

# 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  
36th Legislative Day  
Friday, April 4, 2014

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

Prayer by Reverend Jackie Brannen, The United Methodist Church of Auburn.

National Anthem by Oxford Hills Comprehensive High School Chorus, South Paris.

Pledge of Allegiance.

Doctor of the day, Dylan McKenney, M.D., Portland.

The Journal of yesterday was read and approved.

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

Bill "An Act Regarding Wind Power Siting in the Unorganized Territory"

(H.P. 947) (L.D. 1323)

Minority (4) **OUGHT TO PASS AS AMENDED** Report of the Committee on **ENERGY, UTILITIES AND TECHNOLOGY READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-601)** in the House on March 26, 2014.

Came from the Senate with the Majority (9) **OUGHT NOT TO PASS** Report of the Committee on **ENERGY, UTILITIES AND TECHNOLOGY READ and ACCEPTED** in **NON-CONCURRENCE**.

On motion of Representative HOBBS of Saco, the House voted to **INSIST**.

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**Non-Concurrent Matter**

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)

Majority (8) **OUGHT TO PASS AS AMENDED** Report of the Committee on **ENERGY, UTILITIES AND TECHNOLOGY READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (H-638)** in the House on March 31, 2014.

Came from the Senate with the Minority (5) **OUGHT NOT TO PASS** Report of the Committee on **ENERGY, UTILITIES AND TECHNOLOGY READ and ACCEPTED** in **NON-CONCURRENCE**.

Representative HOBBS of Saco moved that the House **INSIST**.

Representative BEAVERS of South Berwick **REQUESTED** a roll call on the motion to **INSIST**.

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 am just asking that the people who supported this bill when it was last in this body vote no on the Insist. That's all I have to say. Thank you.

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

Representative **DUNPHY**: Thank you, Mr. Speaker. Mr. Speaker, I would like to make a motion to Insist and ask for a Committee of Conference.

The SPEAKER: The motion to Insist and ask for a Committee of Conference is out of order. The motion to Insist has a higher precedence pursuant to Joint Rule 503. So the motion to Insist is the pending question. A roll call is in order.

The Chair recognizes the Representative from Buckfield, Representative Hayes.

Representative **HAYES**: Thank you, Mr. Speaker. Mr. Speaker, Women and Men of the House. So, Mr. Speaker, if one would like to have the opportunity to entertain the motion that was just ruled out of order, one would vote against the pending motion and then there would be an opportunity to make the other motion at that time.

The SPEAKER: The pending motion would need to fail for another motion to be able to be offered.

The Chair recognizes the Representative from Newport, Representative Fredette.

Representative **FREDETTE**: Thank you, Mr. Speaker. Again, I just want to clarify that in order for there to be a Committee of Conference on this particular bill, we would have to defeat the current motion on the floor so that we could then prevail with moving forward with another motion which would allow for a Committee of Conference.

The SPEAKER: The Chair would answer in the affirmative.

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

**ROLL CALL NO. 639**

YEA - Beck, Berry, Bolduc, Brooks, Campbell J, Daughtry, DeChant, Devin, Dill, Dion, Farnsworth, Fowle, Gattine, Gideon, Gilbert, Goode, Graham, Grant, Hamann, Herbig, Hobbins, Hubbell, Jorgensen, Kornfield, Kruger, Kumiega, Libby N, Luchini, MacDonald W, Marks, Mastraccio, McCabe, McLean, Monaghan-Derrig, Moonen, Moriarty, Nelson, Peoples, Plante, Powers, Priest, Rankin, Rochelo, Rotundo, Russell, Sanborn, Shaw, Stuckey, Treat, Welsh, Mr. Speaker.

NAY - Ayotte, Beaudoin, Beaulieu, Beavers, Bennett, Black, Boland, Briggs, Casavant, Chase, Chenette, Chipman, Clark, Cooper, Cotta, Crafts, Cray, Crockett, Davis, Dickerson, Doak, Dorney, Dunphy, Duprey, Espling, Evangelos, Fitzpatrick, Fredette, Frey, Gifford, Gillway, Guerin, Harvell, Hayes, Hickman, Johnson P, Jones, Kaenrath, Keschl, Kinney, Knight, Kusiak, Lajoie, Libby A, Lockman, Long, Longstaff, MacDonald S, Maker, Malaby, Marean, Mason, McClellan, McElwee, McGowan, Morrison, Nadeau A, Nadeau C, Newendyke, Nutting, Parry, Pease, Peavey Haskell, Peterson, Pouliot, Reed, Rykerson, Sanderson, Saucier, Saxton, Schneck, Short, Sirocki, Stanley, Theriault, Timberlake, Tipping-Spitz, Turner, Tyler, Verow, Volk, Wallace, Weaver, Werts, Willette, Wilson, Winchenbach, Winsor, Wood.

ABSENT - Campbell R, Carey, Cassidy, Chapman, Harlow, Jackson, Johnson D, Kent, Noon, Pringle, Villa.

Yes, 51; No, 89; Absent, 11; Excused, 0.

51 having voted in the affirmative and 89 voted in the negative, with 11 being absent, and accordingly the motion to **INSIST FAILED**.

On motion of Representative BERRY of Bowdoinham, the House voted to **INSIST** and **ASK** for a **COMMITTEE OF CONFERENCE**. Sent for concurrence.

**Non-Concurrent Matter**

An Act To Clarify When Bonds May Be Issued

(H.P. 628) (L.D. 904)

(C. "A" H-595)

**PASSED TO BE ENACTED** in the House on February 20, 2014.

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

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

**COMMUNICATIONS**

The Following Communication: (H.C. 398)

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

April 2, 2014

The 126th Legislature of the State of Maine

State House

Augusta, Maine

Dear Honorable Members of the 126th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1552, "Resolve, To Provide for an Analysis of MaineCare Rates for Facility-based Preschool Services for Children with Disabilities and a Report on the Analysis."

There is no need for the Legislature to pass a resolve to tell a department in the Executive branch how to do its job, especially when that department has already indicated it intends to perform substantially similar work. In this case, the Department of Health and Human Services has already indicated to the Joint Standing Committee on Health and Human Services that it is reviewing these MaineCare rates to determine if they are appropriate. Under these circumstances, there is absolutely no reason to pass a resolve.

For these reasons, I return LD 1552 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage

Governor

**READ and ORDERED PLACED ON FILE.**

The accompanying item Resolve, To Provide for an Analysis of MaineCare Rates for Facility-based Preschool Services for Children with Disabilities and a Report on the Analysis

(H.P. 1119) (L.D. 1552)

(C. "A" H-668)

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

Representative **FARNSWORTH**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is actually pretty simple. It costs more to provide services to children in a center-based program, or in a childcare center, as opposed to in their home. The rates were originally set up to provide services in people's homes and were not set up to do it in the center-based program, even though they have changed the model under which these services would be delivered. What I am asking the Department to do is to take and revisit the rates and to take a look at equalizing this process so that it benefits the children as well as allows for providers to provide this service in the best possible way. The ultimate outcome, however, has been that we've been working on this particular issue for a number of years and the fact is that the Department, to date, has done

absolutely zero in spite of their lip service willingness to help out with this particular program. So most recent communication indicates that they have done nothing to initiate the process. This Resolve merely says please get it done. Thank you very much.

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

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

**ROLL CALL NO. 640V**

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

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

ABSENT - Cassidy, Chapman, Harlow, Jackson, Johnson D, Kent, Noon, Pringle, Villa.

Yes, 91; No, 51; Absent, 9; Excused, 0.

91 having voted in the affirmative and 51 voted in the negative, with 9 being absent, and accordingly the Veto was **SUSTAINED**.

The Following Communication: (H.C. 399)

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

April 2, 2014

The 126th Legislature of the State of Maine

State House

Augusta, Maine

Dear Honorable Members of the 126th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1798, "An Act To Implement the Recommendations of the Task Force Convened by the Maine Labor Relations Board Regarding Compensation for the Panel of Mediators."

I appreciate the services that mediators provide to the State, and I agree that they deserve an increase in pay. However, I do not support this proposed system of payment. This bill will pay mediators \$600 per day no matter if their work takes a full day or one hour.

I support a pro-rated per diem system that pays mediators \$300 for every four hours of mediation services. This pro-rated per diem rate could help mediate cases at a quicker rate, thereby

saving parties money. A pro-rated per diem rate is supported by the Maine Labor Relations Board. For these reasons, I return LD 1798 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,  
S/Paul R. LePage  
Governor

**READ and ORDERED PLACED ON FILE.**

The accompanying item An Act To Implement the Recommendations of the Task Force Convened by the Maine Labor Relations Board Regarding Compensation for the Panel of Mediators

(H.P. 1290) (L.D. 1798)  
(C. "A" H-702)

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

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

**ROLL CALL NO. 641V**

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

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

ABSENT - Cassidy, Chapman, Harlow, Jackson, Johnson D, Kent, Noon, Pringle, Villa.

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

86 having voted in the affirmative and 56 voted in the negative, with 9 being absent, and accordingly the Veto was **SUSTAINED**.

The Following Communication: (S.C. 878)

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

April 2, 2014

The 126th Legislature of the State of Maine  
State House  
Augusta, Maine

Dear Honorable Members of the 126th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing

LD 1642, "An Act to Clarify the Law Governing Public Disclosure of Health Care Prices."

At a time when health care costs are increasing, we all need to be vigilant about what these services cost us. I am very much in favor of encouraging transparency for these costs through disclosure of prices. However, I am concerned about the process that health care entities use to disclose these prices. The law now requires that entities have available for patients the price list for frequently provided services and procedures. The price on the list is what the services would cost in the absence of health insurance.

Whether the entity provides the price or the entire list to the patient is irrelevant. The issue is whether the patient is getting an accurate estimate for what they will pay to a health care entity. Health care charges are rarely simple—a surgery at a hospital might result in separate bills from the hospital and the non-hospital-employed physicians, such as radiologists or anesthesiologists. The charge for the procedure itself might be separate from the room charge or medications provided in the hospital. Even a visit to a primary care doctor might involve separate charges for a routine checkup, a blood draw, and then lab work from a separate company. In short, providing a "price" for a service to a patient will most likely be misleading. It would be much more helpful for a patient, especially if they are uninsured, to be provided a complete estimate of health care charges.

For these reasons, I return LD 1642 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,  
S/Paul R. LePage  
Governor

Came from the Senate, **READ and ORDERED PLACED ON FILE.**

**READ and ORDERED PLACED ON FILE** in concurrence.

The accompanying item An Act To Clarify the Law Governing Public Disclosure of Health Care Prices

(S.P. 633) (L.D. 1642)  
(C. "A" S-431)

In Senate, April 3, 2014, this Bill, having been returned by the Governor, together with objections to the same, pursuant to the provisions of the Constitution of the State of Maine, after reconsideration, the Senate proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

31 voted in favor and 3 against, and 31 being more than 2/3 of the members present and voting, accordingly it was the vote of the Senate that the Bill become law and the veto was overridden.

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

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

**ROLL CALL NO. 642V**

YEA - Ayotte, Beaudoin, Beaulieu, Beavers, Beck, Bennett, Berry, Black, Boland, Bolduc, Briggs, Brooks, Campbell J, Campbell R, Carey, Casavant, Chase, Chenette, Chipman, Clark, Cooper, Cotta, Crafts, Daughtry, Davis, DeChant, Devin, Dickerson, Dill, Dion, Doak, Dorney, Dunphy, Duprey, Espling, Evangelos, Farnsworth, Fitzpatrick, Fowle, Fredette, Frey, Gattine, Gideon, Gilbert, Gillway, Goode, Graham, Grant, Guerin, Hamann, Harvell, Hayes, Herbig, Hickman, Hobbins, Hubbell, Johnson P, Jones, Jorgensen, Kaenrath, Keschl, Kinney, Knight

LEGISLATIVE RECORD - HOUSE, April 4, 2014

Kornfield, Kruger, Kumiega, Kusiak, Lajoie, Libby A, Libby N, Lockman, Longstaff, Luchini, MacDonald S, MacDonald W, Maker, Malaby, Marean, Marks, Mason, Mastraccio, McCabe, McClellan, McElwee, McGowan, McLean, Monaghan-Derrig, Moonen, Moriarty, Morrison, Nadeau A, Nadeau C, Nelson, Newendyke, Nutting, Parry, Pease, Peavey Haskell, Peoples, Peterson, Plante, Pouliot, Powers, Priest, Rankin, Reed, Rochelo, Rotundo, Russell, Rykerson, Sanborn, Sanderson, Saucier, Saxton, Schneck, Shaw, Short, Sirocki, Stanley, Stuckey, Theriault, Timberlake, Tipping-Spitz, Treat, Turner, Tyler, Verow, Volk, Wallace, Weaver, Welsh, Werts, Willette, Wilson, Winchenbach, Winsor, Wood, Mr. Speaker.

NAY - Cray, Crockett, Gifford, Long.

ABSENT - Cassidy, Chapman, Harlow, Jackson, Johnson D, Kent, Noon, Pringle, Villa.

Yes, 138; No, 4; Absent, 9; Excused, 0.

138 having voted in the affirmative and 4 voted in the negative, with 9 being absent, and accordingly the Veto was **NOT SUSTAINED** in concurrence.

The Following Communication: (H.C. 401)

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

April 4, 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 Committee has voted unanimously to report the following bills out "Ought Not to Pass:"

Appropriations and Financial Affairs

- L.D. 182 An Act To Support the Maine Lobster Industry  
L.D. 230 An Act To Establish the Commission on Health Care Cost and Quality  
L.D. 234 An Act To Provide Tax Treatment Consistency for Limited Liability Companies and S Corporations  
L.D. 368 An Act To Ensure the Continuation of Dairy Farming (EMERGENCY)  
L.D. 396 An Act To Appropriate Sufficient Funds for Indigent Legal Services (EMERGENCY)  
L.D. 436 An Act To Raise the Maximum 529 Plan Contribution Tax Deduction  
L.D. 455 An Act To Increase the State Earned Income Credit  
L.D. 481 An Act To Amend the Laws Governing Virtual Public Charter Schools  
L.D. 499 An Act To Promote Dental Care for Low-income Populations  
L.D. 631 An Act To Change the Taxes on Fuel Purchased for Use Other Than on the Highways  
L.D. 672 An Act Relating to Exemption from Immunization for Schoolchildren  
L.D. 741 An Act To Promote Fairness in the Sales Tax Exemption for Vehicles Used in Interstate Commerce  
L.D. 951 An Act To Repeal the 2-year Limit on Methadone and Suboxone Treatments under MaineCare

L.D. 1309 An Act To Strengthen the Maine Clean Election Act

L.D. 1354 An Act To Create the Aging in Place Program

L.D. 1424 An Act To Increase Mileage Reimbursement and Compensation for Jurors

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. 877)

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

April 3, 2014

Honorable Mark W. Eves

Speaker of the House

2 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 nomination:

Upon the recommendation of the Committee on Veterans and Legal Affairs, the nomination of Robert A. Harmon of Raymond for appointment to the Gambling Control Board.

Best Regards,

S/Darek M. Grant

Secretary of the Senate

**READ** and **ORDERED PLACED ON FILE.**

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

**ORDERS**

On motion of Speaker EVES of North Berwick, the following Joint Resolution: (H.P. 1340) (Cosponsored by Representatives: AYOTTE of Caswell, BEAR of the Houlton Band of Maliseet Indians, BEAUDOIN of Biddeford, BEAULIEU of Auburn, BEAVERS of South Berwick, BECK of Waterville, BENNETT of Kennebunk, BERRY of Bowdoinham, BLACK of Wilton, BOLAND of Sanford, BOLDUC of Auburn, BRIGGS of Mexico, BROOKS of Winterport, CAMPBELL of Newfield, CAMPBELL of Orrington, CAREY of Lewiston, CASAVANT of Biddeford, CASSIDY of Lubec, CHAPMAN of Brooksville, CHASE of Wells, CHENETTE of Saco, CHIPMAN of Portland, CLARK of Easton, COOPER of Yarmouth, COTTA of China, CRAFTS of Lisbon, CRAY of Palmyra, CROCKETT of Bethel, DAUGHTRY of Brunswick, DAVIS of Sangerville, DeCHANT of Bath, DEVIN of Newcastle, DICKERSON of Rockland, DILL of Old Town, DION of Portland, DOAK of Columbia Falls, DORNEY of Norridgewock, DUNPHY of Embden, DUPREY of Hampden, ESPLING of New Gloucester, EVANGELOS of Friendship, FARNSWORTH of Portland, FITZPATRICK of Houlton, FOWLE of Vassalboro, FREDETTE of Newport, FREY of Bangor, GATTINE of Westbrook, GIDEON of Freeport, GIFFORD of Lincoln, GILBERT of Jay, GILLWAY of Searsport, GOODE of Bangor, GRAHAM of North Yarmouth, GRANT of Gardiner, GUERIN of Glenburn, HAMANN of South Portland, HARLOW of Portland, HARVELL of Farmington,

HAYES of Buckfield, HERBIG of Belfast, HICKMAN of Winthrop, HOBBS of Saco, HUBBELL of Bar Harbor, JACKSON of Oxford, JOHNSON of Eddington, JOHNSON of Greenville, JONES of Freedom, JORGENSEN of Portland, KAENRATH of South Portland, KENT of Woolwich, KESCHL of Belgrade, KINNEY of Limington, KNIGHT of Livermore Falls, KORNFIELD of Bangor, KRUGER of Thomaston, KUMIEGA of Deer Isle, KUSIAK of Fairfield, LAJOIE of Lewiston, LIBBY of Waterboro, LIBBY of Lewiston, LOCKMAN of Amherst, LONG of Sherman, LONGSTAFF of Waterville, LUCHINI of Ellsworth, MacDONALD of Old Orchard Beach, MacDONALD of Boothbay, MAKER of Calais, MALABY of Hancock, MAREAN of Hollis, MARKS of Pittston, MASON of Topsham, MASTRACCIO of Sanford, McCABE of Skowhegan, McCLELLAN of Raymond, McELWEE of Caribou, McGOWAN of York, McLEAN of Gorham, MITCHELL of the Penobscot Nation, MONAGHAN-DERRIG of Cape Elizabeth, MOONEN of Portland, MORIARTY of Cumberland, MORRISON of South Portland, NADEAU of Fort Kent, NADEAU of Winslow, NELSON of Falmouth, NEWENDYKE of Litchfield, NOON of Sanford, NUTTING of Oakland, PARRY of Arundel, PEASE of Morrill, PEAVER HASKELL of Milford, PEOPLES of Westbrook, PETERSON of Rumford, PLANTE of Berwick, POULIOT of Augusta, POWERS of Naples, PRIEST of Brunswick, PRINGLE of Windham, RANKIN of Hiram, REED of Carmel, ROCHELO of Biddeford, ROTUNDO of Lewiston, RUSSELL of Portland, RYKERSON of Kittery, SANBORN of Gorham, SANDERSON of Chelsea, SAUCIER of Presque Isle, SAXTON of Harpswell, SCHNECK of Bangor, SHAW of Standish, SHORT of Pittsfield, SIROCKI of Scarborough, SOCTOMAH of the Passamaquoddy Tribe, STANLEY of Medway, STUCKEY of Portland, THERIAULT of Madawaska, TIMBERLAKE of Turner, TIPPING-SPITZ of Orono, TREAT of Hallowell, TURNER of Burlington, TYLER of Windham, VEROW of Brewer, VILLA of Harrison, VOLK of Scarborough, WALLACE of Dexter, WEAVER of York, WELSH of Rockport, WERTS of Auburn, WILLETTE of Mapleton, WILSON of Augusta, WINCHENBACH of Waldoboro, WINSOR of Norway, WOOD of Sabattus, Senators: President ALFOND of Cumberland, BOYLE of Cumberland, BURNS of Washington, CAIN of Penobscot, CLEVELAND of Androscoggin, COLLINS of York, CRAVEN of Androscoggin, CUSHING of Penobscot, DUTREMBLE of York, FLOOD of Kennebec, GERZOFOSKY of Cumberland, GRATWICK of Penobscot, HAMPER of Oxford, HASKELL of Cumberland, HILL of York, JACKSON of Aroostook, JOHNSON of Lincoln, KATZ of Kennebec, LACHOWICZ of Kennebec, LANGLEY of Hancock, MASON of Androscoggin, MAZUREK of Knox, MILLETT of Cumberland, PATRICK of Oxford, PLUMMER of Cumberland, SAVIELLO of Franklin, SHERMAN of Aroostook, THIBODEAU of Waldo, THOMAS of Somerset, TUTTLE of York, VALENTINO of York, VITELLI of Sagadahoc, WHITTEMORE of Somerset, WOODBURY of Cumberland, YOUNGBLOOD of Penobscot)

**JOINT RESOLUTION RECOGNIZING  
WORLD MENINGITIS DAY**

WHEREAS, meningococcal disease, an acute inflammation of the protective membranes covering the brain and spinal cord, also known as bacterial meningitis, is a rare but sometimes deadly infection that can strike quickly and with devastating complications and, in some cases, cause death; and

WHEREAS, each year, meningococcal disease is diagnosed in 800 to 1,200 Americans and up to 15% of those infected will die and the diagnosis of the disease in Maine mirrors the national average; and

WHEREAS, adolescents and young adults are at increased risk for getting meningococcal disease, accounting for nearly

15% of all cases of meningococcal disease reported in the United States; and

WHEREAS, death rates are higher among adolescents and young adults compared with other age groups; approximately one in 7 will die, and among those who survive, 20% live with permanent disabilities, such as brain damage, hearing loss, loss of kidney function or limb amputations; and

WHEREAS, the majority of meningococcal disease cases among adolescents and young adults may be prevented by vaccination and on March 22, 2013, the United States Centers for Disease Control and Prevention and its Advisory Committee on Immunization Practices issued new immunization guidelines for meningococcal disease; and

WHEREAS, these new guidelines recommend children receive the first dose of meningococcal vaccine at 11 or 12 years of age, with a booster dose at 16 years of age, and also made new recommendations for younger children at a higher risk of infection and for those with compromised immune systems; and

WHEREAS, there are 21 states in the United States that require children and adolescents to be vaccinated against meningococcal disease and there are 16 states, including Maine, that require education about meningococcal disease be provided to parents and adolescents; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-sixth Legislature of the State of Maine now assembled in the Second Regular Session, on behalf of the people we represent, take this opportunity to recognize April 24, 2014 as World Meningitis Day; and be it further

RESOLVED: That we recognize the importance of immunizing Maine children and adults against preventable diseases and we encourage all Maine residents to follow the recommendations for immunization; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Maine Center for Disease Control and Prevention.

**READ and ADOPTED.**

Sent for concurrence.

On motion of Representative DEVIN of Newcastle, the following Joint Resolution: (H.P. 1341) (Cosponsored by Senator JOHNSON of Lincoln and Representative: WINCHENBACH of Waldoboro)

**JOINT RESOLUTION RECOGNIZING  
THE 90TH ANNIVERSARY OF THE DAMARISCOTTA-  
NEWCASTLE ROTARY CLUB**

WHEREAS, Rotary International is a worldwide organization of business and professional leaders who provide humanitarian services, encourage high ethical standards in all vocations and help build goodwill and promote peace and understanding throughout the world; and

WHEREAS, members of Rotary clubs, whose primary motto is "Service Above Self," are part of a diverse group that is working to address various local community and international service needs and to encourage and foster the ideal of service as a basis of worthy enterprise; and

WHEREAS, the Damariscotta-Newcastle Rotary Club was founded in 1924 at the Fiske House in Damariscotta and sponsored by the Rotary Club of Augusta with 23 charter members and, 15 years after its founding, the Rotary Club of Damariscotta-Newcastle sponsored the founding of the Boothbay Harbor Rotary Club; and

WHEREAS, fund-raising in the beginning years involved activities such as collecting summer tolls on the old wooden

bridge connecting the Twin Villages and holding an annual auction of donated items; and

WHEREAS, after its first 50 years of existence, the Damariscotta-Newcastle Rotary Club was best remembered for its annual Oyster Festival, which ran for more than 15 years and provided support for Little League baseball, Dirigo Boys State, Lincoln Academy's international student exchange, a raft for Red Cross swimming classes, the Lincoln Home for the Aged Founders' Day, painting the library building and sponsoring a poverty dinner; and

WHEREAS, the club is involved with the local Lions Club in a major fund-raiser each summer that consists of a golf tournament and auction, and the club continues to be an active part of the community with current membership at 57, with one member, Gary Speers, who served as district governor in 2011-12; and

WHEREAS, the Damariscotta-Newcastle Rotary Club has continued to raise money to support many community projects through the years, such as the Ecumenical Food Pantry, providing a well for a hospital in Cap-Haitien, Haiti, sponsoring Friends Forever teenagers from Northern Ireland in a grassroots peace effort and supporting the Guatemala Literacy Project; 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, extend our congratulations to the Damariscotta-Newcastle Rotary Club on its 90th Anniversary and we send our appreciation for its many years of serving the community and the world and honoring its motto of "Service Above Self"; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Damariscotta-Newcastle Rotary Club.

**READ.**

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. In 1905, when Mr. Paul Harris, a lawyer who was from a rural area, working in Chicago, started a Rotary. He was looking for likeminded people to put back into his community. Today there are 34,282 clubs and over 1.2 million members worldwide. The Damariscotta-Newcastle club was started in 1924. The club has done a tremendous amount of community service which includes providing the seed money for the Nobleboro ball field, putting up the lights on the Damariscotta-Newcastle bridge and providing scholarships for local students going to college as well as the Tools of the Trade program which helps vocational students to buy the tools they need to work in their chosen profession. The club also does a lot of international giving, providing aid in Haiti after the earthquake, drilling wells for fresh water in South America and helping to build AIDS clinics in South Africa. And then there of course is the annual high school speech contest which gives kids a chance gain experience taking in front of adults. Both my sons participated in that program, with my older one winning the competition in 2007.

I would like to speak about one specific member who I had a long and close relationship with. Karl's Kids is a program started by the Damariscotta-Newcastle Rotary Club to help children purchase equipment, uniforms and other related items so that they can participate in athletic programs. Mr. Karl Burger, unfortunately, suddenly passed away in 2007. I met Karl around 2000 when I was coaching the Hannaford Little League baseball team in Damariscotta and he was an umpire. Over the next six or seven years Karl called nearly 100 Little League, Babe Ruth and school ball games in which I was the manager or assistant

coach. In the first game he ever umpired for me, there was a play at second base. Karl was the only umpire and ran out from behind the plate to make the call. Afterwards, he returned to the plate, but he noticed the boys were confused. He called time, walked out to second base and call the infielders to second base with him. I immediately ran out to second base to see what was going on, as did the opposing coach. When we coaches got there, Karl politely but firmly told us, he was explaining the play and his call to the boys and we coaches could return to our benches.

Over the next six or seven years he would regularly call timeout to explain to the players what had just transpired. Karl could have cared less if the coaches were happy with his calls or agreed with him. However, it was vital to him that the boys learn and understand the game of baseball properly. Karl was all about helping boys and young men navigate through life and baseball was the metaphor he used. Karl embodied the Rotarian principle of giving back to your community. He now lives on through Karl's Kids. So I proudly lead the recognition of the Damariscotta Newcastle Rotary Club as they complete their 90th year of service to Central Lincoln County.

Subsequently, the Joint Resolution was **ADOPTED**.  
Sent for concurrence.

On motion of Representative BEAR of the Houlton Band of Maliseet Indians, the following Joint Order: (H.P. 1339)

ORDERED, the Senate concurring, that Bill, "An Act To Authorize a Federally Recognized Indian Tribe in the State To Benefit from the Operation of an Existing Casino," H.P. 942, L.D. 1319, and all its accompanying papers, be recalled from the legislative files to the House.

**READ.**

The SPEAKER: The Chair recognizes the Representative from the Houlton Band of Maliseet Indians, Representative Bear.

Representative **BEAR**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the Maine House of Representatives. Today, I rise as the legislative representative of the Houlton Band of Maliseet Indians. But, I also rise in defense of what some have advised me is a lost cause, which is this motion to recall LD 1319, "An Act to Authorize a Federally Recognized Indian Tribe in the State to Benefit from the Operation of an Existing Casino." In the circumstances, I don't believe this necessarily is true. Days after my being elected the first Maliseet Tribal Representative to the Maine House of Representatives last year, and in furtherance of my tribe's strategic economic development vision, I proposed certain legislative bills, joint resolutions and sentiments to the Revisor's Office, including LD 1298, the Maliseet Casino in Aroostook County bill, and LD 1319, this bill, which is an act to authorize our tribe to benefit from an existing casino in Maine. Hearings and work sessions were scheduled and occurred for both of these bills. Written and oral testimony was also received by the VLA Committee for both of these bills, both for and against. As you might expect, the Town of Houlton, our Maliseet Tribal leadership and others supported our proposed Maliseet tribal casino bill in Aroostook County as presented by LD 1298. The tribe also initially supported this bill, LD 1319, which I bring before the body today.

But, as the hearing for our tribal casino bill unfolded before the Committee, it appeared to be in the tribe's interest to set it aside so that it would not distract the VLA Committee, or the House, or the Senate, or the Governor, should it ever reach him, from focusing on our casino bill. To that end, my leaders instructed me to inform the Committee that we would prefer LD



1319 to be postponed indefinitely or set aside, or whatever the procedure might be at that time, so that the Committee might focus exclusively on our tribal casino bill, which the Committee readily agreed to do by concluding the hearing, going immediately into a work session and unanimously voting Ought Not to Pass on LD 1319, thus sending it, ultimately, to the legislative file where it now rests. By this time, however, the Committee had received testimony both in favor and in opposition to the bill, LD 1319, including testimony from Hollywood Casino, the City of Bangor, which opposed the casino bill, but it also opposed LD 1319, this one, which was the act authorizing our tribe to benefit from the operation of an existing casino.

Interestingly, Oxford Casino opposed our tribal casino bill, but it did not oppose this bill. We can imagine why and the reason I propose, I suggest, is that it was already under Maine law, providing 2 percent of the net slot revenues for the benefit of the Penobscot and Passamaquoddy tribes. In the circumstances, it's easy to understand why Oxford Casino did not submit testimony actively opposing this bill. I'm not saying that Oxford Casino actually supports the bill either. As an email that is attached in the packet that has been sent out clearly shows, yesterday, they do not support it, but, at the time, they did not oppose this sharing. So I submit that it's up to this body to decide. For that reason, I've asked that this bill be recalled. My point is that while LD 1319, which I am now moving to have recalled from the legislative file, was sent to the legislative file at our request as a tribe. I want to impress upon you that it was not because of a lack of merit. It was a matter of freeing up time so that the Committee could focus on the tribal casino bill which we had proposed, which also received broad support. We're very pleased and thankful for that support that we did receive. However, at the time, it seemed like the right thing to do.

Now, the rules allow for me to stand up and ask this body to reconsider, to reach into the so-called dead file and pull a bill out. I know this is rarely done. I'm asking, however, that this be a suitable opportunity to do so because there is still good reason to do so. Our economic circumstances have not changed. We are still in need of employment. We need support, consistent funding for important tribal government programs that provide fuel and health supports, public safety supports, monies that could be used to spur job creation, business development, to supply our fishermen and our workers with the tools they need to stay employed in good jobs. So for all of those reasons, we believe there is a good basis to make an exception, if there is such a rule, the reluctance to bring a bill out of the dead file, there is an exception and that there is merit to do so in this case.

We are mindful that there is a tradition to let things lay once they've been dealt with, but in this case, it was our initiative to set it aside, and it is now our initiative to revive it and we ask that you support us doing that. We will, if allowed to then argue the bill, should it be brought back to the House, we will be able to argue its merits and then it's in your hands to determine, after having a full opportunity to do so. You should know that if, in the future, the Houlton Band of Maliseet Indians, for example, operates a gaming facility, then we would no longer be eligible for a percent of the distribution of net profits from Oxford Casino. Of course, neither would the Passamaquoddy or the Penobscot, should they get into the casino gaming business. It's in the Maine law. Under current Maine law, once a tribe starts its gaming business, casino business, then the casino that was once providing help would no longer have to do so and they would then retain those funds for themselves, Mr. Speaker.

Our health and safety issues remain serious. Our unemployment rate and economic depression is still high and has gone on for too long, we would submit. We are your friends, we

are your neighbors, but, collectively, we are friends in need, still yet, and you have the power to help us and I'm asking that you do so. I urge you to support this motion to recall LD 1319 from the dead file so that it can be fully considered on its merits. Thank you, Mr. Speaker.

Representative RUSSELL of Portland REQUESTED a roll call on **PASSAGE**.

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 Winterport, Representative Brooks.

Representative BROOKS: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise this morning to support my friend, our colleague, Representative Bear, in the small favor that he is asking of us to retrieve from the legislative files LD 1319. Bear, as I call him as my friend, has only been here a little over a year and has already educated us a great deal, particularly last year, about treaties between the State of Maine and the tribes, about his friendship, about his dedication to his job as the Representative from the Maliseets – by the way, that dedication being superb. He has been here almost every day, except when there were tribal council meetings, and he has tried to enlighten us, not only about the treaties that existed back when with the Wabanaki, but with the relationship that they feel they have with the State of Maine.

During the course of the deliberations with the Oxford Casino and the other two major tribes, the Penobscots and the Passamaquoddy, 2 percent of their gross revenue was dedicated to helping the Native Americans. During that time, the Maliseets did not propose nor did they become part of this. Now is our opportunity to level the playing field. At this point, casinos are apparently out of the question as these permits for gaming, right now, are out of the question for the Maliseets. But their population is no different than the other tribes. Their needs are just as overwhelming, as if, as more, perhaps, than the others, so I urge you to join with me and allow the good Representative, the man I call my brother, to go ahead, pull this bill back, ask if we can't all a 2 percent allocation to the Maliseets and level the playing field. As he said to me, as we were talking about this last night at dinner, "All this would do is help us pay for the fuel next year." Thank you, Mr. Speaker.

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

Representative BERRY: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise reluctantly and with the greatest respect for my colleague from the Houlton Band of Maliseets to say that I cannot vote for the pending motion. Representative Bear has been an energetic advocate for the Houlton Band of Maliseets in his first term and has really distinguished himself in that respect, and I do hope that if the motion does not prevail today, that he will introduce this legislation right away for next term, provided that he's reelected. I think it is something that deserves a full hearing and that we probably can't give the attention that this issue needs, at this time, this late in the session. The motion before us requires two-thirds to be enacted. It is a motion and an approach that is really reserved for things that rise to the very highest level. Recalling a bill from the dead files is not something that we can take lightly. So I hope that Representative Bear will move forward with this in the next session, if the motion does not prevail, but I cannot support it at this time. Thank you.

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. It's bad enough that

our dear friend and colleague from the Maliseet Nation has no vote on the floor, but it's shameful that his legislation cannot be properly reconsidered. I urge you to support the pending motion.

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

Representative **BOLAND**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm actually rising to ask a question. It's my understanding that all the Houlton Band of Maliseet Indians is looking for is to have equal status with the Penobscot and Passamaquoddy tribes. Is that not true?

The SPEAKER: The Representative from Sanford, Representative Boland, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from the Houlton Band of Maliseet Indians, Representative Bear.

Representative **BEAR**: Thank you, Mr. Speaker. Yes.

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

Pursuant to Joint Rule 404, this Joint Order required the affirmative vote of two-thirds of those present for passage.

#### ROLL CALL NO. 643

YEA - Ayotte, Beaudoin, Beaulieu, Beavers, Boland, Bolduc, Briggs, Brooks, Campbell R, Carey, Casavant, Cotta, Cray, Daughtry, DeChant, Devin, Dickerson, Dill, Doak, Dunphy, Evangelos, Farnsworth, Fitzpatrick, Fowle, Gilbert, Gillway, Grant, Hamann, Hickman, Jones, Jorgensen, Kaenrath, Kent, Keschl, Kinney, Knight, Kumiega, Kusiak, Lajoie, Libby A, Libby N, Long, Longstaff, MacDonald S, Maker, Malaby, Marean, Mason, McElwee, McGowan, McLean, Monaghan-Derrig, Moonen, Nadeau A, Nadeau C, Newendyke, Pease, Peavey Haskell, Peoples, Pouliot, Priest, Russell, Rykerson, Saucier, Short, Stanley, Stuckey, Theriault, Tipping-Spitz, Turner, Tyler, Verow, Wallace, Weaver, Wilson, Winchenbach.

NAY - Beck, Bennett, Berry, Black, Campbell J, Chase, Chenette, Chipman, Clark, Cooper, Crafts, Crockett, Davis, Dion, Dorney, Duprey, Espling, Fredette, Frey, Gattine, Gideon, Gifford, Goode, Graham, Guerin, Harvell, Hayes, Herbig, Hubbell, Johnson P, Kornfield, Kruger, Lockman, Luchini, MacDonald W, Marks, Mastraccio, McCabe, McClellan, Moriarty, Morrison, Nelson, Nutting, Parry, Peterson, Plante, Powers, Rankin, Reed, Rochelo, Rotundo, Sanborn, Sanderson, Saxton, Schneck, Shaw, Sirocki, Timberlake, Treat, Volk, Welsh, Werts, Willette, Winsor, Mr. Speaker.

ABSENT - Cassidy, Chapman, Harlow, Hobbins, Jackson, Johnson D, Noon, Pringle, Villa, Wood.

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

76 having voted in the affirmative and 65 voted in the negative, with 10 being absent, and accordingly the Joint Order **FAILED PASSAGE**.

On motion of Representative RANKIN of Hiram, the following House Order: (H.O. 43)

ORDERED, that Representative Jarrod S. Crockett of Bethel be excused March 5 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Joyce A. Fitzpatrick of Houlton be excused March 31 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Erin D. Herbig of Belfast be excused March 26, 27 and 28 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Craig V. Hickman of Winthrop be excused March 24, 25 and 26 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Roger A. Jackson of Oxford be excused March 26, 27 and 28 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Karen Kusiak of Fairfield be excused March 31, April 1 and 2 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Paul D. McGowan of York be excused March 31 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Anita Peavey Haskell of Milford be excused March 26 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Christine B. Powers of Naples be excused March 26, 27 and 28 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Megan M. Rochelo of Biddeford be excused March 28 and 31 for personal reasons.

**READ and PASSED.**

#### REPORTS OF COMMITTEE

##### Divided Reports

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-466)** on Bill "An Act To Support School Nutrition and Expand the Local Foods Economy" (EMERGENCY)

(S.P. 517) (L.D. 1431)

Signed:

Senators:

VITELLI of Sagadahoc  
BOYLE of Cumberland  
SHERMAN of Aroostook

Representatives:

DILL of Old Town  
BLACK of Wilton  
HICKMAN of Winthrop  
JONES of Freedom  
KENT of Woolwich  
MAREAN of Hollis  
NOON of Sanford  
SAUCIER of Presque Isle

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-467)** on same Bill.

Signed:

Representatives:

CRAY of Palmyra  
TIMBERLAKE of Turner

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-466) AS AMENDED BY SENATE AMENDMENT "A" (S-495)** thereto.

**READ.**

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

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

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

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

**ROLL CALL NO. 644**

YEA - Beaudoin, Beaulieu, Beavers, Beck, Bennett, Berry, Black, Boland, Bolduc, Briggs, Brooks, Campbell J, Campbell R, Carey, Casavant, Chenette, Chipman, Clark, Cooper, Cotta, Crockett, Daughtry, DeChant, Devin, Dickerson, Dill, Dion, Doak, Dorney, Duprey, Espling, Evangelos, Farnsworth, Fowle, Fredette, Frey, Gattine, Gideon, Gilbert, Gillway, Goode, Graham, Grant, Guerin, Hamann, Harvell, Hayes, Herbig, Hickman, Hubbell, Jones, Jorgensen, Kaenrath, Kent, Keschl, Kinney, Knight, Kornfield, Kruger, Kumiega, Kusiak, Lajoie, Libby N, Longstaff, Luchini, MacDonald S, MacDonald W, Maker, Marea, Marks, Mason, Mastraccio, McCabe, McElwee, McGowan, McLean, Monaghan-Derrig, Moonen, Moriarty, Morrison, Nadeau A, Nadeau C, Nelson, Nutting, Parry, Peavey Haskell, Peoples, Peterson, Plante, Pouliot, Powers, Priest, Rankin, Rochelo, Rotundo, Russell, Rykerson, Sanborn, Sanderson, Saucier, Saxton, Schneck, Shaw, Short, Stanley, Theriault, Tipping-Spitz, Treat, Turner, Tyler, Verow, Volk, Welsh, Werts, Willette, Wilson, Winchenbach, Mr. Speaker.

NAY - Ayotte, Chase, Crafts, Cray, Davis, Dunphy, Fitzpatrick, Gifford, Johnson P, Libby A, Lockman, Long, Malaby, McClellan, Newendyke, Pease, Reed, Sirocki, Timberlake, Wallace, Weaver, Winsor, Wood.

ABSENT - Cassidy, Chapman, Harlow, Hobbins, Jackson, Johnson D, Noon, Pringle, Stuckey, Villa.

Yes, 118; No, 23; Absent, 10; Excused, 0.

118 having voted in the affirmative and 23 voted in the negative, with 10 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (S-466) was READ** by the Clerk.

**Senate Amendment "A" (S-495) to Committee Amendment "A" (S-466) was READ** by the Clerk and **ADOPTED.**

**Committee Amendment "A" (S-466) as Amended by Senate Amendment "A" (S-495) thereto was ADOPTED.**

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-466) as Amended by Senate Amendment "A" (S-495) thereto in concurrence.**

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought Not to Pass** on Bill "An Act To Expand Affordable Heating Investments with Maine's Public Resources" (EMERGENCY)

(S.P. 741) (L.D. 1838)

Signed:

Senators:

VITELLI of Sagadahoc  
BOYLE of Cumberland

Representatives:

DILL of Old Town  
BLACK of Wilton  
HICKMAN of Winthrop  
JONES of Freedom  
KENT of Woolwich

MAREAN of Hollis

SAUCIER of Presque Isle

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-480)** on same Bill.

Signed:

Senator:

SHERMAN of Aroostook

Representatives:

CRAY of Palmyra

TIMBERLAKE of Turner

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

**READ.**

Representative DILL of Old Town moved that the House **ACCEPT** the Majority **Ought Not to Pass Report.**

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

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

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

Representative **TIMBERLAKE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I ask that you oppose this bill and support the Minority Report. This is your chance to really help your LIHEAP recipients. This would provide for the excess money raised from the Bureau of Parks and Lands to be used to help these people, and it does not take any money from the Bureau of Parks and Lands but fully funds them. I got my notes here so bear with me. This comes, by the way, that the result of this account balance as of June 30, 2013, was \$2.6 million. This, Mr. Speaker, ladies and gentlemen, this is our chance to really help these people. The question before the Legislature is what should we do with this balance. Should we build more trails and more roads, or should we help address the challenge that this would have illustrated, given the situation of additional revenue? We believe that we should transfer these funds to where there is most public benefit and given our challenging winter and opportunities available today, that we should assist Mainers and invest in affordable heating and use these funds to fully help the people of the State of Maine. It's been questioned whether this is unconstitutional or not and there is no such prohibition. The lands transferred from the State of Massachusetts to the State of Maine in 1820 does not have a requirement that the harvest funds be used for trails and building roads. Think how prosperous that this would be in the 19th century. The Constitution does say that these lands shall be held in trust and that they shall be used for the benefit of schools and the ministry. The ministry, back then, were the ones that dealt with the poor and the needy. So, see, using this money for this is just what this land was given to the State of Maine to be used for by the State of Massachusetts at this time. Subsequently, the court has held up these fundings of the public lands and must benefit the public, and the public access has been determined to be fit at this standard. In showing that our vulnerable population do not experience dangerous temperatures is also in the public good. Ladies and gentlemen, I ask you to really think about this. This is your chance to help the most vulnerable that are on the LIHEAP programs. My amendment and the Representative from Palmyra's amendment was to help this money to go to LIHEAP customers to use to buy wood stoves, pellet stoves and heat

pumps and so forth. It's economical. It's a driver. And now natural gas has gone through. It lets them use that money from our public lands, from the 600,000 acres that we got that are being under harvested, at this time, to use that money to help our most vulnerable. This isn't to go to anybody else who applies. It's for our most vulnerable. Please oppose this bill and support the Minority Report. Thank you very much.

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

Representative **McCABE**: Thank you, Mr. Speaker. I rise in support of the pending motion and I would ask the Clerk to read the Committee Report.

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

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

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

Representative **CRAY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As the Clerk just read, I am on the Minority Report and one of the issues that I looked at when we were doing this bill was what is the sustainable harvest that we can do on our public lands. I've asked different people and I've asked foresters and one of the issues is that we manage about 400,000 acres of forestland. The sustainable amount of wood on that, or what it grows back every year, is approximately a half of cord of wood per year, which means that we could harvest up to 200,000 cord per acre and still be a sustainable forest and you're going to hear that probably that could be debatable. One of the other things that I looked at is our current inventory per acre is 23 cord of wood per acre. By increasing this harvest, we're looking to take it back to 21½ cord per acre, which is what it was approximately 10 years ago, or 12 years ago, before this last inventory was done. I just think that as long as we manage the parks and lands and make it so that we're not overcutting these forests. As Representative Timberland said, we need to try to use this money to help offset the costs of LIHEAP people's leaking houses. Just on a personal note, I burn wood in my house. My chimney went. I had problems with my chimney. I think it was around February 1. Since February 1, I've burned over \$1,300 worth of oil in my furnace, so I don't feel that \$500 worth of oil is a substantial amount of oil for people to try to heat their homes with and I really haven't had to buy oil this winter. So I believe that this is a very good use of public lands of wood. I believe Representative Timberlake hit it on the head when he said what he said and that's why I'm on the Minority Report and I ask you to please support that.

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 had a dream last night. It was, in my dream, the great Pentheus, John Mueller, showed up and he told me that since the introduction of LD 1838 he had walked among the forests of Maine public lands and he had asked the trees if they would mind giving up their lives for the poor of the state and he told me that the answer was an emphatic yes. The idea of using private and public lands for the good of the poor has an ancient history. In fact, in Leviticus, we are told when you reap and harvest your land, do not reap the edges of your field or gather the gleanings of your harvest. Leave them for the poor and the foreigner among you. This idea became in constant and futile law when one of the ideas and things that you could do with the commons was, guess what, cut firewood. This was put into Massachusetts with their concept of the commons and it was part of Maine in its original case. When

the idea to expand this beyond the ministries and the schools was actually considered in the '70s by the Legislature, they asked the Maine Supreme Court for a solemn occasion to define whether the idea was beyond just ministries and schools, and the courts said in light of the practice of Massachusetts prior to Maine statehood, the legislative response of Maine soon after statehood and the joint action of the two states, it is evident that the uses mentioned, i.e., schools and ministry, concerning reservations be made after separate and illustrative are not exclusively listings of public uses. That this public use was beyond just that and that is why we are able to have trails. That's why we're able to actually cut a tree to make a trail. But I would suggest to you that Loring CO2 emissions and heating for the poor are not in the public good, I have no idea what is.

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. The real news here is that we do have a home efficiency energy program that is actively helping thousands of Mainers lower their heating costs. Energy efficiency is the single best way to lower Maine's energy costs. Our Chief Executive actually vetoed the one bill last year that put ongoing funding to helping Mainers cut home heating costs. Thank goodness that this Legislature overrode that veto. As a result of that law, Maine currently has an active, funded Home Energy Savings Program that really works. In just the first six months, it has helped lower energy costs in 2,300 homes through insulation, heat pumps, wood pellet stoves and other measures. It is on track to triple the number of homes served by July 2015. Efficiency Maine also has specific programs for low-income households, those that are eligible for LIHEAP. Over the last 15 months, Efficiency Maine installed over 1,800 high efficiency heat pumps in low-income housing units, hundreds of those received needed insulation, too. Finally, I just want us all to remember that very recently the Legislature took further action, specifically aimed at increasing funding for low-income households to get help with high efficiency heat pumps. I'd like to thank my fellow Representative, Representative Harvell, for this. Thanks to a bipartisan amendment brought forward by him, LD 1250 provided an additional several hundred thousand dollars per year to this purpose. Thank you, Mr. Speaker.

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've never traveled far from Orrington, but I have been to Switzerland a couple of times and it's interesting to see how beautiful the landscape is. The majestic mountains look like a backdrop on a movie. But what's nice about their land, all public, is that the medians between the highway is all cut and harvested for the people. The most striking thing that I saw in that Heidi mountainside were people picking up blowdowns, picking up sticks to burn and heat their homes. This, there is nothing more community benefit of public benefit to the poor or even those of us who need to burn with wood. It's really important for us to be able to do that. They talk about the spruce budworm which most of us has seen but is on its way back. This is an opportunity for the public to benefit from the harvest that we pay our taxes for. So I would recommend we vote and oppose the Ought Not to Pass and go with the Minority Report. Thank you.

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. This was an interesting debate in our committee and I think probably it was unanimous in

our committee that we all agreed that individuals in the State of Maine actually do need more help with heating, and, this year, especially, was one of those years where it was an extremely trying winter for folks. However, doing this method, which is taking the public lands' woods and using that money for this particular issue, I think, personally, sets a very bad precedent. It's great that we need to help them. We've got, as has already been stated, Efficiency Maine, but once we start down this road I'm afraid it's a slippery slope and next year more moneys will want to be used for something else for public lands. Thank you, Mr. Speaker.

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

Representative **TIMBERLAKE** Mr. Speaker, for the first time since I've served in my terms, I'm going to speak twice. It's unusual. Mr. Speaker, Ladies and Gentlemen of the House. To answer question about there's plenty of money in the system for the LIHEAP customers, we all know the kind of winter we've had, but we're really stepping up to the challenge. Last month, the United Way had to absorb 1,300 calls in February alone for households looking for heating assistance. It has been colder than usual, more than 10 percent colder than we've experienced in the recent years. Heating assistance from the federal government is down – down, folks. Assistance to town churches for supplemental assistance, the result is that the administration for LIHEAP is now directing callers for the additional assistance to towns, churches and supplemental assistance because we've run out of money at the state. We all have individuals. I know me, in my own district, have had more calls this winter from LIHEAP customers trying to figure out where they're going to get their money. The tank is at a quarter of a tank. They say they can't call until it gets to an eighth of a tank. People are scared. They're panicking. This will help pay the heating bills for those that can't afford to pay it because it's too expensive. If you give a customer \$500 towards their heating oil, it buys them \$200 gallons of heating oil. It lasts them about two weeks. If you give them \$500 towards wood pellets or a cord of wood, it would last them to two and a half to three months. It's the way to go, folks. Thank you. Please support it.

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

Representative **PEASE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is a simple one. The foresters of the State of Maine have said that we need to cut more of a public forest due to the spruce budworm and other invasive species. They are our experts. They are the products of the University of Maine System and other great colleges in forestry. They've made a recommendation. What we are deciding here today is how to use that money. Do we throw it in the General Fund, do we throw it back somewhere else, or do we use it to help the people in the State of Maine, those that are the neediest and have heating needs? It's that simple. Thank you.

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. Sorry to be so delayed in my rising. The public reserved land system has been managed in an exemplary fashion by the Maine Bureau of Parks and Lands since 1973 and this bill is calling for an inappropriate shift in dedicated funds, okay? Diverting money away from this reserve lands management fund is an improper use. It's improper to use these funds as this legislation would propose. Allowing the public reserve land to keep all money from timber harvest sales has proven to be an effective financial

arrangement. Imagine this, Men and Women of the House, a completely self-sustaining state program. This has prevented money from diverted to unrelated state programs that is necessary for conservation and other activities. It has also allowed the public reserve's land to be a reliable and stable entity which is necessary for the long term conservation of our state resources. Mr. Speaker, in our committee, we heard testimony. It was anecdotal but it's common to what some people experienced during hard times. Times fall hard upon us, well, why don't we cut the woodlot? Well, woodlots, unfortunately, sacrificing a long term investment for a short term crisis is generally not wise economics. The funding mechanism for this bill is also relying on the highly questionable decision to increase harvesting on these lands from 141,000 cords of wood a year to over 180,000 cords per year. It's unwise. It's counter to the agency's integrated policy resource guidelines to harvest timber above the currently established sustainable harvest level of 141,500 cord per year. According to Maine state law, Mr. Speaker, the public reserve and non-reserve lands are to be managed, and I quote, "in a manner consistent with the principles of multiple use and shall produce a sustained yield of products and services in accordance with both prudent and fair business practices and the principles of sound planning." The decision to cut above this 141,000 cord per year run counter to this mandate and has many forestry professionals and recreationists rightly concerned. A period for open public input should be established before any changes are made regarding this or other pertinent issues, and I'd like to point out, Mr. Speaker, that the increase in the harvest, although reported by the Department as part of their plan, was never formally part of the language of this bill. I would urge you to support the pending motion. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Saucier.

Representative **SAUCIER**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of this motion. Efficiency Maine has the funds to do what this bill wants to do. Efficiency Maine already puts a credit for buying pellet stoves and buying wood furnaces and anything that's renewable. It's a \$500 credit, and I just recently put in a heat pump and received that credit. So the idea that Efficiency Maine cannot provide funds for this pellet boiler program is just not true. I also want to say that there is no scientific data that was presented to the Agriculture, Conservation and Forestry that would sustain higher cuts on Bureau of Public Lands up to 180,000 in cords. Funds that the Bureau of Public Lands gets from cutting on to our forests on the public lands is to be used for the good of the people. It's to use to increase trails, campsites, for the beauty of Maine's people to enjoy the public lands and of the larger trees that are on those lands. We heard testimony in committee that said, you know, we have campsites that has one picnic table. They'd like to be able to put a dozen picnic tables. They'd like to be able to do things. They just don't have the money to do it. Taking money from this program to fund other adventures is not consistent with the trust that these lands were set up for. This is an excuse to allow wood contractors on public lands to get at the larger trees that exist there. We shouldn't be treating our Bureau of Public Lands like commercial forest. It was stated in the ACF Committee that there were a bunch of contractors just chomping at the bit to get at this larger wood. So we know the purpose of this bill does not satisfy the requirements of what was set forth when these lands were put into the trust. Now, the committee sent a letter to the Bureau of Public Lands and I just want to read one thing. Most of the public reserve lands were conveyed through the State of Maine through the

articles of separation when Maine and Massachusetts separated in 1820 and Maine became a state. A memo from the Department of the Attorney General to the Bureau of Public Lands, dated 5 August, 1992, states the Legislature acted on behalf of the people of the state has some degree of latitude subject to judicial review to actively manage its trust responsibilities over these lands, provided that it does so in a manner which is consistent with the trust purposes. The memo later states in passing upon the validity of this alteration and the uses to which the Supreme Court emphasize that newly enacted trust purposes must be compatible with those of the original articles of separation. The memo was referred to an opinion of the Justice of the Supreme Judicial Court, dated June 21, 1973. The committee raised a lot of questions that we sent to the Bureau of Public Lands and, in closing, we sent this. The ACF committee has numerous concerns at varying levels about the Bureau of Public Lands report. The two primary concerns are the increased cut beyond the 141,500 cord per year without further scientific justification, and two, proposals related to the use of Bureau of Public Lands revenue outside the mission of Bureau of Public Lands, which includes supporting resources, protection and wildlife and recreation programs within the Bureau of Public Lands. We respectfully request that you report back to the ACF Committee with answers to questions as posed in this letter with an update of public lands inventory and harvesting levels by January 15, 2015. So I urge you to support this motion and let that happen. The committee will be looking at this again in the next session. Thank you.

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

Representative **DUNPHY**: Thank you, Mr. Speaker. Mr. Speaker, public plans for the benefit of Maine citizens, I think it's a great idea. When I worked in the paper industry in the early '80s and I saw the impact of the spruce budworm, I saw the impact of timber that was not harvested while it was useful. Truckers suffered, loggers suffered, the industry suffered, and I just think that there is certainly a need, there's a huge need by the Maine people. This use, in my humble opinion, is proper. It's for the benefit of Maine citizens. Efficiency Maine does in fact have money, but they don't have enough. They don't have enough for this season. I just hope that we have not reached a point where public trails preempt public need. Thank you, Mr. Speaker.

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

Representative **LIBBY**: Thank you, Mr. Speaker. I think the discussion when we talk about whether to cut the trees or not is not really germane to this bill. The trees are going to be cut regardless and this is just saying what we're going to do with the money after they're cut. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Hickman.

Representative **HICKMAN**: Thank you, Mr. Speaker. I'll be brief and just say that spruce budworm is not actually here yet. It has a cyclical lifecycle and it's not really even projected to be in Maine for another four or five years.

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

Representative **DUNPHY**: Thank you, Mr. Speaker. Mr. Speaker, I've talked to a number of foresters and the message that I'm getting is that the spruce budworm is very close and a heavy wind could in fact push that spruce budworm infestation into northern Maine.

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. 645**

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

NAY - Ayotte, Beaulieu, Bennett, Bolduc, Campbell R, Chase, Clark, Crafts, Cray, Crockett, Davis, Doak, Dorney, Dunphy, Duprey, Espling, Fitzpatrick, Fredette, Gifford, Gillway, Guerin, Harvell, Johnson P, Keschl, Knight, Libby A, Lockman, Long, MacDonald S, Maker, Malaby, McClellan, McElwee, Nadeau A, Newendyke, Parry, Pease, Peavey Haskell, Pouliot, Reed, Sirocki, Stanley, Theriault, Timberlake, Turner, Tyler, Wallace, Weaver, Willette, Wilson, Winchenbach, Winsor, Wood.

ABSENT - Cassidy, Chapman, Harlow, Jackson, Johnson D, Noon, Pringle, Sanderson, Villa.

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

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

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Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-435)** on Bill "An Act To Implement the Recommendations from the Discontinued and Abandoned Roads Stakeholder Group" (S.P. 414) (L.D. 1177)

Signed:  
Senator:  
COLLINS of York

Representatives:  
GRAHAM of North Yarmouth  
BOLAND of Sanford  
BOLDUC of Auburn  
CHENETTE of Saco  
COTTA of China  
MacDONALD of Old Orchard Beach  
NADEAU of Fort Kent  
NADEAU of Winslow  
PEASE of Morrill

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-436)** on same Bill.

Signed:  
Representative:  
HAYES of Buckfield

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY**

**COMMITTEE AMENDMENT "A" (S-435) AS AMENDED BY SENATE AMENDMENT "B" (S-488) thereto.**

**READ.**

Representative GRAHAM of North Yarmouth 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 Fort Kent, Representative Nadeau.

Representative **NADEAU**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I worked on this bill at length and I am on the side of when we voted on this bill in committee, it was our intention to be able to have the time to finish it. There have been amendments thrown at it two or three times and, as of yet, I haven't seen the whole bill as completed on one worksheet yet. So I am going to not support this bill today. 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. I got calls on this bill last year when it started floating around. This is a bad, bad bill and I'll go along with the comments of the speaker that just got through in voting against this bill. I hope everybody will follow my light. Thank you.

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

Representative **CASAVANT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'd just like to say that this bill represents a major cost shift to cities and towns in the State of Maine and, as drafted, I think it's a bad bill. Thank you.

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

Representative **HAYES**: Thank you, Mr. Speaker. Mr. Speaker, Women and Men of the House. This is one of those rare instances where the two options that may be before you, neither one of them are good. I stand because I will be voting against the pending motion. There are a number of issues with this bill, there have been a number of attempts to try to fix it, and I'm convinced that we can't fix it properly at this point in time. So I'm going to be voting with the good Representative from Sheffield, Shapleigh, or wherever Representative Campbell is from because I can't remember it exactly. We have had multiple opportunities, as many of you have probably heard from some of the folks in the municipalities that you represent about their concerns about this bill, and I share those concerns. I'm not standing because I want you to support. I'm the "1," in the committee, Mr. Speaker, I'm the "1" and my report's no better. So not because I'm trying to persuade one to go the other direction. I think probably eventually an Indefinite Postponement is the way to go on this, so I will not support the pending motion.

The **SPEAKER**: The Chair recognizes the Representative from China, Representative Cotta.

Representative **COTTA**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This bill is a product of over three years of work. There has been a subcommittee, there were recommendations and I think all acknowledge that there is an issue and there is a problem, and this bill was an attempt to fix that. There will be disagreements about what this bill does good, does not do, or does bad. I would

urge all in the chamber to support this bill as offered in the Committee Amendment "A." I think we have people in this chamber, we can fix it. So I'm standing in support of the motion, the Ought to Pass, Committee Amendment "A."

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

Representative **BROOKS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. A previous elected office that I had prior to coming down here, it seems like now 100 years ago, was as chair of the Winterport Town Council. I served as chair for a number of years. I was on the council. Prior to that I was on the planning board. Prior to that I was on the dump committee. So I've move up now, not much though. I just want to tell you I can't support it. One of the biggest issues we had when we were on the council was issues dealing with discontinued roads. To me, it pushes on to the municipality unnecessary work. I don't think we need to do this and I don't think we need to mandate from our lofty position here in Augusta what people do in our little Town of Winterport or the other three towns that will be in my district.

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

Representative **GRAHAM**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. To the point that the good Representative from China made, this has been a long, long hard road. A lot of work went into this from my committee and I want to thank them for their diligence and a real struggle to try to answer a real problem that has been present since time memorial, quite honestly. I do not want to throw good work out the window and I think this was a good move forward. Is it perfect? Absolutely not. Can it be better? Absolutely, it can be. So, with that, I understand people's misgivings, but I want you to understand the hard work and the efforts moving forward on a very difficult bill and I anticipate we will be seeing this in subsequent sessions. Thank you, Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Madawaska, Representative Theriault.

Representative **THERIAULT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have to say that the communities in my area are not supportive of this so you know where I'm going to land on it. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Sanford, Representative Boland.

Representative **BOLAND**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. When we took a vote on this bill, we felt that we had the assurance that we would be able to submit a second bill to actually solve the problems that the people had brought to us. We were stymied in that effort and therefore I will not be supporting this bill now because it doesn't represent what we understood would be accomplished. Thank you.

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

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

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

Representative **JONES**: Thank you, Mr. Speaker. Is this bill indeed a mandate?

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

Representative **BEAVERS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I totally appreciate the work of the committee. Both of my town

managers have requested of me this morning that I oppose this, so I will be. Thank you.

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

Representative **PEASE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In order to answer the question is this a mandate, it all depends on how you look at it. If the towns have been doing what they're supposed to have been doing and that is record votes for discontinuance and keep them public for the public to see, then it's not a mandate. If they haven't been doing it, then this bill requires them to go back, dig out the information and to publish it. Thank you.

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

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

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

Representative **SHAW**: I was wondering is somebody could explain the current process of abandoned roads versus the proposed process.

The **SPEAKER**: The Representative from Standish, Representative Shaw, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from North Yarmouth, Representative Graham.

Representative **GRAHAM**: Thank you, Mr. Speaker. Currently, the process is a process that really doesn't exist. That's one of the dilemmas that has occurred, that roads have been abandoned and discontinued with no clear public process. This bill puts forward a transparent public process, so if roads are abandoned, the people in the town are able to weigh in.

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'm going to be voting against this motion as most towns in my rural district have expressed concern to me about it and have asked me to vote against it.

Representative **BROOKS** of Winterport moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

Representative **BERRY** of Bowdoinham **REQUESTED** a roll call on the motion to be **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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 Indefinite Postponement of the Bill and all accompanying papers. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 646**

**YEA** - Ayotte, Beaudoin, Beaulieu, Beavers, Bennett, Boland, Brooks, Campbell J, Casavant, Chase, Clark, Crafts, Cray, Crockett, Davis, Devin, Dorney, Dunphy, Duprey, Espling, Evangelos, Fitzpatrick, Fredette, Gifford, Guerin, Harvell, Hayes, Herbig, Hubbell, Jones, Kaenrath, Knight, Kusiak, Lockman, Long, McClellan, McElwee, Monaghan-Derrig, Morrison, Nelson, Newendyke, Parry, Peavey Haskell, Peoples, Pouliot, Reed, Russell, Sanderson, Sirocki, Stanley, Theriault, Timberlake, Volk, Wallace, Willette, Wilson, Wood.

**NAY** - Beck, Berry, Black, Bolduc, Briggs, Campbell R, Carey, Chenette, Chipman, Cooper, Cotta, Daughtry, DeChant, Dickerson, Dill, Dion, Doak, Farnsworth, Fowie, Frey, Gattine, Gideon, Gilbert, Gillway, Goode, Graham, Grant, Hamann, Hickman, Hobbins, Johnson P, Jorgensen, Kent, Keschl, Kinney, Kornfield, Kruger, Kumiega, Lajoie, Libby A, Libby N, Longstaff, Luchini, MacDonald S, MacDonald W, Maker, Malaby, Marean,

Marks, Mason, Mastraccio, McCabe, McGowan, McLean, Moonen, Moriarty, Nadeau A, Nadeau C, Nutting, Pease, Peterson, Plante, Powers, Priest, Rankin, Rochelo, Rotundo, Rykerson, Sanborn, Saucier, Saxton, Schneck, Shaw, Short, Stuckey, Tipping-Spitz, Treat, Turner, Tyler, Verow, Weaver, Welsh, Werts, Winchenbach, Winsor, Mr. Speaker.

**ABSENT** - Cassidy, Chapman, Harlow, Jackson, Johnson D, Noon, Pringle, Villa.

Yes, 57; No, 86; Absent, 8; Excused, 0.

57 having voted in the affirmative and 86 voted in the negative, with 8 being absent, and accordingly the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers **FAILED**.

The **SPEAKER**: The Chair recognizes the Representative from Oakland, Representative Nutting.

Representative **NUTTING**: Thank you, Mr. Speaker. I rise to ask you to support the pending motion. I've heard from my town manager and he doesn't like this bill either, but the part that he doesn't like, I believe, is the mandate part. If someone were to fix the mandate part before we get to enactment, then this bill might be something that we could all support or most of us could support. If the mandate part does not get fixed on enactment, we can simply vote against it. So for today's procedure I would ask that if you think there is hope for this bill and hope that we can get rid of the mandate, that you support the pending motion. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Saco, Representative Chenette.

Representative **CHENETTE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. How would you feel if you were one of these individuals on an abandoned road? Please try to put yourself in that person's shoes, not the shoes of your town manager. Of course, if we say to a town, "Hey, do some more work that you should already be doing," of course they're going to say, "Oh no, don't do that." But we collectively represent the constituents in our district and for the individuals on these abandoned roads, this provides an appropriate outlet. It gives them the power into the hands of individual property owners. That's who we need to be fighting for. Is this a perfect bill? Of course, it's not. This is wave one. This is merely one step in a long journey to fix this issue, much like other issues in this body. So I would urge us to give this a chance. Pass this report and allow other opportunities to come forward to make adjustments to this bill. It's not perfect, but it gives power in the hands of individual property owners and it's something that municipalities should be doing already, in terms of making sure that we're categorizing and having a list of abandoned roads in our districts to make sure that there's no gray. Right now, there's gray. There's no appropriate outlet to know whether an abandoned road is the property of the town or the individual who maintains it. If somebody messes it up, what's going to happen to it? All that gray is confusing to our constituents and this provides an outlet, not a perfect one, but it's one step in the right direction. I urge you to support the pending motion. Thank you, Mr. Speaker.

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

Representative **BROOKS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The previous vote, I guess, was a procedural vote. I guess. I'm not really sure ever when we come down on these things. But, to me, this is a vote between rural and urban communities. I represent six communities in the eastern Waldo County area. None of them want this. They are asking the selectmen and, in one case, a council, to do things that they've never had to and I'm not sure



they want to do and they may not even be trained to do. To do inventories and go out and check roads, they already spend an awful lot of time with the folks who live near, not on, but near roads. I don't know of a single occasion when I was councilor for several years in Winterport and a few of those years as the chairman, that we had a complaint from someone who lived on the road that was discontinued because I don't believe you can do it. We did get a lot of comments from folks who wanted to use those, either with their gravel trucks or what have you, to get from one point in town to another and in the spring of the year created a little bit of concern. To me, this is another mandate. Here we go again. Why are we doing this, because a couple of communities had problems? What about all the rest of the 460 that didn't? Why are we telling people, these towns that they have to have an inventory? Why are we making them second-guess a law that has existed for years? There is a common law that says that if a road is being used as the throughway, I believe, for 20 years, then you can considerate it to be continued as a throughway. But there is no mandate that says that they have to plow it or sand it, just because it's used by folks and it may be on a grassy knoll. This is a bill that we don't need. Maine Municipal Association got tied up a little bit on it, but they're not with it and we think that they represent any communities in this state of ours? Of course, they do. I served on the LPC with them for a number of years. I had to leave because I lost my position as councilor in Winterport. I chose to be here instead. We don't need this bill. This is a bill where perhaps some urban communities think and perhaps even during this last debate or even during the roll call itself, Mr. Speaker, there were people working the bill and saying that this is a procedural bill and we always stay with leadership. That's not written in the rules, as far as I'm concerned, and I think we now have an opportunity to say no. I urge you to do so and if you don't, I urge you to stand at the door of a town office or in the town meeting next time when they're talking about this and say, "Hey, I voted to do it." I won't because I'm going to vote not to. Thank you, Mr. Speaker.

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

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

Representative **CAMPBELL**: Thank you, Mr. Speaker. Mr. Speaker, it is in a town, the officials that contacted me, it's some of the old-timers that experienced the fire in 1949 and they are scared with what's going to happen with this bill for the roads, if we ever had that problem again, what would happen. 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. 647**

YEA - Beck, Berry, Black, Bolduc, Chenette, Chipman, Cotta, Daughtry, Dion, Doak, Espling, Evangelos, Farnsworth, Frey, Gattine, Gideon, Goode, Graham, Hamann, Hobbins, Johnson P, Jorgensen, Kent, Kornfield, Kruger, Kumiega, Longstaff, MacDonald S, MacDonald W, Malaby, Marean, Mason, McCabe, McGowan, Moonen, Nadeau C, Nutting, Pease, Peoples, Plante, Priest, Russell, Rykerson, Schneck, Shaw, Tipping-Spitz, Welsh, Wilson, Winsor, Mr. Speaker.

NAY - Ayotte, Beaudoin, Beaulieu, Beavers, Bennett, Boland, Briggs, Brooks, Campbell J, Campbell R, Carey, Casavant, Chase, Clark, Cooper, Crafts, Cray, Crockett, Davis, DeChant,

Devin, Dickerson, Dill, Dorney, Dunphy, Duprey, Fitzpatrick, Fowle, Fredette, Gifford, Gilbert, Gillway, Grant, Guerin, Harvell, Hayes, Herbig, Hickman, Hubbell, Jones, Kaenrath, Keschl, Kinney, Knight, Kusiak, Lajoie, Libby A, Libby N, Lockman, Long, Luchini, Maker, Marks, Mastraccio, McClellan, McElwee, McLean, Monaghan-Derrig, Moriarty, Morrison, Nelson, Newendyke, Parry, Peavey Haskell, Peterson, Pouliot, Powers, Rankin, Reed, Rochelo, Rotundo, Sanborn, Sanderson, Saucier, Saxton, Short, Sirocki, Stanley, Stuckey, Theriault, Timberlake, Treat, Turner, Tyler, Verow, Volk, Wallace, Weaver, Werts, Willette, Winchenbach, Wood.

ABSENT - Cassidy, Chapman, Harlow, Jackson, Johnson D, Nadeau A, Noon, Pringle, Villa.

Yes, 50; No, 92; Absent, 9; Excused, 0.

50 having voted in the affirmative and 92 voted in the negative, with 9 being absent, and accordingly the Majority **Ought to Pass as Amended Report was NOT ACCEPTED**.

Subsequently, Representative McCABE of Skowhegan moved that the House **ACCEPT** the Minority **Ought to Pass as Amended Report**.

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

Representative **HAYES**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I am on the minority on this bill and I urge you to defeat this motion. The Minority Report on this bill is no better than the Majority Report. I know I'm repeating myself because I said that when I stood to speak on a previous motion. I meant it. I encourage you to defeat this motion and I would suggest that, again, the better outcome is Indefinite Postponement, but you didn't like that the first time so I'm not making that motion now but you might want to think about it. Thank you, Mr. Speaker.

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

Representative **FREDETTE**: Thank you, Mr. Speaker. Mr. Speaker, in a spirit of bipartisanship, I'll support the good Representative from Buckfield, Representative Hayes, and I'd ask for a roll call.

The same Representative **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought to Pass as Amended Report**.

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

Subsequently, on motion of Representative **TIMBERLAKE** of Turner, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** in **NON-CONCURRENCE** and sent for concurrence.

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-796)** on Bill "An Act To Amend the Laws Governing the Approval Process for and the Operation of Virtual Public Charter Schools in the State"

(H.P. 1189) (L.D. 1617)

Signed:

Senators:

MILLETT of Cumberland  
JOHNSON of Lincoln

Representatives:

MacDONALD of Boothbay  
DAUGHTRY of Brunswick  
HUBBELL of Bar Harbor  
KORNFIELD of Bangor

NELSON of Falmouth  
RANKIN of Hiram

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

Signed:  
Senator:  
LANGLEY of Hancock

Representatives:  
JOHNSON of Greenville  
MAKER of Calais  
McCLELLAN of Raymond  
POULIOT of Augusta

Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the Majority **Ought to Pass as Amended by Committee Amendment "A" (H-796)** Report.

**READ.**

Representative MacDONALD of Boothbay 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 Boothbay, Representative MacDonald.

Representative **MacDONALD**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. This bill is about one thing only. It's about fiscal responsibility. Some may wish to frame this as a bill having to do with virtual charter schools, but it does not, in the sense that it's only about how we ought to fund the virtual charter schools that will come to exist in this state. I, for one, accept the fact that we have virtual charter schools. They are part of our law and will exist. But I do not accept the fact and I hope the rest of this body will not accept the fact that, under current law, these schools are funded in a way that sends taxpayer money to them for costs that they do not incur. I suggest to you that it is the height of fiscal irresponsibility for us to allow this to continue to happen. Mr. Speaker, this comes about because our current law does not distinguish between virtual charter schools and brick-and-mortar charter schools. These are two very different things. Two hundred students sitting in a brick-and-mortar charter school is a totally different things from 200 students sitting at home in front of computers all over the state. The cost structures for these two kinds of schooling are totally different, but our current law does not distinguish between the two and will allow taxpayer moneys to go to virtual charter schools for costs that they do not incur. It is a bill about fiscal responsibility and I suggest that we need to exercise that responsibility by voting in support of this bill. I would just end by saying that substantial amounts of money are in play in this whole world of virtual charter schools at \$6, \$7, \$8, \$9,000 per student going, per year, to virtual charter schools in a way that is inappropriate, since those moneys cover costs that these charter schools do not incur, represents fiscal irresponsibility on our part. It's our chance to fix a flaw in the charter school law that was passed in the 125th and I urge you to join me in supporting the Majority Ought to Pass out of the Committee on Education and Cultural Affairs. Thank you, Mr. Speaker.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought to

Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 648**

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

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

ABSENT - Cassidy, Chapman, Harlow, Hobbins, Jackson, Johnson D, McCabe, Noon, Pringle, Villa.

Yes, 86; No, 55; Absent, 10; Excused, 0.

86 having voted in the affirmative and 55 voted in the negative, with 10 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-796)** 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-796)** and sent for concurrence.

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Bill "An Act To Increase Local Responsibility for General Assistance"

(H.P. 1326) (L.D. 1844)

Signed:  
Senators:  
CRAVEN of Androscoggin  
LACHOWICZ of Kennebec

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

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-794)** on same Bill.

Signed:  
Senator:  
HAMPER of Oxford

LEGISLATIVE RECORD - HOUSE, April 4, 2014

Representatives:

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

Representative BEAR of the Houlton Band of Maliseet Indians - of the House - supports the Majority **Ought Not to Pass** Report.

**READ.**

On motion of Representative FARNSWORTH of Portland, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-798)** on Bill "An Act Concerning Meetings of Public Bodies Using Communications Technology"

(H.P. 1300) (L.D. 1809)

Signed:

Senators:

VALENTINO of York  
BURNS of Washington

Representatives:

PRIEST of Brunswick  
BEAULIEU of Auburn  
DeCHANT of Bath  
GUERIN of Glenburn  
MONAGHAN-DERRIG of Cape Elizabeth  
MOONEN of Portland  
MORIARTY of Cumberland  
PEAVEY HASKELL of Milford  
VILLA of Harrison

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

Signed:

Senator:

TUTTLE of York

**READ.**

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

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Majority Report of the Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-800)** on Bill "An Act To Examine Best Practices Relating to Tax Expenditures"

(H.P. 1048) (L.D. 1463)

Signed:

Senators:

HASKELL of Cumberland  
MILLETT of Cumberland

Representatives:

GOODE of Bangor  
BROOKS of Winterport  
JACKSON of Oxford  
KNIGHT of Livermore Falls  
LIBBY of Lewiston

MAREAN of Hollis

MOONEN of Portland

TIPPING-SPITZ of Orono

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

Signed:

Senator:

THOMAS of Somerset

Representatives:

BENNETT of Kennebunk

STANLEY of Medway

**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**: 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. 649**

YEA - Beaudoin, Beaulieu, Beavers, Beck, Berry, Boland, Bolduc, Briggs, Brooks, Campbell J, Carey, Casavant, Chase, Chenette, Chipman, Cooper, Cotta, Daughtry, DeChant, Devin, Dickerson, Dill, Dion, Doak, Dorney, Evangelos, Farnsworth, Fowle, Frey, Gattine, Gideon, Gilbert, Goode, Graham, Grant, Hamann, Hayes, Herbig, Hickman, Hubbell, Jones, Jorgensen, Kaenrath, Kent, Keschl, Kinney, Knight, Kornfield, Kruger, Kumiega, Kusiak, Lajoie, Libby N, Longstaff, Luchini, MacDonald S, MacDonald W, Maker, Marean, Marks, Mason, Mastraccio, McCabe, McGowan, McLean, Monaghan-Derrig, Moonen, Moriarty, Morrison, Nadeau C, Nelson, Newendyke, Nutting, Peoples, Peterson, Plante, Pouliot, Powers, Priest, Rankin, Rochelo, Rotundo, Russell, Rykerson, Sanborn, Saucier, Saxton, Schneck, Shaw, Stuckey, Theriault, Tipping-Spitz, Treat, Tyler, Verow, Volk, Welsh, Werts, Wilson, Winsor, Mr. Speaker.

NAY - Ayotte, Bennett, Black, Campbell R, Clark, Crafts, Cray, Crockett, Davis, Dunphy, Duprey, Espling, Fitzpatrick, Fredette, Gifford, Gillway, Guerin, Harvell, Johnson P, Libby A, Lockman, Long, Malaby, McClellan, McElwee, Nadeau A, Parry, Pease, Peavey Haskell, Reed, Sanderson, Short, Sirocki, Stanley, Timberlake, Turner, Wallace, Weaver, Willette, Winchenbach, Wood.

ABSENT - Cassidy, Chapman, Harlow, Hobbins, Jackson, Johnson D, Noon, Pringle, Villa.

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

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-800)** 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-800)** and sent for concurrence.

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. 638) (L.D. 1647) Bill "An Act To Make Changes to the So-called Dig Safe Law" Committee on **ENERGY, UTILITIES AND TECHNOLOGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-471)**

(S.P. 644) (L.D. 1652) Bill "An Act To Support Solar Energy Development in Maine" Committee on **ENERGY, UTILITIES AND TECHNOLOGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-473)**

(S.P. 655) (L.D. 1661) Bill "An Act To Clarify the Provisions of a Historic Preservation Tax Credit" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-493)**

(S.P. 659) (L.D. 1664) Bill "An Act To Encourage Charitable Contributions to Nonprofit Organizations" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-492)**

(S.P. 736) (L.D. 1833) Bill "An Act To Improve Workers' Compensation Protection for Injured Workers Whose Employers Have Wrongfully Not Secured Workers' Compensation Insurance" Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-491)**

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

There being no objection, the Senate Papers were **PASSED TO BE ENGROSSED as Amended** in concurrence.

**ENACTORS**

**Emergency Measure**

An Act Regarding Taste-testing Event Licenses

(S.P. 628) (L.D. 1637)  
(C. "A" S-475)

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. 128 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.

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

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

Representative **HICKMAN**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Today marks the 46th anniversary of the assassination of Martin Luther King, Jr, one of the greatest leaders of the 20th Century. While we are most familiar with his "I Have A Dream" speech, many more of us have never heard about his "Letter from Birmingham Jail," also known as "The Negro is Your Brother," an open letter he wrote from behind bars on April 16, 1963.

This letter defends the strategy of civil disobedience or nonviolent resistance to racism, arguing that people have a moral responsibility to break unjust laws. After tepid public reception

initially, the letter enjoyed widespread publication and became a key text for the American Civil Rights Movement.

My favorite passage from Martin Luther King, Jr.'s "Letter From Birmingham Jail" reads as follows: "An individual who breaks a law that conscience tells him is unjust, and who willingly accepts the penalty of imprisonment in order to arouse the conscience of the community over its injustice, is in reality expressing the highest respect for the law." Thank you, Mr. Speaker.

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The House recessed until 1:15 p.m.

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(After Recess)

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The House was called to order by the Speaker.

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

**ENACTORS**

**Emergency Measure**

An Act To Amend Certain Provisions of Inland Fisheries and Wildlife Laws

(S.P. 662) (L.D. 1667)  
(C. "A" S-474)

On motion of Representative SHAW of Standish, 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-806)**, which was **READ** by the Clerk.

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

Representative **SHAW**: Thank you very much, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The House Amendment is just a technical change in language.

Subsequently, **House Amendment "A" (H-806)** was **ADOPTED**.

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-474)** and **House Amendment "A" (H-806)** in **NON-CONCURRENCE** and sent for concurrence.

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

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

**Emergency Measure**

An Act To Address Recommendations from the Report by the Office of Program Evaluation and Government Accountability Regarding the Public Utilities Commission

(H.P. 1303) (L.D. 1816)  
(C. "A" H-784)

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

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

Representative **AYOTTE**: Thank you, Mr. Speaker. I want to remind those who have any hesitation about supporting this bill, that unlike previous mining attempts in the State of Maine. I'm sorry. Did I say, Mr. Speaker, Ladies and Gentlemen of the House. Sorry about that. I certainly understand your trepidations. We now have one of the finest DEPs in the union. When mining was first initiated in the State of Maine....I'm sorry, Mr. Speaker, I made a mistake.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 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.

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**Emergency Measure**

Resolve, Regarding Metallic Mineral Exploration, Advanced Exploration and Mining

(H.P. 1270) (L.D. 1772)  
(C. "A" H-769)

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.

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**Acts**

An Act To Clarify and Update a Nurse's Authority To Administer Medication

(S.P. 701) (L.D. 1766)  
(S. "A" S-465 to C. "A" S-459)

An Act Expanding Access to Early Postsecondary Education

(H.P. 1289) (L.D. 1797)  
(C. "A" H-783)

An Act To Implement the Recommendations Contained in the State Government Evaluation Act Review of the Maine Public Employees Retirement System

(H.P. 1297) (L.D. 1806)

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.

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**Resolves**

Resolve, Regarding Legislative Review of Chapter 201: Provider of Last Resort Service Quality, a Major Substantive Rule of the Public Utilities Commission

(H.P. 33) (L.D. 38)  
(C. "A" H-727)

Resolve, To Study the Design and Implementation of Options for a Universal Health Care Plan in the State That Is in Compliance with the Federal Patient Protection and Affordable Care Act

(H.P. 962) (L.D. 1345)  
(C. "A" H-771)

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

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An Act To Improve Maine's Tax Laws

(H.P. 792) (L.D. 1120)  
(C. "A" H-749)

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

On motion of Representative **KNIGHT** of Livermore Falls, was **SET ASIDE**.

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

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

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

**ROLL CALL NO. 650**

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

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

ABSENT - Boland, Bolduc, Cassidy, Chapman, Cotta, Doak, Harlow, Jackson, Johnson D, Malaby, Noon, Powers, Pringle, Rochelo, Turner, Verow, Villa, Volk.

Yes, 81; No, 52; Absent, 18; Excused, 0.

81 having voted in the affirmative and 52 voted in the negative, with 18 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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An Act To Ensure That Large Public Utility Reorganizations Advance the Economic Development and Information Access Goals of the State

(H.P. 1263) (L.D. 1761)  
(C. "A" H-772)

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

On motion of Representative **WILLETTE** of Mapleton, was **SET ASIDE**.

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

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

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

**ROLL CALL NO. 651**

YEA - Beaudoin, Beck, Berry, Briggs, Brooks, Campbell J, Carey, Casavant, Chenette, Chipman, Cooper, Daughtry, DeChant, Devin, Dickerson, Dill, Dion, Dorney, Evangelos, Farnsworth, Fowle, Frey, Gattine, Gideon, Gilbert, Goode, Graham, Grant, Hamann, Herbig, Hickman, Hobbins, Hubbell,

Jones, Jorgensen, Kaenrath, Kent, Kornfield, Kruger, Kumiega, Kusiak, Lajoie, Libby N, Longstaff, Luchini, MacDonald W, Marks, Mason, Mastraccio, McCabe, McGowan, McLean, Monaghan-Derrig, Moonen, Morrison, Nadeau C, Nelson, Peoples, Peterson, Plante, Priest, Rankin, Rochelo, Rotundo, Russell, Rykerson, Sanborn, Saucier, Saxton, Shaw, Stanley, Stuckey, Theriault, Tipping-Spitz, Treat, Welsh, Werts, Mr. Speaker.

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

**ABSENT** - Boland, Bolduc, Cassidy, Chapman, Cotta, Doak, Harlow, Jackson, Johnson D, Malaby, Moriarty, Noon, Powers, Pringle, Schneck, Turner, Verow, Villa, Volk.

Yes, 78; No, 54; Absent, 19; Excused, 0.

78 having voted in the affirmative and 54 voted in the negative, with 19 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

**HOUSE DIVIDED REPORT** - Majority (11) **Ought to Pass as Amended by Committee Amendment "A" (H-798)** - Minority (1) **Ought Not to Pass** - Committee on **JUDICIARY** on Bill "An Act Concerning Meetings of Public Bodies Using Communications Technology"

(H.P. 1300) (L.D. 1809)

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

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-798)** was **READ** by the Clerk.

Representative WILLETTE of Mapleton **PRESENTED** House Amendment "A" (H-812) to **Committee Amendment "A" (H-798)**, which was **READ** by the Clerk and **ADOPTED**.

**Committee Amendment "A" (H-798) as Amended by House Amendment "A" (H-812)** thereto was **ADOPTED**.

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

Subsequently, under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-798) as Amended by House Amendment "A" (H-812)** thereto and sent for concurrence.

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#### REPORTS OF COMMITTEE

##### Divided Report

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act To Increase the Deduction for Pension Income"

(H.P. 1321) (L.D. 1839)

Signed:

Senators:

HASKELL of Cumberland

MILLETT of Cumberland

Representatives:

GOODE of Bangor

BROOKS of Winterport

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 "A" (H-801)** on same Bill.

Signed:

Senator:

THOMAS of Somerset

Representatives:

BENNETT of Kennebunk

JACKSON of Oxford

KNIGHT of Livermore Falls

MAREAN of Hollis

**READ.**

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-801)** 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-801)** and sent for concurrence.

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

#### UNFINISHED BUSINESS

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

An Act To Amend the Laws Governing Charitable Solicitations

(H.P. 1291) (L.D. 1799)

(C. "A" H-778)

**TABLED** - April 3, 2014 (Till Later Today) by Representative McCABE of Skowhegan.

**PENDING - PASSAGE TO BE ENACTED.**

Subsequently, on motion of Representative HERBIG of Belfast, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

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

On further motion of the same Representative, the rules were **SUSPENDED** for the purpose of **FURTHER RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-778)** was **ADOPTED**.

The same Representative **PRESENTED** House Amendment "B" (H-804) to **Committee Amendment "A" (H-778)** which was **READ** by the Clerk.

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

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

The SPEAKER: The Representative may pose his question.

Representative FREDETTE: Mr. Speaker, I just ask, in regards to the amendment, what the purpose of the amendment was.

The SPEAKER: The Representative from Newport, Representative Fredette, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Belfast, Representative Herbig.

Representative HERBIG: Thank you, Mr. Speaker. Yes, this is a technical amendment that was worked out following, just to make sure that we were really addressing what the Representative from Scarborough and I have consulted on this and all are aware of what's going on. Thank you.

Subsequently, Amendment "B" (H-804) to Committee Amendment "A" (H-778) was ADOPTED.

Subsequently, Committee Amendment "A" (H-778) as Amended by House Amendment "B" (H-804) thereto was ADOPTED.

Subsequently, the Bill was PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-778) as Amended by House Amendment "B" (H-804) thereto in NON-CONCURRENCE and sent for concurrence.

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Bill "An Act Regarding Bad Faith Assertions of Patent Infringement"

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

- In House, Minority (4) OUGHT TO PASS AS AMENDED Report of the Committee on JUDICIARY READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-443) on March 25, 2014.

- In Senate, Senate INSISTED on its former action whereby the Majority (9) OUGHT TO PASS AS AMENDED Report of the Committee on JUDICIARY was READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-442) in NON-CONCURRENCE.

TABLED - April 3, 2014 (Till Later Today) by Representative BERRY of Bowdoinham.

PENDING - FURTHER CONSIDERATION.

Representative McCABE of Skowhegan moved that the House RECEDE AND CONCUR.

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

Representative PRIEST: Thank you, Mr. Speaker. Mr. Speaker, Fellow Representatives. The basic difference between these two reports, as I think everyone either knows or will know shortly, is that both reports have the identical language that the credit unions and the banks want concerning patent infringement. The language is identical. The bill they put in is in both reports. There is only one difference between the two reports and we will talk about what that difference is. But if you Recede and Concur with the other body, which is the motion before you, you will also be exempting from this bill the pharmaceutical industry. Now, no other industry in the State of Maine will get this exemption. The shipbuilding industry in Bath and in the Midcoast, the agricultural industry and food processing industry in Aroostook in the northern part of the state, the ski and recreational industry in the Bethel area and the Western Mountains, the aircraft industry in the Berwicks, none of these will be exempted from the bill. Recall that the bill says that if a person, including a corporation,

makes a bad faith assertion of patent infringement, the target of that bad faith assertion can go to court and can get damages, attorney's fees, and punitive damages of \$50,000 or three times the total damages, costs and fees, whichever is greater. It is very unusual in the State of Maine to get punitive damages. The law court has said that they do not favor punitive damages. This bill allows punitive damages. To Recede and Concur means that the pharmaceutical industry alone, of all the industries in the state, doesn't have to worry about acting in bad faith under this law.

Now, have we heard a justification for this exemption? Well, here's the amendment that puts in the exemption. It's not long. I'll read it to you. "Amend the bill in section 1 in §8701 by inserting after subsection 6 the following: '7. Exemption. This section does not apply to a demand letter or assertion of patent infringement that includes a claim for relief arising under 35 United States Code, Section 271(e)(2) or 42 United States Code, Section 262.'" Ladies and gentlemen, if you can understand that, you're a patent lawyer. Congratulations. No one would know from this that the pharmaceutical industry is being exempted. None of the information you have gotten, and I've gotten a lot and I'm sure a lot of you have gotten it, from your credit unions and your banks have ever once said that there's a pharmaceutical exemption in this bill. So I submit that few non-patent lawyers would understand this amendment and there has been no other explanation that has convinced me that has come before our committee concerning this exemption. Please keep all of this in mind that if you Recede and Concur, you're not only adopting what the banks want, but you're also allowing the pharmaceutical industry, of all the industries in the state, to not have to worry about acting in bad faith when they make a patent infringement claim. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Dickerson.

Representative DICKERSON: Thank you, Mr. Speaker. I am speaking on behalf of my seatmate, Representative Lisa Villa, who is ill this afternoon and cannot be with us; however, she feels very strongly about this issue and asked if I could deliver her comments for her, if that is appropriate.

The SPEAKER: The Representative may proceed.

Representative DICKERSON: Thank you, Mr. Speaker. I would ask that we do not Recede and Concur, much as has been suggested by the previous speaker, because my seatmate feels that the Hatch-Waxman Act was enacted by Congress to protect generic drug industry's access to pharmaceutical drugs whose patents have expired. This Act has been effective in immediately rewriting the high cost of prescription drugs by encouraging the entry of less expensive generics. However, pharmaceutical companies have found ways to get around the congressional intentions of the Hatch-Waxman Act and have found loopholes in the laws that exploit certain provisions of the Act. There are many law reviews that concluded that the pharmaceutical industry's abuse of patents appear, well, I'm not going to say that, and they are using many different loopholes. So, basically, it seems to me that what my seatmate is suggesting, that there are ways in getting around some of these loopholes in the Hatch-Waxman Act that were protecting the patents and she's feeling that there needs to be further review of some of these rules. She feels that these techniques have been harshly criticized by Congress, the Federal Trade Commission, consumers, the generic drug industry, and their actions have been condemned by the co-authors of the bill, Senator Orrin Hatch and Representative Waxman. My seatmate feels that the bill in front of us was a good bill and she would really like to urge us to follow the suggestions that were made by the good Representatives before me, and, Mr. Speaker, I would ask for a roll call on the

Recede and Concur, if that would be appropriate.

The same Representative **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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 Newport, Representative Fredette.

Representative **FREDETTE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'll be very brief. The good Representative from Brunswick, Representative Priest, in the original motion, moved the Minority Report, which, at the time, I indicated, I think, represented clearly, obviously, the minority but also a minority of just Democrats. I think the Majority Report, obviously being the Majority Report, had bipartisan support, and I think the Majority Report also had the support of the credit union and the banking industry. So I think it makes sense to Recede and Concur on this and I ask the Clerk to read the Committee Report.

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

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

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

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

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

Representative **DEVIN**: Thank you very much, Mr. Speaker. Mr. Speaker, I'd like someone to explain to me why the pharmaceutical companies need this exemption. Thank you.

The **SPEAKER**: The Representative from Newcastle, Representative Devin, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Moonen.

Representative **MOONEN**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I plan to speak separately of the question that was just asked, but I guess I'll answer it while I'm at it. The pharmaceutical industry themselves couldn't explain why they needed the exemption, so I think it's not reasonable to expect any of us to be able to explain why they need it. I won't repeat anything I said the last time we debated this bill. I just want to point out I did a little research on what's going on with patent troll legislation on the federal level because most patent law is regulated at the federal level, and this patent trolling issue is certainly not unique to Maine. It's a problem in every state. So, of course, every state is going to their members of Congress and asking them to deal with this. The United States House of Representatives, in December, passed a bill called the Innovation Act to deal with patent reform and stop patent trolling. That bill passed 325-91 and it passed without an exemption for pharmaceutical companies. I don't normally think of Congress as a group of people who have a lot of intestinal fortitude, but, in this case, John Boehner and Eric Cantor said no to an exemption for the pharmaceutical company. So if they can have the intestinal fortitude to do that, I think we can too. Thank you, Mr. Speaker.

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

Representative **MORIARTY**: Thank you, Mr. Speaker. Good afternoon, Fellow Members of the House. With the utmost respect for my Committee Chair, I rise to support the motion to Recede and Concur. I was a member of the Majority Report on this particular bill. If the question is do I feel squeaky clean about the Majority Report, my answer would be no. However, it's clear from all of our work this week and in previous weeks and in the days facing us that we will, on occasion, be asked to compromise to accomplish the greater good, even though we may not be able

to achieve everything that we intend but would like to see happen, and this is an example of that. As my chair has pointed out, the only distinction between the two reports is the inclusion or exclusion of the pharmaceutical industry. I do not want to see this bill fail. If we chose not to exempt the pharmaceutical industry, the bill has strong support from Maine's lending industry, Maine's retailers and other Maine business associations an Ought to Pass, notwithstanding the exemption, and I urge support for the motion. Thank you.

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. This is another occasion, I think, where we have to demonstrate that Augusta is not Washington, D.C., where the power of money is king. PhRMA, the trade group for the pharmaceutical industry, is the largest campaign contributor in the nation. It represents the most profitable industry in the nation. When it wants something, it gets something in Washington. For example, patent laws have been repeatedly tinkered with in the legislative process so that generic drug alternatives have been delayed and delayed, much to the cost of your average consumer. The exemption in the Medicaid Part D which provides prescription drugs to Medicare patients, seniors primarily, is an exemption that prohibits price negotiation by Washington with pharmaceutical companies, even though it is the biggest buyer in the nation. If we adopt this bill, with this amendment, it will be a recognition that pharmaceuticals can have their way in of Augusta as well as in Washington, that they can take any good bill – and this is a good bill, it's a needed bill – and poison it with their self-interests, and we must stand by and let it happen. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Livermore Falls, Representative Knight.

Representative **KNIGHT**: Thank you, Mr. Speaker. Point of clarification, if I might. My good friend from Brunswick, Representative Priest, suggests that either the Majority or Minority Report essentially accomplishes the same thing. My concern and my question of you, I guess, if that if we reject the motion on the floor and Recede and Concur, does that not kill the bill effectively, given the action of the other body.

The **SPEAKER**: If the House Recedes and Concur, then we agree with the Senate's position which was the Majority Report. So, in effect, no.

Representative **KNIGHT**: So, in effect, I guess the question is if we do not support the pending motion, the bill dies between the bodies. That's really my question.

The **SPEAKER**: We can't speak to the final disposition of the bill. All we can say is if we do not Recede and Concur, there can be another pending motion. There will be another pending motion, if the Recede and Concur motion fails.

The Chair recognizes the Representative from Livermore Falls, Representative Knight.

Representative **KNIGHT**: Thank you. And I strongly recommend to this body that we support the motion on the floor. In speaking with the folks that lobby in the hallways from the credit unions and the banks, this an extremely important bill to rectify some problems. I know there is an unintended consequence of the pharmaceutical, but I think, as my previous speaker just indicated, this is that we need to overlook that and do what's right and pass this bill. Thank you very much.

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

Representative **BECK**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I, too, am reticent to rise, but I do support the Recede and Concur motion. I have



much respect for the concerns from the Representative from Brunswick, Representative Priest. The Representative from Portland, Representative Moonen, pointed out that issues of patent very much are a federal matter and what is before us, the commonality between the Majority and the Minority Report is the creation of an affirmative civil action in Maine courts, not federal courts. Certainly, that could explain the reason for the exemption and that is that patent infringement suits are best left to be dealt with under Title 35 of the United States Code in federal court, not in our Maine courts. I also, I can't predict or promise, but I would have a hard time believing that the owner of a drug patent would send a bad faith demand letter, as defined by the bill, and that's, as members of the committee know and supporters of both reports know, a bad faith letter, as defined by the bill, would be a letter that does not contain a patent number or the owner of the patent. Failing to Recede and Concur jeopardizes the bill. This is a serious concern for Maine's banks and credit unions. I think we should do the best we can under the circumstances and Recede and Concur. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Mexico, Representative Briggs.

Representative BRIGGS: Thank you, Mr. Speaker. For me, I think this is just one of those times that we need to take the bad with the good and hopefully to possibly continue to work on this subject moving forward at a later time. I, too, will Recede and Concur for the betterment of our credit unions at this time. Thank you.

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

Representative DAUGHTRY: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the pending motion. This isn't a compromise. This is carving a loophole through one industry. I've done a lot of work around bad faith assertions and looked at what is nicking patent trolls throughout the country. This bill was passed in Vermont and many other bills are being considered by other state legislatures and then coming from a place of protecting our small businesses, from folks who register a patent for something that they don't own, and pharmaceutical companies have actually done this to each other all the time. My friend went to go get her Lyme disease medication from the local pharmacy and all of the sudden she was being charged \$115, and she asked, "Why?" and the pharmacist told her that the generic version by a small local company was being sued by a giant pharmaceutical company over a bad faith assertion and suddenly she's left with a big bill. So we should take a stand and not create any loopholes and make sure regulation applies to everyone, and I urge you to follow my light and not Recede and Concur.

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. I myself don't support PhRMA and I think nobody knows better than that than you serving with me in the Health and Human Services. But I am going to support the Majority Report on LD 1660 because I don't want to lose this for the Maine credit unions. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Hickman.

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

The SPEAKER: The Representative may pose his question.

Representative HICKMAN: I don't know if it's an appropriate question, but I want to wrap my mind around the exemption for the carve-out or whatever we're calling it. Could the carve-out for

PhRMA affect the CanaRX bill that we passed earlier in this session?

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

Representative TREAT: Thank you, Mr. Speaker. To respond to that question, I don't think it directly addresses that particular piece of legislation. What it goes to is more generally the cost of prescription drugs, and it's likely to increase the cost, in general, for prescription drugs throughout the country.

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

Representative LAJOIE: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Many of us in this House wear many different hats when we're not here doing the people's business. I happen to do so as well and, since 1997, I've been a member of the board of directors for my credit union in Lewiston, as well as served as chair. We are a very, very small credit union. Believe it or not, we don't have an ATM machine. However, with shared banking, as you can understand, some of our customers will use those machines. Sitting in a meeting the other day talking about this particular bill, the question came up as to why the PhRMA situation was in the bill when the bill was brought forward just to address the situation within the credit union and/or banking industry with ATM machines. I guess that's what bothers me as well. I think it's fairly straightforward voting to Recede and Concur, and, in my opinion, it's the way to go. If there is a battle to be fought on another ground, then so be it, but let's not use this one to try to accomplish that task. Thank you.

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

Representative CAREY: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. We talk in this body and in this building of policy, procedure and politics, and it's easy to lose the forest for the trees. Policy, procedure and politics are the means to what we do, not the end. The end is our conscience, the conscience of each of us and the service of each of us to our constituents. So policy, procedure and politics, let's take each in turn. The Representative from Livermore, Representative Knight, has asked about the procedural posture. We're in non-concurrence with the body that has insisted. I urge you to vote this motion down and then we could do what the Joint Rules anticipate which is a Committee of Conference. We are not to speak of other actions of another body or the Chief Executive and it's not simply decorum I would suggest to you, but it's the only way that we serve our conscience and our constituents by speaking of what drives us to vote and why we do what we do. The Founders, in their brilliance, set forward two bodies of 186 people, each making decisions in those ways, and then we get to the result that is worthy of the service and the honor that we each have here. The politics. Personally, I have a 100 percent voting record with the credit unions because I believe what they stand for and I support whom they serve. But that is not to be confused with anything else. I serve at the fealty of nobody but my constituents and my conscience. So the policy. Patent trolls is a huge problem in our society. It's becoming bigger and it's critical that this body take action to make clear that it's not okay to file lawsuits that are in bad faith simply with the expectation that they be settled in order to save on costs of litigation. I support this bill. I support the exact bill that the credit unions and the banks brought to this Legislature. That is not what we would be supporting by this motion. So, last week, I

think it was, we took this up last. I asked a question to the body and it wasn't answered then and it has not been answered by any of the members of the credit unions who have emailed me with concern, nor by anybody who I walk by in the halls every day. So I ask again a question through the Chair to anybody who may answer.

The SPEAKER: The Representative may pose his question.

Representative CAREY: What policy rationale is there to exempt one industry that is no different than many other industries in this country that drive the innovation that leads to our prosperity? Thank you, Mr. Speaker.

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

A roll call has been ordered. The pending question before the House is Recede and Concur. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 652**

YEA - Beaudoin, Beaulieu, Beck, Bennett, Berry, Black, Bolduc, Briggs, Brooks, Campbell J, Campbell R, Casavant, Chase, Chenette, Clark, Crafts, Cray, Crockett, Davis, Dill, Dion, Dorney, Dunphy, Duprey, Espling, Farnsworth, Fitzpatrick, Fowle, Fredette, Frey, Gideon, Gifford, Gilbert, Gillway, Graham, Grant, Guerin, Harvell, Hayes, Hickman, Hobbins, Johnson P, Jorgensen, Kaenrath, Keschl, Kinney, Knight, Kornfield, Kumiega, Kusiak, Lajoie, Libby A, Libby N, Lockman, Long, Longstaff, Luchini, MacDonald S, Maker, Marean, Marks, Mason, Mastraccio, McCabe, McClellan, McElwee, McLean, Moriarty, Morrison, Nadeau A, Nelson, Newendyke, Nutting, Parry, Pease, Peavey Haskell, Peoples, Peterson, Pouliot, Rankin, Reed, Rotundo, Russell, Sanderson, Saucier, Saxton, Schneck, Shaw, Short, Sirocki, Stanley, Theriault, Timberlake, Tyler, Volk, Wallace, Weaver, Welsh, Werts, Willette, Wilson, Winchenbach, Winsor, Wood, Mr. Speaker.

NAY - Beavers, Carey, Chipman, Cooper, Daughtry, Devin, Dickerson, Evangelos, Gattine, Goode, Hamann, Hubbell, Jones, Kent, Kruger, MacDonald W, McGowan, Monaghan-Derrig, Moonen, Nadeau C, Plante, Priest, Rochelo, Rykerson, Sanborn, Stuckey, Tipping-Spitz, Treat.

ABSENT - Ayotte, Boland, Cassidy, Chapman, Cotta, DeChant, Doak, Harlow, Herbig, Jackson, Johnson D, Malaby, Noon, Powers, Pringle, Turner, Verow, Villa.

Yes, 105; No, 28; Absent, 18; Excused, 0.

105 having voted in the affirmative and 28 voted in the negative, with 18 being absent, and accordingly the House voted to **RECEDE AND CONCUR**.

**COMMUNICATIONS**

The Following Communication: (H.C. 403)

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

April 4, 2014  
Honorable Millicent M. MacFarland  
Clerk of the House  
2 State House Station  
Augusta, Maine 04333  
Dear Clerk MacFarland:

With reference to the Senate's action whereby it insisted and joined in a Committee of Conference on the disagreeing action between the two branches of the Legislature on the 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)

I have appointed as conferees on the part of the Senate the following:

Senator Cleveland of Androscoggin  
Senator Boyle of Cumberland  
Senator Vitelli of Sagadahoc

Sincerely,  
S/Justin L. Alfond  
President of the Senate

**READ and ORDERED PLACED ON FILE.**

Reference was made to 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)

In reference to the action of the House on April 4, 2014 whereby it Insisted and Asked for a Committee of Conference, the Chair appointed the following members on the part of the House as Conferees:

Representative BEAVERS of South Berwick  
Representative TIPPING-SPITZ of Orono  
Representative DUNPHY of Embden

**REPORTS OF COMMITTEE**

**Divided Report**

Majority Report of the Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-807)** on Bill "An Act To Promote Rockweed Habitat Conservation through the Consideration of No-harvest Areas"

(H.P. 1318) (L.D. 1830)

Signed:

Senators:

JOHNSON of Lincoln  
MAZUREK of Knox  
WOODBURY of Cumberland

Representatives:

KUMIEGA of Deer Isle  
DEVIN of Newcastle  
DICKERSON of Rockland  
DOAK of Columbia Falls  
PARRY of Arundel  
SAXTON of Harpswell  
WEAVER of York  
WINCHENBACH of Waldoboro

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-808)** on same Bill.

Signed:

Representatives:

CHAPMAN of Brooksville  
KRUGER of Thomaston

**READ.**

On motion of Representative KUMIEGA of Deer Isle, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-807)** was **READ** by the Clerk and **ADOPTED**.

LEGISLATIVE RECORD - HOUSE, April 4, 2014

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-807)** and sent for concurrence.

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

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On motion of Representative FARNSWORTH of Portland, the House adjourned at 2:41 p.m., until 9:00 a.m., Monday, April 7, 2014 in honor and lasting tribute to Reverend Dr. Martin Luther King, Jr. on the anniversary of his assassination.