

MAINE STATE LEGISLATURE

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

Daily Edition

First Regular Session

December 1, 2010 – June 29, 2011

pages 1 - 1067

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
FIRST REGULAR SESSION
39th Legislative Day
Tuesday, May 3, 2011

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

Prayer by the Honorable Herbert E. Clark, Millinocket.

National Anthem by Lawrence High School's Vocal Majority, Fairfield.

Pledge of Allegiance.

Doctor of the day, Su-Anne Hammond, D.O., Windham.

The Journal of Thursday, April 28, 2011 was read and approved.

SENATE PAPERS
Non-Concurrent Matter

Bill "An Act To Implement Recommendations on Reinventing Government"

(S.P. 444) (L.D. 1437)

REFERRED to the Committee on **STATE AND LOCAL GOVERNMENT** in the House on April 12, 2011.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Bill was **REFERRED** to the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

COMMUNICATIONS

The Following Communication: (H.C. 147)

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

April 28, 2011

The Honorable Heather J.R. Priest

Clerk of the House

2 State House Station

Augusta, Maine 04333

Dear Clerk Priest:

Pursuant to my authority under Title 4, MRSA, §1701, I am pleased to appoint the Honorable Joshua A. Tardy of Newport to the Judicial Compensation Commission.

Please let me know if you have any questions regarding this appointment.

Sincerely,

S/Robert W. Nutting

Speaker of the House

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 148)

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

April 28, 2011

The Honorable Heather J.R. Priest

Clerk of the House

2 State House Station

Augusta, Maine 04333

Dear Clerk Priest:

Pursuant to my authority under Title 1, MRSA, Chapter 13, §411, I am pleased to appoint Robert Weaver of Portland to the Right to Know Advisory Committee. With this appointment Mr. Weaver is representing the public.

Please let me know if you have any questions regarding this appointment.

Sincerely,

S/Robert W. Nutting

Speaker of the House

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 149)

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

April 28, 2011

The Honorable Robert W. Nutting

Speaker of the House

2 State House Station

Augusta, Maine 04333

Dear Speaker Nutting:

This is to inform you that I am today nominating Glenn W. Burroughs of Lewiston for reappointment to the Workers' Compensation Board.

Pursuant to Title 39-A, MRSA, §151, this nomination will require review by the Joint Standing Committee on Labor, Commerce, Research and Economic Development.

Sincerely,

S/Paul R. LePage

Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 146)

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

April 28, 2011

The Honorable Robert W. Nutting

Speaker of the House

2 State House Station

Augusta, Maine 04333

Dear Speaker Nutting:

Pursuant to Joint Rule 310, the Committee on Judiciary has approved the request by the sponsor, Representative Treat of Hallowell, to report the following "Leave to Withdraw":

L.D. 1111 An Act To Ensure Timely Resolution of Professional Negligence Claims

Sincerely,

S/Heather J.R. Priest

Clerk of the House

READ and with accompanying papers ORDERED PLACED ON FILE.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

The following Bills and Resolve were received, and upon the recommendation of the Committee on Reference of Bills were **REFERRED** to the following Committees, ordered printed and sent for concurrence:

AGRICULTURE, CONSERVATION AND FORESTRY

Bill "An Act To Reform the Land Use and Planning Authority in the Unorganized Territories"

(H.P. 1126) (L.D. 1534)

Sponsored by Representative GIFFORD of Lincoln.
Cosponsored by Senator THOMAS of Somerset and Representatives: AYOTTE of Caswell, BURNS of Alfred, CRAFTS of Lisbon, CRAY of Palmyra, LIBBY of Waterboro, TURNER of Burlington, WILLETTE of Mapleton, Senator: MASON of Androscoggin.

CRIMINAL JUSTICE AND PUBLIC SAFETY

Bill "An Act To Require All Correctional Facilities in the State To Participate in the Unified Inmate Transportation System"

(H.P. 1131) (L.D. 1542)

Sponsored by Representative BURNS of Whiting.
Cosponsored by President RAYE of Washington and Representatives: DAVIS of Sangerville, HARVELL of Farmington, LONG of Sherman, PLUMMER of Windham, WILLETTE of Mapleton, Senators: MASON of Androscoggin, WHITTEMORE of Somerset.

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

HEALTH AND HUMAN SERVICES

Bill "An Act To Amend Licensing and Certification Laws Administered by the Department of Health and Human Services"

(H.P. 1129) (L.D. 1537)

Sponsored by Representative STRANG BURGESS of Cumberland.

Cosponsored by Senator CRAVEN of Androscoggin and Representatives: EVES of North Berwick, FOSSEL of Alna, MALABY of Hancock, O'CONNOR of Berwick, SANDERSON of Chelsea, SIROCKI of Scarborough, Senator: McCORMICK of Kennebec.

Submitted by the Department of Health and Human Services pursuant to Joint Rule 204.

JUDICIARY

Bill "An Act To Allow Counties To Opt Out of Maine Judicial Marshal Service"

(H.P. 1132) (L.D. 1543)

Sponsored by Representative BURNS of Whiting.
Cosponsored by President RAYE of Washington and Representatives: DAVIS of Sangerville, KNAPP of Gorham, LONG of Sherman, PLUMMER of Windham, Senators: MASON of Androscoggin, WHITTEMORE of Somerset.

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

LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT

Bill "An Act To Protect Heating Oil Consumers"

(H.P. 1128) (L.D. 1536)

Sponsored by Representative CORNELL du HOUX of Brunswick.
Cosponsored by Senator GERZOFKY of Cumberland and Representatives: CLARKE of Bath, KENT of Woolwich, OLSEN of Phippsburg, PILON of Saco, PRESCOTT of Topsham, PRIEST of Brunswick, WEBSTER of Freeport, Senator: GOODALL of Sagadahoc.

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

MARINE RESOURCES

Resolve, Directing the Commissioner of Marine Resources To Contract for an Independent Analysis of the Limited Entry Lobster License System

(H.P. 1124) (L.D. 1532)

Sponsored by Representative TILTON of Harrington.
Cosponsored by Senator COURTNEY of York and Representatives: DOW of Waldoboro, McKANE of Newcastle, PARKER of Veazie, VALENTINO of Saco.

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

STATE AND LOCAL GOVERNMENT

Bill "An Act To Provide for a Method To Remove an Elected Municipal Official" (EMERGENCY)

(H.P. 1125) (L.D. 1533)

Sponsored by Representative SANDERSON of Chelsea.
Cosponsored by Senator THOMAS of Somerset and Representatives: BLODGETT of Augusta, CLARKE of Bath, COTTA of China, HARVELL of Farmington, O'CONNOR of Berwick, SIROCKI of Scarborough.

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

Bill "An Act Relating to Fiscal Notes on Proposed Legislation"

(H.P. 1127) (L.D. 1535)

Sponsored by Representative KNIGHT of Livermore Falls.
Cosponsored by Senator TRAHAN of Lincoln and Representatives: BENNETT of Kennebec, BERRY of Bowdoinham, CHASE of Wells, FLEMINGS of Bar Harbor, HARMON of Palermo, MALABY of Hancock, NEWENDYKE of Litchfield, PILON of Saco.

Committee on STATE AND LOCAL GOVERNMENT suggested.

On motion of Representative COTTA of China, the Bill was REFERRED to the Committee on TAXATION, ordered printed and sent for concurrence.

TRANSPORTATION

Bill "An Act To Amend the Laws Governing the Maine Turnpike Authority and To Implement Certain Recommendations of the Government Oversight Committee in the Office of Program Evaluation and Government Accountability Report Concerning the Maine Turnpike Authority"

(H.P. 1130) (L.D. 1538)

Sponsored by Representative CEBRA of Naples.
Cosponsored by Senator COLLINS of York and Representatives: BLACK of Wilton, BURNS of Whiting, BURNS of Alfred, CHASE of Wells, COTTA of China, CRAFTS of Lisbon, CURTIS of Madison, CUSHING of Hampden, DAMON of Bangor, DAVIS of Sangerville, FLOOD of Winthrop, FOSSEL of Alna, FOSTER of Augusta, FREDETTE of Newport, GIFFORD of Lincoln, GILLWAY of Searsport, HOGAN of Old Orchard Beach, JOHNSON of Greenville, KESCHL of Belgrade, KNIGHT of Livermore Falls, LIBBY of Waterboro, LONG of Sherman, MAZUREK of Rockland, McCLELLAN of Raymond, NEWENDYKE of Litchfield, Speaker NUTTING of Oakland, O'CONNOR of Berwick, OLSEN of Phippsburg, PARRY of

Arundel, PEOPLES of Westbrook, PLUMMER of Windham, SANDERSON of Chelsea, THERIAULT of Madawaska, TILTON of Harrington, VOLK of Scarborough, WEAVER of York, WILLETTE of Mapleton, WINSOR of Norway, Senators: COURTNEY of York, DIAMOND of Cumberland, HILL of York, KATZ of Kennebec, MASON of Androscoggin, PLOWMAN of Penobscot, President RAYE of Washington, THOMAS of Somerset, TRAHAN of Lincoln, WHITTEMORE of Somerset. Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Bill "An Act To Promote Rail Competition in Northern Maine" (EMERGENCY)

(H.P. 1133) (L.D. 1544)

Sponsored by Representative FITTS of Pittsfield.

Cosponsored by Representatives: CEBRA of Naples, MAZUREK of Rockland, PEOPLES of Westbrook, Senator: COLLINS of York.

Committee on **TRANSPORTATION** suggested.

On motion of Representative CEBRA of Naples, **TABLED** pending **REFERENCE** and later today assigned.

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

ORDERS

On motion of Representative WATERHOUSE of Bridgton, the following Joint Resolution: (H.P. 1134) (Cosponsored by Senator DIAMOND of Cumberland and Representatives: BERRY of Bowdoinham, BRYANT of Windham, BURNS of Alfred, HARMON of Palermo, KNIGHT of Livermore Falls, PILON of Saco) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214)

JOINT RESOLUTION MEMORIALIZING THE UNITED STATES CONGRESS TO URGE THE GOVERNMENT OF CANADA TO END ITS SANCTIONING OF THE ANNUAL SEAL PUP HUNT

WE, your Memorialists, the Members of the One Hundred and Twenty-fifth Legislature of the State of Maine now assembled in the First Regular Session, most respectfully present and petition the United States Congress as follows:

WHEREAS, the State of Maine has strong and valuable ties to Canada, sharing a long, common border with the Provinces of Quebec and New Brunswick, and Maine is the state closest to the Canadian Maritime Provinces; and

WHEREAS, the Canadian commercial seal hunt is the largest annual mass slaughter of marine mammals in the world, and harp seals are the primary target of the hunt, with 98% of all harp seals killed in 2006 being pups under 3 months of age, and hooded seals are also killed; and

WHEREAS, the annual shooting, clubbing and often live skinning of more than 300,000 seal pups in front of their mothers has outraged much of the international community, including the European Union, which has banned all trade in harp and hooded seal products, and has prompted the international effort to boycott Canadian seafood products; and

WHEREAS, the slaughter is done mainly for the luxury fur market and therefore is unnecessary and is demonstrably cruel, as evidenced by wounded seals that are often left to suffer in agony and pups that are often initially only wounded, with an estimated 42% skinned alive while conscious; and

WHEREAS, Maine citizens believe in the humane treatment of animals, and a report by an independent team of veterinarians

who studied the commercial seal hunt concluded that government regulations regarding humane killings were being neither respected nor enforced; and

WHEREAS, the Canadian government once banned this practice, but then removed the ban, which has resulted in the brutal deaths of over 1,000,000 seal pups in the last 3 years, and reports have shown that the slaughter of the pups failed to comply with Canada's basic animal welfare standards; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request that the United States Congress call on Canada's government to end its sanctioning of the annual baby seal hunt without delay; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the President of the United States Senate, to the Speaker of the United States House of Representatives, to the Canadian Ambassador to the United States and to each Member of the Maine Congressional Delegation.

READ and ADOPTED.

Sent for concurrence.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Wesley McNair, of Mercer, a much-loved Maine poet, who has been named the new State Poet Laureate. Mr. McNair is a Professor Emeritus and Writer in Residence at the University of Maine at Farmington. He is the author of 18 books, including poetry, prose and edited anthologies, and he has also directed the Creative Writing Program. His honors include receiving the Distinguished Faculty Award and the Libra Professorship. We congratulate Mr. McNair on his receiving this well-deserved honor and send him our best wishes;

(HLS 259)

Presented by Representative GILBERT of Jay.

Cosponsored by Senator SAVIELLO of Franklin.

On **OBJECTION** of Representative GILBERT of Jay, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **GILBERT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am honored to represent so many people of varied accomplishments from throughout my district. Wesley McNair, Maine's Poet Laureate, is one of these.

During his remarks at the Blaine House, Wes said, and I concur, "...that poetry has a meaning and importance that transcends our politics." I am excited by his pledge to be an engaged and active poet laureate through a series of readings called "The Maine Poetry Express," and a new weekly column appearing in newspapers across Maine featuring one previously published poem by a Maine poet from the present and from our past.

I agree with Wes that by putting poetry directly into the laps and laptops of readers everywhere, all of our fellow Maine citizens will be reminded that poetry is not only for the special occasions in our life, but for every day in our lives.

To that end, I would like to take this time to read a poem by a poet friend of mine, Henry Braun, of Temple. It's an older poem of his which he reworked a bit as a tribute to Wes McNair's poems about Maine neighbors and the Mercer Grange Hall.

"Reading Late"

*this time the poems
of Wesley McNair*

Some evenings fragility lays
itself out on roads from
poems you are reading,

fresh peculiar enlargements
that keep you wakeful
long after the book closes.

You follow by oil lamp
Maine neighbors alive
in words for hours through the pages.

And now, in a quiet house,
Everyone breathing must be looked at
and more than looked at,
accompanied.

Thank you, Wes McNair, for your poems and I would like to take this opportunity for all of us to pause to recognize the importance of poetry and the power of the written word. For poetry has the capacity to move us, to help us to reflect, to remind us of who we are, and to help us to envision our future. Thank you.

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

Recognizing:

the members of the Catherine McAuley High School Girls Basketball Team, who have won the 2011 Class A State Basketball Championship. We congratulate the members of the team on their achievement and send them our best wishes;

(HLS 294)

Presented by Representative HARLOW of Portland.
Cosponsored by Senator BRANNIGAN of Cumberland, Senator ALFOND of Cumberland, Representative HASKELL of Portland, Representative RUSSELL of Portland, Representative CHIPMAN of Portland, Representative HINCK of Portland, Representative LOVEJOY of Portland, Representative STUCKEY of Portland, Representative DION of Portland.

On **OBJECTION** of Representative HARLOW of Portland, was **REMOVED** from the Special Sentiment Calendar.

READ.

On motion of the same Representative, **TABLED** pending **PASSAGE** and later today assigned.

Recognizing:

Sister Edward Mary Kelleher, of Portland, on her retirement as principal of Catherine McAuley High School after over 30 years of leadership of Maine's only Catholic girls high school. Sister Edward Mary will serve as principal emerita through the coming school year before retirement. She grew up in Bangor and entered the Sisters of Mercy in 1963. Sister Edward Mary earned her bachelor's degree in education at Saint Joseph's College in Standish and received a master's degree in educational administration and supervision from Boston College. Before she became principal at Catherine McAuley High School in 1980, Sister Edward Mary had teaching and administrative positions in Catholic schools in Houlton, Lewiston and Portland.

Known for "living the mission," Sister Edward Mary leads by example and has touched the lives of many young women. We acknowledge her dedicated commitment to her faith, her school and the communities in which she has served. We congratulate her on her retirement and send her our best wishes;

(HLS 296)

Presented by Representative HARLOW of Portland.
Cosponsored by Senator BRANNIGAN of Cumberland, Senator ALFOND of Cumberland, Representative HASKELL of Portland, Representative RUSSELL of Portland, Representative CHIPMAN of Portland, Representative HINCK of Portland, Representative LOVEJOY of Portland, Representative STUCKEY of Portland, Representative DION of Portland.

On **OBJECTION** of Representative HARLOW of Portland, was **REMOVED** from the Special Sentiment Calendar.

READ.

On motion of the same Representative, **TABLED** pending **PASSAGE** and later today assigned.

Recognizing:

Sydney Gillingham, of Standish, a 9-year-old student at George E. Jack Elementary School, who received the Act of Kindness award from the Kind Acts Foundation. Sydney alerted an emergency medical technician, who was substituting in her school, about a student who had been injured on the playground. Her quick thinking allowed the student to immediately receive necessary medical care. Sydney is very active in her community. She volunteers at the Standish Food Pantry and Catherine's Cupboard and helps patrons with bagging and carrying their food choices. She is a Girl Scout and has participated in the annual food drive event, "scouting for food," for the past 3 years. Last year, Sydney won first place in the SAD 6 writing contest. We send our congratulations to Sydney for her commitment to her community and for her receiving the Act of Kindness award;

(HLS 299)

Presented by Representative SHAW of Standish.
Cosponsored by Senator DIAMOND of Cumberland, Representative McCLELLAN of Raymond.

On **OBJECTION** of Representative SHAW of Standish, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **SHAW**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I am proud to rise today to honor Sydney Gillingham. Sydney is the type of student and kid that every community would love to have. Sydney is a great student and a person that thinks of others. Her community involvement should be commended. Her duties as a girl scout and her work at the food pantry are what makes a community a real community of people. I wish her the very best in the future. Thank you, Mr. Speaker.

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

**REPORTS OF COMMITTEE
Divided Report**

Majority Report of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought Not to Pass** on Bill "An Act To Require an Employer To Provide Notification Regarding the Employer's Personal Leave Policy to Employees"

(S.P. 281) (L.D. 893)

Signed:
Senators:
RECTOR of Knox
MARTIN of Kennebec

Representatives:
PRESCOTT of Topsham
DOW of Waldoboro
DRISCOLL of Westbrook
GILBERT of Jay
HERBIG of Belfast
HUNT of Buxton
NEWENDYKE of Litchfield
TUTTLE of Sanford
VOLK of Scarborough
WINTLE of Garland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-48)** on same Bill.

Signed:
Senator:
JACKSON of Aroostook

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

On motion of Representative CURTIS of Madison, the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

Majority Report of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought Not to Pass** on Bill "An Act To Expand Access to Oral Health Care"

(H.P. 219) (L.D. 266)

Signed:
Senators:
RECTOR of Knox
MARTIN of Kennebec

Representatives:
PRESCOTT of Topsham
DOW of Waldoboro
DRISCOLL of Westbrook
GILBERT of Jay
HERBIG of Belfast
HUNT of Buxton
NEWENDYKE of Litchfield
TUTTLE of Sanford
VOLK of Scarborough
WINTLE of Garland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-129)** on same Bill.

Signed:
Senator:
JACKSON of Aroostook

READ.

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

CONSENT CALENDAR
First Day

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

(H.P. 471) (L.D. 641) Bill "An Act To Allow a Portion of Snowmobile Registration Fees To Be Used for the Repair of Trail-grooming Equipment" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass**

(H.P. 20) (L.D. 28) Resolve, To Improve Access to Employment Opportunities for Persons with Intellectual Disabilities and Autistic Disorders (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-139)**

(H.P. 54) (L.D. 66) Bill "An Act To Amend the Laws Governing the Capital Reserve Funds of the Maine Educational Loan Authority" (EMERGENCY) Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-149)**

(H.P. 88) (L.D. 106) Resolve, Regarding Legislative Review of Portions of Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty, a Major Substantive Rule of the Department of Education (EMERGENCY) Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-148)**

(H.P. 120) (L.D. 138) Bill "An Act To Allow a Nonresident Notary Public or Justice of the Peace To Perform a Single Wedding Ceremony" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-134)**

(H.P. 187) (L.D. 234) Bill "An Act To Provide a Sales Tax Exemption to Commercial Horticulturists" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-153)**

(H.P. 284) (L.D. 358) Bill "An Act To Exempt from the Income Tax Military Death Payments and Employment-based Retirement Income of Persons Who Are 65 Years of Age or Older" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-136)**

(H.P. 349) (L.D. 456) Bill "An Act To Create a Temporary Disability Parking Permit" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-145)**

(H.P. 394) (L.D. 501) Bill "An Act To Provide an Option To Register with the Selective Service System When Obtaining a Driver's License" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-157)**

(H.P. 690) (L.D. 930) Bill "An Act To Clarify Maine's Phaseout of the 'Deca' Mixture of Polybrominated Diphenyl Ethers" Committee on **ENVIRONMENT AND NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-152)**

(H.P. 727) (L.D. 983) Bill "An Act To Amend the Maine Limited Liability Company Act" (EMERGENCY) Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-135)**

(H.P. 919) (L.D. 1228) Bill "An Act To Streamline the Liquor Licensing Reporting Procedure" Committee on **VETERANS AND LEGAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-137)**

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

**CONSENT CALENDAR
Second Day**

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

(S.P. 125) (L.D. 421) Bill "An Act To Create the Maine Fishery Infrastructure Tax Credit Program" (C. "A" S-42)

(S.P. 133) (L.D. 429) Bill "An Act To Clarify the Role of the Public Advocate" (C. "A" S-46)

(S.P. 135) (L.D. 431) Bill "An Act To Require the Efficiency Maine Trust To More Effectively Administer Funds" (C. "A" S-47)

(S.P. 190) (L.D. 610) Bill "An Act To Clarify the Procedure by Which a Salvage Company May Apply for a Motor Vehicle Title" (C. "A" S-45)

(H.P. 572) (L.D. 765) Bill "An Act To Address the Documented Educational and Rehabilitation Needs of Persons Who Are Blind or Visually Impaired" (C. "A" H-130)

(H.P. 668) (L.D. 909) Bill "An Act To Provide Additional Flexibility for the Funding of Infrastructure Improvements by Consumer-owned Water Utilities" (C. "A" H-126)

(H.P. 882) (L.D. 1191) Bill "An Act To Encourage Business Development by Limiting the Time a Utility May Hold a Business Customer's Deposit" (C. "A" H-127)

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

BILLS IN THE SECOND READING

Senate as Amended in Non-Concurrence

Bill "An Act To Exempt from Income Tax the Income of Nonresidents Working in Maine Pursuant to an Interlocal Agreement"

(S.P. 137) (L.D. 433)

(H. "A" H-131 to C. "A" S-20)

House as Amended

Bill "An Act To Exempt Retired Military Pay from State Income Tax"

(H.P. 477) (L.D. 647)

(C. "A" H-123)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the Senate Paper was **PASSED TO BE ENGROSSED as Amended** in non-concurrence and sent for 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 Clarify the Scope of Maine's Franchise Laws for Dealers of Power Equipment, Machinery and Appliances

(S.P. 96) (L.D. 316)

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

Emergency Measure

An Act To Continue the Axle Fine Waiver during the Midwinter Season

(S.P. 240) (L.D. 796)

(C. "A" S-40)

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. 130 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 Implement a Maine Unemployment Insurance Work-sharing Program

(H.P. 222) (L.D. 269)

(C. "A" H-91)

An Act To Amend Shelter Provisions To Accommodate Rotational Grazing of Livestock

(H.P. 253) (L.D. 320)

(C. "A" H-98)

An Act To Clarify the Uniform Arbitration Act

(H.P. 379) (L.D. 486)

(C. "A" H-94)

An Act Concerning the Lake and River Protection Fund

(H.P. 439) (L.D. 556)

(C. "A" H-99)

An Act To Allow for Timely Credit for Driver's License Suspensions Imposed by a Court

(S.P. 178) (L.D. 595)

An Act Pertaining to the Laws Governing Pull Events

(H.P. 459) (L.D. 629)

(C. "A" H-100)

An Act Relating to Indemnity Agreements in Motor Carrier Transportation Contracts

(S.P. 216) (L.D. 727)

(C. "A" S-43)

An Act To Terminate the Authorization of the Maine Self-Insurance Guarantee Association To Serve as a Statistical Advisory Organization for Self-insurers

(S.P. 221) (L.D. 731)

An Act To Strengthen the Laws Regarding Dangerous Dogs

(H.P. 562) (L.D. 755)

(C. "A" H-101)

An Act To Modify the Auditing Requirements for Certain Small Water Utilities

(H.P. 579) (L.D. 772)

(C. "A" H-93)

An Act To Amend the Maine Consumer Credit Code Regarding Interest Charged on Deferred Payments

(S.P. 279) (L.D. 891)

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, To Direct the Bureau of Consumer Credit Protection To Recommend Changes to Credit Reporting Laws Concerning Paid Debts

(S.P. 364) (L.D. 1243)

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

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

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

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment Thursday, April 28, 2011, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (8) Ought to Pass - Minority (5) Ought to Pass as Amended by Committee Amendment "A" (H-82) - Committee on INSURANCE AND FINANCIAL SERVICES on Bill "An Act To Eliminate Duplication of Paint Disclosure and Radon Requirements"

(H.P. 427) (L.D. 544)

TABLED - April 13, 2011 (Till Later Today) by Representative RICHARDSON of Warren.

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

Subsequently, the Majority Ought to Pass Report was **ACCEPTED**.

On motion of Representative TREAT of Hallowell, the House **RECONSIDERED** its action whereby the Majority Ought to Pass Report was **ACCEPTED**.

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

Representative TREAT: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I wanted to give you some information about the bill, the committee report that we're voting on, and then talk to you about considering later on an amendment that will make it more acceptable to the minority on the committee.

The Majority Report basically, well, let me start again. This legislative session, we've had hundreds of bills that have been introduced and many repeal or rollback regulations. Some of them are focused very closely on unnecessary paperwork or redundant requirements. Others take aim at provisions that truly protect public health and safety. LD 544 has some of both. The Minority Report, which is not before us, took out those provisions that related to public health. On reflection, we have decided to put forward an amendment which we will consider if the House accepts the Majority Report, which I will speak to later, but that would directly address the specific and most serious public health concerns of this legislation. Thank you.

Representative RICHARDSON of Warren REQUESTED a roll call on the motion to **ACCEPT** the Majority Ought to Pass Report.

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

The **SPEAKER**: The Chair recognizes the Representative from Veazie, Representative Parker.

Representative PARKER: Thank you, Mr. Speaker. Mr. Speaker, Members of the House. I rise in opposition to this proposed amendment. In my practice I spent many years....

The **SPEAKER**: Will the Representative defer. At the point we are at now, we are simply voting. We are having a roll call

vote on the Acceptance of the Majority Ought to Pass Report. There has been no amendment offered at this point.

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

ROLL CALL NO. 26

YEA - Ayotte, Beaudoin, Beaulieu, Beavers, Beck, Beliveau, Bennett, Berry, Bickford, Black, Blodgett, Boland, Bolduc, Briggs, Bryant, Burns DC, Burns DR, Cain, Casavant, Cebra, Chapman, Chase, Chipman, Clark H, Clark T, Clarke, Cornell du Houx, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dill J, Dow, Driscoll, Duchesne, Dunphy, Eberle, Edgecomb, Espling, Eves, Fitts, Fitzpatrick, Flemings, Flood, Fossel, Foster, Fredette, Gifford, Gilbert, Gillway, Goode, Graham, Guerin, Hamper, Hanley, Harlow, Harmon, Harvell, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Innes Walsh, Johnson D, Johnson P, Kaenrath, Kent, Keschl, Knapp, Knight, Kruger, Kumiega, Lajoie, Libby, Long, Longstaff, Lovejoy, Luchini, MacDonald, Maker, Malaby, Maloney, Martin, Mazurek, McCabe, McClellan, McFadden, McKane, Morissette, Morrison, Moulton, Nass, Nelson, Newendyke, O'Brien, O'Connor, Olsen, Parker, Parry, Peoples, Peterson, Picchiotti, Pilon, Plummer, Prescott, Priest, Rankin, Richardson D, Richardson W, Rioux, Rochelo, Rosen, Rotundo, Russell, Sanborn, Sanderson, Sarty, Shaw, Sirocki, Stevens, Strang Burgess, Stuckey, Theriault, Tilton, Timberlake, Treat, Turner, Tuttle, Valentino, Volk, Wagner R, Waterhouse, Weaver, Webster, Welsh, Willette A, Willette M, Winsor, Wintle, Wood, Mr. Speaker.

NAY - NONE.

ABSENT - Carey, Celli, Dill C, Dion.

Yes, 147; No, 0; Absent, 4; Excused, 0.

147 having voted in the affirmative and 0 voted in the negative, with 4 being absent, and accordingly the Majority Ought to Pass Report was **ACCEPTED**.

The Bill was **READ ONCE**.

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

Representative TREAT of Hallowell PRESENTED House Amendment "A" (H-96), which was READ by the Clerk.

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

Representative TREAT: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Sorry if I confused things, but I wanted to let people know that this was not in fact a unanimous support for the original bill. But we offer today an amendment which I hope will get support from members of this body.

As I already noted, the title of this bill is "An Act To Eliminate Duplication of Paint Disclosure and Radon Requirements." If the text of the bill accurately reflected this title, then the bill would be a slam-dunk, a unanimous report. The entire Insurance and Financial Services Committee agree with those sections of the bill that eliminate duplication and the current requirement of a state lead-based paint disclosure for real estate transactions. A similar requirement is in federal law and it makes absolute sense to delete the duplicative, separate Maine disclosure. Unfortunately, the Majority Report also deletes important health protections by repealing current law requiring landlords to test their properties for radon and perform mitigation if the radon results exceed 4 picocuries a liter if those properties are used exclusively for rentals not exceeding 100 days. This level of contamination is recommended by federal and state agencies as the action level at which it is necessary to take action to protect human health.

While on the face of it this proposed exemption may appear reasonable, the minority found the testimony of the Maine Center for Disease Control and the Maine Indoor Air Quality Council persuasive. According to Dr. Stephen Sears, Maine's CDC Director, data show that one in three structures in Maine have elevated radon levels and these elevated levels occur throughout the state. Particularly in winter, when many seasonal properties are rented, these levels pose a serious health threat, even when exposure is limited to less than 100 days, as the Majority Report would do. Dr. Sears stated in his testimony "We have received data that show that winter radon levels in areas of numerous seasonal rentals, including Bethel, Kingfield and Rangeley, have been found as high as 230 picocuries a liter." Keep in mind that the action level is 4. Two-hundred and thirty. A person who spends just 100 days at a rental property at this level of radon has a risk of developing lung cancer of about 1 in 1,000. One in every 1,000 persons will get lung cancer.

Because of this science-based evidence, the minority did not support LD 544 without an amendment, and we offer you today an amendment that takes out of the bill only the winter 100 days or less rentals. It keeps in the bill summer rentals under 100 days or less. No problem, you don't need to do the radon disclosure or any mitigation. But if it's a winter rental it is excluded from the provisions of the bill because there is indeed a significant science-based health risk. I ask that you support this amendment, which carries out the goal of the bill's title, reducing duplicate regulation without weakening important health protections. I request a roll call.

Representative TREAT of Hallowell **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-96)**.

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 Waterville, Representative Beck.

Representative **BECK**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I support the pending motion, the compromise amendment. I think it would be helpful for the House to understand and, if I am incorrect, I hope to be corrected.

I believe the unanimous bipartisan radon testing requirement passed in the previous Legislature requires radon testing not for every new tenant, not every year, but once every 10 years, once a decade. Frankly, I don't object strongly to the current law that says that all rental properties be tested for radon once every 10 years, but this compromise amendment, I think, is prudent. The Maine CDC and the Maine Indoor Air Quality Council had objections to the original bill as was just passed and I hope you do too. I hope you support the pending motion.

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

Representative **McKANE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This amendment is very unnecessary I think. The only way that someone could get enough exposure to radon in a rental property in the winter is if they sat in the house with all the windows closed, for the whole 100 days, and it happened to be one of those, some place that had excess radon in it.

This is an unnecessary requirement on landlords. Most people who rent in the wintertime probably do it during school vacations and they might do it for a week, might only do it for a weekend. The chances are good they are not going to do it for a whole 100 days and just sit in that house for the whole 100 days and get that exposure, which is unlikely anyway. Thank you, Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Veazie, Representative Parker.

Representative **PARKER**: Thank you, Mr. Speaker. Mr. Speaker, Members of the House. My background for the last 30 years has been involved in environmental work and I have done a tremendous amount of radon mitigation and radon testing. I am a licensed radon mitigator. The need for this bill or this amendment doesn't exist. Radon exposure requirements are based on long-term exposure and to have a selective process where people are not required, this is not housing, this is not a mandatory area where they have to live, it is not rental apartments where people are obligated to live. This is by choice. Had some individual wanted the information of radon, they have the choice of renting or not renting.

Radon regulations now make exceptions for short-term and temporary exposure to the radon. For example, motels, hotels, things of that nature are exempted. To pick on this particular one, which would be seasonal rentals, I assume on these ski slopes and those areas, it doesn't make any sense because the radon exposure on other seasonal rentals probably is no greater or no less than that. Therefore, I don't believe it would be necessary to put this imposition on the people who are trying to rent their properties, when the person renting has the option of coming or not coming to that property if they so choose.

As I said before, it is not obligatory. If you look at the radon exposure limits, they are all "lifetime exposure." And yes, if the radon number climbs higher, there is potential damage to individuals living in the property, but it is not geared toward short-term rentals. So for that reason I am opposed to this amendment.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Adoption of House Amendment "A" (H-96). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 27

YEA - Beaudoin, Beavers, Beck, Beliveau, Berry, Blodgett, Boland, Briggs, Bryant, Cain, Carey, Chapman, Chipman, Clarke, Cornell du Houx, Dill C, Dill J, Duchesne, Eberle, Eves, Flemings, Gilbert, Goode, Graham, Harlow, Haskell, Hayes, Herbig, Hinck, Hunt, Innes Walsh, Kent, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maloney, Martin, Mazurek, McCabe, Morrison, Nelson, O'Brien, Peoples, Priest, Rankin, Rochelo, Rotundo, Russell, Sanborn, Stevens, Stuckey, Theriault, Treat, Tuttle, Valentino, Wagner R, Webster, Welsh.

NAY - Ayotte, Beaulieu, Bennett, Bickford, Black, Bolduc, Burns DC, Burns DR, Casavant, Cebra, Chase, Clark H, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dow, Driscoll, Dunphy, Edgecomb, Espling, Fitts, Fitzpatrick, Flood, Fossil, Foster, Fredette, Gifford, Gillway, Guerin, Hamper, Hanley, Harmon, Harvell, Hogan, Johnson D, Johnson P, Kaenrath, Keschl, Knapp, Knight, Libby, Long, Maker, Malaby, McClellan, McFadden, McKane, Morissette, Moulton, Nass, Newendyke, O'Connor, Olsen, Parker, Parry, Peterson, Picchiotti, Pilon, Plummer, Prescott, Richardson D, Richardson W, Rioux, Rosen, Sanderson, Sarty, Shaw, Sirocki, Strang Burgess, Tilton, Timberlake, Turner, Volk, Waterhouse, Weaver, Willette A, Willette M, Winsor, Wintle, Wood, Mr. Speaker.

ABSENT - Celli, Dion.

Yes, 62; No, 87; Absent, 2; Excused, 0.

62 having voted in the affirmative and 87 voted in the negative, with 2 being absent, and accordingly **House Amendment "A" (H-96) was NOT ADOPTED**.

Subsequently, under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED** and sent for concurrence. **ORDERED SENT FORTHWITH**.

ORDERS

On motion of Representative MALONEY of Augusta, the following Joint Resolution: (H.P. 1135) (Cosponsored by Representatives: AYOTTE of Caswell, BEAUDOIN of Biddeford, BEAULIEU of Auburn, BEAVERS of South Berwick, BECK of Waterville, BELIVEAU of Kittery, BENNETT of Kennebunk, BERRY of Bowdoinham, BICKFORD of Auburn, BLACK of Wilton, BLODGETT of Augusta, BOLAND of Sanford, BOLDUC of Auburn, BRIGGS of Mexico, BRYANT of Windham, BURNS of Whiting, BURNS of Alfred, CAIN of Orono, CAREY of Lewiston, CASAVANT of Biddeford, CEBRA of Naples, CELLI of Brewer, CHAPMAN of Brooksville, CHASE of Wells, CHIPMAN of Portland, CLARK of Millinocket, CLARK of Easton, CLARKE of Bath, CORNELL du HOUX of Brunswick, COTTA of China, CRAFTS of Lisbon, CRAY of Palmyra, CROCKETT of Bethel, CURTIS of Madison, CUSHING of Hampden, DAMON of Bangor, DAVIS of Sangerville, DILL of Cape Elizabeth, DILL of Old Town, DION of Portland, DOW of Waldoboro, DRISCOLL of Westbrook, DUCHESNE of Hudson, DUNPHY of Embden, EBERLE of South Portland, EDGECOMB of Caribou, ESPLING of New Gloucester, EVES of North Berwick, FITTS of Pittsfield, FITZPATRICK of Houlton, FLEMINGS of Bar Harbor, FLOOD of Winthrop, FOSSEL of Alna, FOSTER of Augusta, FREDETTE of Newport, GIFFORD of Lincoln, GILBERT of Jay, GILLWAY of Searsport, GOODE of Bangor, GRAHAM of North Yarmouth, GUERIN of Glenburn, HAMPER of Oxford, HANLEY of Gardiner, HARLOW of Portland, HARMON of Palermo, HARVELL of Farmington, HASKELL of Portland, HAYES of Buckfield, HERBIG of Belfast, HINCK of Portland, HOGAN of Old Orchard Beach, HUNT of Buxton, INNES of Yarmouth, JOHNSON of Eddington, JOHNSON of Greenville, KAENRATH of South Portland, KENT of Woolwich, KESCHL of Belgrade, KNAPP of Gorham, KNIGHT of Livermore Falls, KRUGER of Thomaston, KUMIEGA of Deer Isle, LAJOIE of Lewiston, LIBBY of Waterboro, LONG of Sherman, LONGSTAFF of Waterville, LOVEJOY of Portland, LUCHINI of Ellsworth, MacDONALD of Boothbay, MAKER of Calais, MALABY of Hancock, MARTIN of Eagle Lake, MAZUREK of Rockland, McCABE of Skowhegan, McCLELLAN of Raymond, McFADDEN of Dennysville, McKANE of Newcastle, MITCHELL of the Penobscot Nation, MORISSETTE of Winslow, MORRISON of South Portland, MOULTON of York, NASS of Acton, NELSON of Falmouth, NEWENDYKE of Litchfield, Speaker NUTTING of Oakland, O'BRIEN of Lincolnville, O'CONNOR of Berwick, OLSEN of Phippsburg, PARKER of Veazie, PARRY of Arundel, PEOPLES of Westbrook, PETERSON of Rumford, PICCHIOTTI of Fairfield, PILON of Saco, PLUMMER of Windham, PRESCOTT of Topsham, PRIEST of Brunswick, RANKIN of Hiram, RICHARDSON of Carmel, RICHARDSON of Warren, RIOUX of Winterport, ROCHELO of Biddeford, ROSEN of Bucksport, ROTUNDO of Lewiston, RUSSELL of Portland, SANBORN of Gorham, SANDERSON of Chelsea, SARTY of Denmark, SHAW of Standish, SIROCKI of Scarborough, SOCTOMAH of the Passamaquoddy Tribe, STEVENS of Bangor, STRANG BURGESS of Cumberland, STUCKEY of Portland, THERIAULT of Madawaska, TILTON of Harrington, TIMBERLAKE of Turner, TREAT of Hallowell, TURNER of Burlington, TUTTLE of Sanford, VALENTINO of Saco, VOLK of Scarborough, WAGNER of Lewiston, WATERHOUSE of Bridgton, WEAVER of York, WEBSTER of Freeport, WELSH of Rockport, WILLETTE of Mapleton, WILLETTE of Presque Isle, WINSOR of Norway, WINTLE of Garland, WOOD of Sabattus, Senators: ALFOND of Cumberland, BRANNIGAN of Cumberland, COLLINS of York, COURTNEY of York, CRAVEN

of Androscoggin, DIAMOND of Cumberland, FARNHAM of Penobscot, GERZOFKY of Cumberland, GOODALL of Sagadahoc, HASTINGS of Oxford, HILL of York, HOBBS of York, JACKSON of Aroostook, KATZ of Kennebec, LANGLEY of Hancock, MARTIN of Kennebec, MASON of Androscoggin, McCORMICK of Kennebec, PATRICK of Oxford, PLOWMAN of Penobscot, President RAYE of Washington, RECTOR of Knox, ROSEN of Hancock, SAVIELLO of Franklin, SCHNEIDER of Penobscot, SHERMAN of Aroostook, SNOWE-MELLO of Androscoggin, SULLIVAN of York, THIBODEAU of Waldo, THOMAS of Somerset, TRAHAN of Lincoln, WHITEMORE of Somerset, WOODBURY of Cumberland)

**JOINT RESOLUTION RECOGNIZING MILLICENT
MACFARLAND ON THE OCCASION OF HER RETIREMENT
AS CLERK OF THE HOUSE OF REPRESENTATIVES**

WHEREAS, We, the Members of the 125th Legislature, take this opportunity to recognize the longtime service of Millicent MacFarland, known as Millie, who served the Maine House of Representatives as a dedicated public servant; and

WHEREAS, Ms. MacFarland was born in Augusta, Maine and received her early education in Whitefield schools, graduated from Erskine Academy in South China in 1974 and attended Thomas College and the University of Maine at Augusta, where she earned her Bachelor of Science degree in Public Administration; and

WHEREAS, Ms. MacFarland served the Maine House of Representatives in various capacities for over 30 years, including 8 years as Assistant Clerk of the House and service in the distinguished position of Clerk of the House from December 2000 to December 2010; and

WHEREAS, as Clerk of the House of Representatives, Ms. MacFarland worked closely with the Speaker of the House on issues of parliamentary procedure and administrative matters ranging from scheduling to personnel policies of House employees and oversaw the daily operations and workflow of the House under the direction of the Speaker of the House; and

WHEREAS, among her many professional contributions, on the national level Ms. MacFarland was elected by her peers to serve in every leadership post of the American Society of Legislative Clerks and Secretaries, including as President in 2009, and in 1995 she became the first editor of the Journal of the American Society of Legislative Clerks and Secretaries, a publication that discusses topics such as parliamentary procedures, management and technology in state legislatures; and

WHEREAS, Ms. MacFarland is a member of the Mason's Manual Commission, which is a 20-member commission entrusted with the copyright of the premier guide on legislative procedure used by legislatures in the United States; and

WHEREAS, Ms. MacFarland received the Legislative Staff Achievement Award from the National Conference of State Legislatures for her dedicated and excellent service to the Maine Legislature in 1996, the first year the award was granted; and

WHEREAS, from 1996 to 2002, Ms. MacFarland served as either permanent secretary or parliamentarian for the Maine Democratic Party State Convention and she has been very active in and supportive of the Maine Legislative Memorial Scholarship Committee and the Joseph W. Mayo ALS Scholarship Committee; and

WHEREAS, throughout Ms. MacFarland's tenure she has displayed unflinching professionalism and has exemplified the integrity and sacrifice of one dedicated to public service, contributing her impressive expertise and commitment to the Maine State Legislature and to the State of Maine; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-fifth Legislature, now assembled in the First Regular Session, on behalf of the people we represent, take this opportunity to send our appreciation to Millicent MacFarland for her many years of exemplary and loyal service to the Maine State Legislature and the State of Maine, and we send her our best wishes on her future endeavors; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to Millicent MacFarland with the appreciation of the people of the State of Maine.

READ.

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

Representative MALONEY: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am so pleased to present this Joint Resolution honoring our longtime Clerk Millie MacFarland, who is also, I am proud to say, a resident of my district. She served here in the House for over 30 years and I will be presenting this Joint Resolution to her tomorrow night at a gathering that everyone is invited to, and I am excited that everyone was allowed to sign on to this Resolution. So she will be very proud to receive this, honoring her achievement and all the work that she has done for the people of the State of Maine. Thank you.

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

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment Thursday, April 28, 2011, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (9) Ought to Pass as Amended by Committee Amendment "A" (H-108) - Minority (3) Ought Not to Pass - Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act To Repeal the Informed Growth Act"

(H.P. 255) (L.D. 322)

TABLED - April 27, 2011 (Till Later Today) by Representative CAIN of Orono.

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

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

Representative BERRY: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise to speak in opposition to the pending motion and I ask in the immortal words of *The Times Record* on a blue sheet that we all received on our desks, friendly to which businesses?

If we are to go forward and accept the pending motion, which businesses are we befriending? Is it the small downtown Maine businesses, or is it rather the businesses from anywhere U.S.A.? The businesses which fundamentally when you are inside of them, could exist, you could be anywhere in the nation, that are probably not owned here in Maine and certainly don't fit in Maine's famed downtowns.

I grew up in my mother's store after school. I would spend hours helping her to stock the shelves in a small business called The Great Indoors in downtown Brunswick. It was a housewares store and it was beloved by many in the community.

Unfortunately, when some of the big box stores came to Cooks Corner, it became harder to compete, prices were a little

cheaper, the quality was lower, and decisions made by people who have the absolute right to go to those other stores resulted in the closure of her business.

Competition is not a bad thing. And she is doing fine now, you'll be happy to know. But one fewer business existed in downtown Brunswick and one more out at Cooks Corner.

Grand City in Brunswick, across the street, where there was a soda fountain and a wonderful old-fashioned department store also folded up for the same reason and at about the same time.

Fortunately, Brunswick has had a much better set of experiences than most towns in Maine and certainly most towns in the country. Brunswick recently, just this fall, was voted one of the best 25 places to retire by the editors of *Money Magazine*, and it was listed that way because of its famed downtown, its sidewalks, its small boutiques, its restaurants, its eateries.

The quality of life that we boast rightfully here in Maine is what Brunswick continues to be known for. It has managed to grow smart, to limit the growth in the Cooks Corner area and to move forward. The same cannot be said of downtown Augusta or downtown Biddeford or so many other towns where the lifeblood and the quality of life has really unfortunately been sucked dry, shifted to the highway area, to the out of town sprawl.

As amended this title still accomplishes what it says it does, it still repeals the Informed Growth Act. Please do not be deceived by the paper circulated today. It said the Majority Report does not repeal the Informed Growth Act. It does, because if we enact this report as amended, we accept the Majority Report, towns will still have every opportunity, every bit of local control that they would have if we simply repealed the act altogether. There is nothing, no concrete standard. In fact, the concrete standards we used to have are changed and made flexible, made meaningless in fact, by the language in this report. There is nothing to hang your hat on.

We would do better, Ladies and Gentlemen, to simply repeal the act altogether than to put forward a model ordinance. We would be better to repeal the act altogether and to allow towns to adopt their own ordinance that does what the Informed Growth Act used to do before we gutted it.

Men and Women of the House, Mr. Speaker, if you believe that our downtowns have some value, be it economic or human, I implore you to vote against the pending motion. If you believe the Informed Growth Act had some value, please don't be deceived that this amendment, this so-called opt-in, will accomplish anything. Because if you opt-in to nothing, you have nothing, and that's what our downtowns will be left with if we accept the Majority Report. Thank you, Mr. Speaker.

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

Representative HARVELL: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. To be or not be. That is the question that I ask thee. What do the Informed Growth Act and Shakespeare have in common? They both belong in the 16th century because they treat economics as those European powers did as a zero sum game when they accepted mercantilism as the fate of nations. It has not been the fate of nations since a man named Adam Smith wrote *The Wealth of Nations* and it was demonstrated unequivocally for three centuries that economics is not and has never been a zero sum game.

Now to the arrogance of the central planners who believe that they can actually control an economy still, I realize this is troubling news. One is reminded of what Truman said when they sent an economist to him. He said, the next time send a man with one arm so he can't say "on the other hand."

Economies are complex. They are by their nature complex.

Take the economic impact study that this act requires. It always assumes the negative. I have pointed out in committee that had this existed 100 years ago and Henry Ford had wanted to open a large plant in Farmington, what would the economic impact study have told us? It would have told us that the ferrier, the wagon maker, the whip maker, the harness maker would have all been gone out of business and what a devastating effect that would have had on our economies. Why, because it is looking at the now, not the then. It can't do that by the definition of it. And if this act had existed 100 years ago, we would have all been here today on horseback. The reality is the automobile came, those things went out of business, but they were replaced and the automobile gave people the opportunity to do things that were unimaginable to them before. The economy grew. Economics and economies are not zero sum games.

And Farmington, I'm sure, has the same problem that other downtowns have. It was built in the early 19th century and it is small. It has always had a parking problem, so when they decided to expand, they expanded in the area between Wilton and Farmington. When I was a child, if you wanted to really do some shopping for anything other than a hardware store or a grocery store visit, my family and the family of many people in Franklin County went to Auburn. They passed right through Farmington from the northern areas – Phillips, Rangeley – and drove to Waterville or Auburn because there was nothing there and there was no parking in downtown Farmington.

Since the Wal-Mart has come in, they are now stopping there. The question you have to ask yourself is if you save \$10 on a pair of pants at Wal-Mart, what do you do with the \$10? You do something. You maybe go out to eat. You maybe shop elsewhere. The reality is that Reny's alone in Farmington has expanded since Wal-Mart has been there and Wal-Mart has as well. Why, because economies are not zero sum games.

All that said, I ask you to follow my light and support the opt-in measure because it is an opt-in measure. It allows towns to make the choice, whether they desire this act or not.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Kruger.

Representative **KRUGER**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. "O, that this too too solid flesh would melt." I urge you to vote no on this motion. The Maine people are not served well by legislatures that pass a law one year, takes effect the next and then repeal it the next. A town that has adopted economic and community review criteria can opt out of this law now. I say let's give the law a chance to work, let local control and local businesses have a chance against the big boxes, and I thank you.

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

Representative **BOLAND**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The Informed Growth Act is worth keeping. It came as a result of a grass roots effort by small businesses and citizens of small towns and Representatives of small towns. They asked to have a standard by which they could fairly judge the impact of some of these very large-scale retailers who may be proposing to come to their towns. They felt that they were ill-equipped to deal with facing these giant concerns, and they came to the Legislature asking for a tool to help them, one that would give them the tools that they needed and put them on a level playing field with other towns. The Informed Growth Act is the product of their efforts and of the Legislature's recognition of the value of that.

The Informed Growth Act provides a process by which the town can evaluate whether or not they want to spend their taxes on the roads that are required and the other infrastructure, the

upgrades perhaps, to other aspects of the town, the sewer and all that sort of thing. It gives them an opportunity to see what the benefits are relative to what the expenses and downside is. It also gives an opportunity to the existing businesses and the families who own them that have invested in our towns, to have a fair opportunity to evaluate what might be coming and how to adjust or deal with that.

Everybody wants information. The Maine people are not stupid. They can deal with information. I must say Maggie Shannon, the Executive Director of the Maine Congress of Lake Associations, was the last speaker of the day, and she summed up my impression of the hearing on the repealing of the Informed Growth Act. She said, at the end, "I never heard so much talk about information being a bad thing, except recently in the Middle East trying to shut down the internet."

The argument for repealing the Informed Growth Act, or for amending it, which is a repeal with a wink, is all about not allowing the people of our districts and our state to have information. That's all it's about. The Informed Growth Act is a process. It requires that a retail store the size of one and a half football fields be required to pay for them a small fee, a percentage of a percent of what it would usually cost them to develop something, a small fee to be used for an independent study. And the resources are there to do that. There are methods established to doing that, to look at such things as is there a need, what will the impact be on roads, towns and taxes, will there in fact be more jobs, will the benefits exceed the costs, how many jobs will be provided, what will the cost in sewer taxes and all that sort of thing, and what will the effect be on the existing small businesses.

It may be a benefit, as some say; it may not be, but the people in the towns that have already used the Informed Growth Act came to testify in favor of keeping it and against this kind of an amendment because it had worked for them, and not by turning away the proposed store, but by getting a better arrangement for a better negotiation so it worked better for their town.

So please, I ask you, if you really don't want people to know what's coming to their town and what the pros and cons might be, if you don't want them to have a public hearing where they can discuss it and add more information, if you don't want it to take into account the effect on the abutting towns, which the Informed Growth Act does, if you don't want any of that, you don't want them to know, you don't want to have the town have the authority to make a decision based on economic impact studies, then by all means vote for this amendment to take information away from your people, to not let them have a public hearing and discuss it and how it may be done better or not, and, in effect, repeal the Informed Growth Act. But again, I think our people are smart, I think they want information. The Informed Growth Act came from their request, ground zero, and I hope you will consider that and let them have this information. Thank you.

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

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

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

Representative **GOODE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. This bill is about Maine small businesses and Main Street. It's a great protection for small businesses that often have to compete on an unlevel playing field with Wal-Marts and other large-scale developments.

The Representative from Bowdoinham read a quote from his

local paper asking the question, this bill is friendly to which business? I just want to read a quote from my local paper, the *Bangor Daily*. They editorialized, in opposition to this bill earlier this year, and their quote I want to pull out was that "Shouldn't planners need to know if a new big-box store is likely to put a beloved family run hardware store out of business? Or if the new store is likely to result in a half-dozen empty storefronts on Main Street?"

Without the Informed Growth Act towns and municipal leaders will be asked to make decisions on Wal-Marts without the full facts, leaving them to make decisions based on anecdote instead of fact. I don't know what the problem is without getting the facts about how a Wal-Mart may impact jobs, wages, small businesses, and municipal services.

The amendment also appears to pit small towns against each other in a race to the bottom. Wal-Mart will go around the state avoiding towns that have an Informed Growth Act or use one, and the only way the policy will work is if the playing field is level for everyone. Thank you and I urge you to vote against the motion.

The SPEAKER: The Chair recognizes the Representative from York, Representative Moulton.

Representative **MOULTON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In a flier that came across our desks last week, there was a reference to the Informed Growth Act as being a model ordinance, and this morning we're also told that it came as a result of grassroots efforts. The fact, four years ago, that principally two advocacy groups did the preparation of the text along with support from other advocacy groups, does not tell me that this was a model ordinance. Typically, a model ordinance or any model legislation is the product of work from people on all sides of the issue so that we can appropriately address a problem. We see it most often in at least one of the two committees on which I sit and I would hope that for the people of this body, that they see it also in other committees.

One serious deficiency in this law, the Informed Growth Act, has to do with the criteria that you find in section 4367, subsection 4-A, which talks about the economic effects of large-scale retail development on existing retail operations. Supply and demand for retail space; number and location of existing retail establishments where there is overlap of goods and services offered; employment, including projected net job creation and loss; retail wages and benefits; captured share of existing retail sales; sales revenue retained and reinvested in the comprehensive economic impact area; municipal revenues generated; municipal capital, service and maintenance costs caused by the development's construction and operation, including costs of roads and police, fire, rescue and sewer services; and the amount of public subsidies, including tax increment financing; and public water utility, sewage disposal and solid waste disposal capacity.

I am sorry to try your patience by reading those things, but even a lawyer can count 11 and the problem with the existing law, Ladies and Gentlemen, is that there are 11 criteria and under the existing law, if you fail two of them, you're out. So what if a town actually wants to have a large-scale retail establishment, greater in size than 75,000 square feet? Under the existing law you can't do it because you failed in the test, because at least two of the criteria are negative.

That's the situation that the State and Local Government faced when this bill to repeal came in front of this committee. We had people on both extreme sides of the issue and the committee, instead of voting a straight bill, repeal or don't repeal, took this on to see whether or not there was a way to craft it such

that the communities that want to have criteria specific to the impact of jobs through post development will have that tool, and the compromise that was supported by a majority of the committee, including people on both sides of the aisle, does that.

It does remove the requirement that this applies statewide and some would argue that that in effect is a repealer, but it keeps the criteria there, but it also removes that straightjacket approach of saying, if you fail two, you're out. At least in baseball we get three strikes. But the committee tried to craft a way so that communities could adopt this law by an opt-in and if this was not the approach that we wanted to use specific to their own locale, there is also language in this amendment, amended piece of legislation, to allow them to adopt similar measures so that they can have greater flexibility than the straightjacket that was placed upon the state four years ago.

So I think there is much to be commended in the effort to try to craft a solution that still allows this law to work, in the case of the municipalities that opt to vote it in, and that's good because at the town meeting they can vote on this, and I'm sure there will be some communities that will want to do that. But why saddle the rest of us with something that we don't need or don't want? So I would encourage the body to vote in favor of the amended legislation. Thank you, Mr. Speaker.

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

Representative **CASAVANT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Compromise, that's the key word in this particular bill. The good Representative from Ogunquit spoke eloquently on the whole idea of what the problem was with this language.

Being a first-term member of that particular committee, I have to be honest. When I first read that bill I found it obtuse, complicated and vague, I found it poorly written, and because of that and because of the testimony that I heard, I found that it was just inconceivable that I could support the bill as it was.

I talked to my city manager in Biddeford. He finds it unworkable. I guess what I'm saying is that even though this sounds really wonderful in terms of a title and really wonderful in terms of its goals, the devil's in the details. It doesn't work as is and so what we tried to do was come up with a compromise and put the whole decision-making process back into the local community and let them work at it as they may.

But for the State of Maine to use that particular law, as it is written and as confusing as it is written, I find it to be wrong. Also, there was some evidence introduced that suggested that some businesses have turned away from Maine because of that complicated language and the implied costs associated with it, which to me, again, is bad policy. Thank you.

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

Representative **McCABE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise today to talk a little bit about Skowhegan. When I leave here on Tuesdays, typically I head home and try to sneak in dinner before I go and chair the planning board.

I have been a member of the planning board here for probably over six years now and we recently passed a comprehensive plan, which is a big undertaking, and quite a feat for a town like Skowhegan. We don't have a building permit in Skowhegan. We don't actually even have zoning. But Skowhegan is open for business – we continue to grow.

We actually, many of you I've seen in town who come and use the Tractor Supply. Many people come to town for the New Balance sale. Many folks actually come to town for our fair. But what a lot of folks in this chamber don't know is that Skowhegan

actually went through the Informed Growth Act. We went through a process where we worked with Wal-Mart to go through the Informed Growth Act and it actually provided a lot of information. It was useful for our town.

At the same time that Wal-Mart was talking about expanding, we actually were starting our Maine Street program as part of the downtown center in our downtown and people continue to make investments. Our hardware store actually this week is working on a facade, an improvement, so that's nice to see. Many of our stores have invested in upgrades, both inside their store and out of their store. But one thing that the Informed Growth Act did do for us was it provided information, information that addressed many of the concerns of those business owners and many of our citizens that may have actually opposed the expansion of Wal-Mart.

I actually had the opportunity, I think it was about two weeks ago, I went in to see the new expansion in Wal-Mart and it was nice to see there is a number of people. If you actually want to go anywhere in Skowhegan and see the most amount of people in an hour, you probably actually want to go to Wal-Mart and I need to remember that around campaign time, but I had the opportunity to go and tour the aisles and it was nice to see.

After that, I actually went over to the Hannaford and that was nice to go into Hannaford. They've actually done an expansion as well and changed some of their products and it's actually been suggested that some of the prices at Hannaford have actually dropped because of that expansion.

So I rise today to oppose the pending motion. I think the Informed Growth Act requires a piece of regional planning too, that often doesn't exist. Our towns often don't talk to each other. I know that when we did this process, we actually had to get some information from our neighbors from Madison, which I thought was useful, and I think that if this goes forward I have a great deal of concern that we will just pit towns against each other, and by having this be an option, I think that large businesses will actually be able to shop based on ordinances and different models and I am very concerned about that. I am very supportive of this and anybody who wants to hear more about the process, feel free to grab me in the hallway. Thank you.

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

Representative **BOLAND**: Thank you, Mr. Speaker. I rise again to just clarify an issue that the Representative from York raised and I have been on the State and Local Government Committee. This is now my third term on it, so I do have a lot of experience of the Informed Growth Act. Originally it was much larger than it is today and every session developers come back to try to beat it down a little more and they've been successful, so now we're at the point of trying to repeal it.

But on the issue of deciding whether there is an adverse impact, a net adverse negative impact on the town, it is not simply that there are two out of the 11 factors that are shown to have an undue adverse impact. In fact, that was an accommodation to the developers when they came back to try to make the Informed Growth Act more friendly to them, because originally it was just an overall undue adverse impact, and they were concerned that that might be too vague or too general so they asked that they have to be able to cite two items in addition.

But the other factor about this is that once the study is done, a notice is given. There is a public hearing. All kinds of additional information can come in at that time. So the decision isn't based solely on this Informed Growth Act study, then that means developers, individuals, anyone can come and add information. So really and truly I don't think it's that high a hurdle,

if a town really wants to have a certain kind of a development, to get it.

I just wanted to leave you with that understanding and ask you again to not take something away from our people. This amendment gives them absolutely nothing. The towns at any time can have any kind of information as part of their decision-making process. The Informed Growth Act, as it is, has some very good factors listed in there. They can still go back, even if it's repealed, and see the whole Informed Growth Act as it exists now and choose what they want from it. We don't have to play this little game of repealing it with a wink. Thank you.

Representative **KNIGHT** of Livermore Falls **REQUESTED** that the Clerk **READ** the Committee Report.

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

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

Representative **RUSSELL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Along a nice stretch of road there was once a hardware store.

The SPEAKER: Will the Representative defer. The House is in order. As long as it takes the House is in order. The Representative may proceed.

Representative **RUSSELL**: Thank you, Mr. Speaker. Along a nice stretch of road there was once a hardware store. Locals came to buy hammers, nails, ask questions, walk away to fix something at home, or even maybe build something new. Maybe build a doghouse for the backyard.

One day a giant superstore moved in down the street. Not long after a brand new sign went up outside of that hardware store, "Thank you for 26 years." The only thing left of the hardware store was the sign. When we say we're trying to make Maine business friendly, perhaps we should be more specific.

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Clark.

Representative **CLARK**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I put this bill in because there was a lot of concern with the Informed Growth Act and I was very glad to have such a strong bipartisan support. A 10-3 report is just really strong.

The idea that just because a Wal-Mart or a Target moves into town that all the local businesses shut down is inaccurate. It is. Up in Presque Isle, for instance, Wal-Mart, our mall, it has a draw. It's a draw that the small businesses don't have and we've actually seen a lot of the smaller businesses give more business because people from Canada come into Presque Isle and they shop at the local stores. They go to the local restaurants and they spend the day in Presque Isle and the same can be said for a lot of other stores.

The criteria, the 11 criteria, it doesn't take draw into consideration at all. It doesn't take the other towns might come to your town if you have a Wal-Mart or if you have a Target, it doesn't look at that. In fact, all of the criteria is designed so that a Wal-Mart or a Target or any big box store is going to fail from the start. It's a deck stacked against them and it's not the \$40,000, these stores don't care about that. It's the uncertainty of whether or not they're going to be able to build, whether they should invest thousands and thousands of dollars in a town with all the other hurdles they have to go through which stop them.

In the committee meeting we had a developer come and say that a new store, similar to a T.J.Maxx, for instance, just barely over the 75,000 place, its headquarters is centered in New England, they were building a store, they were going to construct it. They've hired everyone. The Informed Growth Act passed, they pulled out because of the uncertainty. There could have

been three or four of these new stores in Maine. We would have had a new company in Maine that would have hired our people. There would be hundreds of more jobs right now if it wasn't for – and this was an exact example – there was no way of knowing if there was another circumstance where behind the scenes they found it too difficult to pass.

So I would have to say that this doesn't take away anything from the towns because towns have this tool already and the compromise is that it's kept for them. It's in law, they can grab it. If they don't have anything in place and a Wal-Mart is coming into the town, they can take this right off the shelf, implement it, do the Informed Growth Act and know what is best for their towns.

Towns such as Presque Isle, Lewiston, that have zoning, that have ordinances in place already, already have a system set in place, and we shouldn't have this one-size-fits-all program for every town in the state because development in Portland and development in Presque Isle are different. They should be treated different and nobody knows better than the towns what is best for them, and that's why we have ordinances in place and I would really encourage you to pass this very bipartisan compromise.

The SPEAKER: The Chair recognizes the Representative from Belgrade, Representative Keschl.

Representative **KESCHL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I see nothing in this proposal that repeals the Informed Growth Act. I see nothing that restricts the ability of local municipalities to get the information that the Informed Growth Act would allow them to get. Nor do I see any effort to withhold information from the residents of a community.

What I do see is that a community has the ability as to whether or not they want to use the Informed Growth Act to get that information. To me, it's a matter of returning local control to the community, and I urge you to vote in favor of the measure.

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

Representative **BRIGGS**: Thank you, Mr. Speaker. I rise just to share one story that recently happened in our community regarding the big box stores.

We have a lady in our community who has been very excited to open up her own small business, which she had always wanted to do. In this specific store, she makes nothing but gluten-free products because she has always had that issue, that medical issue. She has been working very hard for the last year to grow her little shop, her little bakery, to really prosper. It was going really well for her up until recently. I understand and was told that somebody from the big box store came in to review what she had for her products in her store.

Since then, going back to the big stores, you see a lot more of the products that she had in her little store. Since then, the business has taken a drop because of this. So I just would like to share that it does happen, it does happen and it is real in all our little communities. Thank you, Mr. Speaker.

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

Representative **BERRY**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. We just heard from a Representative, who I respect greatly, that he sees nothing in this bill that would repeal the Informed Growth Act. Mr. Speaker, as you know well, this bill would not be properly before this body if it did not do exactly what its title says, if it did not repeal the Informed Growth Act.

Make no mistake, opting-in to a moving target does nothing that municipalities could not accomplish on their own if we were to simply repeal the act, dispense with the formalities, dispense

with the pretensions and move forward, saying what we mean and meaning what we say. Fortunately, this House does need to vote on titles that mean what they say, to some extent.

Again, this bill would not be before this House properly if it didn't mean what it says. It repeals the Informed Growth Act, let's make no mistake. Thank you.

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

Representative **FLEMINGS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the pending motion and in support of the Informed Growth Act as it currently stands. Taking what we heard a little while back from the Representative from Farmington, I agree with him that economies are complex. It is not always apparent at first glance what the impact of a large, new development might mean on our communities.

We also know from economic studies that markets only work with sufficient information. The Informed Growth Act provides information to towns to better understand the economic impact of a proposed development. It does not assume that one development is worse than another. It does not assume a zero sum game. It simply provides better information so we can make better choices. It does not take away local control. Ultimately, it is the local community that determines whether or not there is an undue adverse impact created by the proposed development.

I also see the current law as an issue of fairness, a very important issue of fairness. Large scale chain stores have the resources to do extensive market studies and other research to determine where they may want to develop and how. Often our communities do not have those same resources to understand what is best in the long-term local economy, economic development, and in the long-term interests of our towns. The Informed Growth Act ensures that local communities have the resources to do that study and then leaves it up to the communities to determine whether or not there is an undue adverse impact.

Often we've been talking about whether or not it is a repeal. It does repeal the intent and the effectiveness of the Informed Growth Act by pitting towns against each other. In order for this to work and in order for the fairness to be in place for our towns, it must be a standard across the state, again, that is implemented by the towns, and where the towns have the ultimate to support or oppose a development. The Informed Growth Act provides information for communities and local businesses and, as we know, information is critical to being able to make the correct choices for our towns. So I urge you to vote against the pending measure and thank you.

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

Representative **DAMON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I come from a city of 33,000 population. Thirty-three thousand people sleep there. One hundred thousand come to work there every day. The big box stores are where they come to work. Their revenues are earned there. People shop there.

As for businesses, large businesses and small businesses, to survive, they must adapt and change. That's what they do. In our community, both exist, both flourish because one exists off the other. People come to town for one, they often shop elsewhere.

The vital communities more often than not are the communities with the large stores because that's where people go to shop. If you question that concept, go to any Wal-Mart or shopping mall and see the people there. They are there because that's where they want to be. I was at Wal-Mart on Sunday.

I couldn't believe how many people were shopping in the stores. The others were closed.

Both can exist, both must exist, and I'd urge everyone to vote in favor of repealing this. As a member of a planning board, it is not required for good community planning. Thank you, Mr. Speaker.

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

ROLL CALL NO. 28

YEA - Ayotte, Beaudoin, Beaulieu, Bennett, Bickford, Black, Burns DC, Burns DR, Casavant, Cebra, Chase, Clark H, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dion, Dow, Duchesne, Dunphy, Edgcomb, Espling, Fitts, Fitzpatrick, Flood, Fossil, Foster, Fredette, Gifford, Gillway, Graham, Guerin, Hamper, Hanley, Harmon, Harvell, Hayes, Johnson D, Johnson P, Keschl, Knapp, Knight, Libby, Long, Maker, Malaby, Maloney, Martin, McClellan, McFadden, McKane, Morissette, Moulton, Nass, Newendyke, O'Connor, Olsen, Parker, Parry, Peterson, Picchiotti, Pilon, Plummer, Prescott, Richardson D, Richardson W, Rioux, Rosen, Sanderson, Sarty, Sirocki, Strang Burgess, Timberlake, Turner, Tuttle, Valentino, Volk, Waterhouse, Weaver, Willette A, Willette M, Winsor, Wintle, Wood, Mr. Speaker.

NAY - Beavers, Beck, Beliveau, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Carey, Chapman, Chipman, Clarke, Cornell du Houx, Dill C, Dill J, Driscoll, Eberle, Eves, Flemings, Gilbert, Goode, Harlow, Haskell, Herbig, Hinck, Hogan, Hunt, Innes Walsh, Kaenrath, Kent, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Mazurek, McCabe, Morrison, Nelson, O'Brien, Peoples, Priest, Rankin, Rochelo, Rotundo, Russell, Sanborn, Shaw, Stevens, Stuckey, Theriault, Treat, Wagner R, Webster, Welsh.

ABSENT - Celli, Tilton.

Yes, 90; No, 59; Absent, 2; Excused, 0.

90 having voted in the affirmative and 59 voted in the negative, with 2 being absent, and accordingly the Majority Ought to Pass as Amended Report was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (H-108) was READ by the Clerk and ADOPTED.

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

Under further suspension of the rules the Bill was PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-108) and sent for concurrence.

SENATE PAPERS

Bill "An Act To Encourage Science, Technology, Engineering and Mathematics Education"

(S.P. 490) (L.D. 1540)

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

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

Bill "An Act To Amend the Housing Provisions of the Maine Human Rights Act"

(S.P. 487) (L.D. 1530)

Bill "An Act To Amend the Maine Human Rights Act Regarding Accessible Building Standards"

(S.P. 488) (L.D. 1531)

Came from the Senate, REFERRED to the Committee on JUDICIARY and ordered printed.

REFERRED to the Committee on JUDICIARY in concurrence.

Bill "An Act To Improve Laws on Gaming"

(S.P. 489) (L.D. 1539)

Bill "An Act To Amend the Campaign Finance Laws" (EMERGENCY)

(S.P. 491) (L.D. 1541)

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

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

On motion of Representative CAIN of Orono, the House RECONSIDERED its action whereby Bill " An Act To Amend the Maine Human Rights Act Regarding Accessible Building Standards"

(S.P. 488) (L.D. 1531)

Was REFERRED to the Committee on JUDICIARY in concurrence.

On further motion of the same Representative, TABLED pending REFERENCE in concurrence and later today assigned.

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

CONSENT CALENDAR

First Day

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

(H.P. 91) (L.D. 109) Resolve, To Establish the Commission To Study the Promotion and Expansion of the Maine Maple Sugar Industry (EMERGENCY) Committee on AGRICULTURE, CONSERVATION AND FORESTRY reporting Ought to Pass as Amended by Committee Amendment "A" (H-159)

(H.P. 648) (L.D. 881) Bill "An Act To Amend Certain Insurance Provisions Relating to Variable Annuity Death Benefits and Multiple Employer Trusts" Committee on INSURANCE AND FINANCIAL SERVICES reporting Ought to Pass as Amended by Committee Amendment "A" (H-158)

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

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

(H.P. 514) (L.D. 718) Bill "An Act Regarding the Milk Handling Fee" Committee on AGRICULTURE, CONSERVATION AND FORESTRY reporting Ought to Pass as Amended by Committee Amendment "A" (H-162)

(H.P. 719) (L.D. 975) Bill "An Act To Require Certification of Private Applicators of General Use Pesticides" Committee on AGRICULTURE, CONSERVATION AND FORESTRY reporting Ought to Pass as Amended by Committee Amendment "A" (H-163)

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

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

(H.P. 13) (L.D. 21) Bill "An Act To Exempt from the Sales Tax Meals Provided at Retirement Facilities" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-166)**

(H.P. 316) (L.D. 390) Resolve, To Implement Certain Recommendations of the Governor's Task Force on Expanding Access to Oral Health Care for Maine People Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-170)**

(H.P. 421) (L.D. 538) Bill "An Act To Assist the Commercial Fishing Safety Council" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-168)**

(H.P. 566) (L.D. 759) Bill "An Act To Increase Efficiency and Effectiveness in the Licensing of Certain Health and Human Services Providers" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-171)**

(H.P. 608) (L.D. 812) Bill "An Act To Allow Municipalities the Option To Subsidize Publicly Owned Bus Stops through Advertising" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-169)**

(H.P. 808) (L.D. 1073) Bill "An Act To Require Defibrillators in All Health Club Gyms" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-172)**

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

SENATE PAPERS

Bill "An Act To Authorize the Public Utilities Commission To Exercise Jurisdiction over Private Natural Gas Pipelines To Ensure Safe Operation" (EMERGENCY)

(S.P. 492) (L.D. 1545)

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

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

Bill "An Act To Amend the InforME Public Information Access Act"

(S.P. 482) (L.D. 1521)

Committee on **STATE AND LOCAL GOVERNMENT** suggested and ordered printed.

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

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

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

On motion of Representative COTTA of China, the House adjourned at 12:28 p.m., until 10:00 a.m., Wednesday, May 5, 2011.