

MAINE STATE LEGISLATURE

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House of Representatives
One Hundred and Twenty-Third Legislature
State of Maine

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Pages 682-1357

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
SECOND REGULAR SESSION
15th Legislative Day
Tuesday, February 12, 2008

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

Prayer by Major Norman Garcia, Salvation Army, Old Orchard Beach.

National Anthem by Martin Swinger, Augusta.

Pledge of Allegiance.

The Journal of Thursday, February 7, 2008 was read and approved.

COMMUNICATIONS

The Following Communication: (H.C. 445)

**STATE OF MAINE
123RD MAINE LEGISLATURE**

January 17, 2008

The Honorable Shawn Graham

Premier of New Brunswick

Box 6000

Fredericton, NB

Canada

E3B 5H1

Dear Premier Graham:

It is our pleasure to invite you to address a Joint Convention of the 123rd Maine Legislature on February 12, 2008 at 11:00 a.m. concerning the Province of New Brunswick and any other matters you may care to bring to our attention.

We look forward to seeing you then.

Sincerely,

S/Beth Edmonds

President of the Senate

S/Glenn Cummings

Speaker of the House

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 446)

**OFFICE OF THE PREMIER
NEW BRUNSWICK, CANADA
PO BOX 6000
FREDERICTON, NEW BRUNSWICK
CANADA E3B 5H1**

February 1, 2008

Honorable Beth Edmonds

President of the Senate

The Maine Senate

3 State House Station

Augusta, ME 04333-0003

Honorable Glenn Cummings

Speaker of the House

Maine House of Representative

2 State House Station

Augusta, ME 04333-0002

Dear President Edmonds and Speaker Cummings:

Thank you for your kind invitation to address a Joint Convention of the 123rd Maine Legislature. I'm particularly pleased with the friendship and the cooperation that is building between the State of Maine and the Province of New Brunswick. On February 12th, I would be pleased and honoured to address the Maine State Legislature. I look forward to meeting you both at that time.

Yours truly,

S/Shawn Graham

Premier

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 447)

**STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
COMMITTEE ON LABOR**

January 31, 2008

The Honorable Beth Edmonds

President of the Senate

The Honorable Glenn Cummings

Speaker of the House of Representatives

123rd Legislature

State House

Augusta, ME 04333

Dear Madam President and Mr. Speaker:

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on Labor from the review and evaluation of the Office of the Department of Labor under the State Government Evaluation Act. In its review, the Committee found that the Office of the Department of Labor is operating within its statutory authority.

Sincerely,

S/Senator Ethan K. Strimling

Senate Chair

S/Representative John L. Tuttle

House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: (S.C. 628)

**MAINE SENATE
123RD MAINE LEGISLATURE
OFFICE OF THE SECRETARY**

February 7, 2008

Honorable Glenn Cummings

Speaker of the House

2 State House Station

Augusta, ME 04333-0002

Dear Speaker Cummings:

In accordance with 3 M.R.S.A. §158 and Joint Rule 506 of the 123rd Maine Legislature, please be advised that the Senate today confirmed the following nominations:

Upon the recommendation of the Committee on Judiciary, the nomination of Honorable William R. Anderson of Morrill for appointment as a Superior Court Justice.

Upon the recommendation of the Committee on Judiciary, the nomination of Honorable Roland A. Cole of Wells for reappointment as a Superior Court Justice.

Upon the recommendation of the Committee on Judiciary, the nomination of Honorable Robert E. Crowley of Kennebunk for reappointment as a Superior Court Justice.

Upon the recommendation of the Committee on Judiciary, the nomination of Honorable Donald H. Marden of Oakland for appointment as an Active Retired Superior Court Justice.

Upon the recommendation of the Committee on Judiciary, the nomination of Honorable Jane S. Bradley of Freeport for appointment as an Active Retired District Court Judge.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Bill "An Act To Provide Additional Funding for the Low-income Home Energy Assistance Program" (EMERGENCY)

(H.P. 1575) (L.D. 2208)

Sponsored by Speaker CUMMINGS of Portland.

Cosponsored by President EDMONDS of Cumberland and Representatives: ADAMS of Portland, BABBIDGE of Kennebunk, BARSTOW of Gorham, BEAUDETTE of Biddeford, BEAUDOIN of Biddeford, BERRY of Bowdoinham, BLANCHARD of Old Town, BLISS of South Portland, BOLAND of Sanford, BRAUTIGAM of Falmouth, BRIGGS of Mexico, BRYANT of Windham, BURNS of Berwick, CAIN of Orono, CAMPBELL of Newfield, CANAVAN of Waterville, CAREY of Lewiston, CARTER of Bethel, CASAVANT of Biddeford, CLARK of Millinocket, CLEARY of Houlton, CONNOR of Kennebunk, CONOVER of Oakland, CRAVEN of Lewiston, CROCKETT of Augusta, DILL of Cape Elizabeth, DRISCOLL of Westbrook, DUCHESNE of Hudson, DUNN of Bangor, EATON of Sullivan, EBERLE of South Portland, FAIRCLOTH of Bangor, FINCH of Fairfield, FISCHER of Presque Isle, GERZOFISKY of Brunswick, GREELEY of Levant, GROSE of Woolwich, HANLEY of Gardiner, HARLOW of Portland, HASKELL of Portland, HILL of York, HINCK of Portland, HOGAN of Old Orchard Beach, JACKSON of Allagash, JONES of Mount Vernon, KAENRATH of South Portland, KOFFMAN of Bar Harbor, LUNDEEN of Mars Hill, MacDONALD of Boothbay, MAKAS of Lewiston, MARLEY of Portland, MAZUREK of Rockland, McDONOUGH of Scarborough, McKANE of Newcastle, MILLER of Somerville, MILLS of Farmington, MIRAMANT of Camden, NASS of Acton, NORTON of Bangor, PATRICK of Rumford, PENDLETON of Scarborough, PEOPLES of Westbrook, PERCY of Phippsburg, PERRY of Calais, PIEH of Bremen, PILON of Saco, PINEAU of Jay, PINGREE of North Haven, PIOTTI of Unity, PRATT of Eddington, PRIEST of Brunswick, RAND of Portland, RICHARDSON of Warren, RINES of Wiscasset, ROSEN of Bucksport, SAMSON of Auburn, SAVAGE of Falmouth, SAVIELLO of Wilton, SCHATZ of Blue Hill, SILSBY of Augusta, SIMPSON of Auburn, SIROIS of Turner, STRANG BURGESS of Cumberland, SUTHERLAND of Chapman, THERIAULT of Madawaska, TREAT of Hallowell, TRINWARD of Waterville, TUTTLE of Sanford, VALENTINO of Saco, WAGNER of Lewiston, WATSON of Bath, WEBSTER of Freeport, WEDDELL of Frankfort, WHEELER of Kittery, WOODBURY of Yarmouth, Senators: BARTLETT of Cumberland, BOWMAN of York, COURTNEY of York, DIAMOND of Cumberland, GOOLEY of Franklin, HASTINGS of Oxford, NUTTING of Androscoggin, RAYE of Washington, SCHNEIDER of Penobscot, SNOWE-MELLO of Androscoggin, SULLIVAN of York.

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

Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and ordered printed.

Under suspension of the rules, the Bill was given its **FIRST READING WITHOUT REFERENCE** to a committee.

Under further 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** and sent for concurrence. **ORDERED SENT FORTHWITH.**

Bill "An Act To Ensure Adequate Funding for Conservation Districts"

(H.P. 1573) (L.D. 2203)

Sponsored by Representative JACKSON of Allagash.

Cosponsored by Senator BRYANT of Oxford and Representatives: CLEARY of Houlton, FINCH of Fairfield, LUNDEEN of Mars Hill, RICHARDSON of Carmel, THERIAULT of Madawaska, WHEELER of Kittery, Senator: MARTIN of Aroostook.

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

Committee on **INLAND FISHERIES AND WILDLIFE** suggested and ordered printed.

REFERRED to the Committee on **INLAND FISHERIES AND WILDLIFE** and ordered printed.

Sent for concurrence.

Bill "An Act To Further Clarify Worker Payments for Clothing and Equipment"

(H.P. 1574) (L.D. 2205)

Sponsored by Representative SMITH of Monmouth.

Cosponsored by Senator DOW of Lincoln and Representatives: CLARK of Millinocket, CONNOR of Kennebunk, DRISCOLL of Westbrook, HASKELL of Portland, JACKSON of Allagash, PRATT of Eddington, TUTTLE of Sanford, WEBSTER of Freeport.

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

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

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

Sent for concurrence.

Bill "An Act To Promote the Use of Safer Chemicals in Consumer Products"

(H.P. 1577) (L.D. 2210)

Sponsored by Representative KOFFMAN of Bar Harbor. (GOVERNOR'S BILL)

Cosponsored by Senator DOW of Lincoln and Representatives: BARSTOW of Gorham, CAMPBELL of Newfield, CONNOR of Kennebunk, HINCK of Portland, PINGREE of North Haven, SIMPSON of Auburn, Senators: BENOIT of Sagadahoc, MARRACHÉ of Kennebec.

Committee on **NATURAL RESOURCES** suggested and ordered printed.

REFERRED to the Committee on **NATURAL RESOURCES** and ordered printed.

Sent for concurrence.

Bill "An Act To Amend the Laws Governing Commercial Vehicles"

(H.P. 1572) (L.D. 2204)

Sponsored by Representative JACKSON of Allagash.

Cosponsored by Senator MARTIN of Aroostook and Representatives: THERIAULT of Madawaska, THOMAS of Ripley.

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

Bill "An Act To Amend the Axle Weight Laws for Trucks Transporting Unprocessed Agricultural Products and Forest Products" (EMERGENCY)

(H.P. 1576) (L.D. 2209)

Sponsored by Representative THOMAS of Ripley.

Cosponsored by Senator MARTIN of Aroostook and Representatives: CROSTHWAITE of Ellsworth, Speaker CUMMINGS of Portland, MARLEY of Portland, TARDY of Newport, Senators: RAYE of Washington, ROSEN of Hancock, SAVAGE of Knox, WESTON of Waldo.

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

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

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

Sent for concurrence.

Pursuant to Statute

Department of Agriculture, Food and Rural Resources

Representative PIEH for the **Department of Agriculture, Food and Rural Resources** pursuant to the Maine Revised Statutes, Title 5, section 8072 asks leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 29: Standards for Water Quality Protection, Section 6, Buffer Requirement, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control. (EMERGENCY)

(H.P. 1578) (L.D. 2211)

Be **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

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

SPECIAL SENTIMENT CALENDAR

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

In Memory of:

Pamela Morrill, of Gardiner, Committee Clerk for the Joint Standing Committee on Health and Human Services and former Committee Clerk for the Joint Standing Committee on Education and Cultural Affairs. Pam was a loving mother, daughter and partner. She loved politics and was loyal to all legislators, regardless of party affiliation. Her cheerfulness and energy will be missed by all who had the pleasure of knowing her. We acknowledge her dedicated service to the State of Maine. She will be greatly missed and long remembered by her partner Ike, her loving family, her colleagues and her many friends;

(HLS 1000)

Presented by Representative PERRY of Calais.

Cosponsored by Representative BEAUDOIN of Biddeford, Senator BRANNIGAN of Cumberland, Representative CAMPBELL of Newfield, Representative CONNOR of Kennebunk, Representative FINLEY of Skowhegan, Representative GROSE of Woolwich, Representative JONES of

Mount Vernon, Representative LEWIN of Eliot, Senator MARRACHÉ of Kennebec, Representative MILLER of Somerville, Senator RAYE of Washington, Representative SOCTOMAH of the Passamaquoddy Tribe, Representative WALKER of Lincolnville, Representative HANLEY of Gardiner, Senator McCORMICK of Kennebec.

On **OBJECTION** of Representative PERRY of Calais, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Calais, Representative Perry.

Representative **PERRY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have had the pleasure of knowing Pamela Morrill as our Committee Clerk for a year and a half, and she was not only a clerk but also a good friend.

When she first came on, I thought: How are we going to do this with a new clerk and a big committee? She had clerked Education in the past and came on with an organization and just a vitality that just put everything in order, and also kept us in order as a committee.

But what I will miss most is the mornings when I come in at 8 o'clock, and she is having her toast and peanut butter and I have my English muffin and peanut butter, and we talk about family, and we talk about what we have done over the weekend, we talk about our children and what they are doing. We talked about our parents, as she was very, very strongly involved with her parents, as well as mine, and we would sort of compare notes and talk.

We also got the chance to have the pleasure of the flowers that she got, almost daily, in the Committee, which just brightened our committee work, everyday. Her vitality, her love of life helped us all, even through the hardest times. She was a good friend for the time that I knew her. She is a part of us as we move on with our committee work and is very dearly missed. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Kennebunk, Representative Connor.

Representative **CONNOR**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. It is certainly with a sad heart that I rise today to speak in memory of Pam. As a shy committee member joining HHS and, in fact, many of you would probably not think of me that way, walking into this place a year and a half ago and meeting so many new people, so many new faces and really worried about what kind of an impact am I going to have here, who is an ally, who is a friend, who is out to get you, and Pam Morrill was amazing in the fact that she could tell me exactly who everybody was with assurity and detail. That was an amazing thing to have.

I sat right in front of where her desk was in committee and would have the opportunity, a lot, as many of the poor folks who sit next to me—the good Representative from Augusta and Portland can attest—I talk a lot during session. When somebody says something on the floor that I find funny and ironic, I turn around and I bring it up and say it, and in committee I did that a lot, too, and Pam and I would commiserate, often, about some of the funny things that happened. For those of you that did not know her, she had an unbelievable wit, an unbelievable presence really. One of the things that I take back to what Anne just talked about with family is the love that she had for her daughter. I don't know if her family is here up above, but the love that she talked about for her daughter. We talked about her experiences in softball; we talked about her experiences in field hockey. These are things that are several years away from when the daughter was actually playing these sports, but in talking to Pam you would think it would have happened yesterday.

She will be deeply missed in our committee. The flowers that Anne just talked about as well, on Thursday, the day before she passed, there was a beautiful set of flowers, a fresh lily, sitting right behind us, and I asked where they came from and, of course, they came from Ike and I will not share with you the kinds of jokes she made about how she got them, but I can tell you that she was an amazing free spirit. Her spirit still lives in this chamber today and it will live in our committee going forward, and all I can say is thank you, friend.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Norton.

Representative **NORTON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The good Representative Perry talked about Pam chairing a big committee; well I want you to know that was not the first big committee, she had been in Education for quite some time.

We also loved and appreciated Pam and the things you say, I could also say. I talked with her a great deal about her daughter. We also talked about motorcycles, interestingly enough. I found her very easy to work with, and truly a great friend. Pam has created one of those holes that is not easily filled. We all feel her absence and will remember her fondly for a lot of the good conversations we had. Thank you.

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

At this point, a message came from the Senate borne by Senator Mitchell of that Body, proposing a Joint Convention of both branches of the Legislature to be held in the Hall of the House at 11:00 in the morning for the purpose of extending to the Honorable Shawn Graham, Premier of New Brunswick, an invitation to attend the Joint Convention and to make such communication as pleases him.

Thereupon the House voted to concur in the proposal for a Joint Convention to be held at 11:00 in the morning and the Speaker appointed Representative PINGREE of North Haven to convey this message to the Senate.

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

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

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment Thursday, February 7, 2008, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Expression of Legislative Sentiment Recognizing the Winthrop High School Boys Cross-County Running Team

(HLS 979)

TABLED - February 5, 2008 (Till Later Today) by Representative FLOOD of Winthrop.

PENDING - **PASSAGE**.

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

Representative **FLOOD**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I want to take a moment and recognize Coach Jay Lindsey, and his very fit group

of runners from Winthrop, for having won the 2007 State Class C Boys Cross-Country Championship. It was our objective to do this about a week and a half ago, but as you may remember there was more than one snow day.

This is a very nice group of young people who have run together for several years, and they enjoyed very nice rivalries with neighboring schools that have made all of them better runners. They have grown into a strong family and team, and this is Winthrop's first Boys Cross-Country state championship.

I am also pleased at several members of the Winthrop Girls Team, who are visiting with us today as well, to share in that recognition. I want to say congratulations and best wishes to the team. Many of them go full swing until the conclusion of the skiing cross-country season, and I expect we might see them back again. I wish them all continued success, and I hope that they have had a great day of recognition and good memories. Thank you very much, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Berube.

Representative **BERUBE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Over the past few years, it has been my distinct pleasure to introduce the Lisbon High School Greyhounds as the State Cross-Country Class B champions. In order to make it interesting and not to discourage future sports, the future of this great sport, Lisbon did not win this year. As a result, I, and the High School, congratulate Winthrop High School Cross Country Team in a magnificent triumph.

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

Subsequently, Representative PINGREE of North Haven reported that she had delivered the message with which she was charged.

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 Thursday, February 7, 2008, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Expression of Legislative Sentiment Recognizing John "Jack" Hersom, of Sidney, winner of the James J. Fitzpatrick Trophy

(HLS 991)

TABLED - February 6, 2008 (Till Later Today) by Representative FINCH of Fairfield.

PENDING - **PASSAGE**.

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

Representative **FINCH**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I think the expression of legislative sentiment, as read by our good Clerk, says it all. Out of all the hundreds of seniors that play football every year in the State of Maine, only one can receive the Fitzpatrick Trophy, and I am very proud this year that that is Jack Hersom. You heard of his accomplishments as an athlete, as a student and as an exemplary young man.

If I may digress for just a moment from football on a personal note, back in the 70's, I was teaching in Gardiner at the time, and for several years coached the junior high baseball team. One of the players on that team was a young man named John Hersom. He later went on to college, became an outstanding teacher and

coach. Many years later, I was now living in Fairfield and helping coach a Babe Ruth baseball team, and one day at tryouts there appeared John Hersom, or Jack. I have been through two generations; I have known the Hersom family in one way or another for along time, so I had the opportunity to know Jack as not only a student but also as his coach for two years in Babe Ruth baseball. You learn a lot about an individual when you see them in that setting. You learn how they work with others, you learn how they expect success, and although there were not many times in his case, you also learn how they accept failure.

Jack Hersom is a young man that has brought pride to his community, and pride to the Hersom family. Knowing him as I do, I do not think that any person could be given a son of which you would be prouder. In short, this is an extremely, extremely fine young man, I have said that before privately, and I am proud to stand here today and say it publicly.

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

Representative **HARLOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have known his family probably longer than anybody in here: I have known them for 45 years. Doc Hersom, we would be remiss if we did not mention the good genes that Jack gets from Doc Hersom, his grandfather, and his grandmother, what great people they are. I am sure Doc is just as proud of his son and his grandson if he was still alive. That is a great family and a great bunch of people. Thank you very much for your patience.

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

HOUSE DIVIDED REPORT - Report "A" (6) **Ought to Pass as Amended by Committee Amendment "B" (H-657)** - Report "B" (3) **Ought Not to Pass** - Report "C" (2) **Ought to Pass as Amended by Committee Amendment "C" (H-658)** - Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Provide a Felony Penalty for Assault on a Firefighter"

(H.P. 201) (L.D. 239)

TABLED - January 24, 2008 (Till Later Today) by Representative GERZOFSKY of Brunswick.

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

Representative PINGREE of North Haven assumed the Chair.

The House was called to order by the Speaker Pro Tem.

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

Representative **SYKES**: Thank you Madam Speaker. Madam Speaker, Men and Women of the House. LD 239 makes it a felony to assault a firefighter, and Report "C" simply adds the terminology "at the scene of a fire or other emergency."

For many, this becomes an emotional issue and you may hear some emotional testimony. Everybody likes the fire department, and everybody likes firefighters and wants to support them. They are good people who perform a very dangerous job, and most of them are volunteers. As is the case with many issues here in Augusta, I need to separate myself from the emotionalism and ask some questions and make some factual observations. Let me highlight some of the questions and observations that lead me to vote against Report "C."

First of all, is there any evidence that existing law is inadequate? There is none. Is there any known case in which the charges for assaulting a firefighter were too lenient? There are none. Do I want to make laws based upon who was assaulted, rather than the actual crime? I do not want to do that. In fact, I believe that more teachers are assaulted than firefighters, more coaches are assaulted than firefighters, more referees are assaulted than firefighters; and quite frankly, the Criminal Justice Committee dealt with a bill to make it a felony to assault an athletic official, a coach, at an athletic contest. The Criminal Justice Committee, in its wisdom, turned that into a resolve to ask those people to simply use appropriate, currently available enforcement tools.

The current charging actions for assault against anyone: a simple assault, which is a misdemeanor; aggravated assault, which is a Class B felony; and an elevated aggravated assault, which is a Class A felony, with up to 20 years in jail possible. Ladies and Gentlemen of the House, this is a measure response. These charges are based on not who was assaulted, but the extent of the assault—was a dangerous weapon used, for example—and the seriousness of the injury to the victim.

The Criminal Law Advisory Commission states and I will quote: "Felony cases consume more resources of the criminal justice system and carry more severe consequences than misdemeanor cases." If you remember Chief Justice Saufley, in her address recently, talked about the felony creep, talked about the increase in felony penalties relating to overcrowding in our prison system. Please remember, Ladies and Gentlemen, that the average felony sentence is one year and ten months in the Maine State Prison, for the fiscal note of \$70,000 per sentence.

The District Attorney now has the discretion to charge based upon the actual assault and the extent of the injury to the victim. If this passes, is there a district attorney out there today or tomorrow who may say, well I think it was the intent of the Legislature to charge all of these as felonies; I don't know if there is one, I hope not, but I don't want to take that chance. Please remember that making what may well be a minor offense of offensive physical contact a felony, is a serious penalty with lifetime—lifetime—consequences.

Some have said and believe that this will provide protection for firefighters at the scene of a fire. Does anyone really believe that a safety officer at the scene of a structure fire is going to announce every 10 minutes that it is a felony to assault a firefighter? That is not going to happen; there is not protection in this bill whatsoever. This bill only comes into play after the incident is over and someone is charged.

Ladies and Gentlemen of the House, whether I am having a cup of coffee at the Wicked Good Store in Lovell, the Market Basket in Harrison, or Ricky's Diner in Bridgton, I have often heard the criticism of the Legislature, that we lack common sense in our decision making. To me, this is a common sense decision and you can spell it sense, or you call spell it cents, either way is a justification to vote against Report "C." Madam Speaker, I request the yeas and nays. Thank you.

Representative SYKES of Harrison **REQUESTED** a roll call on the motion to **ACCEPT** Report "C" **Ought to Pass as Amended**.

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bangor, Representative Blanchette.

Representative **BLANCHETTE**: Thank you Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This is not an emotion bill; it is a common sense bill. How do I get the best people in the State of Maine to put their life on the line 24-7,

to save me, to save you, to save your home and to save your property?

Maine is big rural state; we have been through this before. We are spread out where there is a population base, the southern part of the state that you trip over each other walking down the sidewalk; up in my neck of the woods, up in the Allagash area, up around Millinocket and the unorganized territories, you may sit there for half an hour waiting for an emergency vehicle to respond. Your closest state trooper to the Department of Public Safety can and probably is over half an hour away; they cover a big territory. If they are tied up with a life and death accident, they have to call someone to come in and back them up that may be an additional half an hour away. So many, many times, more times that we want to know, the first responder on the scene of an incident, regardless of what the severity of it is, whether it is a car crash, a fire, a whatever, will be your fire department. These people have gone through many, many hours of training, a lot of it at their expense and their family's expense, and the myth that is floating around this House that this going to cost a whole lot of money, you need to stop and look at the structure, how a volunteer fire department is manned, how every fire department in the State of Maine is manned. There is no firefighter, no EMT, nobody that is on that squad outside of the Chief that can file a complaint for assault. If an EMT first responder, or anybody on it, is assaulted by a crash victim that is trying to hide something from them, that has to go through channels and the Chief of that department makes the decision of whether we are going to charge an assault or not. It is not a call of that firefighter or EMT has the option of doing, so everything is weighted, all of the facts are taken into consideration.

There are many dangerous things out there, situations that I hope in your lifetime that you never have to face. No firefighter, no chief that I know of, no law enforcement official is going to turn around and file an assault charge against a parent that is trying to get to their car to rescue their child. You know, we go to great lengths in this state to train and make sure that our enforcement with the police, fire, whatever they are, are taught how to handle people humanely, that is their first and foremost thought.

Let me walk you through a little déjà vu. I come from, I won't call it a big city, but a medium sized metropolis, in Maine, and we were in an accident and I had my dog with me. The police officer, when he came up, sensing that I was concerned about the health of the dog, the first thing he asked when he drove up was "Is the dog okay?" You know nothing he could have done, he is not a trained vet, but it was the compassion and the caring that meant a lot. We train our firefighters, we train our first responders, we train all of our emergency personnel to put people first. This is peoples' lives they are dealing with. If they are assaulted and they are injured in the line of duty, I do believe that they should be able to go through their department head, to the right resources and have assault charges filed, but you can almost guarantee that defense of a loved one, or protection of an animal, is not going to get a charge of assault out of any responsible chief executive that we have in this state.

This is where common sense comes in. We protect our policemen and with good reason: They carry a gun and they put their life on the line. God only knows when they draw that revolver out of that harness they are prepared to shoot someone. Our fire department, first responders, EMS, do not have that privilege. What they are doing is bringing life saving techniques to everybody. Give them the same consideration, it is not a thing that is going to be abused; in fact, it may go a long way in the ability to retain and to keep good qualified personnel.

If you live in the southern part of the state or in a metropolis like I do, you are not faced with the same problems. But Ladies and Gentlemen, a lot of unorganized territories, a lot of unpopulated miles out there and who sometimes are the only responder on the scene for half an hour, your first responder will be your fire department or your EMS. I urge you to support this when the yeas and nays are taken. Thank you, Mr. Speaker.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

The SPEAKER: The Chair recognizes the Representative from Eddington, Representative Pratt.

Representative PRATT: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I will stand briefly, and I do apologize if I do get a little emotional. This is not an emotional issue, I hear people say that, but to me it is and that is not a bad thing, I don't think. I know a lot of you folks have seen me walking around the halls with my battered fire department baseball cap, and still, right here is my pager that I carry with me, not because I am going to be running back to Eddington anytime soon for a call, but because it reminds me that there are a heck of a lot of people out there right now who are looking out for our homes and our families when we are sitting down right here.

Nothing seems more common sense to me than to make people, whether they are firefighters, whether they are EMTs, or whether they are cops, on a level playing field. Nothing seems more common sense to me than that. It seems ironic to me that we have a felony assault protection for the good folks out there who are doing their jobs, but who can protect themselves with guns and tasers and batons, and when I show up on a fire truck armed with hoses and ladders and an EMS jump kit, I do not receive that same protection. That does not make sense to me and I am sorry if I do not understand it, but that does not make any common sense to me. I would offer, if anybody was looking for what a DA might do in this situation, to take a look at your desks at the handout that was distributed at the request of the good Representative from Hudson, Representative Duchesne, that speaks about Evert Fowl, the District Attorney for Kennebec and Somerset, and his support for this legislation. You cannot have it both ways. You cannot say it does not happen so we don't need it, and you cannot say it is already covered so we do not need it. If it is already covered, we would not be here. The fact is there are not equal protections under the law, and I appreciate your time, and I urge you to support the good Chair of Criminal Justice and follow Representative Gerzofsky's and my light. I appreciate your time.

On motion of Representative PINGREE of North Haven, **TABLED** pending the motion of Representative GERZOFKY of Brunswick to **ACCEPT** Report "C" **Ought to Pass as Amended** and later today assigned. (Roll Call Ordered)

At this point, the Senate came and a Joint Convention was formed.

In Convention

The President of the Senate, the Honorable Beth Edmonds, in the Chair.

The Convention was called to order by the Chair.

On a motion by Senator MITCHELL from Kennebec, it was Ordered, that a committee be appointed to wait upon the Honorable Shawn Graham, Premier of New Brunswick and the Honorable John Elias Baldacci, Governor of the State of Maine to inform them that the two branches of the Legislature are in Convention assembled, ready to receive such communication as may please the Premier to make.

The Order was READ and PASSED.

The Chair will appoint the following:

The Sen. from Cumberland, Sen. Bartlett

The Sen. from York, Sen. Hobbins

The Sen. from Piscataquis, Sen. Smith

The Rep. from South Portland, Rep. Bliss

The Rep. from Portland, Rep. Adams

The Rep. from Bowdoinham, Rep. Berry

The Rep. from Old Town, Rep. Blanchard

The Rep. from Portland, Rep. Hinck

The Rep. from Wiscasset, Rep. Rines

The Rep. from Madison, Rep. Curtis

The Rep. from Pittsfield, Rep. Fitts

The Rep. from Winslow, Rep. Fletcher

The Rep. from Winterport, Rep. Thibodeau

Subsequently, Senator BARTLETT from Cumberland, for the Committee reported that the Honorable Shawn Graham, Premier of New Brunswick, and the Honorable John Elias Baldacci, Governor of the State of Maine will attend forthwith.

The Chair is pleased to welcome to the Convention the Honorable Shawn Graham, Premier of New Brunswick and the Honorable John Elias Baldacci, Governor of the State of Maine

The Chair is pleased to recognize in the Gallery Minister Jack Keir, Minister of Energy.

The PRESIDENT: It is my pleasure to introduce the Premier of the Province of New Brunswick, Canada, the Honorable Shawn Graham. Your province and our state have so much in common. The State of Maine shares a long portion of its land border with the Province of New Brunswick, longer than any other neighboring state or province. Long before this border was drawn, Native Americans inhabited the forests, fields, and waters of this now divided area. The descendants of European settlers of the Saint John and Saint Croix River Valleys and the rest of our common border share a heritage going back to the arrival of Acadian families, more than three centuries ago. It simply makes sense that we work together for the common good of the citizens of New Brunswick and Maine.

Our resources today continue to be extensively intertwined. Family members crisscross the border to visit relatives; some who live in New Brunswick work in Maine and vice versa. We enjoy seeing Canadians in Maine and, likewise, we head east to work and play in New Brunswick. It is a good idea for us to share our natural assets to a mutual benefit. I often say that in Maine we take care of each other and, today I say, the Province and New Brunswick and the State of Maine have resourceful ways in which we can take care of each other. I look forward to hearing your remarks and as we seek to continue our special relationship, I have a small gift from the Speaker of the House and myself, if you would come forward, please.

The Chair is pleased to request the Shawn Graham, Premier of New Brunswick, to please step forward and address the Joint Convention.

Premier GRAHAM: Well, my good friend, Governor John Baldacci; Honorable Beth Edmonds, President of the Senate of Maine; Honorable Glenn Cummings, Speaker of the House of Representatives; Honorable Senators, members of the Maine State Legislature, distinguished guests, Ladies and Gentlemen. I am so pleased to be here today to address the Maine State Legislature. Comme le Premier du Nouveau-Brunswick, la seule province officiellement bilingue au Canada, je suis très fier d'être ici avec vous aujourd'hui.

First, I would like to say thank you. Thank you for this opportunity to join with you today. I would also like to take this opportunity to introduce my colleague from New Brunswick, who has accompanied me today: Jack, I have never seen you get a standing ovation like that in New Brunswick before.

Since taking office in October 2006, I have been every encouraged with the growing friendship and the spirit of cooperation between Governor Baldacci and myself and, also, between our two respective jurisdictions. Of course, we are building on a very long tradition of friendship between our provinces, a friendship that extends back centuries and generations. As geographic neighbors, Maine and New Brunswick share similar issues relating to our economies and our place in the world of globalization. We share common cultural and demographic ties of families and communities, we are both diversifying from resource-based economies, we both have a mix of urban and rural communities, and we both struggle with a shrinking population base.

Our government, New Brunswick, set a goal of self-sufficiency, to be self-sufficient by 2026. In New Brunswick that is more competitive, less dependent on transfers from the Federal Government and, also, in great control of our own destiny. Achieving this means forming new partnerships, partnerships at home with industry, educators and community leaders, and also partnerships beyond our borders. One of those key partnerships is New Brunswick's relationship with the State of Maine. By sharing our experiences and our knowledge and looking of new opportunities for cooperation, each of our jurisdictions can benefit.

On my way here this morning, I stopped in Bangor to speak with the Chamber of Commerce. We are seeing such partnerships between business and industry, and the sister cities of Bangor and also the City of Saint John. They are building linkages and finding ways to collectively solve challenges together. It makes sense to continue those linkages between businesses, to pursue trade and growth in our region, and they do continue.

There is also our ongoing partnership in joint marketing initiatives in the US market, to encourage visitors in Maine to continue to New Brunswick and to entice those who have visited in the past, who are planning a first visit to Maine, to be intrigued by the concept of a two-nation vacation. Earlier today, I had the opportunity to attend the Tourism Conference that the Governor hosts. I have to tell you that it was exciting to see so many people working collectively together on building on that concept of the two-nation vacation.

Now, last year, Governor Baldacci and I signed a memorandum of understanding to increase inter-jurisdictional cooperation between the State and the Province on electrical interconnections. We are pleased that officials are working so diligently to complete the second phase of that study that will lead to greater connectivity between our two respective regions. We also witnessed the signing of a memorandum of understanding,

outlining how the New Brunswick Community College and the Maine Community College will share knowledge, experiences and resources together. These agreements demonstrate spirit of partnership and cooperation between the State of Maine and the Province of New Brunswick. Together, these MOUs are the beginning of a relationship that holds a lot of promise for Maine and New Brunswick.

As I have stressed, our two countries share a history of friendship and partnership. New Brunswick understands the importance of a strong open relationship with the United States, our economy and jobs and our future self-sufficiency depends upon it. New Brunswick is the most trade active of all the Canadian provinces. Our statistics show that 90 percent of our province's exports in 2006 went to the US, of which approximately 10 percent were here in the Maine market. I believe it is also a beneficial relationship for your state as well, as 22 percent of what we imported from the US came from across the border, here in the State of Maine, and I am not sure if that includes all of the New Brunswick cars in Freeport at L.L. Bean.

Now we look forward to expanding trade opportunities in the future and as the Atlantic Gateway moves forward and the details of the Northeast CanAm Connection Study regarding the east to west highway are finalized, we should be presented with many economic opportunities for greater regional, national, and also international trade. I look forward to continuing to work with you to take advantage of the opportunities and address the challenges as we move forward to make this region a better place to both live and work.

While the border between our two nations is changing rapidly, the continued collaboration between our two jurisdictions can set us apart from other sections of the international border. One positive example is the new state-of-the-art border crossing between Calais and St. Stephen that is now under construction. The combined investment of \$100 million represents the new highway, bridge, and border station structures that will enhance the flow of people and goods, while further ensuring the safety of our two nations.

This new facility, when open—and it is important to stress this, Governor, because you and I talked about this, this morning—this new facility, when open, will represent the first new standalone border crossing between our two nations in at least the last 30 years, and would not have been possible without the warm friendships and cooperation that exists between our two regions. We can be proud of the fact that Maine and New Brunswick are opening the first border crossing in over 30 years between our two respective countries.

We can also address challenges together, such as the proposed passport requirement under the Western Hemisphere Travel Initiative. New Brunswick has suggested a go-slow get it right approach to the WHTI. We have a concern that the rushed approach to the implementation of the WHTI would present other challenges, hurt Canada/US trade and tourism, impact jobs, and disrupt the daily lives of both Canadian and American citizens. We are pleased that the ominous appropriations bill includes language mandating a delay of WHTI implementation on the land and sea border crossing until June 1, 2009. This would ensure sufficient preparation time for documentation processing and expansion of our border infrastructure.

It is possible that our jurisdictions could consider future cooperative work towards the establishment of an enhanced driver's license for the State of Maine and the Province of New Brunswick. Our Department of Public Safety has been actively examining what technical changes would be required of existing New Brunswick driver's licenses, for it to be used as a means of cross border identification. In cooperation with our Atlantic

province's neighbors, we will be carrying out a survey of Atlantic Canadians to determine their interest in an enhanced driver's license that would identify citizenship. That survey, along with a National Canadian survey, should give us important feedback in determining the interest and feasibility of implementing such a license in New Brunswick.

Now, I am pleased that Governor Baldacci has visited our province twice in the last year. We have struck a great friendship and we hope to bring forward other ways in which we may work together, Maine and New Brunswick, to enhance our respective economies.

On a personal note today, I would like to remind Governor Baldacci of our challenge that promises to see us both reach a new peak in our political careers. See, we have agreed to climb the highest mountain peaks in Maine and New Brunswick, together, next summer, and we will see firsthand the highlights of the International Appalachian Trail. I look forward to joining the Governor to climb Mount Katahdin in Maine, and Mount Carleton in northwestern New Brunswick. I am curious today in this House, how many of you have climbed Mount Katahdin? Please raise your hands. How many of you have climbed Mount Carleton in New Brunswick? Please raise your hands. I had the same problem with my staff this morning; none of those individuals raised there hands. But I have to tell you that when you stand on those two respective peaks and you look out across the boundaries of Maine and New Brunswick, you realize that the potential is limitless. You realize the glue that bonds our two respective jurisdictions together is the bond that holds us together.

I have to tell you, Governor, that when I climbed Mount Carleton, it was minus 30 degrees; it took six hours to climb to the top in the middle of winter in snowshoes and two hours to climb to the bottom. I cannot guarantee what the mosquitoes will be like in New Brunswick during summer, but it will be a much more temperate weather. I also look forward to re-climbing Mount Katahdin, and I did do Knife's Edge as well and am looking forward to doing that climb again, hopefully you and I.

I also look forward to joining Governor Baldacci in September, when he hosts our colleagues in a meeting of the Conference of New England Governors and Eastern Canadian Premiers, who can also be great allies as we promote our region's trade in the world economy.

So, Mr. Speaker, Madame President, comme on dit en Nouveau-Brunswick, Governor Baldacci, sincerely, thank you today for the hospitality, thank you today for the opportunity to address this assembly. I am very pleased and encouraged, and I hope that this is just the beginning, just the beginning of a strong relationship that we can build upon, one that will further move our region forward, and one where we can share a bright future for the people of Maine and the people of New Brunswick, working collectively together to best serve their interests. Thank you very much.

The Premier withdrew amid the applause of the Convention, the audience rising.

The purpose for which the Convention was assembled having been accomplished, the Chair declared the same dissolved.

The Senate then retired to its Chamber amid the applause of the House, the audience rising.

(After the Joint Convention)

The House was called to order by the Speaker.

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

HOUSE DIVIDED REPORT - Report "A" (6) Ought to Pass as Amended by Committee Amendment "B" (H-657) - Report "B" (3) Ought Not to Pass - Report "C" (2) Ought to Pass as Amended by Committee Amendment "C" (H-658) - Committee on CRIMINAL JUSTICE AND PUBLIC SAFETY on Bill "An Act To Provide a Felony Penalty for Assault on a Firefighter"

(H.P. 201) (L.D. 239)

Which was **TABLED** by Representative PINGREE of North Haven, pending the motion of Representative GERZOFSKY of Brunswick to **ACCEPT** Report "C" **Ought to Pass as Amended**. (Roll Call Ordered)

Representative SYKES of Harrison **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 Newfield, Representative Campbell.

Representative **CAMPBELL**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is the second time around for this and the bottom line is that I represent four small towns, and when someone rolls a pickup truck, and we are not talking about fires now, on a Friday night and they are drunk, it is usually the fire department that responds first; the sheriff's department later on, possibly maybe the state police. My friend from Harrison seemed to talk more about dollars and cents than about making this a felony. If the police officer shows up, if the sheriff shows up first and gets hit with a tire iron, then it is a felony. But if a fireman shows up, or one of the women on the ambulance, and gets hit with it, it is fine, it is only a misdemeanor. I hope that we can all get pulled together on this thing and pass this.

The **SPEAKER**: The Chair recognizes the Representative from Kennebunk, Representative Babbidge.

Representative **BABBIDGE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. My initial concerns with relation to this bill went with the person already traumatized by a fire at their property, and I was reluctant to expand on the criminalization of behavior that might have defied rationality at the time. But upon further investigation of this, I know that this does not happen very often, but there is a hypothetical that I want to bring to your attention.

If a firefighter should go to the scene and come across an arsonist, who at their home or business is still on the premises, and that person chooses to stomp the firefighter by whatever means necessary and cause some serious disability, then I think that these firefighters deserve the same protections that the police and the EMTs would in that similar situation.

I would ask, Mr. Speaker, if I may ask a question through the Chair.

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

Representative **BABBIDGE**: Thank you, Mr. Speaker. My question is does expansion of this penalty in any way increase the minimum that would permit the flexibility of prosecution? The one thing that I would not want to do would be to expand the penalty. My understanding is this, in most cases, would make it

possible to put a person in jail for up to two years and in most cases far short of that, but what I would be interested in is the minimum expanded to the point where successful prosecution could be diminished. Thank you.

The **SPEAKER**: The Representative from Kennebunk, Representative Babbidge has posed a question through the Chair to anyone who may care to respond. Seeing none.

The Chair recognizes the Representative from Windham, Representative Plummer.

Representative **PLUMMER**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am not sure if you could hear the Report when it was read, but I would point out that the Report that was moved, Report "C," had only two members of the Criminal Justice Committee on that report. After extensive debate, after we had this bill last year, it came back to us, it was debated again, and there were only two members.

If you heard the Report, you might also have realized that I was on another Minority Report; I was the only House member on Report "B." However, I would urge you to defeat Report "C," and I would be pleased to support Report "A" in that case. Thank you, Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Brunswick, Representative Gerzofsky.

Representative **GERZOFSKY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Here we are: Firefighters part II, not only part II today, but part II from last year. We voted on this last year and we passed it last year in front of my committee, we debated in my committee, brought it to the House, same sort of report. But I heard earlier in today's debate about common sense. I would like to bring some common sense to this debate because I am here to support my firefighters, my first responders.

As Chair of the Homeland Security Task Force last session, we went around the state from Sanford to Presque Isle, from Oxford to Rockland, and the first people that came into those nine hearings that we held outside of Augusta were the first responders. This was discussed by the first responders, and they could not quite understand why they did not have the same respect under law that the EMTs had and the police. But what was even harder to explain to them was why they did not have the same respect that our service dogs have in this state, our police dogs, who also have special protection under the law; not only the animal welfare laws, but also criminal offense to interfere with a service animal, dog, a police dog doing its job. Not only that, we give special protection to horses, especially down in Portland where they have police horses, and if you burn a police down there not only do you get charged under the Animal Welfare Act, you also get charged with a Class C felony.

We have seen it fit to give special protection to dogs and horses; I think we can give special protection to our firefighters. If you choose to vote against your firefighters that is your decision. I choose not to, and I would hope that you would follow my light and support your firefighters and all of your first responders, because that is who is going to be there when you need them most. Thank you, Ladies and Gentlemen, for your time.

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

Representative **HASKELL**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This has not been an easy issue, either on the floor of this House or in the Committee. As you can see, I am one of the supporters of the Majority Report "A," which would do a couple of things.

First of all, it would equalize the protection for EMTs and firefighters, which I think is critically important. I am concerned that if we begin to elevate, continue to begin to elevate crimes

based on classes of individuals that we respect, that we care about, and if this is the only way that we can find to tell our firefighters that we care about them, then I think we are missing significant numbers of other opportunities.

In this individual case, the EMT law was put into place and I have the remarks and the history of the bill from 1997, when it was made a felony to assault an EMT, and it was done for all the same reasons that are being espoused today on the floor and that is because we care about these people, because they help us, because they protect us. But there are other people who help us, who protect us, who would not be given this same consideration and I find that unacceptable. I do care about the firefighters, I understand it is a difficult vote because we all want to support our firefighters, we want to find a way to do it; however, in the 11 years that the EMT law has been in place, there is nobody serving in our state prison having been charged with a felony.

I think it is important to understand that the issue of the Fiscal Note is not a small matter and we understand that in the Criminal Justice Committee, and I am sure you all can appreciate that as well as we continue to make these decisions. As we send this down to the Appropriations Committee with a fiscal note on it, if that is the will of this body, it is going to have to compete with a significant number of other fiscal notes for other crimes, domestic violence; you name the list of crimes. Frankly, I think that this one today stands less chance of being funded than some of the others, so Ladies and Gentlemen, I would encourage you to vote against the pending motion and to consider the equity in this matter; we can put that in place today, without any costs, by supporting the Majority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Eddington, Representative Pratt.

Representative PRATT: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I have to rise again, and I apologize. I just have an issue with the way that we are using the term equalize. I really have a hard time understanding how taking something away from someone equalizes their standing. You know, if there are members of this body who believe that there should be no special protections out there, then I urge them right now to stand up and offer an amendment that takes them all away from everybody, and you know what? I would not support it because that is not right. We have come to the conclusion that there are some people who do some things that we believe deserve some special protection. You cannot tell me right now that by taking it away from EMTs is equalizing it between firefighters and EMTs, especially when you leave on there the folks with the guns, the tasers and the batons. You cannot have it both ways; you cannot.

I understand the fiscal issue, I understand and I can see people making a decision based on that, and if you make a decision on that solely than that is a status quo. I disagree with that, I do not think it is right but I can get that right in my head. What I cannot get right in my head is this body telling the firefighters out there, the cops and the EMTs, that they are different; they do not deserve the same protections. It is unacceptable to me. You cannot have it both ways. Stand up here and if you believe that then say take it away from everybody; if not, stand with us, stand with the good Chair and let's get this done. Thank you.

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

Representative CAMPBELL: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. We have a colleague from Portland over there that happens to have a police department; she does not have to get out of bed at two o'clock in

the morning when some drunk rolled his pickup truck, get the ambulance with a woman, not all the time is there a man in the ambulance, and answer those calls. She has the protection of the Portland Police Department and possibly the Sheriff's Department and possibly the State Police. Well, if you live in a rural town or represent rural towns like I do, you do not have that specialty that you do, so I would appreciate you to support this and vote for it.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Rines.

Representative RINES: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. The House is struggling with this topic because it is looking back in history and trying to apply what it understands as fire and EMS, and apply the rules of the past as we look forward, but I contend that this is not how you want to look at this bill.

Recently, a lot of training has changed and we have heard about training here all morning. Now training includes crack houses, which the cities are involved in, and all kinds of other situations, so we really should not be looking back as we try to apply what we know, but look forward into what we do not know; that is where the real problem lies.

Recently, I listened to a call in my own community where the ambulance was called for a gunshot wound. They were asked to stage four miles down the road while they waited for the police officers to get there and secure the scene. Had they not had that information before the ambulance responded, the situation could have been made much worse by these people rushing in. Consequently, the patient did not survive because there were weapons in the house and it was a really nasty situation, but you can apply that to any place in the State of Maine.

So I contend, and I would ask you not to look back and think about how you understand your fire and EMS perspective from the past, but what they are coming into in the future and the way that our society is changing. Thank you, Mr. Speaker.

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

ROLL CALL NO. 210

YEA - Adams, Babbidge, Barstow, Beaudette, Beaudoin, Berry, Blanchard, Blanchette, Bliss, Boland, Brautigam, Briggs, Bryant, Burns, Cain, Campbell, Canavan, Carey, Carter, Casavant, Clark, Cleary, Connor, Conover, Craven, Crockett, Dill, Driscoll, Duchesne, Dunn, Eaton, Eberle, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Giles, Harlow, Hayes, Hill, Hogan, Jackson, Jones, Lundeen, MacDonald, Makas, Mazurek, Miller, Miramant, Patrick, Pendleton, Peoples, Percy, Perry, Pieh, Pilon, Pingree, Piotti, Pratt, Priest, Rand, Rector, Rines, Saviello, Schatz, Silsby, Sirois, Smith N, Strang Burgess, Sutherland, Theriault, Treat, Trinward, Tuttle, Valentino, Wagner, Watson, Weddell, Wheeler, Mr. Speaker.

NAY - Annis, Austin, Ayotte, Beaulieu, Berube, Browne W, Cebra, Chase, Cotta, Cray, Crosthwaite, Curtis, Duprey, Edgecomb, Emery, Finley, Fitts, Fletcher, Flood, Gifford, Gould, Grose, Hamper, Hanley S, Haskell, Hinck, Johnson, Joy, Knight, Lansley, Lewin, Marean, McDonough, McFadden, McKane, McLeod, Millett, Muse, Nass, Pinkham, Plummer, Prescott, Richardson D, Richardson W, Robinson, Rosen, Samson, Sarty, Savage, Sykes, Tardy, Thibodeau, Thomas, Vaughan, Walker, Weaver.

ABSENT - Greeley, Jacobsen, Kaenrath, Koffman, Marley, Mills, Moore, Norton, Pineau, Simpson, Tibbetts, Webster, Woodbury.

Yes, 82; No, 56; Absent, 13; Excused, 0.

82 having voted in the affirmative and 56 voted in the negative, with 13 being absent, and accordingly Report "C" **Ought to Pass as Amended** was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "C" (H-658)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, February 14, 2008.

CONSENT CALENDAR

First Day

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

(S.P. 754) (L.D. 1960) Bill "An Act Regarding Axle Weight on Tri-axle Farm Trucks" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-409)**

There being no objections, the above item was ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

(H.P. 1375) (L.D. 1941) Resolve, To Authorize the State To Convey an Unused Parcel of Land in Frenchville to an Abutting Neighbor Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-672)**

On motion of Representative BARSTOW of Gorham, was **REMOVED** from the First Day Consent Calendar.

The Unanimous Committee Report was **READ**.

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

CONSENT CALENDAR

Second Day

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

(S.P. 749) (L.D. 1955) Bill "An Act Regarding Certain Positions at the Public Utilities Commission" (C. "A" S-407)

(H.P. 1351) (L.D. 1918) Bill "An Act To Ensure Adequate Funding for the Oversight of Spent Nuclear Fuel Storage in Maine" (EMERGENCY) (C. "A" H-671)

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

ENACTORS

Emergency Measure

An Act To Create the Starboard Water District

(S.P. 807) (L.D. 2117)

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

Emergency Measure

Resolve, Regarding Supplemental Services under the National Family Caregiver Support Program

(H.P. 397) (L.D. 519)

(C. "A" H-665)

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

Representative CAMPBELL of Newfield **REQUESTED** a roll call on **FINAL PASSAGE**.

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

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

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

ROLL CALL NO. 211

YEA - Adams, Annis, Austin, Ayotte, Babbidge, Barstow, Beaudette, Beaudoin, Beaulieu, Berry, Berube, Blanchard, Blanchette, Bliss, Boland, Brautigam, Briggs, Browne W, Bryant, Cain, Campbell, Canavan, Carey, Carter, Casavant, Cebra, Chase, Clark, Cleary, Connor, Conover, Cotta, Craven, Cray, Crockett, Crosthwaite, Curtis, Dill, Driscoll, Duchesne, Dunn, Duprey, Eaton, Eberle, Edgecomb, Emery, Faircloth, Farrington, Finch, Finley, Fischer, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Gifford, Giles, Gould, Grose, Hamper, Hanley S, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Jackson, Johnson, Jones, Joy, Knight, Koffman, Lansley, Lewin, Lundeen, MacDonald, Makas, Marean, Marley, Mazurek, McDonough, McFadden, McKane, McLeod, Miller, Millett, Mills, Miramant, Muse, Nass, Norton, Patrick, Pendleton, Peoples, Percy, Perry, Pieh, Pilon, Pingree, Pinkham, Piotti, Plummer, Pratt, Prescott, Priest, Rand, Rector, Richardson D, Richardson W, Rines, Robinson, Rosen, Samson, Sarty, Savage, Saviello, Schatz, Silsby, Sirois, Smith N, Strang Burgess, Sutherland, Sykes, Tardy, Theriault, Thibodeau, Thomas, Treat, Trinward, Tuttle, Valentino, Vaughan, Wagner, Walker, Watson, Weaver, Weddell, Wheeler, Mr. Speaker.

NAY - NONE.

ABSENT - Burns, Greeley, Jacobsen, Kaenrath, Moore, Pineau, Simpson, Tibbetts, Webster, Woodbury.

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

141 having voted in the affirmative and 0 voted in the negative, with 10 being absent, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, To Extend the Deadline To Adopt a Rule by the Department of Health and Human Services Regarding Smoking in the Workplace

(H.P. 1398) (L.D. 2014)

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. 131 voted in favor of the same and 1 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Mandate

An Act To Amend the Lucerne-in-Maine Village Corporation Charter

(S.P. 759) (L.D. 1965)

(C. "A" S-404)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section

21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 136 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Acts

An Act To Authorize Load Aggregation for Consumer-owned Electric Utilities

(S.P. 434) (L.D. 1248)
(C. "A" S-405)

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.

Resolves

Resolve, Authorizing the President of the Maine Community College System To Sell 2 Parcels of Real Property in South Portland

(H.P. 1442) (L.D. 2058)
(C. "A" H-663)

Resolve, To Change the Name of the South Bridge between Lewiston and Auburn

(H.P. 1487) (L.D. 2101)
(C. "A" H-661)

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

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

SENATE PAPERS

Bill "An Act To Improve the Operation of 'Texas Hold 'Em' Tournaments"

(S.P. 849) (L.D. 2206)

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

REFERRED to the Committee on **LEGAL AND VETERANS AFFAIRS** in concurrence.

Bill "An Act To Diminish Global Warming"

(S.P. 850) (L.D. 2207)

Came from the Senate, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed.

REFERRED to the Committee on **NATURAL RESOURCES** in concurrence.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-673)** on Bill "An Act To Require a Hearing When a Fatality Results from a Motor Vehicle Accident"

(H.P. 1384) (L.D. 1948)

Signed:

Senators:

DAMON of Hancock
SAVAGE of Knox

Representatives:

PEOPLES of Westbrook
MARLEY of Portland
BROWNE of Vassalboro
FISHER of Brewer
MAZUREK of Rockland
HOGAN of Old Orchard Beach
THOMAS of Ripley
ROSEN of Bucksport
THERIAULT of Madawaska

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-674)** on same Bill.

Signed:

Representative:

CEBRA of Naples

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-673)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, February 14, 2008.

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

The House recessed until 4:00 p.m.

(After Recess)

The House was called to order by the Speaker.

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

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act Regarding Occupational Safety and Health Training for Workers on State-funded Construction Projects"

(H.P. 458) (L.D. 591)

Majority (8) **OUGHT NOT TO PASS** Report of the Committee on **LABOR READ** and **ACCEPTED** in the House on January 22, 2008.

Came from the Senate with the Minority (4) **OUGHT TO PASS AS AMENDED** Report of the Committee on **LABOR READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-635)** in **NON-CONCURRENCE**.

Representative TUTTLE of Sanford moved that the House **RECEDE AND CONCUR**.

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 Sanford, Representative Tuttle.

Representative **TUTTLE**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Sometimes, I guess in the quest of gaining consensus as a chair of a committee, certain

issues slip by you in order to attempt to reach balance and consensus. This happened on this bill, and I apologize to the Committee and to this body as a whole.

I do not know if it is going to make any difference or change anybody's vote, but I have reassessed my position and based upon new evidence and information that I have received, this bill, in my understanding, has passed in New Hampshire, and based upon recent information, in Vermont, in both bodies, and it will pass in some form. It would be a mistake, in my opinion, if we did not do the same in Maine. We would be the only state in New England without an OSHA 10 law. From the information that I have also received, the Department of Transportation requires a 12-hour certification for all of its fieldworkers, and since instituting this requirement, they have saved 14 percent, there has been a 14 percent decrease in workers compensation costs. For that reason, I will support the motion to Recede and Concur, and ask that you do the same. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Faircloth.

Representative **FAIRCLOTH**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Last session, it was stated in this chamber that we are very lucky to have Walt Wheeler with us because of his historical perspective, which I think stretches back to D-Day and before, and it was predicted, I guess, that Walt Wheeler might be the last member of this Chamber who will have served our country directly during World War II. But I just want to mention that there is another reason that we should be glad to have Walt with us: He is a working man. He worked at the Yard, and worked there for many years, and worked there for many years before the institution of the Occupational Safety and Health Administration, known as OSHA.

People sometimes make fun of OSHA, but I would just note that OSHA, which was passed by a Democratic Congress, and signed by President Nixon, decreased workplace fatalities by 60 percent—that is a 60 percent decrease in workplace fatalities since the institution of OSHA—and we still have a long way to go though in terms of safety. If you go to the Bush Administration's website that currently exists on OSHA, it tells you, our Administration in Washington tells you that OSHA will save you money. And Maine Department of Labor, as the good Representative Tuttle pointed out, instituted this themselves, and what they found, as Representative Tuttle pointed out, was a 14 percent decrease in costs, savings, from having this program; it saves money, and this only applies to projects of \$100,000 or more.

According to the Department, about 70 percent of businesses do not participate and about 30 percent participate voluntarily. It is very good that they do so, but the 70 percent who do not are missing a great opportunity for business savings. If you go to the Bush Administration's OSHA website, and they talk about the avoided costs from a smashed finger—just that, a smashed finger—and it is their calculations, you run into hundreds of thousands of dollars if you avoid that injury from lost time, from replacement workers, from new employees, from new training, from damaged equipment and from supervisor time taken with the project.

So yes, it saves lives; yes, it decreases injuries; but the evidence is clear that it saves money, so I hope that with this vote that it is really a good business choice to see that we institute this program and the evidence is very clear from both the Federal Government, now controlled by a Republican Administration, and from our state Department of Labor, that if we look at calculations on either end, this actually creates a savings. The Fiscal Note on this bill is zero, but the savings to business is significant so I hope you will support the pending motion.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Thibodeau.

Representative **THIBODEAU**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I spent over 20 years of my life in the construction industry, and I have done many of these contracts that this OSHA 10, or this program will affect, these state-related contracts, and I want to personally applaud any company that decides to implement the OSHA 10 training, but the key to that is applaud them that decide to.

Why is it that we think in this institution that we have the infinite wisdom to decide how to best train everybody's employees? Any training that I have ever been involved with has always been job specific; that is the most effective way to train your employees. Not just if you are an electrical contractor, you get the same training as a paving contractor's employees; I would suggest no. Quite frankly, every one of these contractors that are taking these contracts is going to provide some degree of safety training for their employees, it is just a matter of where they put their resources. If they want to put them into OSHA 10 training and they think that is the best way to properly train their employees and reduce their costs of injury to their employees, then hooray for them. But if they think that job specific is the best route to go, which is the way I personally believe, then maybe they ought to make that choice since they are the one that is responsible for that employee, and they are the ones who are paying the premiums. Thank you, Mr. Speaker.

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

Representative **SYKES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I was really pleased to hear some testimony about this bill. I hope that if we are supposed to do this because New Hampshire is doing it, maybe we can apply that to some other areas that we control here in the State of Maine.

I just wonder why in the world people think that safety training is not going on in some of these other businesses. Safety is critical to the bottom line. If you are not safe in a business, it costs you money, lots, and lots of money, loss time, expenses, liability, the whole thing, so safety is critical and these companies are providing training. But as the Representative Thibodeau states, it should be job specific and not an OSHA 10 general type of thing to train people in safety for jobs they are not even doing. Let's not support this. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Patrick.

Representative **PATRICK**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House, Colleagues and Friends. I rise in support of the Recede and Concur motion, and I would say that as a person who has worked construction in the past, there are companies that do not train their workers. I would hope that everyone would, but there are companies that do not do the training. The federal and state OSHA mandate said they do training, but we do not have records on exactly what they do. In the OSHA training, as I stated last time we debated this bill, the Beacon Mutual Insurance Company has promotions to support OSHA 10 to all their contractors for one reason: it saves them workers' comp dollars.

Construction is one of the most dangerous industries in the nation and construction workers work in extreme conditions ranging from tall buildings, bridges, deep trenches, and tunnels. They work with powerful tools, equipment, hazardous materials and chemicals, and varying weather conditions in a continuously changing work environment that often requires split second timing and teamwork. Nationally, construction workers make up 22 percent of all workplace fatalities, despite the fact that they

represent only 6 percent of the labor force. On average, four construction workers die on the job every day across the country. Four people die every day—that is amazing to me. Construction workers also represent a disproportionate percentage of workplace injuries.

The OSHA 10 training is designed to give the individual worker the background to do just that. Beyond the survey of the standards, the classes emphasize hazard identification, and avoidance control and prevention. The curriculum has three hours of mandatory topics; three hours of optional topics that can be chosen from a list of seven; an additional four hours can be used to expand on any of the areas, or can be used for additional topics suitable to the industry or tradeoff the students. The training is available from many sources, including the Department, for no cost. Some of the larger employers do their own training, and it is kind of interesting that on the big job up in Brewer, the Cianbro Corporation is training all of their workers with the OSHA 10 training. I don't know what they know that I don't know, but I think it must be that they are going to save some money doing that training.

It is a proven fact the training saves employers' money. I see in one of the advertisements in the Chamber of Commerce, MIMIC has stated: How do we top the \$12 million we gave back in 2006? Easy, by giving back \$14,200 in 2007. That is 10 percent of the workers' comp premiums that they are giving back, and if they have this extra money, it is just a pittance of what they are getting back to do this safety training.

The OSHA 10 training can be done for free by the Department of Labor. This spring, for example, there are two dates set for the OSHA 10 training: during the day on February 20th and April 8; and night classes will be held on March 25 and April 1. The Department of Labor will train employees to give a class, if they have to, a train the trainer class so employees only have to send one and they can do their own training on their own work place, on their own job.

In 2005, there were approximately 30,600 construction workers in Maine: 2,723 received recordable injuries; 1,621, missed time because of injury; and 651 were restricted and transferred from the job.

It was said last time, when I mentioned five people died in a big construction accident in Rumford years ago, that this does not happen anymore in Maine. But I just remembered that just a year or two ago, we heard, I think it was in Washington County where one young employee was getting inside a tank and cleaned out the tank, and guess what? He was gassed and died. That is right here in Maine. I have seen a construction worker/welder from one of the small contracting outfits in Bethel die from electrocution. Before that, there was another little dowel mill in Rumford where the same thing happened; he did not know how to properly ground his electrical equipment, and he is dead.

The New Hampshire bill—the prime sponsor for the New Hampshire OSHA 10 bill happened to be a prominent Republican, Senator John T. Gallus, who was a senator of the 52 northernmost communities in New Hampshire, from Berlin, so that must make the southern end of the state those areas that he borders. The bill was also supported by the Association of General Contractors and Association of Building Contractors; those are the same people in the State of Maine that are not in favor of it. As a matter of fact, some of those associations actually do OSHA 10 training for profit.

It was said before that this would be a nail in the coffin of our employers; I think, Mr. Speaker, this will be a nail in the coffin of our dead workers. We must train our workers. How we get it done, there are many, many facets at how to do it. I agree the type of training, job specific, is great, but do all of our employers

do job specific training? I don't think so. I think this is a standard, a minimal standard—and I do say again, a minimal standard—that each and every contractor who gets state money should meet. I hope you search your heart, look after the working men and women of the State of Maine, those that are in the construction industry, and vote to Recede and Concur. Thank you, Mr. Speaker.

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

Representative **BURNS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I think we might not understand this bill clearly. This bill is not telling contractors in the State of Maine that they must do anything. It is saying that if you want to do business with the State of Maine that you have to meet a certain standard, a certain safety standard, a standard that would protect human beings.

We already require anybody that wants to do business with the State of Maine to be bonded, or to be insured, and the bonding and insurance is to protect our financial state of affairs. But OSHA 10 protects working people and, again, let's understand that we are not talking about telling businesses what they must do; it is their choice whether or not they do this, but if they want to do business with the State of Maine, we have standards. Our standards are to protect the people of the State of Maine. The people of the State of Maine hopefully are the ones that are working for the contractors that are doing business with the State of Maine. It is a market-based approach: The State of Maine is the customer and the customer is always right; the customer has a right to set a standard and if you cannot meet that standard, then do not come do business with us. Thank you, Men and Women of the House; please vote in support of this bill.

Representative THOMAS of Ripley **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 Bangor, Representative Faircloth.

Representative **FAIRCLOTH**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I appreciate the comments from the good Representative from Winterport, but I wanted to make sure that I understood it so in the intervening time, I called to double check with the Director of the Safety Department at the Department of Labor, and he specifically reiterated and reemphasized, as he told me earlier today, that the training that would be offered under this legislation is tailored specifically to the type of project that is involved, that it adds value; and of the 70 percent that he estimates do not participate in this, that they do not provide the type, quality and level of training that would be offered if this legislation were to pass.

Secondly, I would note that there were some folks that asked me about transportation. You do not need to transport workers there, because the Maine Department of Labor will come to you; they will bring training near to your facility.

Thirdly, because this was another question that was raised about paying for training, the employer does not pay for the training, other than the time of the worker. The Department of Labor comes and provides that training as part of the cost of the Maine State Department of Labor. The only cost is the time of the workers and that, according to the Bush Administration's website, is much counterbalanced by the savings that this program provides, and clearly demonstrated by the 14 percent just in comp costs that we saw with Maine's own Department of Transportation.

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

Representative **FITTS**: Thank you Mr. Speaker.

Mr. Speaker, Ladies and Gentlemen of the House. I would like to address an issue that the good Representative from Rumford, Representative Patrick, brought up when I think I was misquoted, because I did not say that people do not die on job sites; they do. They die because people violate rules. What I said was that it is not an acceptable thing in the world today of business, to think that as you approach your job, that it is okay that a handful of people could die on it. That is absolutely absurd in today's world.

The big issue with this legislation is that it is ignoring one fact: man-hours are not free. If you are a subcontractor and you are a landscape contractor, if you are going to bid on a state job and that job is up to \$100,000, you would not have to do the training; but if it is over, you are going to now be required to train people in jobs and for conditions that do not exist for their job. That is the reality of OSHA 10 training; I do not care how you spin it. It is broad based, there are some options, but when the Department of Labor comes in to teach, they have a set curriculum and it is pretty standard.

But the big thing is that it is 10 hours of a workforce to take the training, it is not free. You have to set that time aside and it is going to add on to the cost of the job. Who is going to pay for that? All of us; we are going to pay for that in the added cost of the bid at the end, and we are sitting here, the Appropriations Committee is struggling to find pennies in this budget and we are talking about adding costs to jobs to make us all feel better, and to look out for workers that are already being trained because OSHA requires that they are trained in the tasks at hand. If there are companies that are not training workers, then they are violating the existing laws, and adding on to this is not going to stop that from happening. We need to step back and think about the dollars that are involved in something like this and remember that when you push your light.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Thibodeau.

Representative **THIBODEAU**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Three things I would like to say: My risk, my responsibility, my employees, my training.

A question that I would like to post through to the Speaker to the body is what is the specific subject matter the OSHA 10 training provides?

The SPEAKER: The Representative from Winterport, Representative Thibodeau has posed a question through the Chair to anyone who may care to respond; seeing none.

The Chair recognizes the Representative from Berwick, Representative Burns.

Representative **BURNS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I want to clarify that this bill does not require any business to do anything—they do not have to do anything. If, however, they want to do business with the State of Maine, they must meet the customer's criteria. Knowing that now, they should prepare to train their people. There are companies out there that want to do business with the State of Maine, whose people already have OSHA 10 training; hooray for them. They did that without us telling them anything; hooray for them. Those contractors out there and we are talking, by my standards, large contractors; we are talking about jobs that exceed \$100,000. If those contractors want to do business with this customer, they will meet the customer's standards, but they are not required to do anything at all. We are not making anybody, by passing this law, do anything at all, and we really have to pay attention to that and keep focused on that, because we do not want to be perceived by the rest of the nation as a state that has no standards.

I would like to answer the question about what OSHA 10 does do. I am not the expert on this and I think others have spoken about it, but apparently others have not heard. It provides job specific training—job specific training. That means if you are a carpenter, your training will be specific to that trade; if you are an electrician, your training will be specific to that trade; if you are a plumber, your training will be specific to that trade. I think that is pretty clear, but I am going to reiterate one more time that nobody is obligated or forced to do anything as a result of us passing this bill, unless they want to do business with this customer, this customer that has standards that protect human beings. Thank you.

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

ROLL CALL NO. 212

YEA - Adams, Babbidge, Beaudoin, Berry, Blanchard, Blanchette, Bliss, Boland, Brautigam, Briggs, Bryant, Burns, Cain, Campbell, Canavan, Carey, Casavant, Clark, Cleary, Connor, Conover, Craven, Crockett, Duchesne, Dunn, Eaton, Eberle, Faircloth, Fisher, Gerzofsky, Grose, Harlow, Hayes, Hinck, Hogan, Jackson, Jones, Koffman, Lundeen, MacDonald, Makas, Marley, Mazurek, Miller, Mills, Miramant, Norton, Patrick, Pendleton, Peoples, Percy, Perry, Pieh, Pingree, Piotti, Pratt, Priest, Rand, Rines, Samson, Silsby, Simpson, Sirois, Smith N, Sutherland, Theriault, Treat, Trinward, Tuttle, Valentino, Wagner, Watson, Wheeler, Mr. Speaker.

NAY - Annis, Austin, Ayotte, Barstow, Beaudette, Beaulieu, Berube, Browne W, Carter, Cebra, Chase, Cotta, Cray, Crosthwaite, Curtis, Driscoll, Edgecomb, Finch, Finley, Fischer, Fitts, Fletcher, Flood, Gifford, Giles, Gould, Hamper, Hanley S, Hill, Johnson, Joy, Knight, Lansley, Lewin, McDonough, McFadden, McKane, McLeod, Millett, Moore, Muse, Nass, Pilon, Pinkham, Plummer, Prescott, Rector, Richardson D, Richardson W, Robinson, Rosen, Sarty, Savage, Saviello, Schatz, Strang Burgess, Sykes, Tardy, Thibodeau, Thomas, Vaughan, Walker, Weaver.

ABSENT - Dill, Duprey, Emery, Farrington, Greeley, Haskell, Jacobsen, Kaenrath, Marean, Pineau, Tibbetts, Webster, Weddell, Woodbury.

Yes, 74; No, 63; Absent, 14; Excused, 0.

74 having voted in the affirmative and 63 voted in the negative, with 14 being absent, and accordingly the House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

Joint Order Directing the Joint Standing Committee on Health and Human Services to report out, to the Senate, a bill regarding parental consent to dispense prescription drugs to children

(S.P. 842)

INDEFINITELY POSTPONED in the House on February 7, 2008.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Joint Order was **PASSED** in **NON-CONCURRENCE**.

Representative PINGREE of North Haven moved that the House **ADHERE**.

Representative TARDY of Newport moved that the House **RECEDE AND CONCUR**.

Representative PINGREE of North Haven **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 Wells, Representative Chase.

Representative **CHASE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I think we all know this issue and we have heard it. The first time I heard this issue, I was on my way back from Florida and listening to the national news. I think that we owe our constituents the time, the energy and the effort to have a solemn debate, to let this issue run its course in the Committee it should be going in front of, that we respect our constituents and all the issues on both sides that have come forward for us to discuss this. I think that in this particular case, we should be green with the Recede and Concur, and we should be voting for this. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Lincolnville, Representative Walker.

Representative **WALKER**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I serve on Health and Human Services, and I can think of no issue more important than whether we should or should not decide to give prescription medications to our children without parental consent. I cannot think of a more important issue, Mr. Speaker.

The question before the body at this time is simply, are we going to allow this question to be asked and discussed in my committee? If you vote for the Recede and Concur motion, then this bill will be able to make its way through the process. I have an awful lot of constituents in my district that are very concerned about this issue; they think that we should at least be having the discussion. There are a lot of different parts to this question, there is informed consent, but I would simply ask my fellow members, and you, Mr. Speaker, to vote for the Recede and Concur motion. It will bring it to our committee. I cannot think of a more important item to discuss. Thank you, Mr. Speaker.

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

Representative **BRIGGS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. For me, this is a very important issue. For me, as I was growing up, I was a victim of incest, and I never had a place to go, I never had anywhere to turn, nobody to help me get out of the situation. I am very grateful that these students today have the opportunity to go to these clinics.

In the first place, they cannot go to these clinics without their parent's signature, so to me that is telling me that the parents already have an indication of what their children are reaching out for. To me, at that time, I feel it is the parent's responsibility to step up to the plate at that time, to assist their child in any way that they can through this process. I feel that the child also needs to be able to protect themselves in any way that they can. I never had this opportunity. It went on for two and a half years before I finally had the courage to tell my mother: "Please stop this; don't leave me alone." These children need this outlet. I ask you to please protect the children today, they need your support. Thank you.

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

Representative **MOORE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. It is not surprising, is it, that a school system whose superintendent, ex-superintendent, declares that she is not responsible for the budget.

The **SPEAKER**: The Chair would ask the Representative to please defer debate. The Chair inquires why the Representative from Gorham, Representative Barstow, has risen.

Representative **BARSTOW**: Point of Order, Mr. Speaker.

The **SPEAKER**: The Representative may proceed.

Representative **BARSTOW**: I apologize to the Representative from Standish, but I do not think this is germane to the motion before us.

On **POINT OF ORDER**, Representative BARSTOW of Gorham asked the Chair if the remarks of Representative MOORE of Standish were germane to the pending question.

The **SPEAKER**: The Chair would rule that at this point it is not clear where the good Representative is going at this time; therefore, it is premature to say that it is not germane. The Representative may proceed.

The Chair reminded Representative MOORE of Standish to stay as close as possible to the pending question.

Representative **MOORE**: Thank you very much, Mr. Speaker. I will get to the point. Point being that in a school system in such disarray where school board members are caught by the police, hiding under porches, are arrested in cars, it is not surprising that they would so terribly botch the development, implementation and discussion of such a sensitive, sensitive policy in their schools. It is not surprising that that school would be cast in such a negative light on national television; totally unnecessary but not surprising.

I taught in that school for a good number of years, at King Middle School. Usually, the headlines that it received were headlines regarding the principal being chosen as the principal of the year in the nation, in Washington. That was the usual headline that that school got, but because of the botched way that this policy was implemented or put into place, it got all this negative publicity.

I ran into a lady here in the hallway, a mother of two of the students that I did not have at this school—I dealt with only the most difficult students—and she was proud to tell me that her son was now a doctoral student at Tufts, and her other son is a financial manager for a major corporation. These are the kinds of youngsters that are at this school. We are talking, here, about a very small sliver of children in that school. These are children that live in the most abysmal life situations that we can imagine here. It would be terribly difficult for everyone here to go down through a litany of the youngsters that I dealt with and the special class I taught, with two of those youngsters currently in prison, I guess I didn't do too well, for murder. One is dead because he was killed by another student on the street outside of the school, or nearby on Park Avenue.

Another young lady, I ran in to her at Hannaford in Standish two weeks ago, said, "They all think that we are a bunch of druggies, don't they? That's all I hear about, that we are a bunch of druggies." I said, "No." Point being that this policy, because it was so poorly implemented, point being it is in place because there are a few youngsters who don't have parents; they live in boxes, they live in cellars, they live in back ends of cars and all that. They don't have parents to come down to the school to look out for them, the school is acting in their best interest. Do I think parents should be involved in these terrible decisions that might be made? Of course I do. These kids don't have any parents. These kids don't have anyone. Thank God for the school nurse; thank God for the social worker or the teacher that might take them under their wing. You would not want to take too many of them home, the sliver that I am talking to you about, they are descent human beings; however, the challenges they represent are bigger than many of us would want to undertake at our home.

Point being, the nurses, and the social workers are the only things that these kids have. I don't think we are in a good position to do any more about this than we are to do about telling companies to do safety programs. I don't think we are anymore competent to delve into the messes of the Portland School Department. Leave it alone; the principal is a good man; the

nurses know what they are doing there for this handful of kids. We don't belong there. Whatever the vote is, I am not going to vote to inveigle the Legislature in that matter. It is a local school matter, as badly as it has been botched, they will have to figure it out and fix it.

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

Representative **BURNS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. When this came before us before, I was disturbed. Everything that I knew about this issue, I knew from what we refer to as the mainstream media and my opinion on this issue was shaped by that, as is the public's, and the public's opinion is important to me. When I sit here and shape public policy, I want their opinion to weigh in.

The SPEAKER: The Chair would ask the Representative to please defer.

The Chair recognizes the Representative from South Berwick, Representative Gould, and inquires as to why she rises.

Representative **GOULD**: Thank you, Mr. Speaker. Mr. Speaker, I rise on a Point of Order. Again, is this germane to the motion that is on the floor? With all due respect to the last two colleagues who have arisen and now the third, Representative Burns, I think that what we are hearing is substantive debate, which suggests that this, in fact, needs to be in front of the Committee.

On **POINT OF ORDER**, Representative GOULD of South Berwick asked the Chair if the remarks of Representative BURNS of Berwick were germane to the pending question.

The SPEAKER: The Chair would rule that the Representative please address the comments more fully to the issue at hand. I have to say, though, that we have given wide lateral in the last two, so I am going to have the Representative use his own discretion; he may continue.

The Chair reminded Representative BURNS of Berwick to stay as close as possible to the pending question.

Representative **BURNS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I also thank God for the testimony of the Representative from Mexico, for sharing her experience with us and personalizing this; and to the Representative from Standish, who has experience in that school. I have no experience there, but I do have children and I want my children to come to me. I regret that there are children that live among us that have no one that they can go to. I did not know this, as a result of the media coverage of this. I only know this as a result from the good Representative from Standish, who worked in that school and knows those children and that population, sharing this with me, and I think it is a shame that our media cannot do a better job of informing us, the public, about what goes on in our communities.

While I voted against the motion to Indefinitely Postpone, I, based on the very limited debate that we have had here today, have a better understanding of the situation and know now that I do not need to bog this Legislature down with even more work. We were asked by Tony Payne, I do not know if that name rings any bells with you folks, but he seems to be an important person and he sends me emails on a regular basis, and he asked me not—not—to bring legislation into this committee and waste this Legislature's time. Based on that fact, also, I am changing my position, as difficult as it was for me, and still is. I want to be a parent that my children can come to, as I know you all do and as the people of this state does. But I will not be voting for this Recede and Concur motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Chase.

Representative **CHASE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I do feel that this whole debate we are having currently is supposed to be based on the fact of Recede and Concur, and yet we have had somewhat of a debate on the issue itself.

I think that based on the very limited amount of debate that we have had, that just shows one more time that this needs to be something that needs to be worked out in the Committee and going forward. I think it is important to note that tonight's vote is not on the substantial part of the bill, it is only to allow it to move forward, to go to the point where it should be discussed, fully discussed, and all of the information, not just little bits and pieces come out, and then we can fully discuss it. I would also like to say that I find it very important and I would say an emergency. I have six grandchildren all under the age of eight, and they are moving up into this level of middle school, or whatever age it is going to be dealing with, and I think it is very important to discuss parental rights, and very important to discuss what is happening with our children in all aspects. I, again, move that we move this forward. Thank you.

The SPEAKER: The Chair recognizes the Representative from Madison, Representative Curtis.

Representative **CURTIS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Having listened to the discussion, not only today but the other day as we wrestled with this difficult decision, I just would like to remind the body that it is never a waste of time to deal with issues that pertain to our children, whether they are family children, neighborhood children, or whether they are our state children. Far be it for us to determine it is a waste of time to deal with issues that have an impact on those people who are, in fact, the future people of the State of Maine, who are in fact the most precious assets that we have, not only as a family but as a people. Let's not get hung up on wasting time; let's move this forward and give this as much time as needed in the Committee that is designated to deal with these issues and deal with it correctly, honestly and upfront, no matter what time it takes.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Patrick.

Representative **PATRICK**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would like to rise to say why I am going to vote against the Recede and Concur motion. It is a funny thing. Just a couple of weeks ago I went before the Legislative Council and asked to have a couple of bills that are very important to me to have huge impact to other aspects of many people in the State of Maine. I was shot down, just like about 16 or 20 people were shot down. The Legislative Council, before that, many other bills were shot down as well. Are we all going to put out joint orders to report out bills on every bill that the Legislative Council turns down? I don't think so, and that is the reason why, Mr. Speaker, I am going to be voting against the Recede and Concur and allow this bill to be brought up in the next legislative session. Thank you.

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

ROLL CALL NO. 213

YEA - Annis, Austin, Ayotte, Beaudette, Beaulieu, Berube, Blanchard, Browne W, Campbell, Cebra, Chase, Clark, Cleary, Cotta, Cray, Crosthwaite, Curtis, Edgecomb, Finch, Finley, Fitts, Fletcher, Flood, Gifford, Gould, Hamper, Hanley S, Jackson, Johnson, Joy, Knight, Lansley, Lewin, Lundeen, MacDonald, McDonough, McFadden, McKane, McLeod, Millett, Muse, Nass, Pinkham, Plummer, Prescott, Rector, Richardson D, Richardson W, Rines, Robinson, Rosen, Samson, Sarty, Savage,

Saviello, Sykes, Tardy, Theriault, Thibodeau, Thomas, Tuttle, Vaughan, Walker, Weaver.

NAY - Adams, Babbidge, Barstow, Beaudoin, Berry, Blanchette, Bliss, Boland, Brautigam, Briggs, Bryant, Burns, Cain, Canavan, Carey, Carter, Casavant, Connor, Conover, Craven, Crockett, Driscoll, Duchesne, Dunn, Eaton, Eberle, Faircloth, Farrington, Fischer, Fisher, Gerzofsky, Giles, Grose, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Jones, Koffman, Makas, Marley, Mazurek, Miller, Mills, Miramant, Moore, Norton, Patrick, Pendleton, Peoples, Percy, Perry, Pieh, Pilon, Pingree, Piotti, Pratt, Priest, Rand, Schatz, Silsby, Simpson, Sirois, Smith N, Strang Burgess, Sutherland, Treat, Trinward, Valentino, Wagner, Watson, Wheeler, Mr. Speaker.

ABSENT - Dill, Duprey, Emery, Greeley, Jacobsen, Kaenrath, Marean, Pineau, Tibbetts, Webster, Weddell, Woodbury.

Yes, 64; No, 75; Absent, 12; Excused, 0.

64 having voted in the affirmative and 75 voted in the negative, with 12 being absent, and accordingly the motion to **RECEDE AND CONCUR FAILED.**

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

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

On motion of Representative HANLEY of Gardiner, the House adjourned at 5:20 p.m., until 10:00 a.m., Thursday, February 14, 2008 in honor and lasting tribute to Pamela Morrill, of Gardiner.