. I, for one, do not care to see that happen and if you look at the headlines today, "Little time left to turn down the world's heat, U.N. says." "Climate change a threat to security, food and humankind." "UN Scientific Panel Releases Report Sounding Alarm On Climate Change." "Report: Effects of climate change seen everywhere." We are really seeing the impact of climate change across the world, across this country and even in this state, and I would submit to you that we do have some big changes ahead of us and part of the Wind Power Act is to short circuit those changes, the changes to our climate that are creating devastating consequences around the world that are creating economic consequences here. The wind power industry has brought significant revenue to our state. It has created countless jobs across the state, in rural parts of the state. You know, you don't see wind development impact in Portland necessarily. We have some, you know, small companies that are doing some engineering work, but the real economic output of wind power, right now, is in rural parts of the state that have been begging and begging and begging for economic opportunity and economic growth. Let's not short circuit that. Let's not tell people whose jobs are on the line, because of some of the work that gets done, that their jobs may not be there tomorrow, because right now is not a good time for that. We have created a way for individuals to be heard. We have created a path for them. But let's not do it at the expense of some of the very real people whose jobs are on the line and who may lose their jobs as a direct result of this bill passing. Thank you, Mr. Speaker.

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

Representative **JONES**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I'd like to respond to the comments of the good Representative from Portland. Unfortunately, I have to mention Representative Moonen by name. Regardless of the fact that Greenfield Township may indeed have five registered voters, that is citizens and residents, the question before the House is do indeed absentee corporate landowners have a prerogative to subvert the democratic process in the state. And I would argue that we have to indeed ask ourselves whom do we represent – absentee corporate

landowners or do we represent the citizens and the residents of our state? Thank you, Mr. Speaker.

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

Representative **BEAVERS**: Thank you, Mr. Speaker. I have every confidence that wind energy will continue to be very important to Maine and, in fact, that we will be a leader. The report I mentioned is available online and I just want to tell you who was involved in this study, reported out in 2012, at the request of the 125th Legislature. Mark Margerum of the Maine Department of Environmental Protection, Marcia Spencer-Famous and Samantha Horn-Olsen of the Land Use Regulation Commission, Jeff Marks, Deputy Director of the Governor's Office of Energy Independence and Security, and somebody named Hugh Coxe from the Land Use Regulation Commission also helped on this report, as well as Coastal Enterprises, Perkins Point Energy Consulting and Synapse Energy Economics. I think this is an equally renowned group of people that worked on this report which concluded one of their recommendations was this very bill. Speaking to the Representative from Portland's comment, I would like to grant her that yes the title should have been changed because the title doesn't describe what the bill is. That's all I'm going to say for now. Please vote no on this motion.

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

ROLL CALL NO. 598

YEA - Beck, Berry, Campbell J, Carey, Chipman, Daughtry, DeChant, Devin, Dion, Dorney, Farnsworth, Gattine, Gideon, Goode, Graham, Grant, Hamann, Herbig, Hobbins, Hubbell, Jorgensen, Kruger, Kumiega, Lajoie, Libby N, Longstaff, Luchini, MacDonald W, Marks, Mastraccio, McCabe, McLean, Monaghan-Derrig, Moonen, Moriarty, Nelson, Peterson, Plante, Priest, Rankin, Rotundo, Russell, Sanborn, Saucier, Shaw, Treat, Welsh, Mr. Speaker.

NAY - Beaudoin, Beaulieu, Beavers, Bennett, Black, Bolduc, Briggs, Brooks, Campbell R, Casavant, Cassidy, Chapman, Chase, Chenette, Clark, Cooper, Cotta, Crafts, Cray, Crockett, Davis, Dickerson, Dill, Doak, Dunphy, Duprey, Espling, Evangelos, Fowle, Frey, Gifford, Gilbert, Gillway, Guerin, Harlow, Harvell, Hayes, Hickman, Jackson, Johnson P, Jones, Kaenrath, Kent, Keschl, Kinney, Knight, Kornfield, Libby A, Lockman, Long, MacDonald S, Maker, Malaby, Mason, McClellan, McElwee, Morrison, Nadeau A, Nadeau C, Newendyke, Nutting, Parry, Peavey Haskell, Peoples, Pouliot, Powers, Reed, Rykerson, Sanderson, Saxton, Schneck, Short, Sirocki, Stanley, Stuckey, Timberlake, Tipping-Spitz, Turner, Tyler, Verow, Villa, Volk, Wallace, Weaver, Werts, Willette, Winchenbach, Winsor, Wood.

ABSENT - Ayotte, Boland, Fitzpatrick, Fredette, Johnson D, Kusiak, Marean, McGowan, Noon, Pease, Pringle, Rochelo, Theriault, Wilson.

Yes, 48; No, 89; Absent, 14; Excused, 0.

48 having voted in the affirmative and 89 voted in the negative, with 14 being absent, and accordingly the Minority **Ought Not to Pass** Report was **NOT ACCEPTED**.

Subsequently, on motion of Representative HOBBS of Saco, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "C" (H-638)** 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 "C" (H-638)** and sent for concurrence.

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

The House recessed until 2:00 p.m.

(After Recess)

The House was called to order by the Speaker.

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

CONSENT CALENDAR

First Day

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

(S.P. 656) (L.D. 1662) Bill "An Act To Clarify the Law Governing the Maintenance of Veterans' Grave Sites" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-469)**

(H.P. 1287) (L.D. 1795) Bill "An Act To Remove Medical and Dental Expenses from the Itemized Deduction Cap" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-767)**

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

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

REPORTS OF COMMITTEE

Divided Reports

Seven Members of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (H-761)** on Bill "An Act To Allow the Sale of Unregulated Farm-produced Dairy Products at the Site of Production"

(H.P. 1278) (L.D. 1786)

Signed:

Senators:

VITELLI of Sagadahoc
BOYLE of Cumberland

Representatives:

DILL of Old Town
BLACK of Wilton
HICKMAN of Winthrop
KENT of Woolwich
SAUCIER of Presque Isle

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

Signed:
 Senator:
 SHERMAN of Aroostook

Representatives:
 CRAY of Palmyra
 MAREAN of Hollis
 TIMBERLAKE of Turner

One Member of the same Committee reports in Report "C" **Ought to Pass as Amended by Committee Amendment "B" (H-762)** on same Bill.

Signed:
 Representative:
 JONES of Freedom

READ.

Representative DILL of Old Town moved that the House **ACCEPT** Report "A" **Ought to Pass as Amended.**

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Dill.

Representative DILL: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just want to give you a brief summary of what this bill does and allows. This allows direct sales to the consumer from a producer at their place of business, the sale of unregulated, unlicensed, unpasteurized milk and milk products. These products can only be advertised by face to face. It cannot be any advertising. The products must be labeled as such that they are unpasteurized and it has to have other information like the name and place and date of development. To be able to sell the product in the first place, the distributor, as the person is called, at this point, the farmer must take a University of Maine Dairy Sanitation course and must take that course every three years. That has to be posted, the certificate of completion, at the point of sale. Also, the individual must have a water test, if they are not on public water, at least once a year, and the results of that test must be posted also. You, as the consumer, have the ability or are allowed to inspect the premises. If there are any foodborne illnesses or related illnesses that may be thought to be associated with milk or milk products from a certain establishment, at that point in time and only that point in time, can the Department of Agriculture, Conservation and Forestry come in and actually inspect the premises. The only other thing is, as well as direct sales to a customer, at the point, at the farm, products can be sold at a farm stand on that property or at an eating establishment contiguous to that, and that pretty well summarizes it. Thank you.

Representative FREDETTE of Newport **REQUESTED** a roll call on the motion to **ACCEPT** Report "A" **Ought to Pass as Amended.**

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 Newfield, Representative Campbell.

Representative CAMPBELL: Thank you, Mr. Speaker. We've discussed many a times how hard it is for the farmers to survive in the State of Maine. I forget how many we had a few years ago, but we're down to 300 or 400 now. The last thing that farmers in this state need is anybody on the third floor on either end of the hall or anybody on the second floor to cause them any more hardship than what they've already gone through. I will be voting against this bill and I hope you'll follow my light. Thank you.

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

ROLL CALL NO. 599

YEA - Beavers, Berry, Boland, Bolduc, Carey, Cassidy, Chapman, Chipman, Cooper, Daughtry, Devin, Dickerson, Dill, Dion, Dorney, Evangelos, Farnsworth, Frey, Gattine, Gideon, Gilbert, Goode, Graham, Grant, Guerin, Hamann, Harlow, Herbig, Hickman, Hubbell, Jorgensen, Kent, Kornfield, Kruger, Kumiega, Lajoie, Libby N, Longstaff, Luchini, Mason, Mastraccio, McCabe, Monaghan-Derrig, Moonen, Moriarty, Morrison, Nelson, Peoples, Plante, Powers, Rotundo, Russell, Rykerson, Saucier, Saxton, Schneck, Shaw, Stuckey, Theriault, Tipping-Spitz, Treat, Turner, Verow, Welsh, Werts, Mr. Speaker.

NAY - Beaudoin, Beaulieu, Beck, Black, Briggs, Brooks, Campbell J, Campbell R, Chase, Chenette, Clark, Cotta, Crafts, Cray, Crockett, Davis, DeChant, Doak, Dunphy, Duprey, Espling, Fowle, Fredette, Gifford, Gillway, Harvell, Hayes, Hobbins, Jackson, Johnson P, Jones, Kaenrath, Keschl, Kinney, Knight, Libby A, Lockman, Long, MacDonald S, MacDonald W, Maker, Malaby, Marks, McClellan, McElwee, Nadeau A, Nadeau C, Newendyke, Nutting, Parry, Peavey Haskell, Peterson, Pouliot, Priest, Rankin, Reed, Sanborn, Sanderson, Short, Sirocki, Stanley, Timberlake, Tyler, Villa, Volk, Wallace, Weaver, Willette, Winchenbach, Winsor, Wood.

ABSENT - Ayotte, Bennett, Casavant, Fitzpatrick, Johnson D, Kusiak, Marean, McGowan, McLean, Noon, Pease, Pringle, Rochelo, Wilson.

Yes, 66; No, 71; Absent, 14; Excused, 0.

66 having voted in the affirmative and 71 voted in the negative, with 14 being absent, and accordingly Report "A" **Ought to Pass as Amended** was **NOT ACCEPTED.**

Subsequently, Representative DILL of Old Town moved that the House **ACCEPT** Report "B" **Ought Not to Pass.**

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

Representative JONES: Mr. Speaker, moving Amendment "B," Ought Not to Pass, would have the same effect as killing the main motion. I would urge Men and Women of the House to reject this motion and please consider Report "C."

Representative HICKMAN of Winthrop **REQUESTED** a roll call on the motion to **ACCEPT** Report "B" **Ought Not to Pass.**

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

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

ROLL CALL NO. 600

YEA - Beaulieu, Beck, Black, Briggs, Campbell J, Campbell R, Chase, Chenette, Clark, Cooper, Cotta, Crafts, Cray, Crockett, Davis, Dill, Dion, Doak, Dorney, Duprey, Espling, Fowle, Fredette, Gideon, Gifford, Gillway, Goode, Harvell, Hayes, Hobbins, Hubbell, Jackson, Johnson P, Keschl, Kinney, Knight, Kornfield, Libby A, Lockman, Long, MacDonald S, MacDonald W, Maker, Malaby, Marks, McClellan, McElwee, Nadeau A, Nadeau C, Newendyke, Nutting, Parry, Peavey Haskell, Peterson, Pouliot, Priest, Rankin, Reed, Sanborn, Sanderson, Short, Sirocki, Timberlake, Tyler, Volk, Wallace, Weaver, Willette, Winchenbach, Winsor, Wood.

NAY - Beaudoin, Beavers, Berry, Boland, Bolduc, Brooks, Carey, Cassidy, Chapman, Chipman, Daughtry, Devin, Dickerson, Dunphy, Evangelos, Farnsworth, Frey, Gattine, Gilbert, Graham, Grant, Guerin, Hamann, Harlow, Herbig,

Hickman, Jones, Jorgensen, Kaenrath, Kent, Kruger, Kumiega, Lajoie, Libby N, Longstaff, Luchini, Mason, Mastraccio, McCabe, Monaghan-Derrig, Moonen, Moriarty, Morrison, Nelson, Peoples, Plante, Powers, Rotundo, Russell, Rykerson, Saucier, Saxton, Schneck, Shaw, Stanley, Stuckey, Theriault, Tipping-Spitz, Treat, Turner, Verow, Villa, Welsh, Werts, Mr. Speaker.

ABSENT - Ayotte, Bennett, Casavant, DeChant, Fitzpatrick, Johnson D, Kusiak, Marean, McGowan, McLean, Noon, Pease, Pringle, Rochelo, Wilson.

Yes, 71; No, 65; Absent, 15; Excused, 0.

71 having voted in the affirmative and 65 voted in the negative, with 15 being absent, and accordingly Report "B" **Ought Not to Pass** was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **MARINE RESOURCES** reporting **Ought Not to Pass** on Bill "An Act Regarding Wet Storage Sites for Cultured Marine Organisms"

(H.P. 1175) (L.D. 1603)

Signed:

Senator:

MAZUREK of Knox

Representatives:

KUMIEGA of Deer Isle

CHAPMAN of Brooksville

KRUGER of Thomaston

PARRY of Arundel

WEAVER of York

WINCHENBACH of Waldoboro

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-768)** on same Bill.

Signed:

Senators:

JOHNSON of Lincoln

WOODBURY of Cumberland

Representatives:

DEVIN of Newcastle

DOAK of Columbia Falls

SAXTON of Harpswell

READ.

Representative KUMIEGA of Deer Isle moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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

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

Representative **DEVIN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is a bill about jobs and opportunities along the coast. The oyster culture industry in our state is worth \$10 million. In the State of Washington, it's worth \$300 million. For those of you who eat oysters on a regular basis, you know that our oyster tastes better and it's just a matter of getting our oyster to the market. Over the past three or four years, the demand for oysters around the country has increased dramatically so that there is demand in the winter, and that's a key point, and you all have a yellow sheet that talks about "Loss Leaders on the Half Shell" which was

recently published in the *New York Times*. Oysters are filter feeders. They are put in cages on many of our oceanic rivers. They are grown upstream. You have a white sheet and on one side of the white sheet, it talks about growing sites and winter holding sites. Growing sites are upriver. Upriver areas, in the summer, are very warm and there is lots of phytoplankton produced. Oysters grow by filtering out that phytoplankton. The problem is, in the wintertime, those areas upriver freeze and so in order to have access to those oysters, they either need to be put out into refrigerators, which is very expensive, or moved downstream closer to the ocean where those waters don't freeze. Like I said, this wasn't a problem until very recently when demand for oysters skyrocketed and our growers are trying to get access to them during the winter. Presently, we have three types of leases. We have an LPA, which is on the opposite side of your comparison of growing sites to winter holding sites. So you have an LPA which is a limited purpose application. It's a very small lease to do a very quick test to see, one reason to use that would see if a particular site would be good to grow oysters to begin with, or any other species for that matter. The second is an experimental. Experimental leases are good, they can be up to four acres and good for three years, and these have to do a much more involved experiment. These are not renewable because experimental leases, they are not as onerous to get as the final lease that presently exist in the standard lease, and we don't want to see growers utilizing experimental leases like standard leases. The third lease that presently exists is a standard lease. A standard lease lasts for 10 years, up to 100 acres. They are very onerous to get. The process to get them, right now, is a minimum of 14 months and, quite often, takes over two years. The proposed winter holdings lease would create a fourth lease, which would be similar to the experimental lease, except for two fundamental changes. Number one, they would be renewable, and number two, they would only be active during the winter months. It would only be active from 1 November until April 30 and it's that time of year that there is a potential for the freezing of our rivers upstream. So it makes it a big enough difference from the experimental lease, that is the fact that it is limited only to winter months and the fact that it's renewable, that it justifies a fourth lease category. Initially, the commissioner of DMR was against this bill because he thought it would take several months to create the fourth lease. We've actually done the legwork for that lease and he now has a second person coming on board to help process leases, so the backlogs, overall, with leases, shall/will speed up. However, still, if oyster growers are forced to use the standard lease, it's still going to be a much longer process than the experimental lease. One final thing that you need to know about oysters in the winter is that, once the water temperature goes below 40 degrees, oysters become dormant, that is that they do not feed, and so all we're doing is moving them to an area where the farmers will have access to them. This enables those growers to instead of having a cash flow for eight or nine months, 12 months a year. Thank you very much.

The **SPEAKER**: The Chair recognizes the Representative from Deer Isle, Representative Kumiega.

Representative **KUMIEGA**: Thank you, Mr. Speaker. I just want to briefly sum up the majority position. The majority of the committee felt that the existing lease processes are suitable to creating a winter holding site. There are some companies that are using the existing lease processes. Experimental leases are not renewable, but they can be converted into a standard lease so a company that wants to have a winter holding site can take an experimental lease out and then while they are using the site they can convert it to a standard lease. It's not a perfect process

but the feeling of the majority of the committee was that developing another kind of lease complicates the process more than it simplifies it. I ask you to follow my light. Thank you, Mr. Speaker.

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

Representative **DEVIN**: Thank you very much, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I apologize for rising a second time. The good Representative from Deer Isle is correct. You can take the standard lease and convert it. I mean you can take an experimental lease and convert it to a standard lease. However, the issue with that is that presently a standard lease is taking over two years. So you're taking that small business owner, asking him to get an experimental lease which takes about a year, and then tacking on another two years to turn that into a standard lease. What this fourth lease will do is not make it any more complex for the DMR and these small business owners. It's actually going to streamline the process for all those involved, and I hope you'll follow my light. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Parry.

Representative **PARRY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just want to get up and echo the good words from the Marine Resources Committee chair that I think this really isn't necessary at this time. I believe the committee is working on streamlining the process and I don't really think this is necessary at this time. Thank you.

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

ROLL CALL NO. 601

YEA - Beaudoin, Beaulieu, Black, Bolduc, Briggs, Campbell J, Campbell R, Carey, Cassidy, Chapman, Chase, Clark, Cotta, Crafts, Cray, Crockett, Davis, Dickerson, Dion, Dunphy, Espling, Fowle, Fredette, Frey, Gattine, Gifford, Goode, Graham, Grant, Harvell, Herbig, Hobbins, Hubbell, Keschl, Kinney, Knight, Kumiega, Libby A, Libby N, Lockman, Long, Longstaff, Luchini, MacDonald S, MacDonald W, Malaby, Mastraccio, McCabe, McClellan, McElwee, Nadeau A, Nadeau C, Nelson, Newendyke, Nutting, Parry, Peavey Haskell, Pouliot, Powers, Priest, Rankin, Reed, Rotundo, Sanborn, Sanderson, Saucier, Schneck, Sirocki, Theriault, Timberlake, Treat, Tyler, Verow, Villa, Volk, Wallace, Weaver, Willette, Winsor, Wood, Mr. Speaker.

NAY - Beavers, Beck, Berry, Boland, Brooks, Chenette, Chipman, Cooper, Daughtry, DeChant, Devin, Dill, Doak, Dorney, Duprey, Evangelos, Farnsworth, Gideon, Gilbert, Gillway, Guerin, Hamann, Harlow, Hayes, Hickman, Jackson, Johnson P, Jones, Jorgensen, Kaenrath, Kent, Kornfield, Kruger, Lajoie, Maker, Marks, Mason, Monaghan-Derrig, Moonen, Moriarty, Morrison, Peoples, Peterson, Plante, Russell, Rykerson, Saxton, Shaw, Short, Stanley, Stuckey, Tipping-Spitz, Turner, Welsh, Werts, Winchenbach.

ABSENT - Ayotte, Bennett, Casavant, Fitzpatrick, Johnson D, Kusiak, Marean, McGowan, McLean, Noon, Pease, Pringle, Rochelo, Wilson.

Yes, 81; No, 56; Absent, 14; Excused, 0.

81 having voted in the affirmative and 56 voted in the negative, with 14 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **ENVIRONMENT AND NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-769)** on Resolve, Regarding Legislative Review of Chapter 200: Metallic Mineral Exploration, Advanced Exploration and Mining, a Late-filed Major Substantive Rule of the Department of Environmental Protection (EMERGENCY)

(H.P. 1270) (L.D. 1772)

Signed:

Senators:

BOYLE of Cumberland
GRATWICK of Penobscot

Representatives:

WELSH of Rockport
CHIPMAN of Portland
COOPER of Yarmouth
GRANT of Gardiner
HARLOW of Portland
MCGOWAN of York

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-770)** on same Resolve.

Signed:

Senator:

SAVIELLO of Franklin

Representatives:

AYOTTE of Caswell
CAMPBELL of Orrington
LONG of Sherman
REED of Carmel

READ.

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

The SPEAKER: The Chair recognizes the Representative from Rockport, Representative Welsh.

Representative **WELSH**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I speak in support of LD 1772 as amended. This Resolve addresses the major substantive rules promulgated by the DEP and the Board of Environmental Protection over the past year. This does not address the statute passed in the 125th Legislature updating the Maine Minerals Mining Act; rather this Majority Report is amending the Resolve. This Majority Report amending the Resolve does not reject mining for the State of Maine; rather it rejects the major substantive rules for mining sent to us by the Bureau of Environmental Protection. These rules do not adequately protect the quality of our water, nor the financial assurances for our taxpayers. If we are to have future mineral mining in Maine, we must make sure that we are protecting the waters of Maine. We must make sure that this most important resource is safe from pollution. If we are to have future mining in Maine, we must assure that we do not have perpetual treatment of contaminated water. If we are to have future mining in Maine, we must be sure that taxpayers are not left with the financial burden of cleaning up sites for decades later, which has happened far too often in our state. The rules that were sent to us do not have these adequate protections. That is why we are rejecting them and sending them back to DEP and BEP and asking them to strengthen these most important protections. I urge you to join me in voting Ought to Pass as Amended on this Resolve, rejecting these inadequate rules, and ask for stronger

protections for our water and for our taxpayers. Thank you, Mr. Speaker, and 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 Orrington, Representative Campbell.

Representative **CAMPBELL**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I find it curious that the major substantive rules that have come back to us which actually comply with the law are being sent back to adjust the law. I don't know a lot about this process, but I was responsible for the major substantive rule. We got the Legislature to pass this process because before I arrived in 1993, these rules would go out, were promulgated and exceeded the intent of the law passed by the Legislature. So it was important to the Legislature, at the time, to bring anything that went out as major substantive back to the committee of jurisdiction, to make sure it didn't exceed the intent of the law. Well, these rules have come back to this committee based on the law that many of you passed. It's not the role of the committee to try and change the law through the rulemaking but to go back and change the law. If we disagree with the law that you all passed, then change the law. Don't do it through rulemaking. So I will be opposed to this and hope you consider that those rules were made by departments that abided by the law. Each one of those departments told us that we met the law. If you want to change the law, if you don't like mining, then change the law. Don't do it through rulemaking. Thank you.

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

Representative **GRANT**: Thank you, Mr. Speaker. Mr. Speaker, Women and Men of the House. I rise in support of the pending motion Ought to Pass as Amended, the Majority Report of the Joint Standing Committee on Environment and Natural Resources, on which I am a member.

Under the Maine Administrative Procedures Act, the committee's review of the Draft Mining Rules was required, "at a minimum," to consider specific factors, including the following: "Whether the rule is in conformity with the legislative intent of the statute the rule is intended to implement, extend, apply, interpret or make specific;" and, "Whether the rule conflicts with any other provision of law or with any other rule adopted by the same or a different agency."

I believe based on the expert testimony both before our committee and before the Board of Environmental Protection, which reviewed and substantially changed the DEP's draft rules last fall, that the rules before us are not in conformity with the legislative intent as outlined in PL 2011 Chapter 653. They are in conflict with the intent of both state and federal laws, especially the Natural Resource Protection Act, and state and federal clean water and clean air standards designed to protect water quality, and protect public health.

I will direct my remarks to two critical areas: The Draft Rules inadequately protect Maine's water and wildlife, and fail to provide sufficient financial assurances to protect Maine's taxpayers. First, water quality: The law established by the 125th Maine Legislature requires that discharge of pollutants will not violate water quality standards. The law also requires that all harm to habitats and fisheries be avoided to minimize impacts, under the Natural Resource Protection Act.

The rules before us fail on several points to prevent groundwater contamination, specifically by allowing post mine closure water treatment for more than 30 years. Not only did the

Board of Environmental Protection extend the period of post-closure water treatment beyond the DEP's already too-lenient draft rules, but the Board also allowed "wet mine waste units" (this is a fancy term for acid ponds) to be excluded from the definition of mine wastes. There is also no language to link the rules with any performance standards for air and water quality standards, or Maine's own water classification standards. There is no mention of "monitoring" at all.

Worse, in the section regarding Mining Operation Plans, it states, "For the purposes of this rule, any treatment necessary for wet mine waste units in excess of the 30-year post-closure period shall not be considered perpetual treatment." Later in the rules under "Reactive Mine Waste and Designated Chemicals Management Systems" it states, "A wet mine waste unit may be considered for a longer period of more than 30 years by the Department provided the Department determines it is the most practicable alternative for waste management."

In June of last year, our committee had the opportunity to hear from an independent expert on issues related to metallic mineral mining, Dr. David Chambers. Dr. Chambers has more than 35 years of experience in mineral exploration and development. He has a Professional Engineer in Physics degree, and is a registered professional geophysicist in California, with a PhD in Environmental Planning. After a two-hour presentation to the committee he followed up with a letter and I quote:

"I have taken a position that one of the aspects of responsible mining is no perpetual water treatment. ...I believe that it is reasonable to give a mining company five years after the completion of reclamation to terminate water treatment. This policy is being applied in Michigan. ...No registered professional would make a prediction that water treatment could be terminated 10, 20, or 30 years after closure if they were held professionally responsible for this prediction. I know of no regulatory agency federal or state, that holds an individual or company professionally, or financially, liable for an inaccurate prediction of water treatment, even when it has ended up costing the public millions of dollars...."

We must ensure that all mining in Maine is done using the best industry practices, and require that all post-closure water treatment be concluded satisfactorily within at most 10 years. Groundwater must not be contaminated outside the mining areas, and acid ponds must not stand in perpetuity in our state.

Second, I will address the financial assurances. The financial assurances of the Draft Rules are wholly inadequate, and expose Maine's taxpayers to the real risk of paying for groundwater contamination and other serious environmental degradation. A stand-by trust, in full, for closure funds, with the state of Maine as the beneficiary should be required, as it is for landfills in Maine. In addition an independent third party must validate estimated mine closure costs. DEP's discretion for financial assurances as presented in these draft rules is overly broad. It is clear that the 125th Legislature intended to protect Maine taxpayers. These rules fail that intent.

The waters around Bald Mountain, in Aroostook County, boast the best trout fishing in the country, in fact they are the last strong-hold of the native brook trout in the US. If we are to risk such a precious asset, we must take all precautions to prevent the kinds of disasters we have already seen in Maine from open-pit metallic mineral mining.

It is not just Bald Mountain or Aroostook County we must consider here. These rules would apply across the entire state. In a briefing last year the State's Geologist, Dr. Robert Marvinney, provided the committee with a detailed geological survey of the significant metallic mineral deposits in Maine.

These include deposits in Oxford, Somerset, Penobscot, Hancock, Washington and Knox counties.

It is our responsibility as legislators to ensure that before any open-pit metallic mineral mining occurs again in Maine, that our environment and public health are protected. We must also ensure that if, despite the best planning and mining practices that might be employed here, an environmental disaster still occurs, the full cost of cleanup will be born by the companies who profit from the mining, not Maine taxpayers. Ladies and gentlemen, Mr. Speaker, we are entering a time when clean water will be the world's most precious resource. We should bear that in mind when we make such a far-reaching decision. Thank you, Mr. Speaker.

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. The good Representative from Gardiner, Representative Grant, is a hard act to follow. I don't think I could do this bill the justification that Representative Grant just did. That was amazing. I thank the committee for their hard work and I remind everyone in the room to think back, think back to June when we were here debating this same issue. We had a bipartisan vote out of this chamber where we all stood together. We stood together and we said, "We have concerns. We have concerns about mining going forward. Here's our concerns." The rules came back. They came back worse than we ever imagined. So I stand today in support of the pending motion, and I hope folks will remember their vote last year and will vote the same way today. Thank you.

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

Representative **CHAPMAN**: Thank you, Mr. Speaker. Mr. Speaker, Friends and Colleagues of the House. I'd like to take a moment here to just review a few matters that deal with metal mining in Maine, as I represent the only district in Maine that has had any metal mines in the last 96 years. I'd like to ask a simple question, why should we have regulations, and the answer is worth considering that if we did not want mining at all, we would simply ban it and not have the regulations. By the same token, if we could trust a mining company to perform their operation in a way that upheld the values that we have as a public, we wouldn't need to regulate them either. So the purpose of the regulations is to provide an incentive for a mining company to uphold the values that we want to impose upon them which have already been stated, a non-contamination of public waters and a non-expense to the taxpayer. But what does that really mean and what happened in my district 40 years ago and the answer comes down to this: If a mining company is able to leave a mine site in a geochemically stable condition, then that satisfies the need for not creating offsite contamination of the waters and it prevents any future expense on the part of the public. That simple criterion, leaving the site in a geochemically stable condition is the one that we want to work toward and if the rules that we figure out how to write to encourage that behavior were effective, what it would do is it would make every activity that the mining company takes be done according to a plan in which the end result is a geochemically stable condition when they leave. Now, of course, the current proposed rules don't do that.

I want to give you just a couple of pieces of information. The Callahan Mine, which is my hometown of Brooksville, which was the open-pit mine, 40 years after it closed, it's now an EPA superfund cleanup site. But aside from that, the point that I really want to bring to your attention is that a few months ago a research paper was published that identified a heavy metal contamination in the estuary near the mine site. What was

curious about it is that the distribution of the contamination suggested that there was, as of yet, unidentified point source for this contamination, very likely one of the waste rock piles. The significance of this is that the evidence suggests that the contamination did not start at the time the rock pile was put there 40 years ago, but that it took some time for the weathering to take place. The weathering is the oxygen and the rainwater that works with the sulfides and the material to create an acid and that leaches the metals, and that weathering process is one that can take quite a while to start, maybe many decades to start. This is the reason why we want a mine site left in a geochemically stable condition because we do not want to have it set up where the contamination will start some decades later. The other mine site in my district, the Kerr American Mine, which was not an open-pit mine but an underground mine, is not an EPA superfund site because the companies that were involved with that chose to enter into a consent decree in which, by them paying \$10 million to install a geosynthetic cover over tailings at that mine site, they were absolved of all future liability with respect to the contamination there. Prior to the installation of the geosynthetic cover, 5 to 6 tons per year of heavy metals was leaching from that area. These two stories, the problem at the Callahan site and the problem at the Kerr American site, illustrate why it's necessary for the end result to be one in which a site is left geochemically stable.

Now, let's discuss the Bald Mountain deposit because we learned some information in the last few months that was unavailable to us when we took our votes a couple of years ago. One of the major pieces of information that we learned about the Bald Mountain deposit is that tens of millions of dollars had been invested in exploration of the Bald Mountain deposit by a mining company which then abandoned their investment. They abandoned their investment prior to the implementation of the rules in 1991, so their abandonment of the site was not due to the rules. Then the mining company that took over, which was one of the ones that had left a problem in my district, also abandoned their application for mining the Bald Mountain deposit. So it turns out what we didn't know is that the Bald Mountain deposit is the most studied unmined deposit in North America and there is a reason why it's unmined. That reason is that the mining companies do not know how to mine it without creating a geochemically unstable condition of a great magnitude. So the rural structure that we need to develop is one that will identify when a mine site is incapable of meeting the goal of leaving it in a geochemically stable condition. This is commonly known as a go-no-go decision point within the way which the process works its way through.

So just to wrap it up here, what I'd like to point out that is the tens of millions of dollars that were spent on the Bald Mountain deposit did not, to my knowledge, create an economic boost to Aroostook County and anyone that believes that there would be any benefit economically to the people who live in Aroostook County from a mining operation would have to ask themselves the question of why didn't they see any benefit from the tens of millions of dollars that were spent there in the late '80s and what would be different about a mining operation where they would see any benefit from it today, and the answer is there would not be. And, in fact, even some of the jobs like truck driving jobs that were available at mine sites 50 years ago are no longer available because of the use of robotic trucks. So I'll close off there, Mr. Speaker. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Fort Kent, Representative Nadeau.

Representative **NADEAU**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'll be brief. The

mining has to do with jobs, jobs in northern Maine, and let's be clear that's what it is. The casinos would have been work in northern Maine. So you know what? If we can't have any jobs up there, just load me up with some EBT cards. Give me 20,000. Load them up and I'll give them to my constituents.

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. Mining conjures up the promise of riches, not only from the valuable minerals that may be present but more, particularly, the notion of good jobs in Maine for a region of our state which is sorely lacking good jobs. The problem that we in the Environment and Natural Resources Committee discovered was that these promises have invariably been exaggerated and downright inaccurate. The companies, for example, that poured tens of millions of dollars of funds into exploration at Bald Mountain in the 1990s predicted, at the most, 70 jobs and mining for three years. Most of those jobs, the high paying jobs, we were told by other experts would go to people from out of state because mining requires great expertise when you get to the upper levels of the workers that are involved in it. Yes, there would be some manual type of work for people, but it would be, at best, a few dozen and for a few years. So the promise of awakening an economy in Aroostook County by raping Bald Mountain, and that's basically what would happen. It has to be an open-pit mine. That's the only way to get the valuable minerals out. It has to create sulfuric acid because that's always what happens when the sulfide in the ore meets the air and the water. Are these few jobs, these few jobs with no future really worth it, either to Aroostook County which depends on tourism trade in monetary amounts far beyond anything that they could get from mining, as well as to the rest of the state whose brand is in the beauty of our hills and mountains and seashore? Thank you.

The SPEAKER: The Chair recognizes the Representative from Rockport, Representative Welsh.

Representative WELSH: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I just do want to remind the body that this Resolve is about the rules that make mining safe in Maine. Thank you.

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

ROLL CALL NO. 602

YEA - Beaudoin, Beavers, Beck, Berry, Black, Boland, Bolduc, Briggs, Brooks, Campbell J, Carey, Cassidy, Chapman, Chenette, Chipman, Cooper, Cotta, Crockett, Daughtry, DeChant, Devin, Dickerson, Dill, Dion, Dorney, Dunphy, Espling, Evangelos, Farnsworth, Fowle, Frey, Gattine, Gideon, Gilbert, Gillway, Goode, Graham, Grant, Guerin, Hamann, Harlow, Harvell, Hayes, Herbig, Hickman, Hobbins, Hubbell, Jones, Jorgensen, Kaenrath, Kent, Kornfield, Kruger, Kumiega, Lajoie, Libby N, Longstaff, Luchini, MacDonald S, MacDonald W, Malaby, Marks, Mason, Mastraccio, McCabe, Monaghan-Derrig, Moonen, Moriarty, Morrison, Nadeau C, Nelson, Parry, Peoples, Peterson, Plante, Pouliot, Powers, Priest, Rankin, Rotundo, Russell, Rykerson, Sanborn, Sanderson, Saxton, Schneck, Shaw, Short, Sirocki, Stuckey, Tipping-Spitz, Treat, Verow, Villa, Volk, Welsh, Werts, Mr. Speaker.

NAY - Beaulieu, Campbell R, Chase, Clark, Crafts, Cray, Davis, Doak, Duprey, Fredette, Gifford, Jackson, Johnson P, Keschl, Kinney, Knight, Libby A, Lockman, Long, Maker, McClellan, McElwee, Nadeau A, Newendyke, Nutting, Peavey Haskell, Reed, Saucier, Stanley, Theriault, Timberlake,

Turner, Tyler, Wallace, Weaver, Willette, Winchenbach, Winsor, Wood.

ABSENT - Ayotte, Bennett, Casavant, Fitzpatrick, Johnson D Kusiak, Marean, McGowan, McLean, Noon, Pease, Pringle, Rochelo, Wilson.

Yes, 98; No, 39; Absent, 14; Excused, 0.

98 having voted in the affirmative and 39 voted in the negative, with 14 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Resolve was **READ ONCE**. **Committee Amendment "A" (H-769)** was **READ** by the Clerk.

Representative WELSH of Rockport **PRESENTED House Amendment "A" (H-776)** to **Committee Amendment "A" (H-769)**, which was **READ** by the Clerk.

On motion of Representative BERRY of Bowdoinham, **TABLED** pending **ADOPTION of House Amendment "A" (H-776)** to **Committee Amendment "A" (H-769)** and later today assigned.

Ought to Pass Pursuant to Resolve

Representative MacDONALD for the **Joint Standing Committee on Education and Cultural Affairs** on Resolve, To Establish the Commission To Strengthen the Adequacy and Equity of Certain Cost Components of the School Funding Formula (EMERGENCY)

(H.P. 1335) (L.D. 1850)

Reporting **Ought to Pass** pursuant to Resolve 2011, chapter 166, section 8.

Report was **READ** and **ACCEPTED**.

The Resolve was **READ ONCE**.

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** and sent for concurrence.

Divided Report

Majority Report of the Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-774)** on Bill "An Act To Amend the Laws Governing the Location of Motor Vehicle Excise Tax Collection for Motor Vehicles Owned by Public Utilities"

(H.P. 1259) (L.D. 1754)

Signed:

Senators:

HASKELL of Cumberland
MILLETT of Cumberland
THOMAS of Somerset

Representatives:

GOODE of Bangor
BENNETT of Kennebunk
BROOKS of Winterport
JACKSON of Oxford
KNIGHT of Livermore Falls
LIBBY of Lewiston
MOONEN of Portland
STANLEY of Medway
TIPPING-SPITZ of Orono

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-775)** or same Bill.

Signed:
 Representative:
 MAREAN of Hollis

READ.

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

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

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

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

Representative **GOODE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I don't want to take up a lot of time, but this is a fairly controversial bill that came to our committee that was turned into a Resolve to further study the issue of excise taxes, issues related to municipalities. It was a 12-1 Committee Report and so I'll be supporting the current motion before us and hope we can move on with our work.

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. I stand to support the pending motion and to further thank the Representative from Farmington, Representative Harvell, for bringing this important issue forward. I look forward to this committee working on addressing this issue of fairness.

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 brought this bill forward three years ago. I didn't find a lot of support for it then. You have probably read a little bit in the papers about the potential issue that Augusta was having with CMP. I have no issue with that. With me, it's a policy issue. Farmington has 21 trucks that are stationed at a substation in Farmington. They have the major impacts on the road in Farmington, as well as they do in many other towns around here, and the reality is that the need for this that was argued years ago was generally a paperwork issue, that CMP or FairPoint had major amounts of paperwork that they would have to chase all across the state and the centralization of this was central because of the internet, because of the computer. That, in fact, is a myth, at this point. We require we watch very closely any utilities or any organizations or any people that live near the New Hampshire border to say that if you're living in Maine and your car is here, you have to be registered here. It is only fair that those vehicles that spend most of their time in that community give their excise tax to that community.

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. 603

YEA - Beaudoin, Beaulieu, Beavers, Berry, Black, Boland, Bolduc, Briggs, Brooks, Campbell J, Campbell R, Carey, Cassidy, Chapman, Chase, Chipman, Clark, Cooper, Cotta, Crafts, Cray, Crockett, Davis, DeChant, Devin, Dickerson, Dill, Dion, Doak, Dorney, Dunphy, Evangelos, Farnsworth, Fredette, Frey, Gattine, Gideon, Gifford, Gilbert, Gillway, Goode, Graham, Grant, Guerin, Hamann, Harlow, Harvell, Hayes, Herbig, Hickman, Hubbell, Jackson, Johnson P, Jones, Kent, Keschl, Knight, Kornfield, Kruger, Kumiega, Lajoie, Libby N, Lockman,

Long, Longstaff, Luchini, MacDonald S, MacDonald W, Maker, Malaby, Marks, Mason, Mastraccio, McCabe, McClellan, McElwee, Monaghan-Derrig, Moonen, Moriarty, Morrison, Nadeau A, Nadeau C, Nelson, Newendyke, Nutting, Parry, Peavey Haskell, Peoples, Peterson, Plante, Powers, Priest, Rankin, Rotundo, Russell, Rykerson, Sanborn, Sanderson, Saucier, Saxton, Schneck, Shaw, Short, Sirocki, Stanley, Stuckey, Theriault, Timberlake, Tipping-Spitz, Treat, Turner, Verow, Villa, Volk, Wallace, Weaver, Welsh, Werts, Willette, Winchenbach, Winsor, Wood, Mr. Speaker.

NAY - Beck, Chenette, Daughtry, Duprey, Espling, Fowle, Hobbins, Jorgensen, Kaenrath, Kinney, Libby A, Pouliot, Reed, Tyler.

ABSENT - Ayotte, Bennett, Casavant, Fitzpatrick, Johnson D, Kusiak, Marean, McGowan, McLean, Noon, Pease, Pringle, Rochelo, Wilson.

Yes, 123; No, 14; Absent, 14; Excused, 0.

123 having voted in the affirmative and 14 voted in the negative, with 14 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-774)** 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-774)** and sent for concurrence.

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

CONSENT CALENDAR

First Day

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

(S.P. 673) (L.D. 1707) Bill "An Act To Amend the State's Tax Laws" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-472)**

(H.P. 1291) (L.D. 1799) Bill "An Act To Amend the Laws Governing Charitable Solicitations" Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-778)**

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

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

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

(H.P. 1235) (L.D. 1727) Bill "An Act To Establish Guidelines for the Stocking and Administration of Epinephrine Autoinjectors in Schools" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-779)**

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

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

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Bill "An Act To Amend the Process Regarding the Transfer of Students between School Administrative Units"

(H.P. 1336) (L.D. 1852)

Sponsored by Representative JOHNSON of Greenville. (GOVERNOR'S BILL)

Cosponsored by Representative: DAVIS of Sangerville.

Committee on **EDUCATION AND CULTURAL AFFAIRS** suggested and ordered printed.

REFERRED to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed.

Sent for concurrence.

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

HOUSE REPORT - Ought to Pass as Amended by Committee Amendment "A" (H-757) - Committee on EDUCATION AND CULTURAL AFFAIRS on Resolve "Regarding Legislative Review of Chapter 180: Performance Evaluation and Professional Growth Systems, a Major Substantive Rule of the Department of Education (EMERGENCY)"

(H.P. 1254) (L.D. 1747)

Which was **TABLED** by Representative BERRY of Bowdoinham pending **ACCEPTANCE** of the Committee Report.

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

The Resolve was **READ ONCE**. **Committee Amendment "A" (H-757)** was **READ** by the Clerk.

Representative JOHNSON of Greenville **PRESENTED House Amendment "A" (H-777)** to **Committee Amendment "A" (H-757)**, which was **READ** by the Clerk.

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

Representative **JOHNSON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Thank you very much. This amendment stipulates that if a consensus cannot be reached in a school district that is working with a group of stakeholders to establish a teacher evaluation, that if there is no consensus agreed to that the district would adopt the state model. This clarification is needed to give direction to districts that either cannot come to consensus or they would rather use the state developed model. Thank you very much.

The **SPEAKER**: The Chair recognizes the Representative from Bar Harbor, Representative Hubbell.

Representative **HUBBELL**: Thank you, Mr. Speaker. Mr. Speaker, Women and Men of the House. I'd like to assure members that this amendment simply clarified and strengthens the good bipartisan work that came from our committee on this challenging issue this session. I'd like to thank the good Representative from Greenville for his integrity and leadership, along with all of my colleagues on the Education Committee which brought this bill out of committee with a unanimous report.

Representative **FREDETTE** of Newport **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-777)** to **Committee Amendment "A" (H-757)**.

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 Raymond, Representative McClellan.

Representative **McCLELLAN**: Thank you, Mr. Speaker. Good afternoon, Ladies and Gentlemen of the House. I'm going to be actually voting against this today, although in committee before this amendment I had voted for previous amendments. Just really briefly, my train of thought, as other people have said, I think this has been great work. We've worked for a year on this thing basically and there has been a lot of input on these rules from the Department to people that work in the field, to committee, to people here in this room. So definitely don't make lightly this has been a lot of work. I know, in the last week, I've just been contacted by a lot of people in the field, superintendents and educators, who just aren't satisfied with this as a finished product. There's really good pieces to it and some of the things that I have issues with are more minor than some of the bigger issues we've dealt with, but I think, for me, at least, it's fair to say, Mr. Speaker, a lot of people in the field just aren't quite satisfied with it. I know some of my peers say, "Well, we worked really hard and let's pass this and make it better." I guess I'm representing people that strive to let's make it right before we pass it. So, again, I acknowledge the really good work of my colleagues. I think it also says something in the last three or four days we've had three or four amendments adjusting the bill, so I think, at this point, it would be hard for some people to say what this bill is even about. So, again, with regrets, I'm going to ask people to vote Not to Pass. Thank you, Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Augusta, Representative Pouliot.

Representative **POULIOT**: Thank you, Mr. Speaker. You know, I think our committee really came together on this bill. Originally, everybody supported it. That's not the case anymore it sounds like. But, you know, I really think that there was a lot of back and forth in our committee. We really dug in on this. I think that the good Representative from Greenville has brought forward an amendment that really makes sense, and I think that it's important for us to get behind this and move forward so that we can have a uniformed approach to teacher evaluations in this state. We've heard from a lot of people it's important that they have some guidance on this, so hopefully we can get behind this amendment and support it. Thank you.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Adoption of House Amendment "A" (H-777) to Committee Amendment "A" (H-757). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 604

YEA - Beaudoin, Beaulieu, Beavers, Beck, Berry, Black, Boland, Bolduc, Briggs, Brooks, Campbell J, Carey, Cassidy, Chapman, Chenette, Chipman, Cooper, Cotta, Crockett, Daughtry, Davis, DeChant, Devin, Dickerson, Dill, Doak, Dorney, Evangelos, Farnsworth, Fowle, Frey, Gattine, Gideon, Gilbert, Goode, Graham, Grant, Hamann, Harlow, Hayes, Herbig, Hickman, Hobbins, Hubbell, Jackson, Johnson P, Jones, Jorgensen, Kaenrath, Knight, Kornfield, Kruger, Kumiega, Lajoie, Libby N, Longstaff, Luchini, MacDonald S, MacDonald W, Maker, Marks, Mason, Mastraccio, McCabe, McElwee, Monaghan-Derrig, Moonen, Moriarty, Morrison, Nadeau C, Nelson, Peavey Haskell, Peoples, Peterson, Plante, Pouliot, Powers, Priest, Rankin, Rotundo, Russell, Rykerson, Sanborn, Saucier, Saxton, Schneck, Shaw, Short, Stanley, Stuckey, Theriault, Tipping-Spitz, Treat, Tyler, Verow, Villa, Welsh, Werts, Winchenbach, Mr. Speaker.

NAY - Chase, Clark, Crafts, Cray, Dunphy, Duprey, Espling, Fredette, Gifford, Gillway, Guerin, Harvell, Keschl, Kinney, Libby A, Lockman, Long, Malaby, McClellan, Nadeau A, Newendyke, Nutting, Parry, Reed, Sanderson, Sirocki,

Timberlake, Turner, Volk, Wallace, Weaver, Willette, Winsor, Wood.

ABSENT - Ayotte, Bennett, Campbell R, Casavant, Dion, Fitzpatrick, Johnson D, Kent, Kusiak, Marean, McGowan, McLean, Noon, Pease, Pringle, Rochelo, Wilson.

Yes, 100; No, 34; Absent, 17; Excused, 0.

100 having voted in the affirmative and 34 voted in the negative, with 17 being absent, and accordingly **House Amendment "A" (H-777) to Committee Amendment "A" (H-757) was ADOPTED.**

Subsequently, **Committee Amendment "A" (H-757) as Amended by House Amendment "A" (H-777) thereto was 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" (H-757) as Amended by House Amendment "A" (H-777) thereto and sent for concurrence.**

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

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, March 28, 2014, 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 Streamline the Work Permitting Process for Minors and To Conform Allowable Places That Minors May Work to Federal Law" (EMERGENCY)

(H.P. 1222) (L.D. 1698)

- In House, Majority (6) **OUGHT NOT TO PASS** Report of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT READ and ACCEPTED** on March 19, 2014.

- In Senate, Minority (5) **OUGHT TO PASS** Report of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-456) in NON-CONCURRENCE.**

TABLED - March 27, 2014 (Till Later Today) by Representative BERRY of Bowdoinham.

PENDING - FURTHER CONSIDERATION.

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

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)

(C. "A" H-684)

TABLED - March 28, 2014 (Till Later Today) by Representative FARNSWORTH of Portland.

PENDING - PASSAGE TO BE ENACTED.

Subsequently, on motion of Representative FARNSWORTH of Portland, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION.**

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED.**

The same Representative **PRESENTED House Amendment "A" (H-760) which was READ** by the Clerk.

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

Representative **FARNSWORTH:** Thank you, Mr. Speaker. This amendment merely strips the emergency preamble from the bill. Thank you.

Representative **FREDETTE** of Newport **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-760).**

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

The **SPEAKER:** A roll call has been ordered. The pending question before the House is Adoption of House Amendment "A" (H-760). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 605

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

NAY - Beaulieu, Black, Chase, Clark, Cotta, Crafts, Cray, Crockett, Davis, Doak, Dunphy, Duprey, Espling, Fredette, Gifford, Gillway, Guerin, Harvell, Hayes, Jackson, Johnson P, Jones, Kaenrath, Keschl, Kinney, Knight, Libby A, Lockman, Long, MacDonald S, Maker, Malaby, Mason, McClellan, McElwee, Nadeau A, Newendyke, Nutting, Parry, Peavey Haskell, Pouliot, Reed, Sanderson, Short, Sirocki, Stanley, Timberlake, Turner, Tyler, Verow, Volk, Wallace, Weaver, Willette, Winchenbach, Winsor, Wood.

ABSENT - Ayotte, Bennett, Campbell R, Casavant, Dion, Fitzpatrick, Johnson D, Kent, Kusiak, Marean, McGowan, McLean, Noon, Pease, Pringle, Rochelo, Wilson.

Yes, 77; No, 57; Absent, 17; Excused, 0.

77 having voted in the affirmative and 57 voted in the negative, with 17 being absent, and accordingly **House Amendment "A" (H-760) was ADOPTED.**

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-684) and House Amendment "A" (H-760) in NON-CONCURRENCE** and sent for concurrence.

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

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (H-769)** - Minority (5) **Ought to Pass as Amended by Committee Amendment "B" (H-770)** - Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Resolve, Regarding Legislative Review of Chapter 200: Metallic Mineral Exploration, Advanced Exploration and Mining, a Late-filed Major Substantive Rule of the Department of Environmental Protection (EMERGENCY)

(H.P. 1270) (L.D. 1772)

Which was **TABLED** by Representative BERRY of Bowdoinham pending **ADOPTION of House Amendment "A" (H-776) to Committee Amendment "A" (H-769).**

Subsequently, Representative **WELSH** of Rockport **WITHDREW House Amendment "A" (H-776) to Committee Amendment "A" (H-769).**

Subsequently, **Committee Amendment "A" (H-769)** was **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" (H-769)** and sent for concurrence.

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

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-780)** on Bill "An Act To Protect the Public from Mosquito-borne Diseases" (H.P. 1299) (L.D. 1808)

Signed:

Senators:

VITELLI of Sagadahoc
BOYLE of Cumberland
SHERMAN of Aroostook

Representatives:

DILL of Old Town
BLACK of Wilton
CRAY of Palmyra
KENT of Woolwich
MAREAN of Hollis
SAUCIER of Presque Isle
TIMBERLAKE of Turner

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

Signed:

Representatives:

HICKMAN of Winthrop
JONES of Freedom

READ.

Representative DILL of Old Town moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Dill.

Representative **DILL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'll briefly kind of outline what this bill does. What it does is it gives the Maine DHHS, actually the CDC as the lead, it determines them to be the lead agency for mosquito monitoring and determining the incidences of mosquito-borne diseases in the state, such as EEE (Eastern Equine Encephalitis) and West Nile Virus. They in concert with the Department of ACF's Board of Pesticide Control, University of Maine Cooperative Extension, private sector experts and municipalities will determine various management strategies. The idea being that they will use IPM procedures so that the spraying of pesticides will be a last resort. If the CDC determines through the established Maine mosquito protocols/management protocols that as a last resort spraying is needed, if either by ground or by air, they will determine the opt out provisions for individuals and also set notification procedures. It also allows the state to enter into a contingency contract with the pesticide applicator at no cost to the state, allowing immediate access to application if determined. What happens in this case, if you

actually have to go out and contract with a pesticide applicator, especially an aerial applicator, then it may be a long time, meaning months even, before you can get them to come in. If you have a contingency contract, within a couple of days they can have them here to spray. It also allows the development of mosquito management districts with two or more municipalities cooperating. Finally, it establishes the dedicated non-lapsing Maine Mosquito Management Fund, which comes from contributions, grants or appropriations to carry out the purposes of the bill, which means monitoring, education and, finally, management. Thank you, Mr. Speaker.

Representative HICKMAN of Winthrop **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. 606

YEA - Beaudoin, Beaulieu, Beck, Berry, Black, Bolduc, Briggs, Campbell J, Carey, Cassidy, Chase, Chenette, Chipman, Clark, Cooper, Cotta, Crafts, Cray, Crockett, Davis, DeChant, Dill, Doak, Dunphy, Duprey, Espling, Evangelos, Farnsworth, Fowle, Fredette, Frey, Gattine, Gideon, Gifford, Gilbert, Gillway, Goode, Graham, Grant, Guerin, Hamann, Harvell, Hayes, Herbig, Hobbins, Hubbell, Jackson, Johnson P, Jorgensen, Keschl, Kinney, Knight, Kornfield, Kruger, Lajoie, Libby A, Libby N, Lockman, Long, Longstaff, Luchini, MacDonald S, MacDonald W, Maker, Malaby, Marks, Mason, Mastraccio, McCabe, McClellan, McElwee, Monaghan-Derrig, Moonen, Moriarty, Morrison, Nadeau A, Nadeau C, Nelson, Newendyke, Nutting, Parry, Peavey Haskell, Peoples, Peterson, Plante, Pouliot, Powers, Priest, Rankin, Reed, Rotundo, Russell, Sanborn, Sanderson, Saucier, Saxton, Schneck, Shaw, Short, Sirocki, Stanley, Theriault, Timberlake, Tipping-Spitz, Turner, Tyler, Verow, Villa, Volk, Wallace, Weaver, Welsh, Werts, Willette, Winchenbach, Winsor, Wood, Mr. Speaker.

NAY - Beavers, Boland, Chapman, Daughtry, Devin, Dickerson, Dorney, Harlow, Hickman, Jones, Kaenrath, Kumiega, Rykerson, Stuckey, Treat.

ABSENT - Ayotte, Bennett, Brooks, Campbell R, Casavant, Dion, Fitzpatrick, Johnson D, Kent, Kusiak, Marean, McGowan, McLean, Noon, Pease, Pringle, Rochelo, Wilson.

Yes, 118; No, 15; Absent, 18; Excused, 0.

118 having voted in the affirmative and 15 voted in the negative, with 18 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-780)** 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-780)** and sent for concurrence.

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

Representative **THERIAULT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In reference to Roll Call No. 595, on LD 1194, had I been present I would have voted yea. On Roll Call No. 596, LD 1594, had I been present I would have voted yea. Roll Call No. 597, on LD 1458, had I been present I would have voted yea. On Roll Call No. 598, LD 616, had I been present I would have voted nay. Thank you, Mr. Speaker.

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

Representative **JONES**: Thank you, Mr. Speaker. I'm not asking for an immediate question, but I would politely request the Speaker research this matter and determine if House members' papers and effects are secure in his or her desk. In other words, do we, as legislators, have that expectation of privacy with our papers? Thank you.

The SPEAKER: The Chair thanks the Representative.

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

On motion of Representative WELSH of Rockport, the House adjourned at 4:12 p.m., until 9:00 a.m., Tuesday April 1, 2014.