

# 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  
58th Legislative Day  
Wednesday, June 8, 2011

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

Prayer by Ahmed Yusuf, Imam of Islamic Society, Portland.  
National Anthem by Hannah Jabar, Waterville.  
Pledge of Allegiance.  
Doctor of the day, Dylan McKenney, M.D., Portland.

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

The Journal of yesterday was read and approved.

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

Bill "An Act To Improve Ballot Access for Gubernatorial Candidates"

(H.P. 428) (L.D. 545)

Majority (9) **OUGHT TO PASS AS AMENDED** Report of the Committee on **VETERANS AND LEGAL AFFAIRS READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-554)** in the House on June 7, 2011.

Came from the Senate with the Minority (4) **OUGHT NOT TO PASS** Report of the Committee on **VETERANS AND LEGAL AFFAIRS READ and ACCEPTED** in **NON-CONCURRENCE**.

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

**Non-Concurrent Matter**

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)

(C. "A" H-354)

- In House, **PASSED TO BE ENACTED** on June 1, 2011.

- In Senate, **PASSED TO BE ENACTED** on June 1, 2011, in concurrence.

- **RECALLED** from the Governor's Desk pursuant to Joint Order, S.P. 516.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-354) AS AMENDED BY SENATE AMENDMENT "A" (S-271)** thereto in **NON-CONCURRENCE**.

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

**COMMUNICATIONS**

The Following Communication: (S.C. 429)

**MAINE SENATE**  
**125TH LEGISLATURE**  
**OFFICE OF THE SECRETARY**

June 6, 2011

The Honorable Heather J.R. Priest  
Clerk of the House  
2 State House Station

Augusta, Maine 04333

Dear Clerk Priest:

Please be advised the Senate today insisted to its previous action whereby it Indefinitely Postponed Bill "An Act To Increase Potential Criminal Penalties for the Possession of Cocaine and Cocaine Base" (H.P. 37) (L.D. 44) and all accompanying papers.

Sincerely,

S/ Joseph G. Carleton, Jr.

Secretary of the Senate

**READ and ORDERED PLACED ON FILE.**

**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

Resolve, To Allow the State To Continue Efforts To Sell or Lease Certain Real Property in the City of Hallowell (EMERGENCY)

(H.P. 1172) (L.D. 1584)

Sponsored by Representative TREAT of Hallowell.

Cosponsored by Senator McCORMICK of Kennebec and Representatives: BERRY of Bowdoinham, FOSSEL of Alna.

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

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

**REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed.

Sent for concurrence.

**REPORTS OF COMMITTEE**

**Divided Reports**

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-260)** on Bill "An Act To Increase College Attainment"

(S.P. 290) (L.D. 944)

Signed:

Senator:

ALFOND of Cumberland

Representatives:

LOVEJOY of Portland

MAKER of Calais

McCLELLAN of Raymond

NELSON of Falmouth

RANKIN of Hiram

WAGNER of Lewiston

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

Signed:

Senators:

LANGLEY of Hancock

MASON of Androscoggin

Representatives:

RICHARDSON of Carmel

EDGECOMB of Caribou

JOHNSON of Greenville

McFADDEN of Dennysville

Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the Majority **Ought to Pass as Amended by Committee Amendment "A" (S-260)** Report.

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

On motion of Representative RICHARDSON of Carmel, the Minority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

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Majority Report of the Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-258)** on Bill "An Act To Include Teachers in the State Employee Health Insurance Program"

(S.P. 261) (L.D. 857)

Signed:

Senators:

WHITEMORE of Somerset  
BRANNIGAN of Cumberland  
SNOWE-MELLO of Androscoggin

Representatives:

BEAUDOIN of Biddeford  
FITZPATRICK of Houlton  
GOODE of Bangor  
McKANE of Newcastle  
MORRISON of South Portland  
TREAT of Hallowell

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

Signed:

Representatives:

RICHARDSON of Warren  
BECK of Waterville  
MORISSETTE of Winslow  
PICCHIOTTI of Fairfield

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-258)**.

**READ.**

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

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

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Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-266)** on Bill "An Act Concerning Tort Claims and Governmental Entities"

(S.P. 377) (L.D. 1256)

Signed:

Senators:

HASTINGS of Oxford  
BARTLETT of Cumberland  
WOODBURY of Cumberland

Representatives:

DILL of Cape Elizabeth  
MALONEY of Augusta

MOULTON of York  
PRIEST of Brunswick  
ROCHELO of Biddeford

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

Signed:

Representatives:

NASS of Acton  
BEAULIEU of Auburn  
FOSTER of Augusta  
SARTY of Denmark  
WATERHOUSE of Bridgton

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-266)**.

**READ.**

Representative NASS of Acton moved that the House **ACCEPT** the Minority **Ought Not to Pass** Report.

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

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

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

Representative **PRIEST**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. This issue arises out of the case of *Estate of Fortier v. City of Lewiston*, which was a 4-3 decision involving the Maine Tort Claims Act. Obviously, the Maine Tort Claims Act governs when you can sue a municipality and when you cannot, also when you can sue the estate and when you cannot. Let me give you some indication of what this is all about by reading some of the testimony we had at the hearing.

In the Fortier case, three Lewiston high school students participating in the school's Air Force Junior ROTC program were killed, when the small aircraft they were in crashed during an orientation flight arranged by the director of a Lewiston program, who is an employee of the Lewiston High School and a retired Air Force officer, Colonel Meyer. The small plane and the pilot were provided by a private air service for the use by the school on the day of the flight. Relevant events were summarized by the court: Before the ill-fated flight took off, Meyer had information that the pilot had performed reckless, unsafe maneuvers on other flights, including the flight he piloted immediately preceding the one leading to this suit. Meyer also observed the pilot making a landing that he described as unusual. Notwithstanding this information, Meyer allowed the three students to board the flight. The aircraft crashed into Barker Mountain, killing all aboard.

The estates of the three students brought wrongful claims in the Superior Court against the air service and the City of Lewiston. After the city, the action was governed by Section 8104-A1 of the Maine Tort Claims Act, which provides that "A governmental entity is liable for its negligent acts or omissions in its ownership, maintenance or use of..." certain enumerated vehicles, machinery or equipment including air craft and motor vehicles. The city moved for some rejudgment arguing that because the aircraft was provided and piloted by a private contractor, any negligent act or omission of the city's employee in allowing the students to board the flight did not arise from the city's use of the aircraft. The Superior Court rejected the city's argument and on appeal by the city, unfortunately, four of the seven justices of the Maine Supreme Court held that the term

"use" must be given a peculiar and narrow meaning that includes only situations where the governmental employees are negligent and actually operating the vehicle, machinery or equipment involved in the accident. Therefore, there was no ability to collect against the city.

But what's the problem with this? The problem with this obviously is the use of the term "use," as one of the dissenting justices, Justice Levy, said a local official who has reason to believe that a school bus driver employed by a private operator is intoxicated should be expected to take steps to prevent the student from boarding the bus. Under the majority's approach, the local official's negligence would be deemed not to fall within the Maine Tort Claims Act unambiguous exception to immunity for a government's negligent acts or omissions in its use of any motor vehicle.

So the question comes down to, obviously, what is use? If you hire somebody who you know is probably going to be negligent and that causes injury, are you liable or not? In the Supreme Court, four out of the seven said no, you're not liable because "use" means you have to have one of your employees actually doing the operation, but if you hire someone to do the operation and you know that person is going to be negligent and they hurt or kill somebody, you're not liable, the city and you, you're not liable.

What this bill does is it expands the term "use" to allow situations, to allow a suit against the city or state in situations where you did hire somebody who you had probable cause to know was going to be liable. Now does that mean that you're going to drive up insurance costs for the town or for the state? You're still capped at \$400,000 under this bill and obviously what the towns are going to do is require contractors to indemnify them to have enough insurance to indemnify the city or the state, if in fact the negligent contractor causes the town or city to be negligent. This is prospective only, it doesn't affect existing contracts. It's only going to be prospective. So we thought this was reasonable and I urge that you reject the Minority Report so we can move on to the Majority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Denmark, Representative Sarty.

Representative **SARTY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Unfortunately at times when you have a specific incident such as the one just described and you look at the legalities of that and create a law to deal with the inconsistencies that often come when you look at a specific case, but to pass it as law that affects all municipalities across the board often has unintended consequences.

Municipalities, in my view and from the calls I've received in my own district as well as concerns from abroad, a spectrum of municipal governments are very concerned about this bill. They look at it as potentially increasing their exposure to liability significantly beyond what currently exists. They look at it as what could be a potential serious impact on insurance rates but with municipalities. Most of our towns in Maine aren't Lewiston, Portland, Auburn, the larger towns that have more resources and certainly more financial means. Many small towns do subcontract for labor. They do have non municipal employees that occasionally will, through subcontract work, use municipal equipment.

I think we have to be very careful with the one-size-fits-all mentality when we base it on one court case with unique circumstances without considering in the process of doing this the unintended consequences that that will have in the broad spectrum of municipal government across the state. I would seriously suggest you consider that before you vote for this bill.

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

Representative **BURNS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This bill pits basically, in my opinion, lawyers against municipalities. It opens the floodgate for a small municipality with a small municipal budget to have to double or increase the size of their budget. Yes, it's capped at \$400,000. Yes, the insurance rates for these towns will go up because they could be facing more suits. Yes, how do you pay for your insurance in a municipality? You put it on the property tax. You tax your folks in your town.

Municipalities have a hard enough time as it is struggling to take care of their daily business, especially in the small municipalities. Laying off folks, trying to trim their budget. This does nothing but just increase their budgets, increase the burden on the taxpayer, and it opens the door to basically have these small municipalities in court facing suits because of frivolous activity sometimes. We use a backhoe to dig a ditch. The ditch was six inches deeper than what it should be. Somebody falls in and sprains an ankle. This bill opens the door for a suit against the municipality on that. Most municipalities, and if I'm not mistaken, it is a requirement that if you contract out, that contractor must provide proof of liability insurance. We need to start protecting the people. They are victims too.

One case and you didn't get the desired result that you didn't want doesn't mean that the judgment from the Supreme Court was wrong. This is not a good bill. This is an attack on municipalities again and it's an attack on the taxpayers. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Crockett.

Representative **CROCKETT**: Thank you, Mr. Speaker. Mr. Speaker, Distinguished Members of the House. While I appreciate the legal analysis of the good Representative from Brunswick, tough cases make tough law. This is a very unfortunate set of circumstances. It's tragic and we wish it could have been avoided, but the justices made the decision in the court case. If you expand the definition of use, you're going to have wide-scale implications across the state. Small municipalities are going to suffer. I truly appreciate the case that was brought forward and I wish they would have been able to recover, but those justices made a very tough decision. It was the right decision and it was probably not one they felt extremely great about when they went home at night. But the fact of the matter is it was for the greater good and we in this chamber today need to make a similar decision. So I would move to Accept the Minority Ought Not to Pass Report.

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

Representative **PRIEST**: Thank you, Mr. Speaker. Recall that before this court case was decided, many people thought in fact the City of Lewiston would have been liable and many small towns were certain that they would be liable in this situation. It was a very close vote. It could have gone the other way and then small towns and large towns would have had to have insurance under their policies as they would under this bill.

Also recall that there are two sides. There is somebody who is going without compensation, somebody who has been injured by somebody that the town has hired, and that person may go without compensation. There is no requirement where you hire a contractor that they have a lot of insurance. In fact, they may have a minimum amount of insurance. If there are a lot of people injured, those people will go without any compensation if this bill is not passed. If the towns are concerned about making sure that

they are not on the hook, all they have to do is require their contractors to have sufficient insurance that they can cover the problem and can indemnify the town. That's not a difficulty. That's not a difficulty. Thank you.

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

**ROLL CALL NO. 141**

YEA - Ayotte, Beaulieu, Bennett, Bickford, Black, Burns DC, Burns DR, Carey, Casavant, Cebra, Celli, Chase, Clark H, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dill J, Dow, Driscoll, Duchesne, Dunphy, Edgecomb, Espling, Fitts, Fitzpatrick, Flood, Fossil, Foster, Fredette, Gifford, Gilbert, Gillway, Guerin, Hamper, Hanley, Harmon, Harvell, Hayes, Herbig, Hunt, Johnson D, Johnson P, Keschl, Knapp, Knight, Kumiega, Libby, Long, Longstaff, Lovejoy, Luchini, MacDonald, Maker, Malaby, Maloney, McCabe, McClellan, McFadden, McKane, Morissette, Nass, Nelson, Newendyke, O'Brien, O'Connor, Olsen, Parker, Parry, Peoples, Peterson, Picchiotti, Plummer, Prescott, Rankin, Richardson D, Richardson W, Rioux, Rosen, Rotundo, Sanderson, Sarty, Shaw, Sirocki, Strang Burgess, Tilton, Timberlake, Turner, Tuttle, Volk, Waterhouse, Weaver, Welsh, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

NAY - Beaudoin, Beavers, Beck, Beliveau, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Chapman, Chipman, Clarke, Cornell du Houx, Dion, Eberle, Flemings, Goode, Graham, Harlow, Haskell, Hinck, Hogan, Kent, Kruger, Lajoie, Martin, Mazurek, Morrison, Moulton, Pilon, Priest, Rochelo, Russell, Sanborn, Stevens, Theriault, Treat, Valentino, Wagner R, Webster.

ABSENT - Eves, Innes Walsh, Kaenrath, Stuckey, Wintle.

Yes, 103; No, 42; Absent, 5; Vacant, 1; Excused, 0.

103 having voted in the affirmative and 42 voted in the negative, 1 vacancy with 5 being absent, and accordingly the Minority **Ought Not to Pass** Report was **ACCEPTED in NON-CONCURRENCE** and sent for concurrence.

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Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act To Promote Plug-in Electric Vehicle Sales"

(S.P. 319) (L.D. 1086)

Signed:

Senators:

TRAHAN of Lincoln  
HASTINGS of Oxford  
WOODBURY of Cumberland

Representatives:

KNIGHT of Livermore Falls  
BENNETT of Kennebunk  
BICKFORD of Auburn  
BURNS of Alfred  
HARMON of Palermo  
WATERHOUSE of Bridgton

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-235)** on same Bill.

Signed:

Representatives:

BERRY of Bowdoinham  
BRYANT of Windham

FLEMINGS of Bar Harbor  
PILON of Saco

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

**READ.**

Representative KNIGHT of Livermore Falls moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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

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

Representative **BERRY**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in opposition to the pending motion in hopes that we defeat it in order to go on and Accept an Ought to Pass as Amended version of this bill.

LD 1086 is a jobs bill that had no opposition, that is affordable, and it jumpstarts a promising new industry in Maine, which in addition would help us to make ourselves more energy independent.

Titled "An Act To Promote Plug-in Electric Vehicle Sales," it received support from the following organizations: The Maine Automobile Association, Environment Northeast, the Natural Resources Council of Maine, and General Motors, represented by a certain former floor leader in this body. There was no opposition.

Those four organizations testified powerfully that in order to jumpstart, no pun intended, the electric vehicle industry here in Maine, we need infrastructure. There needs to be a sufficient number of owners of these vehicles so the charging stations can be made available, which would allow ourselves, would allow Mainers, to move from home to work and elsewhere using indigenous native resources.

This is a jobs bill because that infrastructure will require work right here in Maine and it's a jobs bill because it would save us money on the foreign oil that currently powers 99.99 percent of our transportation infrastructure. It's an affordable jobs bill costing only \$60,000 in the next fiscal year and \$369,000 in the next.

There is a sunset because we see this as a transitional program. Once the infrastructure is in place, once there is a sufficient number of people buying these vehicles, they become sufficiently available, prices will go down. That's been the experience in countless other markets. It's a great example of how we can use tax credits and tax incentives to power a new industry and then let it go. The sunset would be January 1, 2015.

I've neglected to mention that the income tax credit is only up to \$1,000. It is equivalent to the excise tax paid on the vehicle and only that. Again, no more than \$1,000 and only for those three years.

Mr. Speaker, I cannot for the life of me understand why we would want to kill a bill that creates jobs, that boosts our energy independence, that was supported by the Automobile Association, by Environment Northeast, Natural Resources Council of Maine, General Motors, and has no opposition and is entirely responsible and affordable. I hope we can vote down the pending motion. I thank you.

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

**ROLL CALL NO. 142**

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

NAY - Beaudoin, Beavers, Beck, Beliveau, Berry, Blodgett, Boland, Bolduc, Briggs, Cain, Carey, Casavant, Chapman, Chipman, Clark H, Clarke, Cornell du Houx, Dill J, Dion, Driscoll, Duchesne, Eberle, Eves, Flemings, Gilbert, Goode, Graham, Hanley, Harlow, Hayes, Herbig, Hinck, Hogan, Hunt, Kent, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maloney, Martin, Mazurek, McCabe, Morrison, Nelson, O'Brien, Peoples, Peterson, Pilon, Priest, Rankin, Rochelo, Rotundo, Russell, Sanborn, Shaw, Stevens, Theriault, Treat, Tuttle, Valentino, Wagner R, Webster, Welsh.

ABSENT - Bryant, Cotta, Cushing, Haskell, Innes Walsh, Kaenrath, Stuckey, Wintle.

Yes, 75; No, 67; Absent, 8; Vacant, 1; Excused, 0.

75 having voted in the affirmative and 67 voted in the negative, 1 vacancy with 8 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act To Provide an Internship Employment Tax Credit"

(S.P. 413) (L.D. 1336)

Signed:

Senators:

TRAHAN of Lincoln  
WOODBURY of Cumberland

Representatives:

KNIGHT of Livermore Falls  
BENNETT of Kennebunk  
BICKFORD of Auburn  
BURNS of Alfred  
HARMON of Palermo  
WATERHOUSE of Bridgton

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-229)** on same Bill.

Signed:

Representatives:

BERRY of Bowdoinham  
BRYANT of Windham  
PILON of Saco

Came from the Senate with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-229)**.

**READ.**

Representative KNIGHT of Livermore Falls moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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

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

Representative **BERRY**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Since we've just killed one affordable jobs bill, let me see if I can tempt you with another.

This bill, if we were to defeat the pending motion and go on to Accept the Minority Report, would take advantage of the great learning power and potential of apprenticeship, what we today call internships. Apprenticeships have been used for millennia to train people. I think we all have complained from time to time that school sometimes seems removed from reality and that learning in the workplace is perhaps the best way to learn. And the research bears that out.

According to the National Association of Colleges and Employers, in the results of their 2010 student survey, 42.3 percent of the college seniors who had internship experience and applied for a job received at least one job offer. Conversely only 30.7 percent of seniors without internship experience received an offer. So roughly 12 percent more received a job offer.

In addition, the study showed, and I quote, "Results of our study show the median accepted salary offer for seniors with an internship was \$45,301 - nearly 31 percent higher than the \$34,601 median accepted salary offer to non-intern seniors," says Marilyn Mackes, National Association of Colleges and Employers Executive Director. So internships work, that's the first point here. And we do need workers and we do need qualified workers who can get jobs and who can be paid well.

Secondly, this bill is affordable, much more so, in fact even more so I should say, than the previous one. The cost is estimated by Maine Revenue Services at \$49,150 in the coming fiscal year and only \$16,150 in the outgoing years because most of that initial cost is due to setup of the program from Maine Revenue Services. So it is extraordinarily affordable.

Testifying in favor of this bill were the Maine State Chamber of Commerce and Opportunity Maine, among others. There is no record of any testimony in opposition. The Maine State Chamber of Commerce pointed out that this would integrate very well with their new InternHelpME.com program, which connected employers, students, colleges and universities.

The kind of internship that the Chamber is excited about and that this bill would reward is the internships that are paid and that result in college credit. Only if they are paid and only if they result in college credit do they qualify for this incentive. The incentive is 10 percent of the compensation during the taxable year, the compensation given to the intern. So it must be paid for and the more you pay them, the better the credit to the employer, the better the incentive.

The Chamber of Commerce was very excited about the potential to help them train students, make more internships available and see if this works. If the bill doesn't work, there are ways to kill it later. I hope we don't kill it today. Opportunity Maine points out that they've been working hard to find ways to connect young people, colleges and the workforce, and that this would be an ideal vehicle for them as well going forward. So the pieces are in place, we just need to connect the dots. This bill would allow us to do that.

Again, there was no opposition. It costs \$16,000 a year going forward. It would help our young people to receive better pay, to have a better chance of getting a job in the workplace, and it would help our businesses to put them to work.

Mr. Speaker, Men and Women of the House, I hope we can vote down the pending motion and move on to Accept the Majority Report that was so strongly supported and without opposition in committee. Thank you.

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

Representative **CHAPMAN**: Thank you, Mr. Speaker. Mr. Speaker, Colleagues and Friends of the House. I've been working for a number of years in a public technical education in Bangor and this is exactly the type of program that was helpful to the work that I have been doing. I've set up employment training programs for unemployed using facilities there. I've tried to encourage apprenticeship and pre-apprenticeship programs, running out of both the high school and I worked as well with the community college. This is exactly the sort of thing that helps bridge the academic work to the workplace work.

We have an expression at our school that we're preparing students to participate in the economy, and I think that's the important thing. Education leads to economic development and is certainly beneficial to the students. So I'm going to oppose the Majority Ought Not to Pass so that we can vote in favor of the bill. Thank you.

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

Representative **GRAHAM**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. We often rise with personal comments and I will say that this bill would help my kids a lot and that we talk a lot about parenting, which we talked about last night. We don't stop parenting when our kids go to college and go off to work. I urge you to support this bill and vote down Ought Not to Pass because the only way these kids are going to be able to get jobs is to have significant internships.

I found last year when kids were graduating from college, I said congratulations, but I'm sorry because there aren't any jobs for you. I'm happy to say that my two kids who were in the process of going to college have jobs this summer. Last summer, they didn't have jobs because the adults who were not in college needed them. So I urge you to support this very positive thing that will create jobs, have our kids employed, and make a real difference. So I would urge you to vote down this Ought Not to Pass. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **BERRY**: To anyone wishing to answer, in the earlier debate I heard no opposition and yet our motion was to vote it down. The motion I was hoping for was voted down. I'm wondering if someone can explain to me the basis for any opposition to this bill as reflected in the Majority Report and in the vote that will soon be taken.

The SPEAKER: The Representative from Bowdoinham, Representative Berry, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Livermore Falls, Representative Knight.

Representative **KNIGHT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I don't want at this point in this venue to reiterate what has been discussed at great length in the committee process. My good friend from Bowdoinham heard all the arguments during the committee. We heard the report, we took the vote, and that's the way it was. Thank you very much, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Alna, Representative Fossel.

Representative **FOSSEL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. For something like a quarter of a century I have been providing internships, virtually every year, sometimes one, sometimes two, sometimes three. There has never been an incidence where a tax credit would have made any difference to me at all. The problem for small businesses with doing this is to find people who are sincerely interested. So if someone would want to create a bill or a mechanism for qualified kids who were interested in my field, were matched up with businesses that had jobs available, that would work. I do not think this would work and so I urge you to vote Ought Not to Pass. 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 just want to respond to something that was just said in terms of why this particular incentive may be beneficial. We know there are many wonderful employers who do provide various internships and we know how important that is for young people starting out in the world.

This particular bill is focused specifically on internships that work with a college to fulfill a requirement of that college. So it's a step beyond and it's a little bit more difficult perhaps for the employer to take the time to make sure that this internship does fulfill requirements of the college, does work with the student's academic career, and that is why this bill makes sense, in my opinion, because it does fulfill a very important piece of a student's both academic life and as they're moving towards the work world, and it has all the benefits that have been already stated in terms of helping those young people be successful as they enter the work world. So because it focuses on an internship that is a step beyond a typical business internship, that is why I think it is appropriate and very beneficial for this bill to move forward and to help our young people, to support our businesses, and to build the kind of Maine we want to see. Thank you, Mr. Speaker.

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

Representative **RUSSELL**: Mr. Speaker, I think I want to repose a question through the Chair, if that's possible?

The SPEAKER: The Representative may pose her question.

Representative **RUSSELL**: Thank you, Mr. Speaker. There are 10 members by my count from the House that are on the Taxation Committee and there are 151 members here. While I understand that there was probably a luminous debate in the Taxation Committee on this, I would be very interested in understanding what the opposition was in the Taxation Committee because I wasn't there and I don't actually understand the opposition. I heard the good Representative Fossel, but I'd very much like to hear what the opposition was in the committee room because that's where the public hearing and vetting process is. Thank you, Mr. Speaker.

The SPEAKER: The Representative from Portland, Representative Russell, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Alna, Representative Fossel.

Representative **FOSSEL**: Thank you very much, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I don't think I've ever risen twice on something, but the good Representative from Bar Harbor, Representative Flemings, was talking about academic programs, and it's interesting. That is precisely what we do through Maine preservation. We have a joint internship for people who are taking their master's degree in Maine preservation and the only reason I participate in this



program is because I have someone else do the paperwork for me. So yes, it's course requirements for a master's degree in historical preservation. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative **WATERHOUSE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I heard questions from people about why there was opposition to this. I can speak for myself as a member of the Taxation Committee. I don't like tax credits. I don't like tax credits that are sent out to direct behavior and society. I was in the workforce for 54 years before I retired when I was 64. My internship was I picked up a carpenter's apron and a measuring tape and went to work.

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

Representative **DRISCOLL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I can't stop but think with this discussion going on I just went to a graduation at the Regional Vocational Center in Westbrook, which is just a wonderful facility and it does house students from a number of nearby high schools as well, to see that many of those kids that had graduated and spent two, maybe three years of their high school years learning a specific trade in a whole range of areas. Automotive, electricity, culinary arts, and a number of those students actually were involved and are going to be involved in what we're talking about here today, an internship program. They are actually going to be gainfully employed right out of high school and probably a fairly well paying endeavor and at the same time learning and earning college credits, either towards an associate's degree or maybe a bachelor's degree down the road, but they're actually learning a trade.

Times have changed. In order to acquire a good paying job nowadays you need a college education. The days of getting out of high school and going into the paper mill in town, you can't even work in a paper mill now without some sort of college degree. It's just reality. But to be able to utilize the people such as Representative Waterhouse was speaking, those people with years and years of experience in their field and in their trade, that is certainly beneficial to the students coming out of school. There's no question about that. I just don't see how we could pass up this opportunity. This is an opportunity of everything that we talk about here, about job creation, about investment in our youth, and about getting them on the road to an education and becoming an effective part of the workforce. I don't see how we could pass up this opportunity. I thank you very much, Mr. Speaker.

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

Representative **BERRY**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I want to respond to my friend from Bridgton simply because I share the concern around tax credits. I would note again that this is only \$16,500 going forward. It is limited and certainly something that we could change. It would have to be funded downstairs in Room 228. By comparison, just to put this in perspective, there are, as I understand it, over \$50 million in tax credits that are proposed in the current majority budget proposal and that came out of our Taxation Committee. So I think this is a very small number in comparison. Thank you, Mr. Speaker.

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

Representative **BOLAND**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to add to this discussion that it's been on the agenda of the Legislature, both sides of the aisle and different places, to have

schools that coordinate high school, college, and work experience right within the four-year program, and we've had a lot of debate about Many Flags and Great Works schools and vocational schools and all. It just seems to me that this is a piece of that, of moving that whole idea forward because we're trying to meld high school and secondary and businesses together and foster that kind of understanding in investment in the students. So this seems to be a small step in the direction of facilitating the efforts that are already ongoing. Thank you.

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

#### ROLL CALL NO. 143

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

NAY - Beaudoin, Beavers, Beck, Beliveau, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Carey, Casavant, Chapman, Chipman, Clark H, Clarke, Cornell du Houx, Dill J, Dion, Driscoll, Duchesne, Eberle, Eves, Flemings, Gilbert, Goode, Graham, Harlow, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Kaenrath, Kent, Kruger, Kumioga, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maloney, Martin, Mazurek, McCabe, Morrison, Nelson, O'Brien, Peoples, Peterson, Pilon, Priest, Rankin, Rochelo, Rotundo, Russell, Sanborn, Shaw, Stevens, Stuckey, Theriault, Treat, Tuttle, Valentino, Wagner R, Webster, Welsh.

ABSENT - Innes Walsh, Wintle.

Yes, 78; No, 70; Absent, 2; Vacant, 1; Excused, 0.

78 having voted in the affirmative and 70 voted in the negative, 1 vacancy with 2 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** in **NON-CONCURRENCE** and sent for concurrence

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

#### UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Report "A" (8) **Ought to Pass as Amended by Committee Amendment "A" (H-401)** - Report "B" (3) **Ought to Pass as Amended by Committee Amendment "B" (H-402)** - Report "C" (2) **Ought Not to Pass** - Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Amend the Laws Pertaining to High-stakes Beano" (EMERGENCY)

(H.P. 418) (L.D. 535)

TABLED - June 2, 2011 (Till Later Today) by Representative BEAULIEU of Auburn.

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

Subsequently, Report "B" Ought to Pass as Amended was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "B" (H-402)** was **READ** by the Clerk.

Representative **SOCTOMAH** of the Passamaquoddy Tribe **PRESENTED House Amendment "A" (H-498) to Committee Amendment "B" (H-402)**, which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Passamaquoddy Tribe, Representative Soctomah.

Representative **SOCTOMAH**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. The Passamaquoddy Tribe already has high-stakes bingo play. This amendment simply removes the emergency clause and the days are changed from 54 days to 100 days play in a year. It would permit the Passamaquoddy Tribe to operate high-stakes bingo in the City of Calais as approved by that municipality. It also removes from the Committee Amendment authority to conduct electronic bingo. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Bethel, Representative Crockett.

Representative **CROCKETT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Just for the body's information, the committee spent a great deal of time on this. This was a compromise the good Representative from the Passamaquoddy brought forward. It was reasonable. Given the actions of this body in the last few days, it seems more than reasonable. It helps a tribe that is in some economically hard times. It's a minor adjustment to the current law and I would support the amendment as it goes forward.

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

Representative **CHIPMAN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm also in support of this amendment. We worked through the committee on this and this helps give the tribes a few more days that they can have their bingo. They've lost a fair amount of business to Hollywood Slots, so I think it makes it a little more fair and competitive. I'm strongly supporting this and hope you will too.

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

Representative **CAREY**: Thank you very much, Mr. Speaker. I echo the comments of my two colleagues on the committee and would just add that the four federally recognized tribes in the State of Maine are also supportive of this amendment. Thank you very much.

The **SPEAKER**: The Chair recognizes the Representative from Penobscot Nation, Representative Mitchell.

Representative **MITCHELL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of this amendment as well. My fellow tribespeople in the Passamaquoddy Tribe experience very high unemployment rates and it's a hope and a desire of both our tribes that this be a success for them and allow them to centrally locate their bingo in a greater population area. Thank you very much.

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. I thought this was going to go under the hammer, but since it didn't I just wanted to make folks aware I voted no, Ought Not to Pass, on this bill in committee because of some of the challenges that we were facing. But I am supporting the motion and am grateful that the tribes have come together and put this forward. Thank you.

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

Representative **MAKER**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I also reside in the City of Calais and was on the city council and I want to give you our desire to wish them the best of luck in this adventure.

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. As a member of the Veterans Committee we vetted this very thoroughly. I just support it because it does represent the will of the people of Washington County and the Penobscot and Passamaquoddy Nations. I wish them the best.

Subsequently, **House Amendment "A" (H-498) to Committee Amendment "B" (H-402)** was **ADOPTED**.

**Committee Amendment "B" (H-402) as Amended by House Amendment "A" (H-498)** thereto was **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "B" (H-402) as Amended by House Amendment "A" (H-498)** thereto and sent for concurrence.

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

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**HOUSE DIVIDED REPORT - Majority (11) Ought to Pass as Amended by Committee Amendment "A" (H-522) - Minority (2) Ought Not to Pass - Committee on VETERANS AND LEGAL AFFAIRS on Bill "An Act To Allow Table Games at a Facility Licensed To Operate Slot Machines on January 1, 2011"**

(H.P. 1044) (L.D. 1418)

**TABLED - June 6, 2011 (Till Later Today)** by Representative **MITCHELL** of the Penobscot Nation.

**PENDING - Motion of Representative BEAULIEU of Auburn to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report. (Roll Call Ordered)**

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 would just like to speak a moment on this bill. It is a Hollywood Slots bill and it actually is a bill that completed the package that was started there several years ago. We started with a lot of unknowns and a lot of trepidations by members of this body right here and around the state, but it has proven that it has been a boon for the community and a boon for the state. With more than 500 employees making good wages, crime is down, none of the concerns and fears that we worried about with drugs and things of that nature manifesting themselves. The end of that part of the City of Bangor has been revitalized, brought back up to standard, pays more taxes, raises the tax valuation of the City of Bangor. That money comes to the state as well.

This table game piece will mean approximately \$3 million to the State of Maine annually, just the table games portion of this, and it does not expand beyond the confines that are already existing. There are some tables there so some can play this, others can play slot machines. They have built new buildings, as I said, raised the tax base, employed a great number of people. They are great community partners. They lead the way on the Fourth of July parade, they lead the way with funding senior little league world series, they lead the way with the arts in the City of

Bangor and around. They bring people to Bangor so people can enjoy the fruits of their labors. This is the model we want for industry. This is truly a good thing for our city. It is written in the bill that it goes to the people for a community vote affirmation. There are no negatives that I can see, and I hope the body will support us and vote in support of this Ought to Pass. Thank you, Mr. Speaker.

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

Representative CAREY: Thank you, Mr. Speaker. I won't repeat the comments that I made on the floor the other day detailing how this cannot solve, this year, the problem that was brought to committee, that there was an inequity. I want to affirm that I'll work with the Representative from Bangor, should this not pass, next year, and I will hope that you follow my light. Thank you.

The SPEAKER: The Chair recognizes the Representative from Penobscot Nation, Representative Mitchell.

Representative MITCHELL: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise to speak to my good friend's comments from Bangor, Representative Damon. Certainly Hollywood Slots has been good citizens, but had the tribes been given the same opportunity 12 or 14 years ago when we brought the very concept of racinos and casinos before the state, the Penobscot Nation would have been just as good, if not better, a corporate benefactor. And not only that, but the \$59 million in profit would have stayed in the state. It wouldn't have gone out of state and it would have provided the same number of jobs, etcetera, and the quality of jobs, etcetera, and the tentacles would have reached out to the various vendors of the area in order to get the supplies necessary to run the facility. So had the tribes been given that opportunity those many years ago when we brought the very first casino offering or racino offering to this state, we would be standing here talking the same language. Thank you, Mr. Speaker.

The SPEAKER: A roll call having been previously 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. 144**

YEA - Ayotte, Beck, Bennett, Bickford, Bolduc, Briggs, Bryant, Burns DR, Cain, Cebra, Celli, Chipman, Clark H, Clark T, Cornell du Houx, Cotta, Cray, Crockett, Cushing, Damon, Dion, Dow, Duchesne, Edgecomb, Fitts, Fitzpatrick, Flemings, Foster, Fredette, Gifford, Gilbert, Gillway, Goode, Graham, Hanley, Harmon, Harvell, Haskell, Herbig, Hunt, Johnson P, Keschl, Lajoie, Libby, Longstaff, Luchini, MacDonald, Maker, Malaby, Maloney, Mazurek, McClellan, McFadden, Moulton, Nass, O'Connor, Olsen, Parker, Parry, Peterson, Picchiotti, Plummer, Prescott, Richardson D, Richardson W, Rioux, Rosen, Russell, Sanderson, Sarty, Shaw, Sirocki, Stevens, Theriault, Tilton, Turner, Tuttle, Volk, Waterhouse, Willette A, Willette M, Wood, Mr. Speaker.

NAY - Beaudoin, Beaulieu, Beavers, Beliveau, Berry, Black, Blodgett, Boland, Burns DC, Carey, Casavant, Chapman, Chase, Clarke, Curtis, Davis, Dill J, Driscoll, Dunphy, Eberle, Espling, Eves, Fossel, Guerin, Hamper, Harlow, Hayes, Hinck, Hogan, Johnson D, Kaenrath, Kent, Knight, Kruger, Kumiega, Long, Lovejoy, Martin, McKane, Morissette, Morrison, Nelson, Newendyke, O'Brien, Peoples, Pilon, Priest, Rankin, Rochelo, Rotundo, Sanborn, Strang Burgess, Stuckey, Timberlake, Treat, Valentino, Wagner R, Weaver, Webster, Welsh, Winsor.

ABSENT - Crafts, Flood, Innes Walsh, Knapp, McCabe, Wintle.

Yes, 83; No, 61; Absent, 6; Vacant, 1; Excused, 0.

83 having voted in the affirmative and 61 voted in the negative, 1 vacancy with 6 being absent, and accordingly the Majority Ought to Pass as Amended Report was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (H-522) was READ by the Clerk.

Representative MITCHELL of the Penobscot Nation PRESENTED House Amendment "A" (H-564) to Committee Amendment "A" (H-522), which was READ by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Penobscot Nation, Representative Mitchell.

Representative MITCHELL: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I brought this amendment forward. Presently as it stands the Penobscot Nation operates a high-stakes bingo and over the past several years we have watched our income dwindle from \$2.5 million significantly downward. On Sundays, prior to Hollywood Slots expansion from eight o'clock in the morning, being allowed to open from eight in the morning on as opposed to 1, we've lost \$10,000 a day those weekends that we have our high-stakes bingo. It cost \$10,000 just for the electric bill. It costs almost as much for the fuel bill. What we do with the money that we do realize from this game, which over the years has dwindled considerably in the millions of dollars, is we use it for our assisted living center for our elderly tribal members. Some of you have visited our community and have seen the assisted living center and how beautiful it is, and if you only knew how beautiful the people are that are in there, then you'd understand why we're so proud.

The other thing is that we use this money to support our youth and in our youth lies our future and it's a future of a people with a very proud culture and a very long and contributed history, not only amongst itself but to this country as a whole. Our people, Native people of this State of Maine, of which you all should be very, very proud, are the highest per capita people that enroll in military service of any ethnic minority group in this country, and in Maine it is an exceptionally high number. So our youth are very important to us.

We teach them values, we teach them culture, we teach them our language. We are preserving who we are as a people. We are but a thread of the fabric of this nation, but nevertheless a thread that is very important. That thread may be what binds this nation. We don't know. If it ever loses that thread, I guess then we'd know. This is an attempt to try to preserve what we have and to enhance our future.

This bill is nothing but a drop in the bucket. The fiscal note on this bill is \$106,000 estimated a year from a multimillion dollar corporation that sends \$59 million a year out of state – out of state – and all we're asking is for a fair shake from Hollywood Slots, that happens to be about 13 miles south of our operation. Some of our bingo players do not even return on Sundays because they are given breakfast buffet tickets and they go down and spend the extra income that they would have spent in our facility, and as a result, go back to the hotel and do not come back to our high-stakes bingo game. We bring in 37 busloads of people when we have our weekend games. They fill up hotels. They fill up restaurants. They fill up the local shopping malls. Those people go and spend money that benefits the whole surrounding community every time they come to our high-stakes bingo. So we're just asking for a little help to offset what we've already lost, and granted, this isn't a great deal of money in the bigger scheme of things. Thank you very much and I hope you'll support the adoption of this amendment.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Valentino.

Representative **VALENTINO**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I certainly understand the good Representative trying to get additional money for him, but I want to also say that this agreement was worked out in our committee during many, many negotiations, going back and forth between all of the people, the stakeholders, not only with Hollywood Slots, with Oxford. We did change the cascade under the table games for Oxford so that it would match up. We added the nonprofits on to it. This was crafted over many, many meetings.

The good Representative, as you know, had a bill prior to this that we just passed. We had talked about different things on it. I feel as a member of the committee we probably would have looked at that at the time, but I feel negotiations did go on, they went on in good faith, and I am not supporting the floor amendment at this time. I felt that there was plenty of time to do that, that we could have had it compatible, we could have worked with everybody at the time at the committee. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Brewer, Representative Celli.

Representative **CELLI**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will be voting in support of this amendment. When there are subsidies made to the nonprofit bingos to make up for their losses by Hollywood Slots, why are there no subsidies for the Penobscot Nation and their high-stakes bingo? That seems rather unfair, although isn't it quite common the way we've treated the Native Americans in the past being unfair? It's time to support the Penobscot Nation's high-stakes bingo and support what truly were our very first allies in our Revolutionary War. Thank you.

The Chair ordered a division on the motion to **ADOPT House Amendment "A" (H-564) to Committee Amendment "A" (H-522)**.

A vote of the House was taken. 78 voted in favor of the same and 47 against, and accordingly **House Amendment "A" (H-564) to Committee Amendment "A" (H-522) was ADOPTED**.

**Committee Amendment "A" (H-522) as Amended by House Amendment "A" (H-564) thereto was ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-522) as Amended by House Amendment "A" (H-564) thereto and sent for concurrence**.

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Majority Report of the Committee on **VETERANS AND LEGAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-252)** on Bill "An Act To Amend Seasonal Licenses for the Operation of Beano or Bingo Games" (S.P. 441) (L.D. 1427)

Signed:

Senators:

FARNHAM of Penobscot

PATRICK of Oxford

PLOWMAN of Penobscot

Representatives:

CAREY of Lewiston

CHIPMAN of Portland

CROCKETT of Bethel

DAMON of Bangor

LONGSTAFF of Waterville

RUSSELL of Portland

VALENTINO of Saco

WILLETTE of Presque Isle

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

Signed:

Representatives:

BEAULIEU of Auburn

JOHNSON of Eddington

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-252)**.

**READ**.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-252) was READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-252) in concurrence**.

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Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought Not to Pass** on Resolve, To Improve the Predictability of Land Use Regulation in the Unorganized Territories (EMERGENCY) (H.P. 615) (L.D. 819)

Signed:

Senators:

SHERMAN of Aroostook

THIBODEAU of Waldo

Representatives:

EDGECOMB of Caribou

BLACK of Wilton

CRAY of Palmyra

FOSTER of Augusta

GIFFORD of Lincoln

TIMBERLAKE of Turner

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-560)** on same Resolve.

Signed:

Senator:

SCHNEIDER of Penobscot

Representatives:

DILL of Old Town

KENT of Woolwich

McCABE of Skowhegan

O'BRIEN of Lincolnville

**READ**.

Representative EDGECOMB of Caribou moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned.

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-561)** on Bill "An Act To Reform the Land Use and Planning Authority in the Unorganized Territories"

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

Signed:

Senators:

SHERMAN of Aroostook  
THIBODEAU of Waldo

Representatives:

EDGECOMB of Caribou  
BLACK of Wilton  
CRAY of Palmyra  
FOSTER of Augusta  
GIFFORD of Lincoln  
TIMBERLAKE of Turner

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-562)** on same Bill.

Signed:

Senator:

SCHNEIDER of Penobscot

Representatives:

DILL of Old Town  
KENT of Woolwich  
McCABE of Skowhegan  
O'BRIEN of Lincolnville

**READ.**

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

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

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-576)** on Bill "An Act To Require That Law Enforcement Officials Collect DNA Samples from Persons Arrested for Certain Crimes"

(H.P. 849) (L.D. 1143)

Signed:

Senators:

MASON of Androscoggin  
WHITTEMORE of Somerset

Representatives:

BLODGETT of Augusta  
BURNS of Whiting  
CLARKE of Bath  
LONG of Sherman  
MORISSETTE of Winslow  
SANDERSON of Chelsea

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-577)** on same Bill.

Signed:

Senator:

GERZOFISKY of Cumberland

Representatives:

PLUMMER of Windham  
HANLEY of Gardiner  
HASKELL of Portland  
LAJOIE of Lewiston

**READ.**

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

Representative MALONEY of Augusta **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought to Pass as Amended** Report.

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

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

Representative **MALONEY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will be voting red on the current motion. I am the sponsor of the bill and the reason is because I support the Majority Ought to Pass as Amended Report. Both reports pass the bill, which I appreciate, but in the 24 states where this law has been enacted the minority's approach has been found to be unworkable. I realize the fiscal notes on both reports are the same, but that has not been the experience of other states where the minority's approach has been too expensive. But first let me just explain why this bill is important.

DNA is the fingerprint of the 21st century. The reason to collect DNA evidence is not just to solve crimes. It is also to prevent them. We have the perfect example of this right here in the recent arrest of a man who was sending threatening letters to our Chief Executive. He was caught because of the DNA on the stamp that he licked to put on the envelope when he sent those threatening letters, and that DNA matched DNA that was in the database from a federal crime that he was arrested for in 2005. He was arrested for that federal crime, not convicted, but that is how we caught him. DNA evidence makes it very difficult to be a successful criminal and that's okay with me.

So here are some quick facts that convinced me why we need DNA testing for only violent felony arrests. Since 1974, more than 90 percent of all state prisoners have been repeat offenders. Seventy percent of America's crime is committed by six percent of its criminals. With DNA arrest testing on the books since 2003, Virginia has received over 5,000 hits on their database, with nearly 500 of these matches directly attributable to arrestees. One out of every six American women have been the victims of an attempted or completed rape, and to date, post DNA conviction testing has led to the exoneration of more than 200 wrongfully convicted individuals in the United States and many of these individuals were not fully exonerated until after a DNA match was made on the database to another offender.

Now I know that many of you do have privacy concerns with regard to DNA so I want to address that. Where does the DNA go? It goes into a CODIS federal database. So CODIS is the forensic federal DNA database. What does not go into CODIS? Out of over 3 billion markers on the DNA strand, only 13 go into CODIS. These 13 markers were specifically selected by genetic scientists because they contain absolutely no genetic information other than gender. So there is no possibility of any private, medical or genetic information being leaked or misused. Also, there are no social security numbers and no names in CODIS.

There is only a specimen ID number that must be cross-referenced to a totally separate database held only by the State of Maine laboratory, and that database is necessary to determine who the profile belongs to. This only happens if a match is made to crime scene evidence.

Now what happens if a person is found not guilty? Can that person's DNA be expunged from CODIS? The answer is yes. Now can DNA ever really be expunged from the system, some people have asked, and the answer again is yes. The DNA profile only exists in the state database and the national database. These two databases are synched with each other on a weekly basis. When the state expunges a profile from their database and it is synched with the federal, the record is also expunged from the federal database. Going back to what's actually in CODIS, since there are no names or social security numbers in the federal database, there is no ability to find out whose DNA that is without the state database. So once the state expunges the information, it's gone.

Now what have the courts said about the privacy concerns and the constitutionality of DNA arrestee statutes? Well, the highest state court to rule on this was the Supreme Court of the Commonwealth of Virginia in *Anderson v. Commonwealth of Virginia*, in 2007, and the court ruled that the taking of Anderson's DNA sample upon arrest is analogous to the taking of a suspect's fingerprints upon arrest and was not an unlawful search under the Fourth Amendment. The only federal appeals court decision on this matter was a positive ruling, which was in 2010, the Ninth Circuit Court of Appeals ruled in *U.S. v. Pool* that the government's interest in definitively determining the defendant's identity outweighs the defendant's privacy interest in giving a DNA sample as a condition of pretrial release in cases in which the government's use of the DNA is limited to identification purposes and there is no indication that the government intends to use that information for any other purpose.

Now the other reason that this bill is important is because it funds the crime lab. Many of you are probably aware that our crime lab is desperately needing more funding and this is the only bill that could get some funding to the crime lab this year. The crime lab is expecting to lose \$50,000 in federal grant money this year and it is already behind in the processing of samples for cold murder case investigation. So funding is desperately needed and this bill will provide that funding.

So the difference between the bills, the two reports, both the Minority and Majority Reports include everything that I've just said. The difference is that the Minority Report, the DNA sample is not collected until after the probable cause of finding, where the Majority Report collects the sample at booking. So with both reports, and I should tell you this only applies, the DNA sample will only be collected for violent felony arrests. So these are felony murder, manslaughter, aggravated assault, rape, sexual abuse of a minor, other crimes against minors, kidnapping, criminal restraint, burglary, robbery, arson and aggravated criminal mischief. These are the only crimes we're talking about, so we're not talking about misdemeanors, it's the most serious crimes that we have. So with both reports the sample is only tested after an arrest warrant is issued, one, or two, a judge or a magistrate finds that there is probable cause, or three, the defendant posted bond and then failed to appear for a scheduled hearing. But because the Minority Report does not collect the sample at booking, if the defendant fails to appear at a scheduled hearing, there's no sample to test. If you are arrested for a burglary and you know that there is a cold murder case out there and you know this bill has become law, you'd not going to stick around and wait for the probable cause hearing. You're going to fail to appear at that hearing. So with the Minority Report we will

have no sample to test, but with the Majority Report the sample will have already been taken at booking, that sample will be there and will be able to be tested when the person fails to appear. So that's the difference.

Also, with the Majority Report booking is an administrative process. That's where they do the fingerprints, that's where they do the mug shots. If you can do the DNA, which is just a cheek swab, we're not talking blood test. It's just a cheek swab. You do the DNA cheek swab at the same time. You get it done and administratively it's easier. If you have to wait until after the probable cause hearing, you have to find the person, figure out how to get an administrative process rolling at a different time. It's just a lot more complicated for the state. Both reports, I have to emphasize, will not test the DNA until after a finding of probable cause, so the test will take place at the same exact time for both reports. It's just the majority's approach is more workable. So thank you for your time.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Plummer.

Representative PLUMMER: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I do not disagree with any of the factual information the good Representative from Augusta, Representative Maloney, gave you. Actually, I wouldn't dare disagree with Representative Maloney. Both reports are the same with one exception. They even have identical fiscal notes.

We all agreed that DNA is a very important tool for law enforcement. As Representative Maloney told you, the only substantive difference is when the DNA sample can be taken. If you believe that taking a DNA sample, going inside a person's mouth and swabbing the cheek, is the same as rolling a finger on a computer monitor or in ink, then I would encourage you to vote against the report that I am on and vote for the Report "A."

My problem and I really wanted to support Report "A," but my problem is I do see a difference between taking a fingerprint and going inside someone's mouth. I won't be at all offended if you vote down Report "B," but for me that was the difference that kept me from supporting Report "A." Thank you, Mr. Speaker.

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

Representative BURNS: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I want to speak in opposition to the Minority Report, and speak in opposition to the Minority Report at this point because I do support the Majority here, and I won't try to reiterate everything that we've heard from the good Representative from Augusta, Representative Maloney. She did an excellent job, both preparing this bill for us, bringing it forward and also here on the floor of the House. I think this is an excellent bill. It's timely. There is very little difference between what we're being asked to support now and what we're being asked to support by the Majority, but it is a significant importance in that time is of the essence.

I truly wish that we had had the availability of DNA when I first started in law enforcement, as would every other law enforcement officer that I worked with over the years; that didn't come into being in its own until the later part of my career because I know full well from my experience, had we had such a dynamic tool for law enforcement to use, we would have a lot less cold case murders in this country and in this state, which we still have and I still have after having retired, because we didn't have this tool available to us. It's an extremely important tool and it is in fact the modern day version of fingerprinting when we got the advent of fingerprinting in this country.

The difference is, as I said, time is of the essence, and I think specifically of a very recent, recent event that just happened in the last couple of days. Had that event ended up in a little bit

different way where the person who had just committed a murder and was apprehended by the police prior to taking his own death, Report "B" here would not have allowed the arresting officers to have taken the sample. I don't know what would have happened after that, whether the person would have been held, whether he would have been let out on bail or what would have happened. Depending on the type of crime, he may or may not have been subject to bail. But the important thing is at the time of arrest he would have not been subjected to this very unobtrusive test.

I've taken both of these tests on criminals myself as well as many other tests. I don't see the intrusiveness of the difference between swabbing the inside of a cheek or rolling 10 prints and palm prints, which is done on a routine basis. Every time a criminal is arrested this is done routinely. If you just arrested somebody for rape, trust me, the last thing on their mind is whether or not you are going to take a swab of the inside of their cheek or not. That's the last thing that's on their mind. In fact, that's what they would expect, that they're going to be processed in a booking room by people who do this day in and day out. They're going to be processed professionally. It's certainly not the issue that they're concerned about. They're concerned about being arrested for a crime that they've just been accused of committing. So I would suggest to you that time is of the essence with this. If somebody is arrested, they jump bail and leave our venue and go back on a spree of terror or crime, whatever it is they have been arrested for, you have no fallback, you have no DNA to fall back on. You've got to wait until hopefully they are apprehended again, if they are apprehended again, and I can assure you some of them aren't and you know as well as I do some of them aren't apprehended.

This, in my opinion, may very well, and probably will, save some lives in the future because time is of the essence when you're dealing with this type of an issue. I really urge you to vote down the pending motion and support the Majority Report. Thank you, Mr. Speaker.

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

Representative **HASKELL**: Thank you very much, Mr. Speaker. Mr. Speaker, Men and Women of the House. I'd like to let you know why I am supporting the Minority Report on this bill and it has to do with the difference between having been arrested and having either a probable cause or having been arrested on a felony warrant, and that difference is that the person who is arrested has not been found in any way, shape or manner, other than by the arresting officer, to have been guilty of anything. I think there is a big difference. I think DNA is critically important. I don't disagree for a minute with any of the speakers who have already stepped up. We already collect DNA for everyone who is convicted and everyone who is currently incarcerated. We have a big database and we have a number of swabs which have not been processed yet because of lack of funding. That's a problem. That's a true problem. But I'm willing to expand the number that we take to those folks who were arrested on a felony warrant or those folks for whom a judge has indicated there would be probable cause, which is likely in many of these heinous and felonious crimes which were previously suggested.

But there is a difference and the difference for me, interestingly enough, goes back to an experience that I had in fifth grade. I was 10 when I was in fifth grade and now I will have to tell you my age because that was 1953. In that time period, all of the fifth graders in my class were fingerprinted. This was the McCarthy era and I'm not saying this is anything like that, but I'm saying that I remember distinctly being fingerprinted in fifth grade and wondering, for years I used to wonder, I wonder where those are? We used to be told that they were in some vault

somewhere in Utah or under a mountain or maybe that was nuclear waste, you know when you're in fifth grade you kind of get those things mixed up. But somewhere my fingerprints existed and they existed for no reason other than the fact that I was 10 years old and fifth graders gave up their fingerprints that day.

I think we need to be very careful about the information that we collect from people for whom there has not been these markers of indication that they've committed that crime. I know there are only 13 pieces of the 3 million hunks of DNA information that are going to be recorded in CODIS, but all 13 million of them still exist on that swab and they still exist wherever that's being held, and the good Representative from Augusta gave you a very definitive process by which it is reported, and then if their arrest is found to be faulty or they are let go, it's expunged. But you realize we're talking about government databases here, two of them, the state and the federal that this goes through and comes back through again. During that time period, remember all 13 million of those pieces of information still exist and I frankly don't believe that we ought to be collecting that on people who have not met some standard of some reasonable expectation that they are guilty of those crimes. So I would suggest that we need to be very careful and move slowly in this matter. Even if we do collect them all, we can't process them all. There isn't enough money to process all the ones that we have and all the new ones that we'll be getting, so I think we ought to move with incremental distance here and not at arrest. Thank you.

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

Representative **CHIPMAN**: Thank you, Mr. Speaker. I request the Clerk to read the Committee Report.

The SPEAKER: The Chair would inform the Representative that it's in your calendar, item 6-9. The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative **WATERHOUSE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I hope you will go with me and vote with the good Representative from Augusta and turn down the motion on the floor and go with the Majority Report, and I will give you a real life example why.

As many of you know or you may know, Bridgton had an unsolved murder for 12 years. A young lady named Crystal Perry was violently murdered in Bridgton. She was stabbed 50 times and that stayed on the unsolved murder crime book for 12 years. The individual who committed the murder was well known. I actually worked on some jobs with the murderer and he was arrested many times in those 12 years on minor offenses. Finally, after 12 years, he committed a felony, threatening with a dangerous weapon. They took a DNA sample and found out that he was the murderer of Crystal Perry.

Now during those 12 years, he could have very possibly murdered somebody else. He could have very possibly murdered the person that he threatened with the weapon. But he probably would not have gotten the chance if the Majority Report passes or had been in effect at the time, because like I said, he was arrested many times years before that, probably the same year he committed the murder, on minor offenses. That's why we need the Majority Report.

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. My grandfather was deeply stunned when Dixfield got a zip code. When they wanted social security numbers, it put him over the top. And yet, we've survived.

The reality is that I do think that this is no different than fingerprinting and my issue with this is not unlike the Representative from Bridgton, but what about the hundreds of people who are innocent and in jail, the rights that we owe to them? These people that are being freed every day or throughout the year in our society and to ask somebody to give up a swab upon booking is not that unlike asking for a blood test if a guy's been stopped for drunk driving. The Representative from Augusta makes a great case and I'm going to follow her light and hire her if I'm ever in trouble.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Celli.

Representative **CELLI**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I, too, am going to vote against the Minority Ought to Pass. Some of what I was going to say, Representative Harvell has just stated. The one thing though that I wanted to bring up was, yes, there was fingerprinting for children. They still do it. I remember I was fingerprinted as a child. I didn't commit a crime. It was at school. But do you know that they also now take DNA testing for children? Thank you.

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

Representative **BURNS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just rise very briefly just to explain one thing that probably could be a lot better explained recently, currently, by the good Representative from Portland over here. Her brother is a sheriff. Somebody just asked me about the fingerprinting, whether or not that's done. Most people who don't work in this realm don't realize these things and I forget that. It is automatic that when somebody is arrested, whether by on probable cause or by a warrant and they take them to a booking facility, that they are fingerprinted along with the other booking procedures. This is something that occurs automatically. It's not just pick and choose. So this procedure would fit right in with that.

The other thing I wanted to mention and it has already been brought up by the good Representative from Farmington, DNA has done a lot of good things to free people who have been wrongly convicted. Again, it's one of the greatest advent to fighting crime that I've ever seen. So we can't look at it as just a negative thing. It's also a very positive thing. Thank you, Mr. Speaker.

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

**ROLL CALL NO. 145**

YEA - Berry, Boland, Bryant, Cain, Chapman, Chipman, Cushing, Driscoll, Duchesne, Eberle, Goode, Graham, Guerin, Hanley, Haskell, Hayes, Hunt, Kent, Kruger, Libby, Lovejoy, MacDonald, Martin, Nelson, Pilon, Plummer, Priest, Rotundo, Russell, Sanborn, Shaw, Stuckey, Treat, Valentino, Wagner R, Webster, Welsh, Winsor.

NAY - Ayotte, Beaudoin, Beaulieu, Beavers, Beck, Beliveau, Bennett, Bickford, Black, Blodgett, Bolduc, Briggs DC, Burns DR, Carey, Casavant, Cebra, Celli, Chase, Clark H, Clark T, Clarke, Cornell du Houx, Cotta, Crafts, Cray, Crockett, Curtis, Damon, Davis, Dill J, Dion, Dow, Dunphy, Edgecomb, Espling, Eves, Fitts, Fitzpatrick, Flemings, Fossel, Foster, Fredette, Gifford, Gilbert, Gillway, Hamper, Harlow, Harmon, Harvell, Herbig, Hinck, Hogan, Johnson D, Johnson P, Kaenrath, Keschl, Knapp, Knight, Kumiega, Lajoie, Long, Longstaff, Luchini, Maker, Malaby, Maloney, Mazurek, McCabe, McClellan, McFadden, McKane, Morissette, Morrison, Moulton, Nass,

Newendyke, O'Brien, O'Connor, Olsen, Parker, Parry, Peoples, Peterson, Picchiotti, Prescott, Rankin, Richardson D, Richardson W, Rioux, Rochelo, Rosen, Sanderson, Sarty, Sirocki, Stevens, Strang Burgess, Theriault, Tilton, Timberlake, Turner, Tuttle, Volk, Waterhouse, Weaver, Willette A, Willette M, Wood, Mr. Speaker.

ABSENT - Flood, Innes Walsh, Wintle.

Yes, 38; No, 109; Absent, 3; Vacant, 1; Excused, 0.

38 having voted in the affirmative and 109 voted in the negative, 1 vacancy with 3 being absent, and accordingly the Minority Ought to Pass as Amended Report was **NOT ACCEPTED**.

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

The Bill was **READ ONCE**. Committee Amendment "A" (H-576) 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**.

Representative HINCK of Portland **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended**.

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

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

**ROLL CALL NO. 146**

YEA - Ayotte, Beaudoin, Beaulieu, Beavers, Beck, Beliveau, Bennett, Berry, Bickford, Black, Blodgett, Bolduc, Briggs, Burns DC, Burns DR, Casavant, Cebra, Celli, Chase, Chipman, Clark H, Clark T, Clarke, Cornell du Houx, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dill J, Dion, Dow, Dunphy, Edgecomb, Espling, Fitts, Fitzpatrick, Flood, Fossel, Foster, Fredette, Gifford, Gilbert, Gillway, Graham, Hamper, Harmon, Harvell, Herbig, Hogan, Johnson D, Johnson P, Kaenrath, Keschl, Knapp, Knight, Kruger, Kumiega, Lajoie, Long, Longstaff, Maker, Malaby, Maloney, Martin, Mazurek, McClellan, McFadden, McKane, Morissette, Morrison, Moulton, Nass, Newendyke, O'Connor, Olsen, Parker, Parry, Peoples, Peterson, Picchiotti, Pilon, Plummer, Prescott, Priest, Rankin, Richardson D, Richardson W, Rioux, Rosen, Sanborn, Sanderson, Sarty, Shaw, Sirocki, Stevens, Strang Burgess, Theriault, Tilton, Timberlake, Turner, Tuttle, Volk, Waterhouse, Weaver, Webster, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

NAY - Boland, Bryant, Cain, Carey, Chapman, Driscoll, Duchesne, Eberle, Eves, Flemings, Goode, Guerin, Hanley, Harlow, Haskell, Hayes, Hinck, Hunt, Kent, Libby, Lovejoy, Luchini, MacDonald, McCabe, Nelson, O'Brien, Rochelo, Rotundo, Russell, Stuckey, Treat, Valentino, Wagner R, Welsh.

ABSENT - Innes Walsh, Wintle.

Yes, 114; No, 34; Absent, 2; Vacant, 1; Excused, 0.

114 having voted in the affirmative and 34 voted in the negative, 1 vacancy with 2 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-576)** and sent for concurrence.

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-570)** on Bill "An Act To Prohibit Bullying in Schools"

(H.P. 928) (L.D. 1237)

Signed:



Senators:

LANGLEY of Hancock  
ALFOND of Cumberland

Representatives:

RICHARDSON of Carmel  
EDGECOMB of Caribou  
LOVEJOY of Portland  
MAKER of Calais  
McFADDEN of Dennysville  
NELSON of Falmouth  
RANKIN of Hiram  
WAGNER of Lewiston

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

Signed:

Senator:

MASON of Androscoggin

Representatives:

JOHNSON of Greenville  
McCLELLAN of Raymond

Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the **Majority Ought to Pass as Amended by Committee Amendment "A" (H-570)** Report.

**READ.**

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-570)** 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-570)** and sent for concurrence.

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Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-563)** on Bill "An Act To Reimburse Pharmacies under the MaineCare Program Based on Wholesale Acquisition Costs"

(H.P. 272) (L.D. 346)

Signed:

Senators:

McCORMICK of Kennebec  
FARNHAM of Penobscot

Representatives:

STRANG BURGESS of Cumberland  
FOSSEL of Alna  
MALABY of Hancock  
O'CONNOR of Berwick  
SANDERSON of Chelsea  
SIROCKI of Scarborough

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

Signed:

Senator:

CRAVEN of Androscoggin

Representatives:

EVES of North Berwick  
PETERSON of Rumford  
SANBORN of Gorham  
STUCKEY of Portland

**READ.**

Representative STRANG BURGESS of Cumberland moved that the House **ACCEPT** the **Majority Ought to Pass as Amended** Report.

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

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Majority Report of the Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-573)** on Bill "An Act To More Closely Coordinate the Classification of Forested Farmland under the Farm and Open Space Tax Laws with the Maine Tree Growth Tax Law"

(H.P. 400) (L.D. 507)

Signed:

Senators:

TRAHAN of Lincoln  
HASTINGS of Oxford  
WOODBURY of Cumberland

Representatives:

KNIGHT of Livermore Falls  
BENNETT of Kennebunk  
BERRY of Bowdoinham  
BICKFORD of Auburn  
BURNS of Alfred  
HARMON of Palermo  
PILON of Saco  
WATERHOUSE of Bridgton

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

Signed:

Representative:

BRYANT of Windham

**READ.**

On motion of Representative KNIGHT of Livermore Falls, the **Majority Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-573)** 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-573)** and sent for concurrence.

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Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Resolve, Directing the Bureau of Revenue Services To Provide Guidance Regarding the Valuation of Residential Alternative Energy Infrastructure

(H.P. 709) (L.D. 965)

Signed:

(After Recess)

Senators:

TRAHAN of Lincoln  
HASTINGS of Oxford  
WOODBURY of Cumberland

The House was called to order by the Speaker.

Representatives:

KNIGHT of Livermore Falls  
BENNETT of Kennebunk  
BICKFORD of Auburn  
BURNS of Alfred  
HARMON of Palermo  
WATERHOUSE of Bridgton

**MATTERS PENDING RULING**

Bill "An Act To Change the Campaign Contribution Limits"  
(S.P. 260) (L.D. 856)

TABLED - June 3, 2011 by Speaker NUTTING of Oakland.

PENDING - **RULING OF THE CHAIR.**

Subsequently, the Chair **RULED** that **Senate Amendment "A" (S-220)** was **GERMANE** to the Bill.

Subsequently, **Senate Amendment "A" (S-220)** was **ADOPTED.**

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

Representative CHIPMAN of Portland **PRESENTED House Amendment "A" (H-499)**, which was **READ** by the Clerk.

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

Representative **CHIPMAN:** Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm seeking to make a small change to this bill. When this bill came to our committee, Veterans and Legal Affairs, originally it was intended to change the contribution limits for county candidates and somehow ended up including municipal candidates as well. We recently, just a few years ago, increased the contribution limit from \$250 to \$350 for municipal candidates, and the way this bill is written, it would increase it to \$750 for municipal candidates as well as county, as well as the changes to the gubernatorial privately funded candidates.

I feel obligated to present this amendment because there are a number of municipal campaigns already under way this year, being an off-year election, and this would significantly increase the amount of contributions to local municipal candidates. I don't feel that anybody needs to accept more than \$350 per individual for a local race – for board of selectmen, school committee or city council, or for an elected mayor such as we have in Portland this year. So I think this is a very small and reasonable change to simply take off the municipal part from the bill and keep that limit at \$350 as opposed to going up to \$750. I urge all of you to please support me in making this small change to this bill by voting in favor of this amendment. Thank you, Mr. Speaker.

Representative CUSHING of Hampden moved that **House Amendment "A" (H-499)** be **INDEFINITELY POSTPONED.**

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-499).**

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

The **SPEAKER:** A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-499). All those in favor will vote yes; those opposed will vote no.

**ROLL CALL NO. 147**

**YEA** - Ayotte, Beaulieu, Bennett, Bickford, Black, Burns DC, Burns DR, Cebra, Chase, Clark T, Cornell du Houx, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dow, Dunphy, Edgcomb, Espling, Fitts, Fitzpatrick, Flood, Fossil, Foster, Fredette, Gifford, Gillway, Guerin, Harmon, Harvell, Johnson D, Johnson P, Keschl, Knapp, Knight, Libby, Long, Maker, Malaby, McClellan, McFadden, McKane, Morissette, Moulton, Nass,

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-574)** on same Resolve.

Signed:

Representatives:

BERRY of Bowdoinham  
BRYANT of Windham  
FLEMINGS of Bar Harbor  
PILON of Saco

**READ.**

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

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

The **SPEAKER:** The Chair recognizes the Representative from Mexico, Representative Briggs, who wishes to address the House on the record.

Representative **BRIGGS:** Thank you, Mr. Speaker. Mr. Speaker, had I been present for the following four roll calls: on Roll No. 130 I would have voted yea, on Roll Call No. 131 I would have voted yea, Roll Call No. 132 I would have voted nay, and on Roll Call No. 133 I would have voted yea. Thank you, Mr. Speaker.

The **SPEAKER:** The Chair recognizes the Representative from Newport, Representative Fredette, who wishes to address the House on the record.

Representative **FREDETTE:** Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. In reference to Roll Call No. 132 on LD 603, had I been present I would have voted yea.

The **SPEAKER:** The Chair recognizes the Representative from Burlington, Representative Turner, who wishes to address the House on the record.

Representative **TURNER:** Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. In reference to Roll Call No. 120, LD 1031, I would have voted yea if I'd been here.

The House recessed until 2:00 p.m.

Newendyke, O'Connor, Olsen, Parker, Parry, Picchiotti, Plummer, Prescott, Richardson D, Richardson W, Rioux, Rosen, Sanderson, Sarty, Sirocki, Strang Burgess, Tilton, Timberlake, Turner, Volk, Waterhouse, Weaver, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

NAY - Beaudoin, Beavers, Beck, Beliveau, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Carey, Casavant, Celli, Chapman, Chipman, Clark H, Clarke, Dill J, Driscoll, Duchesne, Eberle, Eves, Flemings, Gilbert, Goode, Graham, Hanley, Harlow, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Kaenrath, Kent, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maloney, Martin, Mazurek, Morrison, Nelson, O'Brien, Peoples, Peterson, Priest, Rankin, Rochelo, Rotundo, Russell, Sanborn, Shaw, Stevens, Stuckey, Theriault, Treat, Tuttle, Valentino, Wagner R, Webster, Welsh.

ABSENT - Dion, Hamper, Innes Walsh, McCabe, Pilon, Wintle.

Yes, 76; No, 68; Absent, 6; Vacant, 1; Excused, 0.

76 having voted in the affirmative and 68 voted in the negative, 1 vacancy with 6 being absent, and accordingly **House Amendment "A" (H-499) was INDEFINITELY POSTPONED.**

Representative CAIN of Orono **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended.**

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

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

Representative CAREY: Thank you, Mr. Speaker. The bill before you is simple. It doubles contribution limits for gubernatorial campaigns to \$1,500. The effect of this is equally simple. It effectively ends Clean Elections campaigns for gubernatorial campaigns. I know that there are many in this body who wish to do that and I respect that policy decision. There was a bill to do just that and that bill was carried over. It had its public hearing and if that's where we want to go, let's go through that front door. This is a back door to the same policy. This idea never had a public hearing.

This idea did come up in two other contexts. The first context, it was to that same bill that I have just referenced, "An Act to End Taxpayer Funding for Gubernatorial Campaigns." After caucuses, it was suggested by a member of this body that the entire bill be struck and replaced with \$2,500 campaign contribution limits. There was a vote in committee on that and there was discussion in committee and both sides of the aisle on the committee were uncomfortable that that idea had never seen the light of day, never seen a public hearing.

It came up a second time in the budget offered by the Executive. It came in a change package. When that idea was scheduled for a public hearing a couple of days after it came out, that day the Chief Executive pulled that idea and those who had come to testify went home because there was no public hearing. This idea has not had a public hearing and should not pass this body. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Crockett.

Representative CROCKETT: Thank you, Mr. Speaker. Mr. Speaker, Distinguished Members of the House. Just as a clarifying point, for federal statewide office, for United States Senate, your contribution limits are \$2,500. That was discussed in committee. Instead the committee, in order to continue its bipartisan procedure to that point and the atmosphere of the time, we didn't accept that, and the Representative from Lewiston is absolutely correct. We knew, or at least some of us knew on committee and suspected, and it was discussed as well that it may come forward in one of the chambers. This is not something

that came from left field. This has had some vetting amongst the legislative body, even if there wasn't a particular public hearing for this portion of this amendment.

But it is federal law that a \$2,500 limit is what exists for a statewide office in the State of Maine. So \$1,500 for Governor seems very reasonable because the idea of \$2,500 was floated. The point in allowing an increased contribution limit is not to undermine the Clean Elections process, because if you look at the gubernatorial candidates and what they've spent, Clean Elections candidates have ended up very well compared to privately financed.

So what crowd you're really attacking by increasing the contribution limits are not the Clean Elections candidates. They're not the small person who doesn't come from a billionaire family. It's any one of us who decides to run traditionally. This goes after those people who move in from or have made large amounts of money who decided to self-fund with their own million dollar checks their campaigns. That's all this does. So this is not an unreasonable amendment by any means.

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

Representative CAREY: Thank you, Mr. Speaker, and thank you to the Representative from Bethel for clarifying some of the discussion in committee. Let me share with you the rest of that discussion on that point.

Federal law is \$2,500 for any statewide office and in fact for a congressional candidate as well. In my professional career before I ran for office I have a lot of experience raising money for federal congressional offices. At the time, the limits were \$2,000 and then \$2,200. It is much harder to raise money for federal offices for one simple reason. In federal campaigns corporations cannot give. In Maine, corporations are treated as other people under the law. So in a federal campaign it is very common and those of you who have also been involved in federal campaigns will raise money and often a business owner will talk to the candidate and believe that that candidate really shares their beliefs and will send a check. If that check is from a corporation, it has to be returned. This is the source of a lot of time in clarifying what is federal law. Federal law is very different than state law. Because Maine corporations can give to Maine candidates or any corporations can give to Maine candidates, that was the point of the Clean Election system, to allow people to run for public office in Maine on the strength of their ideas, not on the strength of who they know. This bill goes against that very idea. Thank you, Mr. Speaker.

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. We keep talking about whether or not this was publicly vetted. Well, let me tell you something that was: The Clean Elections system. The Clean Elections system was so well vetted that it was brought to this body and to the other body by referendum, and then went to the people and was passed with 59 percent of the vote. Fifty-nine percent of Maine people thought that average everyday citizens should have an opportunity to have their voice heard and to run for office. Fifty-nine percent of Maine people heard both sides of the equation for a very long referendum and still decided that public financing was the way to go, that they wanted to allow candidates to have an opportunity to choose whether they wanted to take money from individuals or corporations or whether they wanted an opportunity to represent only their constituents and not to have to worry about where their next check comes from and whether or not they'll get reelected because they couldn't raise enough money.

So I find it rather fascinating that we're just taking it so lightly, that there was no public hearing on this bill, on this amendment. There was no public vetting. If we're going to do away with Clean Elections for gubernatorial candidates, we should do it with a full public vetting. We should make sure that people actually know what's happening. It's the light of day. It sure doesn't feel like it though. What happens in here is very isolated from what happens out there and I think that's why this bill is being brought to us the way that it is, why this proposal, why this major policy change is being brought to us the way that it is.

If you want to undermine Clean Elections gubernatorial candidates, which is the first step towards undermining the entire system, at least have the courage to do it with a full public vetting. Let the people come in and weigh in on this subject matter. Maybe the people will agree with you, Mr. Speaker. Maybe the people will say, you know what, we should rescind that system. But maybe they won't. But the way that we're doing it right now, the people don't exactly have an opportunity to weigh in at all.

This was brought to us by the people of Maine. I stood up earlier this year on a very embarrassing motion because I felt that the people of Maine had the right to have accountability in their government when they brought a citizen's initiative forward. Apparently, we don't think very highly of the people of Maine, so I am going to hope that those of us who do care about what the people of Maine want and respect that the people of Maine brought this to us in the first place, that if we're going to actually repeal Clean Elections for gubernatorial candidates, that we do it the right way, in the full light of day with people being able to weigh in, and don't do it through a back door amendment. Thank you, Mr. Speaker.

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

Representative CHIPMAN: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. It wasn't more than three or four years ago that the contribution limit for gubernatorial candidates was \$500. Then we raised it to \$750, and this bill, the way it's been amended in the other body, doubles it from what it is now to \$1,500, which is three times what it was just a few years ago, and there has been no public hearing on the fact that it's going up for the gubernatorial contribution limits.

The good Representative from Bethel makes a good point about the federal limits. We did talk about that in committee, but I would remind members of the body that federal contribution limits are set by federal government and we are in the business of setting state law, and the state limits right now are \$750. We did discuss this in committee. We discussed raising it from \$750 to \$2,500, which is even more than the \$1,500, but we decided not to do that in committee and part of the reason why that we decided not to do it is because there was no public hearing on essentially doubling the gubernatorial contribution limit. There is still plenty of time before the next gubernatorial race that if we want to revisit this issue and have a public hearing, there is plenty of people who would want to speak on both sides that we can do that before the next gubernatorial campaign. There is no need to do this now. Please vote no. Thank you.

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

Representative MacDONALD: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise out of a concern over the fact that this bill as amended and the amendment itself have not gone through a hearing process, and I guess I would like to ask a question of the Chair as to what kind of legal grounds or perhaps even grounds of ordinary procedure and

decorum and courtesy to the public that we're operating on under here. If you take a look at your rule book, Rule 305 talks about hearings. It says that the presiding officers shall jointly establish authorized meeting days for committees to hold their public hearings, each committee shall distribute a detailed list of hearings, a committee's public hearings and work sessions must be posted, a notice must be posted each day in the State House. A committee may not hold a hearing or conduct a work session for which a notice has not been posted. Public hearings must be advertised 2 weekends in advance of the hearing. All exceptions must be approved by both presiding officers. It goes on to talk about hearings a little bit more.

I find that this language of hearings, at least in my plain common sense reading of the rules, is that there should be and must be hearings for all substantive matters that comes before us in the form of bills or amendments. This is my third term. I have never been aware of a matter to come before us without a hearing other than this session, where it seems to have happened now at least a couple of times. I'm rising to question this practice in general, but also to question this practice in this particular instance. I'm questioning whether or not this is properly and legally before us, Mr. Speaker, and I would like an answer to that question if I may. Thank you.

The SPEAKER: The Representative poses a question to the Chair to ask if this is properly before the body? I don't understand what your question is.

Representative MacDONALD: My question is this matter properly and legally before us given the language and requirements in Rule 305 and perhaps other rules about our conduct in this House, about how we manage the introduction of bills and amendments to those bills, and is this matter properly before us.

Representative MacDONALD of Boothbay asked the Chair to RULE if the Bill was properly before the body.

The SPEAKER: The Chair would rule that this matter is properly before the House.

Subsequently, the Chair RULED that the Bill was properly before the body.

Representative MacDONALD: If I may ask, is there a way in which we can get a basis for that reading? I would love to have that in writing.

The SPEAKER: The Chair would suggest that you could check with your lead, with your corner. Perhaps from there you could find out the answer to your question, how the Joint Rules and the House Rules and the Committee Rules aren't all spelled out in the little handbook that you cite from.

Representative MacDONALD: Meaning no disrespect to you, sir, I did ask the question of you and I would hope that I could get an answer at some point. I don't expect to. Thank you.

The SPEAKER: With all due respect, I just answered your question. You asked if this was properly before the body and I suggested to you that my ruling is that it is.

The Chair recognizes the Representative from Bethel, Representative Crockett.

Representative CROCKETT: Thank you, Mr. Speaker. Mr. Speaker, Distinguished Members of the House. I apologize for rising a second time. It's never a good practice, just for future reference. If you'll notice on the website, it talks about the public hearing for this bill, which was April 29, 2011. So there was in fact a public hearing. If the question is the amendment, the day we stop amending bills on the floor and in the other body, we limit each member of this chamber's ability to have any say other than what the committee does. So I don't think that's a road we want to go down as an institution.

Now just as a clarifying point, it was mentioned corporations

donating to campaigns and the good Representative from Lewiston is correct. Corporations, on the federal level, don't give directly to the congressional campaigns. However, as you know, there are PACs, so there are ways of contributing and influencing an outcome of a federal election by a corporation donating. So just a point to consider and think about and we still have to figure out a way to keep millionaires from buying elections and this is probably the best way of doing it. Just something to keep in mind.

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

Representative **CHAPMAN**: Thank you, Mr. Speaker. Mr. Speaker, Colleagues and Friends of the House. One of the reasons that I ran for this office was because I was not pleased with the processes that I saw at work in a prior administration and I'm sure that there are others of my co-freshmen legislators who are here for the same reason, and I would like to express my disappointment that we are straying off of the issue areas and getting into the type of politics game-playing that I think the public particularly dislikes, as do I. Thank you, Mr. Speaker.

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

Representative **CHIPMAN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just want to clarify a couple of things on this.

This original bill, LD 856, was introduced as a bill to raise the county contribution limits. The arguments made at the public hearing on the Committee of Veterans and Legal Affairs, which I serve on, were that countywide candidates were subject to a \$350 limit that was too small if you're running for a countywide race. Included in that was also municipal contribution limits, raising them from \$500 to \$750. There was no discussion whatsoever at the public hearing about raising gubernatorial contribution limits. There was nothing in the bill about raising gubernatorial contribution limits. In fact, Maine Citizens for Clean Elections, which were in the room and speaking on a variety of different bills, didn't take a position on this bill because it really had nothing to do with privately funded candidates who may be competing in Clean Election funded candidate races. It had nothing to do with anything to do with statewide campaigns or state level campaigns.

Then in the work session one of the members of our committee did suggest raising the gubernatorial contribution limit from \$750 to \$2,500 and adding that amendment on to this bill, which had nothing to do with state level races whatsoever, and we decided in the committee not to do that because we didn't feel there was an adequate public hearing on that. Folks like Maine Citizens for Clean Elections and other groups that are opposed to Clean Elections may have wanted to weigh in on that and weren't able to, so we decided no. The bill came out of committee without anything to do with gubernatorial contribution limits at all. Then when it went to the other body, that's what this piece was added on there and that's the piece that I object to because people have not been able to really weigh in on it. I just want to clarify those points and again urge you to please join me in voting red. Thank you.

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

Representative **GOODE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I just wanted to rise because I've been looking at a sheet that we were handed out from the Representative from Alna, Representative Fossel. It's a letter to the 125th Maine Legislature and I've been looking over a number of the names and just wanted to let everybody know that as I've looked over this list, probably around 20 or so of these

people I definitely know and live in Bangor. I'm just really impressed looking at this list.

I know there is a former Republican legislator, former Representative from Dover-Foxcroft, who is on this list. A constituent of mine who does not always share my persuasion politically, who supported the current State Treasurer and his bid to become Chief Executive is on this list. There are a lot of small business owners in Bangor that I know that are on this list.

I just really think that this is impressive and that it might be helpful for people to look over this and really understand the breadth and depth of support for making sure that there's a level playing field when people are running for office before we vote. So thank you.

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

#### ROLL CALL NO. 148

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

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

ABSENT - Dion, Innes Walsh, Wintle.

Yes, 77; No, 70; Absent, 3; Vacant, 1; Excused, 0.

77 having voted in the affirmative and 70 voted in the negative, 1 vacancy with 3 being absent, and accordingly under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Senate Amendment "A" (S-220)** in concurrence.

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 yesterday, 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 (7) **Ought to Pass as Amended by Committee Amendment "A" (H-429)** - Minority (6) **Ought to Pass as Amended by Committee Amendment "B" (H-430)** - Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Allow School Administrative Units To Seek Less Expensive Health Insurance Alternatives"

(H.P. 972) (L.D. 1326)

TABLED - June 2, 2011 (Till Later Today) by Representative RICHARDSON of Warren.

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

Representative RICHARDSON of Warren **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 Warren, Representative Richardson.

Representative **RICHARDSON**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. LD 1326 is about providing health insurance options to school districts. Right now school districts pay up to 14 percent of their operating budgets for health insurance. School boards cannot negotiate down that price because MEA Benefits Trust and its insurer, Anthem, have a lock on 98 percent of the school business in Maine. School districts can't solicit competitive bids because MEA Trust won't release claims data. LD 1326 would require them to do that and open up the business to competition. It most likely would make MEA Benefits Trust sharpen its pencil to compete for their share.

With the rates that it has charged in recent years, the plan has been able to build an asset fund that totals \$87 million, despite being fully insured by Anthem. The fund has grown, by the way, from \$60 million to \$70 million to \$80 million, and now \$87 million in just four years. Why is that money, most of which is taxpayer money, sitting in a protected trust? The bottom line is competition helps bring down prices. Without competition, the Trust gets to tell school districts what plan they have to buy and how much they have to pay for it. It's not fair. It's not good use of our taxpayer money. Thank you.

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 stand to oppose the pending motion. This legislation is virtually identical to legislation previously voted Ought Not to Pass by this body. Further, we have already enacted legislation, LD 404, which is intended to provide additional options in terms of lower cost health care for various school districts to consider through the MEA Trust. We've also, through that legislation, restructured the board of the MEA Benefits Trust and have agreed to release statewide data.

This bill, by releasing local school unit data, threatens the privacy interests of teachers in small school districts and it will lead to a cherry-picking of the MEA plan. School districts located in areas of the state where medical costs are lower or that have an employee population with younger employees, or who do not have any employees who have sought medical treatment for expensive claims such as cancer, those districts will be encouraged to leave the plan, leading to higher costs for everyone else. The ultimate result could be the death spiral that we hear so much about in the open marketplace, especially in districts in central, western, eastern, and northern Maine. Those districts will see their costs going up. You have some materials that have a pretty graphic chart that have been handed out that shows where those districts are, where those counties are, where the costs will go up. Those costs are already higher, but are spread out in average across the entire employee pool at this time.

Once people start pulling out because they happen to be in parts of the state that have many more medical facilities, for example, then we'll see those costs in other areas of the state going up even more. Further, these negative effects are not really necessary. School districts that are really determined to

look elsewhere certainly may do so and not all school districts are insured through the MEA Trust. Moreover the MEA plan is actually a very good one. They have kept their administrative costs quite low, less than 8 percent in the last couple of years, and they have used the fund that has been described to buy down the cost and make sure that this insurance is affordable to everyone.

As part of the committee's deliberations, we had another bill that we looked at, the option of putting the MEA Trust within the state employee plan. That's another bill that we'll discuss later. This turned into a study, but the bottom line from what we found out there was that the state employee plan actually costs more and doesn't necessarily cover the same things. That in fact, as one of our members said, if we're going to be talking about that, maybe we should put the state employee plan into the MEA plan, not the other way around. We know that costs have gone up pretty dramatically in the regular group marketplace. Again, the MEA Trust has kept its costs down. The increased premiums, in 2010, were only about 2 percent which is really extraordinary. They went up to about 6.5 percent this last year. But again, that's better than many, many plans around this state.

I think we need to give the reforms that we already enacted a chance to work. I think we shouldn't be pulling apart something that actually works very well. This is not a piece of legislation that is going to benefit many, many parts of this state, particularly the rural parts, and even where I live in central Maine. Central Maine right now is sort of the average, but if you pull out those who can go elsewhere, then it's going to go up for the rest of us. You know I think that we need to look at this state and our policies, to some extent, as a reflection of our community, and it shouldn't just all be about me first. I can go out and get something better, but too bad for all the rest of you. I think that this is exactly where this legislation is leading and should resist that impulse because, in the end, it isn't going to leave us with good policy for anybody. Thank you.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative O'Connor.

Representative **O'CONNOR**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As many of you probably know, I've served three terms as a school board director and I am actually finishing up that third term. Many times I have had to negotiate contracts with the teachers and the administration. It has been more than frustrating at many times to negotiate the health insurance piece to get the best deals that we possibly could for the employees of the district, at the very best price to the taxpayers. We tried many times to get competitive bids, but because the Maine Education Association Benefits Trust wouldn't release the claims data, we could not get that information. Furthermore, as it has been said, the MEA Trust does have a built-in reserve now of \$87 million, but in that time we have not seen any of our rates decrease for our teachers and administrators.

I did speak to the superintendent of our school as well as our school board and they are 100 percent in support of this legislation. I can estimate that this legislation and the ability to negotiate insurance contracts could have saved the SAD 60 school district probably between \$300,000 and \$400,000. That is a lot of money that can be kept right where we need it, in the classrooms teaching our children. We would not have had to lay off the number of teachers that we did if we could have negotiated these contracts. I beg you; please follow my light on this. Thank you.

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

Representative **GOODE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I just want to draw your attention to a few more floor sheets that have been distributed. Representative Johnson, Representative Richardson, the Representative from Herman, the Representative from Caribou, Representative Edgecomb, have all distributed different floor sheets that show a map of the state. I just feel as though these maps really highlight who the winners are and who the losers are in this bill. It's very clear looking at the sheet that the communities who have a higher rating factor based by counties, a rating factor over 1, would most likely be losers in this bill.

Often when we debate things in this body they are based on political persuasions or philosophies. It really would be beyond me to see this bill not be a geographic vote. It was very clear in our committee that what most likely would happen should this pass is that a number of the more well-to-do communities in southern Maine could form a pool, have lower rates, leave the teachers pool and leave the rural communities, largely in the Second Congressional District, out to dry with a higher amount of risks that they would then have to bear. So I just really, in working this bill in our committee and hearing about the conversations that happened in the Education Committee around I think the five different bills that dealt with this issue, it was very clear that this is a good bill for people who have younger and healthier populations. But for the state as a whole, you want to share the risk and it is very difficult for me to see members of this body leaving a huge population of this state kind of out to dry and to share their own risk.

Any school district right now can already get the statewide data and it can already leave the pool if they would like. Again, smaller districts, whether you're in a county that looks like it would do well based on this map or a county that would not, smaller districts will be subject to volatile rate swings. So if it looks good now and you have a pool of 300 employees and a couple of people get brain cancer, a couple of people have premature births, the next year your rates could go way up. If that happens right now in this large pool statewide, you're going to be less subject to that volatile type of change if there is a major health concern. Again, I envision that if this should pass a number of the more well-to-do communities, as you can see by this map, could make their own pool, get a lower rate, and leave the rest of the state out to dry.

I've talked with my superintendent. I'm friends with my superintendent. My mother works in our school district in Bangor. I've just been hired to work in our school district in Bangor and I respect my superintendent's position. I'm assuming most people in this body respect their superintendent's position, but I really feel that there are lots of issues dealing with insurance. This Legislature has passed a number or is posed to pass a number of bills that provide a more thoughtful approach and I just really feel as though when I've explained to people like my superintendent, other people that I've talked to, that a bigger pool is better, they have tended to understand my perspective.

I also just want to really reiterate that costs vary for health care across the state. The interstate exit that you get off of determines the cost of your care. So if you live in a community with higher cost health care and the people who live in the areas with lower cost health care in the state leave the pool, it's going to force you to bear more of the risk based on where you live.

I also just want to, as much as I respect people in this body fighting for their district and what's good for Maine, I encourage you to look at the maps that the Representative from Caribou has distributed, the Representative from Greenville, the Representative from Herman have all distributed, and really think about the people who are speaking today and the people who are

very excited about this bill and think about what districts they represent on this map, and it is a district that stands to gain a lot from leaving this pool and leaving people in rural Maine out to dry. I just think that would be an important thing that I would want to do before I voted on this bill. So I thank you for your time and urge you to oppose 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. LD 1326 is a property tax bill much more than it is a health care bill. Most of the cost of education is paid for through property taxes and 14 percent of that is health insurance, more than \$300 million a year. It's a lot of money. It's big money and we have two large interests battling to prevent this bill from passing. The Maine Education Association and Anthem BlueCross do not want this bill to pass. This is a sweetheart deal with Anthem supplying almost all of the school districts. This is, in any way you can look at it, a virtual monopoly.

But this bill does not propose to eliminate the Maine Education Association Benefits Trust. It simply allows school districts to competitively bid or band together and self-insure. Your school district cannot do this without the claims data being held tightly by the Maine Education Association. Again, this is a really nice deal for MEA and our monopoly carrier Anthem BlueCross. Having a closed system like this prevents any competition in this very large market. This bill simply allows competition. We've heard that allowing this competition will have a detrimental effect on rural school districts. I will allow that it will benefit all districts in the State of Maine. But the lobbyists from Maine Education Association asked me, so you're saying that there are no winners or losers, there are just winners? I said no. No, there are losers. The losers would be the Maine Education Association and Anthem BlueCross.

Just a little bit about this deal that's going on here. All that it would do, 1326 would allow school boards to compare prices on health insurance. Remember 14 percent of the cost of running a school on average in the State of Maine is health insurance, huge money. School boards cannot obtain this data because MEA Trust will not release it. Several school districts have already estimated that they would save hundreds of thousands of dollars if they could get out of this and be able to find a competitive price. The MEA has a reserve. The MEA Benefits Trust has a reserve of \$87 million. That has grown from \$60 million in five years. That's a real nice cushion to sit on and that money comes out of taxpayers. The MEA Teachers Union received \$901,000 from the MEA Trust in 2010, up from \$516,000 in 2009, a 74 percent increase, for what? Teachers will not be forced out of this Trust. If the Trust is named in the contract it will have to be negotiated. This is again about competition in the health insurance market so that your property taxpayers can save some money and more money can go into the classroom instead of to the monopoly carrier and to the Teachers Union. Thank you very much, Mr. Speaker.

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

Representative **WAGNER**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I really don't understand the mathematics that say that if the low inexpensive claims districts leave this Maine Education Association and Benefits Trust, that then the expenses for the other more higher cost claims areas won't go up. I can't imagine that they won't go up. If there is some good mathematics to show otherwise, I'd love to see them. But my main reason for standing is to remind all of us that LD 404, which the Education Committee negotiated

thoroughly, in my opinion, with interested parties, including the Maine Education Association Benefits Trust, has made some significant changes, and it's a bill, LD 404, which passed unanimously. It will allow for statewide claims information to be made public. It will allow for a lower cost alternative plan. There will be a lower cost alternative plan presented by the MEA Benefits Trust. The proposals will go out for bid every five years, which did not occur in the past, and there will be a Maine School Board Association board member on the MEA Benefits Trust board. These are all good steps, good steps negotiated effectively, and as a result it seems to me there should be a third alternative to the other two, the Majority and Minority Reports, of which there is a mini Minority Report which is Ought Not to Pass on 1326. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Edgcomb.

Representative **EDGECOMB**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This information that I passed out was to help you in making your decision today. It's always been my philosophy that as a school superintendent, that if I provided plenty of information to the school committee I always felt they would make the right decision, and that was the purpose of doing this. I listened closely in caucus. I've listened to people since then and I felt I needed more information, and I've even made phone calls right up to the point of this discussion happening today. If you would like to know how I'm going to vote, my name is in the middle of this board over there and you will see my light. Thank you.

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

Representative **LOVEJOY**: Thank you, Mr. Speaker. I apologize. I got caught in the back of the room for a moment. Mr. Speaker, Ladies and Gentlemen of the House. This bill didn't go through the Ed Committee where an identical bill did go, so although I wasn't part of this committee it's an issue that we heard a lot about.

One of the questions that I asked an insurance representative there, not from Anthem, was: based on the fact that medical costs are higher in northern and eastern Maine, would their individual policies for the districts be more expensive? His reply was yes, they will be. That's one of the issues because, in some cases, a procedure might be twice as much in a hospital in northern or eastern Maine than it is in a hospital in Portland, higher costs, high insurance premiums. That's where the chart that Representative Edgcomb had had distributed came from.

Now I look at my county, Cumberland County, .9. That means this bill would give us lower rates. Now I could vote for what's best for my district, but in committee I voted for what I thought was best for the state. The insurance rate is the same in Aroostook County or Washington County as it is in York County through the MEA. I don't think that's a bad thing.

Now if it comes down to a vote here, I can defend my vote, that I voted against perhaps the best interest of my district because I voted for what I believe is the best interest of the state, and I urge all of you to think about that. Of course, I could easily justify voting for this bill. It could save my district money. Can you justify voting for this bill if it costs your district money? Thank you.

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

Representative **DILL**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise today to oppose this motion. I'm currently the chair of the school board in RSU 34, formerly Old Town School Board, and I have been for the last 15 years. Some would say I'm kind of a glutton for punishment and I

guess that's why I'm here too. That being said, I have to agree with almost everybody here today that's been saying, you know, health care costs are out of sight, especially for the school systems. It's one of our major costs. They continue to rise.

But I have spoken about this issue with my superintendent, again we're one of the more rural areas, and I urge you not to vote for this because it's going to have, like in all cases, winners and losers, and especially if some of the larger facilities systems in the southern part of the state pull out. I think it would even be worse than what it shows here on these sheets. So I urge you to vote against this. Thank you.

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. Very briefly, I absolutely agree with the Representative from Warren, Representative Richardson, the Representative from Newcastle, Representative McKane, that health care, teacher's health insurance, is very expensive. If you think it's expensive now, just wait until we reduce the size of the insurance pool for certain districts and make the pool less diverse. That's a basic tenet of insurance, that a smaller pool, a less diverse pool as would occur under this bill, increases the cost of insurance.

I want to address the mention of these large reserve funds. It's very typical in insurance to have large reserve funds. The Benefits Trust in question has used them to actually buy down rates, reduce rates, and I think it's important too that we don't consider this bill in just a vacuum. The Appropriations Committee will do something. We're not sure what, but I'm sure they will make some change to teachers' retirement, to the state contribution, etcetera. If you really want to go home and meet with your teachers, meet with your retirees in the high school cafeteria in Augusta or Winslow or Wiscasset or wherever you may represent and say that you voted for the budget that reduces the state contribution for retiree health insurance and you also voted to maybe not to eliminate the MEA Benefits Trust, but certainly savings and insurance, they don't just come from nowhere. They have to come from somewhere, usually probably in a reduced benefits package. And further, insurance companies don't reduce rates out of the kindness of their heart. They do it if they can reduce exposure to risk. This is a very bad bill. I hope you oppose it.

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

Representative **McKANE**: Thank you, Mr. Speaker. Sorry for getting up twice on this. Just a couple of things to clarify. LD 404 does not require that the MEA release the claims data and therefore will not allow any competitive bidding. Any school district in the state can continue to go with the MEA Benefits Trust. That's going to continue to be there and will probably continue to be the largest insurer for schools in the state.

Just one final thing, competition is going to benefit everybody. This is a very large market and it is closed to competition. It's going to benefit everybody. Thank you, Mr. Speaker.

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

Representative **KUMIEGA**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I represent nine school districts. One employs one teacher, another employs two teachers. I respect the good Representative McKane's reference that this will benefit all school districts. Do you really think that those school districts here are going to be able to buy better insurance given that amount of purchasing power? Thank you, Mr. Speaker.



The SPEAKER: The Chair recognizes the Representative from Denmark, Representative Sarty.

Representative **SARTY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm going to try to condense this. Two years ago I received a call from three school superintendents representing three districts in the lake region area. They asked to have a meeting with myself and two other State Representatives from that area. The topic was their right to bid out for health care insurance. This was initiated by them. It was not initiated by anyone in this caucus. We met with the teachers, but prior to going down I researched the law and under Title 20-A, it's very clear and has been for many, many years that school districts do in fact have the right to bid out their own health care insurance. In fact, under 20-A, with the authority of the school board, it said shall bid out all insurances on a five-year cycle. There is a provision in that title that allows them to waive health care insurance if they're satisfied with the current plan.

Obviously these three school districts were not satisfied with the current plan, but let's be realistic. I'm not satisfied with my plan. I don't think many of you are satisfied with your plans because our rates in Maine are among the highest in the country. No matter what employee group we're with, Maine has been tagged. We made the national news last year three times in one week, every national news channel, as being one of the highest states for health care insurance in the country with a company that controlled most of the market representing the highest rate increases throughout the country. So put the two together. We're all unhappy. So the result of that meeting was researching the law and meeting with those three school superintendents.

I presented a bill before Legislative Council last session trying to get it in late in the session and it was rejected. It was a total partisan vote, 6-4. More school superintendents have contacted me since and contacted other members of the House of Representatives inquiring about where this bill was and would we be pursuing it. The bill is obviously back again this year. I sent one copy of a letter from a school board that I received last Saturday. I hadn't met with them. I hadn't solicited their support, but they just heard about it. Twenty-seven different school districts in the State of Maine contacted me and some other Representatives last year very interested in this, and I think it's important when we talk about this to be realistic, put the political rhetoric aside for a little while and read the bill. The first two words in this bill say "they may." Not "they shall." They may.

What we did in working up this bill was add a few provisions that seem to be attractive to people in public education, and I've talked to a lot of teachers about this as well. Add more plan options than currently MEA with only a two-plan option. MMA, also insured, with the guidance of Anthem, has a five-plan option. I've talked to a lot of young school teachers who are young and vulnerable, you know invulnerable or whatever you say, and many of them said I would select the less expensive plan at my age because I'm trying to buy my first home, pay for my cars and have a family. MEA does not offer that. Two plans and both are fairly top-end plans. So there is some interest in that option which is part of this bill.

But one thing that a school district or an RSU has to have in today's world of insurance competition is claims data to put together a competitive bid, and this is the rub, this is what this bill is all about. But I'd really like to ask you to think about this. I think Representative McKane was very correct when he said this is a property tax bill in many ways because it is property tax that has paid for the services that are in fact that claims data. I truly wonder and challenge that a company has the right to withhold information that almost anyone in this room under any other circumstances would scream "public access and right to know"

because it is in fact taxpayer funded data. What right does this company or any company have to tell a school district, which is paying for that claims data and paying for that insurance, that I'm not going to give you the data? Obviously, one reason, to avoid that district being able to seek competition and choice. That's what this bill is about.

To hear the gloom and doom and the never ending kick the can down the road reasons why we can't do things differently has been one of my most discouraging experiences in three sessions here. We can't continue to do that. These people are asking for choice and for options. It's up to them if they choose to use it.

Again, I repeat the first two words in this bill are "they may." This all has to go to the collective bargaining table. The union isn't being pushed away here. We're offering a choice that hasn't existed in LD 1326. It's a good bill. It offers something that hasn't been offered. School districts are asking for this, and I think we would be hard-pressed with any reasons that I've heard discussed so far today on this bill, that it is sufficient to say no to these districts.

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

Representative **BURNS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just kind of find this whole being a freshman up here, this whole process kind of intriguing and ironic that earlier today I was approached about supporting a bill that would allow teachers to fall under the state health benefit plan, but yet these folks that are so adamantly defending the MEA position for health insurance will soon be talking about the need for change. It's just ironic and it's a pleasure being a part of this, Mr. Speaker. Thank you.

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

Representative **LOVEJOY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I apologize for rising a second time, however the issue of the state insurance is one that I felt I had to comment on. We also looked at what the difference was for the teachers plan versus the state plan. Now the state plan is self-insured to hold down costs, yet the cost for a single individual under the MEA plan was almost \$200 less than that same individual under the state plan. That's \$200 less a month. So when we look at this, to argue that we should put them into the state plan, my comment at the time and these were rates that were published that no one there from either group disputed, my comment was should we let the state people go under the teachers plan because of the difference. At \$200 a month, if we think we're getting a bargain on being self-insured, I think you need to take that into account. Now once again I would urge all of you to think about what's best for your districts, but also what's best for the state.

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

Representative **PRESCOTT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I've been sitting here listening to this and I just have a question. If someone doesn't want to share something with you, data in this case, it kind of makes me wonder why. Why not? Are you trying to hide something? Why keep it under lock and key? Why is this data not being provided for the people that want it? It's public information. So if we had this data and this bill passed, let me ask you this. What if it works? What if competition does lower costs? Is there only room for one company or will choice create a better environment for our schools? What if this is successful? Isn't this what we're trying to do up here, trying to find solutions? I will vote for the Ought to Pass as Amended. Thank you.

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. Just a couple of things, I took a couple of notes. As far as releasing the data, the Benefits Trust, it's a statewide plan and they will release the data on a statewide basis. I believe LD 404 specifies that too. I've heard about monopolies. Any school district in this state right now can go anywhere they want and buy health insurance for their teachers and administrators. There is no monopoly there, folks. They have that option now and there are school districts in the state that don't buy their insurance from the MEA Benefits Trust.

We've heard about \$300,000 savings from some district somewhere in the state. That data was compiled without using the retirees' cost in that figure. By state law your school district must cover the retirees of the district. If you don't include them, the figures, it just doesn't make any sense to include them because it doesn't give you a true picture of what the cost would be. If you included the retirees in that school district who is claiming \$300,000 cheaper, it would be more expensive.

One other thing I'd like to talk about is the fund. We've heard \$90 million, \$89 million. The fact of the matter is the balance right now is \$69 million and that's because they just took \$19.3 million to buy down the rate increases from Anthem. I don't think there is any – well, I'm not a friend of Anthem anyways, but they take money from that fund and buy down the rates for your school districts. The Benefits Trust cannot use that money for any other purpose. That money is not going to the MEA. It's not being thrown out the window or used anywhere else. By law it has to be used to buy down the rates for the insurance for your teachers in your districts. It cannot be used for any other purpose. Thank you, Mr. Speaker.

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

Representative **JOHNSON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I was one of the individuals that circulated the data on the MEA plan and I am from rural Maine. You know there are two parts of Maine. There is rural Maine and then there is really rural Maine, and I come from the really rural Maine part. I always find it interesting that the people who are defending the MEA plan from urban Maine – the rural part of Maine, not the really rural part of Maine – and explaining the dangers to rural Maine, that's interesting to me. I believe that competition will help all of Maine and that is why I am going to vote in favor of this LD because I hope that it will help all of Maine. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Denmark, Representative Sarty.

Representative **SARTY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. My friend Representative Shaw, from Standish, and I have talked extensively about this. I'd like to reply to a comment he made in reference to the health care trust fund. I'm not about to stand here and tell anyone in this room that I am an authority on MEA's health care trust fund, but it was up to \$87 million a short time ago, and I do understand that in the recent negotiations that both state employees and teachers have gone through for health care contracts for the next year, that there was money used from the health care trust to buy down what would have been a higher increase in premium. I think it's wonderful that they have that opportunity to do that and don't suggest it's a misuse of the fund. However, let's be realistic. That \$87 million is in fact taxpayer dollars with also some teacher contribution percentage. It had to be used to pay the rate to buy it down, but that is deceptive

because that buy down amount represents that rate increase for this year plus the percentage they are being charged. So let's be realistic about where the dollars go.

I have no problem with the Maine health care trust. What I have a problem with is that the guarding of the claims data which is also paid for by the taxpayers of this state is being refused by the very districts in RSUs that pay it. That is unacceptable in my view and it does obstruct the possibility of pursuing competitive bidding for health care insurance, which some districts have done. I believe that's unacceptable that they've taken that position. They have in fact offered the statewide claims data which is totally insufficient. You need your own RSU or district claims data in order to establish what the information you need to create a competitive bidding process. I don't think we have the right to obstruct that choice with our school districts in the State of Maine, whether they are rural or urban.

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 have the figures on the Rate Stabilization Fund in front of me. In 2008, they took \$12 million from the fund to buy down the increase in rates. Their rate increase that year for your school districts was 4 percent. In 2009, they took \$14,270,000 out of the account to buy down the rate for your school district and your school districts only paid a 0.9 percent increase that year in their health insurance costs. In 2010, they took \$17,800,000 and kept the increases down to 2 percent for your school district. This year, they are going to take \$19,350,000 out of that account to buy down the rate for your school district and it's going to be held at 6.59 percent.

Now if my memory serves me correctly, I believe in the 124th Legislature Anthem had asked for an increase of over 20 percent on the individual market. It was pretty good that MEA Benefits Trust held the rate increase for your school district at 2 percent that year. So just thought I'd throw the facts out there for you, folks. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Fitzpatrick.

Representative **FITZPATRICK**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I'm going to take this from a different angle. I come from a rural area, but I'm going to look at it from the business point of view.

I worked for an insurance agency for a number of years. I heard from my former employer and he wrote me this: There have been numerous times in the past our company, our agency, has been asked by local school administrators what the going rate is for group health insurance in the commercial insurance market. In each instance the districts could have saved significant dollars while actually increasing certain benefits to its members compared to their current plan. However, no administrator is allowed to implement this as an option due to the complexity of the union mandate statewide. Fear runs deep, but the worry that somehow somehow their membership will be affected negatively if health insurance is allowed to be a discussion point. It's the holy grail of benefits not to be touched. As a result the union sticks with an older plan design not competitive to today's insurance product offerings. The school management is therefore hamstrung to even – excuse me. Since I can't get my letter from my former employer, I'll just tell you that I have actually presented proposals to school boards before back in the past and we did have competition.

We have a number of insurance companies. We had bigger markets and with the new LD 1333, I think we're going to see a big change in the state, and we want to offer the schools all the opportunities that they can have to get their data so that they can

receive these quotes that are beneficial to them. Thank you.

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

**ROLL CALL NO. 149**

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

NAY - Beaulieu, Beavers, Beck, Beliveau, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Carey, Chapman, Chipman, Clark H, Clarke, Cornell du Houx, Dill J, Driscoll, Duchesne, Eves, Flemings, Fredette, Gilbert, Goode, Graham, Hanley, Harlow, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Kent, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maloney, Martin, Mazurek, McCabe, Morrison, O'Brien, Peoples, Peterson, Pilon, Rankin, Rochelo, Rotundo, Russell, Shaw, Stevens, Stuckey, Theriault, Treat, Tuttle, Valentino, Wagner R, Webster, Welsh.

ABSENT - Dion, Innes Walsh, Priest, Wintle.

Yes, 81; No, 65; Absent, 4; Vacant, 1; Excused, 0.

81 having voted in the affirmative and 65 voted in the negative, 1 vacancy with 4 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-429)** 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-429)** and sent for concurrence.

Reference was made to Bill "An Act To Protect the Privacy of Persons Involved in Reportable Motor Vehicle Accidents"

(H.P. 865) (L.D. 1167)

In reference to the action of the House on June 7, 2011 whereby it Insisted and Asked for a Committee of Conference, the Chair appointed the following members on the part of the House as Conferees:

- Representative CEBRA of Naples
- Representative GILLWAY of Searsport
- Representative NASS of Acton

**ENACTORS**

**Emergency Measure**

An Act To Protect Public Safety in the Operation of Casinos

(H.P. 473) (L.D. 643)

(C. "A" H-547)

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. 124 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 Permit Public School Online Learning Programs To Accept Nonresident Tuition Students

(H.P. 698) (L.D. 938)

(C. "A" H-537)

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. 126 voted in favor of the same and 3 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**Emergency Measure**

An Act To Implement the Requirements of the Federal Nonadmitted and Reinsurance Reform Act of 2010

(H.P. 993) (L.D. 1352)

(C. "A" H-543)

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. 121 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 Provide for a Method To Remove an Elected Municipal Official

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

(C. "A" H-480)

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

The SPEAKER: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative **MARTIN**: Thank you, Mr. Speaker. Mr. Speaker, Members of the House. If you read the Committee Amendment that's attached to this bill, it gives a very specific reason under which recall can be made. The question I would have, there are a number of communities that already have recall in this state and the question is whether or not this is going to eliminate their ability to do recall the way they want to, because this recall specifically says basically that it is only when and it can only occur when, if the official has been convicted of a crime, the conduct of which occurred during the official term of office and victim of which is the municipality. Under recall, presently allowed by those communities that have recall, it is for whatever purpose anyone wants to do recall for. So the question I would pose is whether or not this is not going to limit the ability of communities in the rest of the state that have recall. Mine do not. I don't particularly care. I don't support recall, but whether or not this is not perhaps going to be a problem for those communities that have recall.

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

Representative **SANDERSON**: Thank you, Mr. Speaker, and I'd like to thank the Representative from Eagle Lake for the question. No, this is not a mandate nor does it replace any ordinance or charter that a town may already have. Our municipalities are governed under their home rule clause. They can enact their own charters, which may have a recall ordinance,

and they may also enact an ordinance to cover that as well. For many small towns, however, they do not have one of these and I don't know if many of you have been following the events in my hometown. However, under state statute for those towns that do not have any kind of provision, this is where this will fall in. The bar has been set very high, that's why it is conviction only. The bar has been set very high for having it just be crimes against the town. This is a last ditch safety net for small municipalities who have not had a recall ordinance in their town or had a charter which may cover this.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Crockett.

Representative **CROCKETT**: Thank you, Mr. Speaker. Mr. Speaker, Distinguished Members of the House. The good Representative from Eagle Lake posed a really good question and we were kind of in a worry here so I actually pulled up the bill and it says, the first line, section 1, is "Except as otherwise provided by the municipality's ordinances or charter...." So we are safe and feel free to go along with the pending motion.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 126 voted in favor of the same and 2 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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**Emergency Measure**

An Act To Amend the Campaign Finance Laws  
(S.P. 491) (L.D. 1541)  
(C. "A" S-263)

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

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**Emergency Measure**

Resolve, To Establish an Early Childhood Stakeholder Group  
(S.P. 160) (L.D. 568)  
(C. "A" S-259)

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. 106 voted in favor of the same and 11 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

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**Emergency Measure**

Resolve, Creating the Advisory Committee on Maine's Health Insurance Exchange  
(H.P. 1165) (L.D. 1582)

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. 108 voted in favor of the same and 13 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

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**Acts**

An Act To Reduce the Time Period after Which a Member Municipality May Petition To Withdraw from a Regional School Unit

(H.P. 121) (L.D. 139)  
(C. "A" H-548)

An Act To Require Criminal History Record Information for Licensure of Nurses

(S.P. 111) (L.D. 398)  
(C. "A" S-249)

An Act To Establish Emergency Shelter Family Homes To Host Youth Referred by the Department of Corrections

(S.P. 142) (L.D. 509)  
(C. "A" S-255)

An Act To Protect Legislative Intent in Rulemaking

(H.P. 426) (L.D. 543)  
(C. "A" H-546)

An Act To Amend the Laws Governing Licensure Compliance Methods for Camping Areas, Recreational Camps, Youth Camps and Eating Establishments

(H.P. 533) (L.D. 703)  
(C. "A" H-539)

An Act To End Homelessness for Veterans in Maine

(S.P. 212) (L.D. 723)  
(C. "A" S-251)

An Act To Amend the Maine Juvenile Code

(H.P. 774) (L.D. 1040)  
(C. "A" H-532)

An Act To Amend the Identification Requirements under the Maine Medical Use of Marijuana Act

(H.P. 857) (L.D. 1159)  
(C. "A" H-541)

An Act Regarding Payment of Medical Fees in the Workers' Compensation System

(S.P. 365) (L.D. 1244)  
(C. "A" S-250)

An Act To Improve Oil Storage Facility Operator Training

(S.P. 371) (L.D. 1250)  
(C. "A" S-257)

An Act To Increase Health Care Quality through the Promotion of Health Information Exchange and the Protection of Patient Privacy

(H.P. 977) (L.D. 1331)  
(C. "A" H-458)

An Act To Ensure Patient Privacy and Control with Regard to Health Information Exchanges

(S.P. 414) (L.D. 1337)  
(C. "A" S-261)

An Act To Align Maine Special Education Statutes with Federal Requirements

(H.P. 986) (L.D. 1345)  
(C. "A" H-536)

An Act To Address Certain Aspects of Bail

(H.P. 1029) (L.D. 1400)  
(C. "A" H-534)

An Act To Improve the Coordination of County Correctional Services

(H.P. 1045) (L.D. 1419)  
(C. "A" H-531)

An Act To Amend the Laws Governing Self-service Storage in the State

(S.P. 442) (L.D. 1428)  
(C. "A" S-248)

An Act To Strengthen the Laws against Driving under the Influence of Drugs

(H.P. 1096) (L.D. 1491)  
(C. "A" H-535)

An Act Regarding Service Contracts

(H.P. 1109) (L.D. 1507)  
(C. "A" H-544)

An Act To Allow the Board of Dental Examiners To Issue Dental School Faculty Licenses

(S.P. 480) (L.D. 1519)  
(C. "A" S-247)

An Act To Implement the Requirements of the Federal Patient Protection and Affordable Care Act

(H.P. 1140) (L.D. 1554)  
(C. "A" H-545)

An Act To Restore the White-tailed Deer Population and Improve Maine's Wildlife Economy and Heritage

(S.P. 502) (L.D. 1569)  
(C. "A" S-256)

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

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**Resolves**

Resolve, Directing the State Bureau of Identification To Continue To Explore Contracting Options and Other Methods To Find Efficiencies in the Fingerprinting System for Criminal History Background Checks

(H.P. 240) (L.D. 296)  
(C. "A" H-528)

Resolve, To Encourage School Administrative Units To Adopt a Mission Statement for Each of the Public Schools Operated by the School Administrative Unit

(H.P. 321) (L.D. 403)  
(C. "A" H-538)

Resolve, To Examine Cyber Security and Privacy Issues Relating to Smart Meters

(H.P. 563) (L.D. 756)  
(C. "A" H-521)

Resolve, To Create a Working Group To Make Recommendations To Improve the Efficiency, Accountability and Proper Administration of Municipal General Assistance Programs

(H.P. 773) (L.D. 1039)  
(C. "A" H-540)

Resolve, To Enhance Agriculture and Farming

(H.P. 1058) (L.D. 1444)  
(C. "A" H-533)

Resolve, To Reduce Opioid Overprescription, Overuse and Abuse

(H.P. 1102) (L.D. 1501)  
(C. "A" H-542)

Resolve, Directing the Commissioner of Professional and Financial Regulation To Conduct Meetings To Review the Issue of Compliance with the Laws Governing Guaranteed Price Home Heating Oil, Kerosene and Liquefied Petroleum Gas Contracts

(H.P. 1128) (L.D. 1536)  
(C. "A" H-526)

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

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**UNFINISHED BUSINESS**

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

HOUSE DIVIDED REPORT - Majority (10) **Ought to Pass as Amended by Committee Amendment "A" (H-553)** - Minority (3) **Ought Not to Pass** - Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Provide Options to Municipalities Concerning the Maine Uniform Building and Energy Code"

(H.P. 1042) (L.D. 1416)

TABLED - June 7, 2011 (Till Later Today) by Representative CUSHING of Hampden.

PENDING - Motion of Representative CURTIS of Madison to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report. (Roll Call Ordered)

The SPEAKER: The Chair recognizes the Representative from Buxton, Representative Hunt.

Representative HUNT: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Before we begin I just want to thank the House chair for our committee for her strong support in committee for the bill that we passed that fixed all the problems that were brought up about MUBEC. MUBEC is not perfect, so during our committee hearing we solicited ideas how to fix MUBEC for several hours and people came to us and gave us their two cents. We took their ideas, compiled the list, spent several more hours during work session working through those issues and came up with a final product. This, on the other hand, undermines the work that we did. LD 1416 is a way to undermine the MUBEC.

Now there is a lot of contention around the MUBEC. Is it good for the state? Is it bad for the state? All I can say is we had dozens and dozens and dozens of contractors come forward and say this is good for the people of Maine. Before MUBEC there was a patchwork system of different codes for each town, which was infuriating for contractors across the state. Town A would have ordinance A, Town B would have code B. So it made it difficult for contractors to do the jobs they needed, so we implemented the MUBEC like 40 other states. Forty other states have the MUBEC or some sort of form of MUBEC. Not Maine, but obviously some sort of uniform building code. Natural resources groups are behind this. The best way to save money is to build an efficient home as opposed to retrofit the home. There are countless groups, 1,500 Maine businesses signed a letter in strong support of Maine's statewide code. This is a lot of hard work and dedication went into this and LD 1416 submits an opt-in measure.

Now Maine, at one point, had a model code that towns could adopt. The one problem is that nobody did, so we still were left with that patchwork system. It just doesn't work for the people of Maine. Contractors came to us and said this is something we need, this is something we need, and so we implemented it in a thoughtful, methodical process.

In my time here, it hasn't been all that long but a few years now, all the bills dealing with Maine Uniform Building and Energy Codes came to the old BRED Committee or the new Labor, Commerce, Research and Economic Development Committee. For some reason this was sent elsewhere. I think it was because it had to deal with third-party inspectors, another issue that was dealt with in another bill from the Labor, Commerce, Research and Economic Development Committee. We went out of our way to listen to the problems and find thoughtful solutions.

I cannot express enough my displeasure with LD 1416. It really just compromises the entire integrity of the MUBEC. I hope you will not support this motion and allow the bill that was

thoughtfully created by the Labor, Commerce, Research and Economic Development Committee to do the work that it's supposed to do. I appreciate your time. Thank you, Mr. Speaker.

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

Representative HINCK: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. We started discussing this the other day and it was cut short, if you recall. There was comments from the Representative from Bowdoinham, the Representative from Portland, and also from the good Representative from Bangor, Representative Damon, Representative Prescott from Topsham. I think all those points need to be in people's minds. I just wanted to put it in an energy context. We've already had some discussion of energy measures here. I would say that this is the number one challenge. All of the other calls that we make in matters of energy are tougher than this one. I would assume that many of you went door to door and the issue of energy came up.

In many instances, no matter whether you are in rural Maine, very rural Maine, exceedingly rural Maine or some other part of Maine, you were telling people that you wanted Maine to be energy independent. We all told people that we wanted the United States of America to get off of foreign oil. You know there is only so much that we can do on those subjects. Whenever you discuss other energy sources, there are tradeoffs. Nuclear power, I could discuss the tradeoffs. Wind power, I think we're being reminded of the tradeoffs. Solar power, coal power. Those are all on the generation side. I think it's been pointed out that efficiency is the cheaper source of energy. It's not often the more exciting source of energy, but it is the cheapest source of energy. Then we discussed retrofitting old homes. We've got a lot of old homes and it pays to retrofit them, but it costs money up front. This is different. It is the cheapest, cheapest way to get energy, good energy in the State of Maine. It is building buildings right the first time.

So what's the argument on the other side? It smacks of a government mandate. It smacks of the state deciding things for the entire state, for municipalities. I would agree. When in doubt government should not impose its will, but I must say there are many times we decide that it's not in doubt. I think we all feel glad that when we drive down the highway, we have a regulation that the cars going in each direction are staying to the right hand side of the road. You know, similarly there are auto requirements that were once controversial. We agree with seat belt laws. Security measures are agreed to in many situations across the country. This is actually a security measure. This is what Maine can do for the country to get off of foreign oil. It is also something that we should be leading on as a state because of our climate and because we depend upon heating oil.

Maine homeowners and businesses consume 430 million gallons of heating oil annually, which before the recent rise in oil prices was already costing Maine \$1.6 billion annually or 4 percent of the state GDP. But despite the costs and the potential savings, studies have shown that only 16 percent of newly constructed homes in Maine are being built to minimum standards of efficiency. If Maine began implementing the code that was passed, which is a 2009 IECC standard, statewide this year, businesses and homeowners would save an estimated \$30 million annually by 2020 and \$60 million annually by 2030 in energy costs, assuming 2006 prices. We'll probably be lucky to have 2006 prices, so that's the money that we can save. Even under those circumstances I can understand why people would be skeptical of doing it because, once again, it is imposing our will.

We don't always take advice from other states, but I think it's instructive to look at what other states are doing on this subject. Illinois, Tennessee, Connecticut, Virginia, Delaware, Washington, Michigan, they all have adopted the standard that is in the MUBEC. It's basically equivalent to the 2009 IECC. Massachusetts, Oregon, California, maybe we don't want to follow them; they've gone to something stronger. Massachusetts has a stretch code, has the same baseline code but also a stretch code. California is going off the charts because energy prices are really high there and they are implementing stronger standards still.

But I thought a couple of states were real interesting, Alaska and Idaho. These are two states that have some similarities to Maine. They have similarities in the composition in terms of lots of rural areas...

The SPEAKER: The Chair recognizes the Representative from China, Representative Cotta, and asks why the Representative rises.

Representative COTTA: We're discussing a building code. LD 1416 is implementation. It is not the nuts and bolts and the heart of the building code. This is the implementation phase only, how it will be implemented. Another committee actually dealt with the body of the building code, so I think we've actually strayed from what this LD represents.

On POINT OF ORDER, Representative COTTA of China asked the Chair if the remarks of Representative HINCK of Portland were germane to the pending question.

The SPEAKER: The Chair would simply remind Members to confine their comments to the LD before them. The Representative may continue.

The Chair reminded Representative HINCK of Portland to stay as close as possible to the pending question.

Representative HINCK: In some sense it sounds like the good Representative and I are in complete agreement. Another committee did deal with the code and that would not be germane here today. That was done in the past in this body unanimously. We're not to discuss that. What we are discussing is a bill that would eviscerate the code and was done in a committee separately, the two committees working without much coordination, one carefully putting together the code and the other effectively eviscerating it. When I say eviscerating it, meaning that it becomes no longer required in the State of Maine, but voluntary for towns all the way up to 4,000 people. The problem that creates besides the energy problem, I will hold off on any further analysis of the states of Alaska and Idaho which have adopted these codes as mandatory, despite the fact that I could imagine the debate in those states would be very similar to the debate in the State of Maine. But I think I made that point.

So the last thing I would say is the reason why many businesses in the State of Maine encourage this was when you have a patchwork of codes and requirements, it's enormously problematic for them. What happens when we make this trade is we end up with towns like West Gardiner, Hallowell and Farmingdale right here, all in the population numbers that would end up being able to adopt different codes of different kinds. The same can be said of Corinna and Newport. The same can be said of Dixfield and Mexico. It becomes a nightmare that we worked so hard over years to repair and this bill would undermine that for many reasons. I would urge people to vote no on this bill. Thank you for your tolerance and allowing me to continue.

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. Actually to correct the good Representative from Portland, towns cannot

implement different codes of different kinds. If they have a code, it has to be this code. I've never heard home rule be equated to evisceration before, but we can think that through. All this simply does is raise a limit that was 2,000 originally to 4,000 and makes the distinction that there is a rural Maine that is fundamentally different than an urban Maine and allows them the choice, if they want a code or not, to have a code. That is simply it.

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

Representative **GRAHAM**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the motion on the floor. LD 1416 seeks an opt-out of Maine's Uniform Building and Energy Code. I emphasize uniform. This bill came to the State and Local Government Committee, which I sit on, very late in the proverbial day, truly a bill that should have been heard by the Labor, Commerce, Research and Economic Development Committee. Well, actually it was. LCRED heard this bill, this in some form, and with all due respect to my committee chair, we did consider whether one should opt in or opt out of MUBEC. But LCRED heard this bill, worked this bill, and it received unanimous support of MUBEC.

Now what is MUBEC? I think it's important that we know what it is before we opt in or opt out of it. MUBEC increases uniformity and predictability for builders, contractors and others in order to make economic development easier. It modernizes and harmonizes many different pieces into a single set of codes. It protects consumers across the state who deserve buildings that meet standards for safe, healthy and energy efficient construction. It reduces energy costs and our dependence on heating oil and, lastly, provides significant flexibility to towns for code enforcement.

What will LD 1416 do? It will move Maine backward to a system of model codes, which we know didn't work. It will make Maine one of only 10 states that lack a true statewide code, thus discouraging investment in our state and reducing predictability for builders working across Maine. It will put at risk tens of millions of dollars of federal grants from the Department of Energy.

We heard before our committee builders, contractors, municipal officials who were all opposed to LD 1416. The Maine Municipal Association opposes having the code applied to some towns and not others, and most builders, developers, architects, lumber dealers, contractors, oppose having the code apply to some towns and not others. LD 1416 would leave about 40 percent of Maine people without the protection of a minimum standard for building and energy efficiency. Some will say that this is a problem for rural people with small structures, that they would not be able to comply with the codes. And I say no, that actually it protects the rural poor, people who need protection. Because we don't have a standard code, they could easily be taken advantage of by contractors that won't build to high standards. MUBEC works and I think we should allow it to work. It's just basically gotten off the ground. I believe uniform means consistency throughout the state. Allowing an opt-in would basically destroy MUBEC. I urge you to vote against this motion. Thank you, Mr. Speaker.

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

Representative **CHAPMAN**: Thank you, Mr. Speaker. Mr. Speaker, Colleagues and Friends of the House. I'd like to let you know that this is the technical area of my expertise is energy/energy efficiency. I currently teach an advanced building science class to instructors and an energy efficient building training program for unemployed workers in Penobscot and Piscataquis Counties. I'd like to emphasize two points. One is

there is a common misconception that new construction is by its very nature energy efficient. I make a very strong point to the classes that I teach to show the energy inefficiencies of poorly constructed brand new homes in Maine.

The second thing that I'd like to point out is that the Uniform Building and Energy Code is just a first step. The advanced building science class that I teach extends into areas that are not yet in any uniform building code in the country, involving the application of building science to making more energy efficient structures. The important point is that when you do it right the first time you save money immediately from then for the life of the structure, which in the building industry is generally considered at least 30 years. So doing it correctly the first time is an extreme savings over the lifetime of the building. Thank you.

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. In response to the good Representative from Portland, Representative Hinck, this bill doesn't eviscerate the code. But believe me, if I could eviscerate the code, I would. I think we should repeal it and start from ground zero and just build it again. I've been in the construction industry all of my adult life and I have seen the young families struggling to build new homes, the cost continually going up. They are no longer allowed to build their home and live in it at the same time with this code. They can't get the occupancy permit.

To the Representative from Brooksville, I'm not seeing these new homes being built that are energy efficient. I haven't seen them for 25 years, ever since we started using 2x6 studs. The doors and windows that are available on the market today are extremely efficient, extremely efficient. The banks are not giving loans out to non-energy efficient homes, so there might be somebody out there who is building a shack and living in it. Of course, I say more power to them, if that's what they want to do. I think it's unlikely that they're doing that and paying for oil heat at the same time.

MUBEC is a massive new code and it went into effect, the law from MUBEC went into effect long before the code was even developed. It's onerous, it's complicated and it's expensive. But again, we're not changing it. But those words are not my own. Those came several times, many times, in the offsite hearings for the Select Committee on Regulatory Fairness and Reform. We heard many times the problems already that people are having with MUBEC. It dictates every aspect of commercial, residential and renovation construction and new energy standards, and it fundamentally changes forever the construction industry in the State of Maine. It forces people to comply with this expensive installation code that market forces have already taken care of and it delays projects for at least four inspections, with costs that could be as high as \$1,500. But again, the code stays in place. I wasn't able to change that. I wish I could have.

This bill will simply exempt municipalities with populations under 4,000. Right now it's under 2,000. This just raises it up a little bit, which will ultimately give a little bit more time. If those municipalities under 4,000 choose to adopt a code, it shall be MUBEC. This will give them much desired uniformity that for some reason we want, but you know this is the one-size-fits-all problem that I hear about all the time. One-size-fits-all isn't good for the State of Maine. Well, this sure is a one-size-fits-all. This is the same code for Fort Kent as it is for York and Monhegan and Lewiston and Portland.

I know one thing. The contractors that I work with, except the insulating contractors, the building contractors do not like this code. The insulating contractors love this code because it

mandates their product and more of it. I kind of wish we could have squeezed in there that every new home needs a 14 kW Kohler generator auto-start whole-house. I might have gone along with it then, being someone who installs those generators. But no, I probably wouldn't. When the homebuilders and the homeowners learned what the extra costs are involved with this code and the extra time it will take, they are not going to be happy. This is still; it's not going to change. It will just allow some municipalities the option of whether they want this code or not. Thank you, Mr. Speaker.

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

Representative FITTS: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As chair of the Energy, Utilities and Technology Committee I've worked with the committee and both sides of the aisle to try to create an environment where efficiency is right in front of our priority list. But I also represent an area of Maine that has people that are extremely poor, who live in homes that are built from materials collected at transfer stations. That's rural Maine. They don't hire contractors, they can't afford to buy new materials, and this building code prevents them from doing what they've always done. Most of those communities are well under 4,000 people, but some of them press up against that. There are certain areas of these communities that just can't afford to comply and there are no exceptions within this rule.

One of the sections or the primary section of law that is being changed by LD 1416 is Section 4 of 10 MRSA, 9724, sub 1, which is the limitation on home rule authority. We're talking about extending the limitation on home rule authority. All I ever hear in this Legislature is we're about home rule. That's a continuum, that we don't want to impede home rule. But yet, if we don't enact this bill, we are leaving home rule to the extreme small communities that there are still people in those communities that are 4,000 and under that need this relief. I think we should leave it up to those communities. They can adopt the code if their local legislative bodies, their selectmen, their town councils choose to do so. But for the Legislature to cram it down their throats when they're the ones that know best what they need, I think, is wrong. There will come a time when I think this will be uniform and universal, but for us to force that upon people when they may not be ready or can't afford it and we don't have mechanisms in place to help them get ready, I think that's wrong also. So I'll be supporting this motion and I would hope that this Legislature would too, because it has been an ongoing theme. Home rule matters and this is an opportunity to reinforce that. Thank you, Mr. Speaker.

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

Representative COTTA: Thank you for the opportunity, Mr. Speaker. I didn't realize I had turned my light on, but it must be telepathic. The LD that is before you, 1416, and I'll be brief and won't repeat anything, it's about implementation. We tried to give some room for the smaller towns. It doesn't even talk about the building code. It doesn't get into the nuts and bolts of it, and I'm sure that the good Representative who just spoke before me pointed out it is home rule and we tried to bring forward the best product we could out of the committee with these adjustments. I think it's a very good bill and it's going to help in the long run. Again, it's not about the code, it's about the implementation. Thank you.

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

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

The SPEAKER: The Representative may pose her question.

Representative GRAHAM: Thank you, Mr. Speaker. Can anyone tell me why MUBEC received unanimous support in LCRED and who supported MUBEC?

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

Representative HUNT: To answer the question, the reason it received unanimous support is that we worked collaboratively, we worked methodically, we worked thoughtfully on all the issues that were brought to our attention. There was an open call for issues. Bring them on down and we talked about them. We sorted through them and worked together. This was through the great leadership of our chairs, and we came up with a consensus, we worked together, and that's the way it played out. It was unanimous. Everybody on the committee supported it. Thank you.

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

Representative MacDONALD: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. When I was on the BRED Committee in the last term we dealt with this issue, I believe when MUBEC first became promulgated as a new set of regulations and laws for the State of Maine, regarding construction.

In response to the question of the good Representative from Newcastle, where do we hear one-size-fits-all, where we heard it was in BRED from contractors, from suppliers of contractors, who said if we have a patchwork quilt of regulations from town to town to town that we have to deal with, it costs us money and it costs the consumers money. It's much better in that environment to have a statewide set of standards that we all know what they are and how to work with them and how to build to them. Even lumber companies testified in front of our committee and I was surprised to hear them saying, we support this, because we don't like contractors coming back with materials that they can't use because in the town they're working with this doesn't fit their codes. A statewide code solves that kind of problem. That's where you hear one-size-fits-all. It's an efficiency issue.

But I think even more importantly, the MUBEC, I think aside from the construction piece of it, the energy piece of it that's embodied in MUBEC is probably the most important piece of it. As you all know, we are the most oil dependent state in terms of our home heating. We had testimony in the BRED Committee that 85 percent of new construction – new construction, 85 percent of new construction – going on in the state was energy inefficient. Most of those homes were heated with oil. Oil prices are going up. Meanwhile, if you have an energy inefficient structure, your money is going out through the cracks, through the windows, surprisingly through the basement and through the attics of these newly constructed homes. The MUBEC is an attempt to provide leadership, which is what we should be doing, provide leadership for the state to stop this from happening going on into the future so that we don't continue to spend billions of dollars on energy in our energy inefficient homes, the billions of dollars that go from our state to the Middle East. I don't like that, I don't think you should, and I think MUBEC helps us prevent that.

Mr. Speaker, I hope that we vote against the motion on the floor and support the continuation of MUBEC, which if we do

Accept this Majority Report, up to 375 towns in the State of Maine could exempt themselves and we wouldn't be going back to the same old patchwork, but we'd be creating a zone in the State of Maine of some size that would be exempt from the good



energy requirements of the MUBEC. Thank you, Mr. Speaker.

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

Representative BERRY: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise simply to point out that the bill that originally led us to MUBEC is very supported right now by Maine's people and by Maine's businesses. Energy independence is something broadly supported by the people in the State of Maine and having a good home and a good business that you can count on, that will be healthy, that will be reliable, that will stand up to the weather, that will breathe properly but be insulated properly is something that Maine people support.

Trade and professional groups representing 1,500 Maine businesses signed a letter in strong support of Maine's statewide code. Banks and insurance companies support a statewide code because it helps protect investment in homes and buildings, as it helps protect the residents that live within them.

A March 2011 Critical Insights poll found that 80 percent of Maine people support having a statewide energy code and the support is strong across every demographic. This bill is a scorecard vote for the Environmental Priorities Coalition. I could go on, but I don't think it should be lost on any of us that when oil prices are high the best remedy is a home that doesn't leak heat like a sieve, and it certainly shouldn't be a brand new home that leaks heat like a sieve or that doesn't prove healthy to live in or built well enough to stand for 30 or 40 or 50 years like the homes that our forefathers built.

Maine people want us to protect MUBEC. Maine businesses want us to protect MUBEC. I hope we can do that today and vote down the pending motion. Thank you.

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

Representative BURNS: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Last November, a loud message was sent by the voters in this state. That message was "state government, stay out of my business." We spend our time up here telling people how to eat, how to raise their kids, how to drive their cars, what kind of cars to drive. Now we're going to tell them how to build their houses and live in their houses.

What are we, up here to just take away choice because that's all we're debating. Choice. A choice. But yet, oh, we know so much better than selectmen. You're forcing towns now to hire professional code officers when they can't even afford the ones they have now. Be on the right side of this vote. Don't be on the wrong side. I would love to be talking about people who want to take away choices from the citizens of the State of Maine. Thank you, Mr. Speaker.

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

Representative BOLAND: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise to ask you to defeat this motion. I fell for a few of those arguments when it came before my committee and I took the time to learn a little more afterwards. I wondered why the analyst of the committee couldn't answer the questions and I couldn't get any clues really, questions that I'd asked, and I took it to mean that there weren't real problems with this bill.

Afterwards, when I spoke to her about her not having answers, she said, this isn't my area, I don't know why it was before us. Well, we didn't know why it was before us as members of the committee either. Certainly the sponsor did and I find it a very cynical approach to getting legislation that one person seems to want in the face of a unanimous support out of a

committee who worked really hard to accomplish just the opposite.

The Representative from Newcastle says this does not eviscerate the bill that was worked on so hard and got unanimous support, and yet he said he would like to eviscerate it. This comes pretty darn close. Around here we understand that sometimes we can only come pretty close.

LD 1253 was reported out unanimously and it responded to the needs that people had to provide specifically-needed short and long-term exemptions, to clarify that small towns do not need to issue certificates of occupancy, to adjust some specific standards in the code, and to increase the availability of code inspectors. This is something that I think is really sad because it really develops a sense of mistrust among legislators. When we think that something is taken care of and we're presented with a bill that said, oh, there is nothing to this, this is just a little minor fix here, this is nothing much...

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

Representative CURTIS: Thank you, Mr. Speaker. Mr. Speaker, is the subject matter being discussed germane to the subject of the bill?

On POINT OF ORDER, Representative CURTIS of Madison asked the Chair if the remarks of Representative BOLAND of Sanford were germane to the pending question.

The SPEAKER: The Chair would once again direct Members to confine their comments to the issue before them. In this case, it is the Majority Ought to Pass Report of LD 1416. The Representative may continue.

The Chair reminded Representative BOLAND of Sanford to stay as close as possible to the pending question.

Representative BOLAND: Thank you, Mr. Speaker. Well, I think you sort of know where I'm going, but some of the opponents of this pointed out that firms that build to code are often undercut by those that don't build to code and consumers don't know to ask the difference, that they think that there's a uniform building code in this state and they have someone do some work for them. They don't know that maybe there was some little exception made, so that their town doesn't really have that same level of protection.

We all know what it feels like to be undercut, to have our work devalued by others. The predictability for businesses is something that we hear about all the time, how they need predictability. We've heard about it for years. To take this away from them at the last minute by referring it to a committee that has no particular background on this and did not know everything that was going on is cheating them.

I'd just like to, in closing, remind you that the Maine Municipal Association opposes having the code apply to some towns and not others. That most builders, developers, architects, lumber dealers, and contractors oppose having the code apply to some towns and not others. That LD 1416 would leave about 40 percent of Maine people without the protection of a minimum standard for building and energy efficiency, and I emphasize minimum because that's what I understood from the builders afterwards, that this is just a very minimum code. This is not about building castles. It's very minimum.

To just close on that Critical Insights poll that the Representative from Bowdoinham mentioned, that 80 percent of Maine people support having a statewide energy code. So let's support 80 percent instead of 20 percent that may not, maybe, include people who don't really have an opinion. It was pointed out also that the support might not be great in rural areas, but

from this poll it showed not only that Republicans support it by 69 percent and that people with incomes under \$50,000 support it by 78 percent, but people in northern Maine support it by 79 percent – 79 percent of the people, 78 percent of those under \$50,000. I'd also like to remind you that the report is not really 10-3. It's 8-5 because of the changes that were made by myself and the Senator from Biddeford. Thank you.

The SPEAKER: The Chair recognizes the Representative from Buxton, Representative Hunt.

Representative HUNT: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Just in response to some things. This bill takes the Maine Uniform Building Code; when 40 percent of the state would be exempt from the Uniform Building Code, it's not uniform. You, once again, fall in the pit of patchwork. Towns very close to each other would have different rules, making it hard for businesses to do work across town lines.

The banks were mentioned. The banks are for this. Insurance companies are for this. The Regulatory Reform Committee was mentioned. The thing I heard is that businesses wanted consistency and predictability. The Uniform Building Code does that. Is inconsistency what businesses have been clamoring for in the state? I think we should keep that in consideration.

The good Representative from Sanford already mentioned that, hey, home rule, Maine Municipal Association opposes 1416. I think we're going down the wrong path. My good House chair always likes to mention that she is going to write a book about when Maine is the outlier. Well, this is the way to make Maine the outlier. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Palermo, Representative Harmon.

Representative HARMON: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise and just wonder if anybody heard what Representative Fitts had said? I live in a district adjoining to Representative Fitts. I can tell you working people who want to put an addition on to their trailer will have to go to a transfer station to find stuff, don't have the thousands and thousands of dollars for this building code that we as a Legislature – I don't care if its Republicans or Democrats on a committee – four years ago, two years ago, 2008, decided this is what we're going to implement on Maine. We're sitting up here on our thrones not listening to people. I don't care what insurance companies say. I care about people who live in the trailer or in a house that needs to be fixed up and they don't have thousands and thousands of dollars, just so that we can feel good about our own energy code and come up here, in the House, and implement. Again, we're not listening. It's ridiculous.

We can talk about all these – Maine Municipal, etcetera, etcetera. Who do we listen to? I listen to a contractor in Palermo who said, "Please repeal. It costs people too much to have me to come and do all of this, and for me, the paperwork is just too much and an extra business cost." To go through this code and the code is so thick, he kept talking about. I had two others like that, not to mention the citizens. I know one in Burnham, four particular in Palermo, and I had 13 or 14 asking for a repeal, not just to amend this. I only had one that asked me to keep it the same. I mean I don't know what stories that I'm getting or what other people are getting, but it's nothing that I'm getting, at least not in my community, a rural community in Waldo County. Not upper-class. People can't afford the things that we as a Legislature are requiring them to do, yet again government telling you what to do, you don't do it, here's a fine, take it down. I don't care if it's your private property or not. I mean time to get real and time to listen. Thank you, Mr. Speaker.

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

Representative GRAHAM: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just have to respond. Prior to hearing this bill on the floor, I had several individuals who represent and support and protect the poorest of the poor in our state, and this individual said that this is a false argument.

Let me repeat something I said previously. One of the things that the MUBEC does is to protect consumers across the state who deserve buildings that meet minimum standards for safe, healthy and energy efficient construction. So in response to the good Representative from Palermo, I completely get it. We are not telling people who want to put an addition on their very small home or their trailer that they have to spend massive amounts of money to do this. What we are saying with a unified building code is that they have a structure that is safe and affordable, and I, quite honestly, from someone who has committed her entire life to caring for people, I am not trying to impose onerous regulations on my fellow Mainers. This is not what MUBEC does. It just says let's have a uniform code to provide safe, healthy and energy efficient structures that are affordable. Thank you, Mr. Speaker.

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. I just want to respond about the trailers because my parents have a trailer. It's pre-1976, it's a sieve. They've been doing what they can to upgrade the efficiency of it, but it's kind of like a hamster in a wheel, frankly, because you really can keep going but you don't really accomplish anything.

We have a list and last I knew, and I don't know what the current stats are, but we have over 10,000 people, or we did the last time I heard, that were on a list of folks who needed upgrades. They needed actual replacement trailers and they were on a list through Maine Housing because they were pre-1976, because the standards were so low back then, that now all these years later they'd like the state to pay to replace them because they can't afford to replace them, one, and they can't upgrade them because, as I mentioned, it's like being a hamster on a wheel.

So if we're concerned about trailers, it's precisely why we need to have a minimum standard, because at the end of the day, you know you may be preventing someone, you may be requiring someone to pay a little bit extra, but they end up saving a lot more in the long run because of their energy costs over time. But you're also saving on government because when those people can't afford to pay their heating bills or they need a replacement for that trailer entirely, they kind of come to the state for that or they come to the Federal Government through LIHEAP.

So what we're trying to do is to reduce the long-term energy costs, but not only that, we're trying to reduce the long-term dependence on government because either they're going to come to us for oil help later on down the line or they're going to come to us for a full replacement. So if people are concerned about the trailers and we already have a whole lot of people who are waiting to get replacements for the trailers they currently have, I really would like to stop that policy as we move forward and wean people off so that they actually have energy efficient trailers or buildings, so that they don't have to come to us and ask for an outright replacement because they can't afford to replace it. So when you want to reduce government costs, you know allowing people to build inefficient homes doesn't really get

us there. So for that and many other reasons, I'm going to oppose the motion. Thank you, Mr. Speaker.

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

**ROLL CALL NO. 150**

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

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

ABSENT - Celli, Dion, Innes Walsh, Priest, Wintle.

Yes, 76; No, 69; Absent, 5; Vacant, 1; Excused, 0.

76 having voted in the affirmative and 69 voted in the negative, 1 vacancy with 5 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-553)** 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-553)** and sent for concurrence.

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

The House recessed until 7:00 p.m.

(After Recess)

The House was called to order by the Speaker.

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

**UNFINISHED BUSINESS**

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

HOUSE DIVIDED REPORT - Majority (7) **Ought to Pass as Amended by Committee Amendment "A" (H-422)** - Minority (6) **Ought Not to Pass** - Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act Relating to Concealed Firearms Locked in Vehicles"

(H.P. 28) (L.D. 35)

TABLED - June 7, 2011 (Till Later Today) by Representative CURTIS of Madison.

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

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-422)** 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**.

Representative CAIN of Orono **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended**.

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

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

Representative **HASKELL**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I encourage you to vote against the current pending motion to pass this bill and to move on and continue our current practice of allowing businesses in the State of Maine to have a policy around whether or not people can have firearms, even concealed firearms, on the property of that business.

Right now this bill would ban businesses from having that. It does not mean that a business has to have a policy. It does not ban concealed weapons on that property. What it does is it bans companies from having a policy that they believe is in the best interest of the safety of their employees, and I encourage you to vote red on this motion. Thank you, Mr. Speaker.

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

Representative **EBERLE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I continue to get pleas from the businesses in my district who want to be able to protect their employees, they want to be able to make sure that they provide the workplace for their employees that they expect and deserve, and Wright Express, one of the major Maine employers and employers in my district, called specifically and wanted me to make sure to put in another plea to vote against this bill. Thank you.

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

Representative **SANDERSON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I recognize that this is a dual rights issue. We have the property owner's rights and we also have the gun owner's rights. The gun owner's rights extend to the inside of their vehicle. Yes, the vehicle is on their property. However, this issue is limited to the inside of that vehicle. We are still allowing the business owners to be able to limit them, saying no you cannot remove it from your vehicle, you must keep it in your car; you cannot carry in our parking lots, you cannot carry in our place of business and you cannot carry in our company vehicles. This is a dual rights issue.

We sit around here every day and we make regulations telling people and business owners what they can and cannot do with their private property. We tell them what they can and cannot do, which affects how they can use their property, where they can build, what they can build, what size they can build, if they can

build at all, what do they need for their business, what they must have for their business. Yes we may be telling business owners what they might not be able to do here, but it doesn't affect how they can use their property. It doesn't affect how they can run their business. This is a dual rights issue. Thank you.

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

Representative **MacDONALD**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise again on more of a practical matter than either on the private property rights issue or the Second Amendment issue. Just to remind people, if you look at the statistics on the safety of cars or the lack of safety in cars, a car in the United States is stolen every 21 seconds. I don't have the same statistics for Maine. It isn't every 21 seconds. But every year there were 77 cars stolen for every 1,000 or so Mainers. That's about 1,200 to 1,300 cars stolen every year in the State of Maine. There are no statistics on car break-ins which are much greater. I beg you to think about the consequences of your thinking, that because you have locked your weapon in your car that you have put it in a safe place. You have not. It is not a safe place. It is an unwise practice. I applaud companies who are putting into action policies that would prevent that on their property. I urge you to rethink this and not try to extend Second Amendment rights into such an unsafe environment. Mr. Speaker, I urge that we vote against Passage to be Engrossed on this bill. Thank you, sir.

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

Representative **BLODGETT**: Thank you, Mr. Speaker. Mr. Speaker, Members of the House. I didn't mean to get up on this again, but I am glad to. I have listened all day and many days to less government in people's lives. This is more government controlling what businesses can do, not less government. Thank you.

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

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

The SPEAKER: The Representative may pose her question.

Representative **RUSSELL**: Thank you, Mr. Speaker. So I may be having a blond moment, but I have a few of those on occasion. This bill requires that the car be locked. What happens when employees getting out of the car, how do they get out of a Houdini situation without the employer holding them accountable? Thank you, Mr. Speaker.

The SPEAKER: The Representative from Portland, Representative Russell, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Sanford, Representative Boland.

Representative **BOLAND**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I know that businesses have been very strong against this. I know, in particular, talking with Unum on it, one of our biggest employers, one of our best corporate citizens, and I know how stressful the situations can sometimes be around an insurance agency where people are contesting whether or not their claims will be honored or not. They have a real big concern about protecting the people in that very, very large business. Three big buildings just on one location and they are very concerned about this, about being able to protect them.

This is a burden that we're telling them, too bad, you've got to carry. How many different ways can we think of to let them feel

that they're not really important? I would think this is one that says that. When they have concerns about all of those employees and people coming in from the public and huge, large parking lots and parking garages, really when they come to ask for something as simple as this, how much does it take after awhile to cause people to disinvest in Maine because it isn't quite the way it should be, as they maybe had their business here for the reason that it was a friendly place where they could do business? I really would ask you to think twice about the impact of something that just says we don't care what you think, we don't care about this. This is a small item to us. We're going to make it a big item. Really this is crazy. Thank you.

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

Representative **HARVELL**: Mr. Speaker, may I pose a question through the Chair to anyone who may answer? There are a lot of lawyers in the room.

The SPEAKER: The Representative may pose his question.

Representative **HARVELL**: I'm going to try to say this as delicately as possible, it's the only example I can think of. I work at Verso Paper, there is a big parking lot and it's chained off. If I, on the way to work, happen to stop by a movie gallery and maybe went in the back and rented a movie that was inappropriate that I'm certainly not allowed to have inside that department and leave that in my car, what would be different about that? Would I be allowed to leave that in my car or wouldn't I be allowed to leave that in my car?

The SPEAKER: The Representative from Farmington, Representative Harvell, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Augusta, Representative Maloney.

Representative **MALONEY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I can't help but try to answer that question. I am an attorney and I try to pretend I am one too. I think it would be up to the employer if it is the employer's property as to what the employer is going to allow and not allow on the employer's property. So I've never heard of an employer saying you're not allowed to bring certain videos in my parking lot, but maybe there are some out there who would say that. I have no idea.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Clarke.

Representative **CLARKE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have received a phone call and a number of emails from Bath Iron Works today and representing the community of Bath, which I am extremely proud in representing, the heritage of the Bath shipbuilding community, I respectfully request that the Men and Women of the House consider this move. Bath Iron Works is private property. There are over 5,600 employees that are there. Bath Iron Works has a policy where they've asked their employees not to have these weapons and it actually is a negotiated item within the multiple unions that are with Bath Iron Works. They have worked that very well and very respectfully.

Safety is an uphill battle in shipbuilding as well as other industries. I know for a fact with my contacts at Bath Iron Works, Mr. Speaker, that this is something that they respectfully request that we consider not to pass this bill and respect the fact that they are trying to protect their employees. I, myself, have a concealed weapons permit and I do carry, but I also respect the fact that my employer asked me not to have a weapon in my vehicle or on person, and I respect that fact. Thank you, Mr. Speaker, and ladies and gentlemen.

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

Representative **SANDERSON**: Thank you, Mr. Speaker, for indulging me for speaking a second time. Mr. Speaker, Ladies and Gentlemen of the House. I do understand your concerns. I really do. But like I said before, there are two personal property rights we are talking about, two. How can we deny one and grant the other, either way? How we do that is we find a compromise that works for both. With the restrictions that are within this bill, it is a good compromise. We are not mandating. Once again, we are not mandating that an employer allow concealed carry at a place of work. We are merely asking for concealed permit holders to be able to keep their firearm concealed and locked in their vehicle so they may have this protection with them on their way to and from their place of employment.

People who are concealed weapon permit holders are responsible people. They have gone – they have taken the two-day course. During this course it is drilled into us when it is and when it is not appropriate to use a firearm. We know the consequences. Those of us who carry on a regular basis, we work with our firearms, we know how to handle them. We're not out there trying to be a bunch of gunslingers. We really aren't. We're not the folks you need to worry about. It's the people who will not follow a law that are the ones that we need to fear and the trouble is we don't know who they are. On any given day we don't know who we're going to encounter. But anybody who has taken the time to go and get their concealed weapons permit, I think they are responsible and I'd like to have them on my side. I would like to know that if trouble came calling, I've got somebody who knows how to handle their firearm, has exhibited that, is standing beside me. Thank you.

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

Representative **DILL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is one of these heartburn type of bills for me. I've hunted since I was 10 years old. My two sons hunt with me regularly. My daughter hunts with me. I own shotguns, rifles, handguns. But not one of us has a concealed weapons permit, but – there is always a but – my wife has a concealed weapons permit and she decided with a couple of friends to do this on a whim one night. So they took a gun safety course, she went through the whole thing and she now has a concealed weapons permit. Now I heard several times from lots of people that, you know, it's a security issue from the standpoint of keeping it locked, which I too have concerns about. I don't think that's very secure.

The other issue that I kept hearing is that people with concealed weapons permits, they've had training, they know what they're doing. Well, I'll tell you, if a gunfight erupted I'd want to be on the other side of my wife because I don't think she could hit. My biggest concern probably really is me stumbling home after a late session here at 2 am and she probably could hit me at that time. But my point here is that it truly doesn't make it safe that you've got it in your car or that you even have a concealed weapons permit. Now I know there are a lot of people who do have concealed weapons permits, they are trained officers, etcetera, but I urge you to vote against this. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Windham, Representative Plummer.

Representative **PLUMMER**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I'd first like to thank the individual who anonymously sent me a note suggesting if we had the vote that I should save my speech. However, I am choosing not to take that advice at this point.

A couple of things have been said that I feel I need to react to. One of them was that we're not allowing companies to protect their employees. Protect them from what? Protect them from a gun that's locked in a vehicle? I think we as proponents know that the employer cannot protect the employee on their way to work nor can the police protect them, and we feel that it is their right to be able to carry a concealed firearm when they have been thoroughly vetted and when they have been issued a permit.

The other thing that kind of bothered me a little is talking about, well, in some businesses people might get upset. Well, I think that was talking about the customer. I hope people aren't worried that someone, an employee, might get upset because the person didn't get their claim and run out to their automobile and then lay in their automobile until that customer comes out. I guess the bottom line is this bill is not aimed at preventing the public customers. This is aimed at allowing employees to be able to exercise their right to carry their concealed firearm on their way to work and on their way home. Thank you, Mr. Speaker.

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

Representative **HARLOW**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would just like to answer Representative Harvell's question about the difference between a movie and a gun. A movie will not kill you, a gun will.

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

Representative **BICKFORD**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I don't doubt that people with concealed weapons permits are very responsible people. I understand they've gone through background checks. I also understand that if I agree to take a job I also agree that I'm going to abide by the policies set forth by my employer. So long as they don't infringe on my human rights, there is nothing that says they can't infringe on your constitutional rights.

The jobs I've had in the past managing small businesses for 30 plus years, you didn't have freedom of speech because you have to be careful what you say in a business. You can't put your company down. That's freedom of speech, but you can't do that. You can't gossip about your employer or about your boss or about a coworker. You're constitutionally protected, but you're not protected from getting fired from your job.

When you go to work for someone you agree to abide by the policies they set forth and if one of those policies is that you cannot have a weapon, whether you have a permit or not, in your vehicle on that premise, then you need to abide by that or not accept that job. Thank you, Mr. Speaker.

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

Representative **EBERLE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I can't believe that we are turning such a blind eye and ear to the pleas that we are getting from our businesses and our employers. We talk about being business friendly; this is the most business unfriendly measure I can think of. They can't do what they want to do to protect their employees.

The naive notion that just because someone has a concealed weapons permit, that means they are not going to snap at some point, anybody can. A workplace violent situation can turn in a moment's notice and it can happen to anyone and that concealed weapon in that car can be accessed by anyone from the outside or from the inside or from the person who owns it. Please vote against this measure.

The SPEAKER: The Chair recognizes the Representative from Alna, Representative Fossel.

Representative **FOSSEL**: Thank you very much, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The last time I checked Maine had more guns per capita than any other state in the Union and had less murderers than any other state in the Union. This place is awash in guns. I don't happen to own any and so if you're worried about guns, find a place where there are no guns. I challenge you. The people who are crazy are going to bring guns in anyway. You know maybe a metal detector or something will stop them.

Incidentally, I've been lobbied by various people who were against this and the lobbyists from Unum came up to me and lobbied me, and I said to them, I'll tell you what I want you to do. I want you to go talk to the chairman of Unum and get him to call me, and the chairman of Unum happens to make, I don't know, in one meeting he makes three times what I make in a year or two. He happens to be my brother. I didn't get a call. We get these issues that we all get really excited about. It means very little. Let's vote this thing one way or the other and get on to real business. Thank you.

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. I mean the ideological debate aside, this is "An Act Relating to Concealed Firearms Locked in Vehicles." There is a practical matter that I would love an answer to. What happens when someone forgets to lock their car and how do you get out of the car? If I were one of those businesses and I were opposed to this legislation, I would follow the letter of the law, and as soon as the person unlocked their car, if I knew they had a weapon in there, I would say you're in violation of our policy.

This bill, maybe I'd oppose it anyway, but this bill is designed to protect employees who want to have weapons in their car. It is specific in the legislation that it is required to be locked, so unless we're going to pull a Dukes of Hazard and come out the window, there are real consequences to the people that you're trying to protect by virtue of the way that it was crafted. So if folks really want to protect that and have a debate about the substance of the matter, whether you want guns that work or not, that's fine, but on a practical side we still have not addressed a very fundamental question and that is, how do you get out of a locked car? Thank you, Mr. Speaker.

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

Representative **HARVELL**: I seek to answer the question to the Representative from Portland, Representative Russell. It's called a concealed weapon. It's the same as if you have a concealed weapon permit and you're wearing it out in the open, it is ceased to be protected as a concealed weapon permit. The principle would be the same if you didn't lock your car, you've lost that right as well.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Dow.

Representative **DOW**: Thank you, Mr. Speaker. First of all, I want to apologize to my colleagues for last night. I forgot I wasn't in the pulpit, so I'm just going to give you a Reader's Digest version of what I said last night. I'm the business owner. I own the property. I don't feel that my rights as a business owner should be taken away for someone's right. I'm the one that has to decide the safety factors of my businesses, depending on the type of employees that I have. I just want that right to do what I want to do on my own property and don't feel that I should have

somebody telling me I can't decide what to do on my own property. I guess that's the Reader's Digest version. Thank you.

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

Representative **RUSSELL**: Thank you, Mr. Speaker, and I am sorry and I respect and I am happy to have heard from the Representative from Farmington, my good friend Representative Harvell. I am not so blond as to not understand the distinction between concealed firearms and other firearms. My concern isn't about whether the item is concealed or not. My concern about the way the bill was crafted is that the car has to still be locked, whether it is a concealed firearm or not, Mr. Speaker. So my question still remains.

If I were an employer, if I were the good Representative Dow who really doesn't like this bill, apparently, I would, if I had an employee, I would wait for them to unlock the car and open the door, something that every single person does when they go to work. My question is what are the true protections for the individuals that the sponsor is trying to protect in this bill? Because you're still, we're talking about ideology, and we're forgetting about some very basic parameters. You put the car in park, you turn the key off, you unlock the door, you open the door, and at that point that you unlock the door you are no longer protected by the way this bill is written. So I'm just curious. Let's get away from the ideological debate and think about the practicalities of the matter. It may sound dumb, but you know what? It's not going to be dumb when an employee who folks are trying to protect...

Representative **HAMPER**: Point of Order. Mr. Speaker, shouldn't they be speaking to the Chair please?

On **POINT OF ORDER**, Representative HAMPER of Oxford asked the Chair to remind Representative RUSSELL of Portland to address the Speaker and not turn to the rest of the House.

The SPEAKER: The Chair would remind the Representatives to address their comments to the Chair.

The Chair reminded Representative RUSSELL of Portland to address her comments toward the Speaker.

Representative **RUSSELL**: Thank you, Representative Hamper. I appreciate that, my apologies to the body. I think folks understand the question. It is not the distinction between whether a firearm is concealed or not, Mr. Speaker. I happen to not own a gun because I'm a very good shot. If I were to shoot first and ask questions later, there might be problems. My question is not about the nature of the actual firearm itself. My question relates specifically to how you get out of a car that is locked and still protect that employee. Thank you, Mr. Speaker.

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

Representative **DUNPHY**: Thank you, Mr. Speaker. I would agree with her it does sound dumb. However, it says for the concealed weapon firearm to be locked in a vehicle. It doesn't say the vehicle has to be locked. It says the firearm locked in a vehicle. You can lock it in the glove compartment. You can lock it in the trunk. You can lock it in a vault. It doesn't say the door of the automobile has to be locked.

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

Representative **LIBBY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is private property and private property comes first. You don't have freedom of speech if you violate private property. In closing, you will have to pry this red button out of my cold dead hands.

The SPEAKER: The Chair recognizes the Representative from Naples, Representative Cebra.

Representative **CEBRA**: Thank you, Mr. Speaker. I rise in support of the pending motion. I have no doubt that there are members who believe that the gun is the problem. I have no doubt that there are members here tonight that believe that somehow there is a huge safety issue with people who are licensed by the state, who are law abiding citizens. I have no doubt that at some point we will have debated this now two full evenings. I thank the Speaker for his indulgence. I thank the body for the consideration and I certainly hope we can move the question at this point. Thank you.

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

**ROLL CALL NO. 151**

**YEA** - Ayotte, Beck, Bennett, Black, Bryant, Burns DC, Burns DR, Cain, Cebra, Chase, Clark H, Clark T, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Duchesne, Dunphy, Edgecomb, Espling, Fitts, Flood, Fossil, Foster, Fredette, Gifford, Gillway, Guerin, Hamper, Hanley, Harmon, Harvell, Johnson D, Johnson P, Keschl, Long, Maker, Malaby, Martin, McCabe, McClellan, McFadden, Morissette, Nass, Newendyke, O'Brien, O'Connor, Olsen, Parker, Parry, Peterson, Picchiotti, Plummer, Richardson D, Rioux, Rosen, Sanderson, Sarty, Shaw, Sirocki, Theriault, Tilton, Timberlake, Turner, Tuttle, Waterhouse, Weaver, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

**NAY** - Beaudoin, Beaulieu, Beavers, Beliveau, Berry, Bickford, Blodgett, Boland, Bolduc, Briggs, Carey, Casavant, Chapman, Chipman, Clarke, Cornell du Houx, Cotta, Dill J, Dow, Eberle, Eves, Fitzpatrick, Flemings, Gilbert, Goode, Graham, Harlow, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Kaenrath, Kent, Knapp, Knight, Kruger, Kumiega, Lajoie, Libby, Longstaff, Lovejoy, Luchini, MacDonald, Maloney, Mazurek, Morrison, Moulton, Nelson, Peoples, Pilon, Prescott, Rankin, Richardson W, Rochelo, Rotundo, Russell, Sanborn, Stevens, Strang Burgess, Stuckey, Treat, Valentino, Volk, Wagner R, Webster, Welsh.

**ABSENT** - Celli, Dion, Driscoll, Innes Walsh, McKane, Priest, Wintle.

Yes, 75; No, 68; Absent, 7; Vacant, 1; Excused, 0.

75 having voted in the affirmative and 68 voted in the negative, 1 vacancy with 7 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-422)** and sent for concurrence.

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Representative **FITTS** of Pittsfield assumed the Chair.  
The House was called to order by the Speaker Pro Tem.

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**HOUSE REPORT - Ought to Pass as Amended by Committee Amendment "A" (H-508)** - Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Fully Enfranchise Voters"

(H.P. 1087) (L.D. 1478)

**TABLED** - June 6, 2011 (Till Later Today) by Representative **CURTIS** of Madison.

**PENDING - ACCEPTANCE OF COMMITTEE REPORT.**

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

The Bill was **READ ONCE**. Committee Amendment "A" (H-508) was **READ** by the Clerk.

Representative **TURNER** of Burlington **PRESENTED House Amendment "A" (H-566)** to **Committee Amendment "A" (H-508)**, which was **READ** by the Clerk.

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

Representative **TURNER**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Please indulge me in allowing me to list all of my towns, townships and plantations in order for you to understand why this bill is before you. In Hancock County: T4 & T3 ND, T28, T34, T35, T39, T40, and T41 Middle Division. In Penobscot County: Burlington, Carroll, Chester, Drew, Grand Falls, Greenfield, Kingman, Lakeville, Lee, Lowell, Mattawamkeag, Passadumkeag, Prentiss, Whitney, Springfield, Summit, Twombly, Webster, Winn, Woodville. In Washington County: Big Lake, Brookton, Codyville, Danforth, Day Block, Devereaux, Dyer, Fowler, Forest City, Forest Township, Grand Lake Stream, Greenlaw Chopping, Kossuth, Lambert Lake, Princeton, Talmadge, Topsfield, Vanceboro, Waite. I have 20 more townships but no registered voters live there.

One thing in common that we all have is that we were all elected by the people. However, the process of my election is most likely different from yours. Due to the death of the Honorable Representative **Everett McLeod** I was selected by my party to run for the vacant seat at a caucus. It was held in Lee on January 22, 2011, and by party rule only four towns that had held a prior caucus were allowed to vote. Party rule disqualified the majority of the voters in my district. Under two-tenths of one percent of the people in District 11 voted in the caucus, however 16 percent of the people participated in the election that was held on March 1, 2011, held District wide. In the Maine State Statutes, Title 21-A, Chapter 5, Subchapter 3, Article 1 §366 states "A special election must be publicized and conducted like its regular counterpart, as nearly as practicable." I ask you, by disqualifying a majority of voters in selecting the parties' nominees for a vacancy, are we following the law?

Of the four towns that caucused, Lee, which is the second largest town in my district, only two people were allowed to vote, again by party rule. I ask you, is that following the law, not to mention it smacks of the days when candidates were selected in smoky back rooms by a few people.

It is time to change the process when there is a vacancy due to a death, withdrawal or disqualifications so that any town that has not held a caucus will have an opportunity to do so.

I encourage you to vote Ought to Pass for LD 1478 and bring all the voters back into the process during a special election. Thank you, Mr. Speaker.

Subsequently, **House Amendment "A" (H-566)** to **Committee Amendment "A" (H-508)** was **ADOPTED**.

**Committee Amendment "A" (H-508)** as Amended by **House Amendment "A" (H-566)** thereto was **ADOPTED**.

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-508)** as Amended by **House Amendment "A" (H-566)** thereto and sent for concurrence. **ORDERED SENT FORTHWITH**.

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**HOUSE DIVIDED REPORT - Majority (7) Ought Not to Pass - Minority (6) Ought to Pass as Amended by Committee Amendment "A" (H-515)** - Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Require That the Governor Be Elected by the Ranked-choice Voting Method"

(H.P. 838) (L.D. 1126)

TABLED - June 7, 2011 (Till Later Today) by Representative CURTIS of Madison.

PENDING - Motion of Representative BEAULIEU of Auburn to ACCEPT the Majority OUGHT NOT TO PASS Report.

Subsequently, the Majority Ought Not to Pass Report was ACCEPTED and sent for concurrence.

HOUSE DIVIDED REPORT - Report "A" (10) Ought Not to Pass - Report "B" (2) Ought to Pass as Amended by Committee Amendment "A" (H-513) - Report "C" (1) Ought to Pass as Amended by Committee Amendment "B" (H-514) - Committee on VETERANS AND LEGAL AFFAIRS on Bill "An Act To Revise the Maine Clean Election Act Regarding Legislative Leadership Positions"

(H.P. 789) (L.D. 1054)

TABLED - June 7, 2011 (Till Later Today) by Representative CURTIS of Madison.

PENDING - Motion of Representative BEAULIEU of Auburn to ACCEPT Report "A" OUGHT NOT TO PASS.

Representative VALENTINO of Saco REQUESTED a roll call on the motion to ACCEPT Report "A" Ought Not to Pass.

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Saco, Representative Valentino.

Representative VALENTINO: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. If you take a look at this bill, it's one sentence. One sentence. During the period of time that a person is a certified candidate, the person may not establish a political action committee for which the person is a principal officer, fundraiser or decision maker. One sentence to add an amendment to the Clean Election Act. This is not simple. This is not easy. I have no handouts and I will not be mentioning anybody by name, although everything is public information. I'm here because I feel there have been many attacks on the Clean Elections system. We've talked about it just recently on increasing limits on another bill here from \$750 to \$1,500. We talk about reducing it. We talk about eliminating it. This is a major loophole that I think in the spirit of Maine Clean Elections we need to close.

Under the Maine Clean Election Act it says that this chapter establishes an alternative campaign financing option available to candidates running for governor, state senator and state representative. The sources of funding for Maine Clean Elections are the \$5 qualifying contributions, \$2 million of revenues from taxes credited from the General Fund, revenue from a tax check-off program, seed money contributions, voluntary donations made to the fund, and fines collected. Taxpayer money, money paid voluntarily by people. A certified candidate in that one sentence, in that one sentence it says a certified candidate. The meaning of that is a candidate running for governor, state senator or state representative, who chooses to participate, who chooses to participate in the Maine Clean Election Act and who is certified as a Maine Clean Election candidate. The certified candidate must complete all requirements of this Act after certification and through the primary to the general elections. So it only covers the period of time that you're getting Clean Election money.

Any one who has run as a Clean Election candidate must sign the declaration of intent. In the last bullet before you sign it, you swear that you have elected to participate in a voluntary public financing program, that you understand your responsibilities and you will abide by the laws. This is voluntary. You do not have to do this. You do not have to take taxpayer money. You can run traditionally.

My problem with this is the loophole, the loophole in the law. It says in the law that once you are certified, the candidate from the fund may not accept any contributions unless specifically authorized by the commission. That's for your campaign. What about the PAC you do on the side? That is the loophole. Going back we've had many, many discussions in the newspaper, in my committee on this.

In 2005, a bill was put in by Representative Glenn Cummings. He put the people who wrote the law were not envisioning the concept of leadership races and the potential influence they could have. Where public money is involved it is imperative that we draw very clear lines between leadership and general election campaigns.

In 2006, the *Maine Bar Journal* came out with an article "Plugging a Loophole in the Maine Clean Election Act," which ran in about the publicly funded candidates had raised more than \$825,000 in their private PACs.

In 2007, I submitted a bill for public financing of leadership PACs and I wrote, the cold hard truth is that Clean Elections has not removed special interest influence as much as we hoped. Special interest groups have merely found the backdoor entry into maintaining their influence.

In 2009, the *Portland Press Herald* wrote, legal, but is it ethical? The practice raises questions about compliance with the intent that the state's first in the nation Clean Election Act, which was designed in part to help get special interests out of politics. Do publicly funded leadership PACs violate the spirit of that law by soliciting contributions for their PACs? Critics say refusing private money with one hand while accepting it with the other is inconsistent at best and hypocritical at worst. That was the *Portland Press Herald*.

Again, in 2009, the *Maine Sunday Telegram* wrote that changing this and closing this loophole will not drive potential leaders out of the public system. That does not fly, which brings me to today. Unknown to me at the time I submitted this bill, that in January 2011 a letter was written by a private individual to the Maine Ethics Commission on PACs. On January 19th of this year, the Executive Director Jonathan Wayne wrote to the commissioners and stated, in my view, this is a perennial policy question that is best left to the Legislature. Since 2005, we have been trying to address this issue.

Then the Committee on Governmental Ethics had a public hearing on the matter and they issued a letter March of this year to the chairs of my committee. The commissioner's letter wrote: The commissioners are concerned that the continued practice of allowing Maine Clean Election candidates to solicit unlimited contributions for PACs that they control is inconsistent with the objective of that program.

I have many charts, much information. I have not passed them out. I do not want to out anybody. I do not want to say what they've collected because basically this is all encompassed from both sides of the aisle here. I, myself, have had house parties for leadership, but I do not have a PAC. If I have somebody to my house to raise money, the check does not go to me. I do not control what I am doing with the money.

On information that I have, during the 2008 and 2010 election cycle, there were 34 Maine Clean Election candidates that had a PAC. They received, those 34 candidates, \$700,000 in Clean Election funds, and they solicited through their PACs \$963,000 on the side. How can you take Clean Election money with one hand and have a PAC that you control for \$963,000 on the side? Who says that special interests have been taken out of government with Clean Elections? This shuffling of PAC money from one PAC to another, often makes it difficult to obtain transparency.



When you go through the report you find one PAC gives to another PAC, and then that PAC gives back to the first PAC, and then that PAC gives to the House PAC and the House PAC gives to the party PAC, and the party PAC will give back to other PACs, and this would probably be fine if every PAC said, this is Linda Valentino PAC, or this is somebody else's name on the PAC. But you go through the names of these PACs and you wonder, who is the Blue Ribbon PAC or the Common Sense PAC or the Equilibrium PAC or the Dirigo PAC or the Green ME PAC or the Move Maine Forward PAC? They are all individual members of this House and the other body. They are individual members. You don't know who those people are.

The Clean Election campaign was voted on by Maine citizens. This is public taxpayer money. Over 40,000 people contributed to Maine Clean Elections through \$5 donations and a check-off on their income taxes. Why should those people continue to give money to those candidates who then turn around and solicit money from special interests?

Today we discussed a bill on increased campaign contributions for governor from \$750 to \$1,500. It talks about this exorbitant amount of money to people being influenced in here. I go through these reports on all of these individuals and I see many of the Clean Election candidates not uncommon to get a \$5,000 contribution, to get a \$1,000 contribution, \$500 contributions. When you start adding it up in total, just giving one example from somebody on an issue that we just voted on the other day, which I won't mention the name, it's all public information. They gave to those leadership PACs, in the 2010 race, \$23,000. Twenty-three thousand dollars, one organization spread out among the different leaders on an issue we voted on for them the other day.

Going through you have different candidates, just to pick out a few, who are very successful. This one person here raised, let's see here. They took \$10,000 Maine Clean Election payments over 2008 and 2010, but yet they had a PAC and raised \$105,000. Did they really need to take the \$10,000 from Maine Clean Elections? This person took \$7,800 from Maine Clean Elections and they raised \$91,000. This person took \$2,000 and raised \$22,000. This person took \$60,700 and raised \$118,000. This person took \$2,000 and raised \$77,000. Out of the total, like I said, on those 34 legislators, they took \$703,000 of taxpayer money and on the other hand raised \$963,000 for their own PACs that they control.

This isn't right. This is a loophole. I like Clean Elections. I want to keep Clean Elections. I hate it every time there is a bill before our committee, reduce the amount of Clean Elections, make it harder, make more signatures, do something because we don't have enough money to fund the Maine Clean Elections. Well, this is a way to put money back into the Maine Clean Elections and make sure that the people who are receiving public money with one hand are not getting special interest money with the other hand.

We've heard from private citizens, we've heard from the newspapers, we've heard from the Maine Ethics Commission that this is a problem and a loophole that needs to be closed. We should address this loophole now. Many talk about eliminating the Clean Elections. I'm asking you to strengthen the Maine Clean Elections by closing this loophole. Please vote against this report and vote for the Minority Report, which will be closing this loophole.

One other little thing is that, in case there is a question, this has nothing to do with traditionally financed candidates. If you are a traditionally financed candidate and you want your own PAC, that's fine. This has nothing to do with traditional. This only has to do with Maine Clean Election candidates and it only

has to do during the period of time that they are certified, that they are taking Clean Election money when they are certified, that they can't be having another PAC at the same time. It does not mean that they can't have a house party and raise money for a different PAC, but they cannot control the PAC that they have. When you look through a lot of the PACs, we have million dollar PACs, \$1.2 million, \$1.5 million PACs, and you have a lot of people who are giving. This is all on the website, it's there, you can go through if you know who's behind the PAC you can search that. Many people are very honest and put their name right on the PAC and I love that. Many people have names that you just don't know how to find on it.

So I also want to put, in closing, what is being done is perfectly legal, one hundred percent. Nobody is doing anything wrong or unethical or illegal. This is perfectly all right to do and they are doing it and they are using that right to do it. All I'm saying is that we should close that loophole. Thank you.

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

Representative CAREY: Thank you, Mr. Speaker, and thank you to the Representative from Saco, Representative Valentino. The body can see the passion and the authoritativeness with which she approaches the work in our committee. Unfortunately, on this bill I'm going against the good Representative and will support green on this motion of Ought Not to Pass.

First, I guess, a disclaimer. I have a PAC. It's not one of the creatively named PACs that the Representative named. It's Carey for Maine. It's pretty unique and I'm a privately financed candidate in the two terms that I've had that PAC. A former secretary of state has said about election law that this is in Title 21-A, every sentence in 21-A is litigated, so this sentence, if it affects constitutional rights it will be litigated, and here's where I think the litigation will come. The Supreme Court has been very clear that spending on campaigns equals speech. I might quibble with some of that, but that's the law of the land and that's where it is. When a legislative candidate signs the declaration of intent, they do agree to give up certain First Amendment rights. They do agree to give up the ability to raise and spend money for the campaign. The court looks to when those rights are asked to be given up, whether or not there is a tight connection between the benefit that is being received and the rights that are being given up. My concern with this idea is that this leverages that promise of public money in a way that exerts undue cost to free speech rights. It's not tightly connected with the benefit of public financing.

There are plenty of other distasteful experiences that we experience in our campaigns or in campaigns that we are voters for. In larger campaigns there are TV advertisements and often it seems that the easiest TV advertisement is one that just trashed someone else rather than supports the candidates that it's there to support. We all have experience of when our opponents misrepresent our positions, our votes, our work in the community or when they dissemble about theirs. All of that is free speech and there is nothing that we can do, as frustrating as it is. We can't use public funds to leverage giving up of constitutional rights. So as well researched as this idea is and as good as it sounds, and it sounds good, I believe it to be unconstitutional and I'll be voting green on this motion. Thank you, Mr. Speaker.

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

Representative BEAULIEU: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The other day I spoke of the amount of money in elections and the loopholes in election law and PAC law, and I think this is a prime example of

what has been brought forth tonight by the good Representative Valentino.

You know, whether you speak before Representative Valentino or after Representative Valentino, you have the potential for getting yourself in a lot of trouble, and there is no question about it that she comes prepared and more than often she is extraordinarily hungry and passionate, and in this particular case, loaded with information that is going to blow me away and probably anybody else in this body. But LD 1054 proposes to limit participating candidates under the Maine Clean Election Act from soliciting from or accepting contributions from a PAC used to influence or support the election of that participating candidate to legislative leadership position. She said that.

The vote of the committee was an Ought Not to Pass consisting of 11 members and she fights valiantly against those 11 members and I'm proud of her for doing so. She's done that before and I can't say enough about the bravery which she exhibits in any vote that she takes and in any presentation that she makes. I have the highest regard for the sponsor of this measure and I have immense respect for her institutional knowledge and interest in this subject.

The idea is one that has received a great deal of scrutiny and evaluation over the last six to eight years, the time that she's been here, and the proposed law would actually limit the fundraising capability of only a small number of candidates, although they're raising a lot of money, and leave untouched the independent candidate that would be uninhibited in this area of election law.

Someone suggested that this Act would absolutely disadvantage, not strengthen the Maine Clean Election Act, but disadvantage the Maine Clean Election Act simply because candidates who, if this law were passed, candidates would no longer be able to have the PAC and take MCEA funds. As a direct result they wouldn't have any interest in the Maine Clean Elections because you know that the PAC can raise a lot more money. You may very well not have anyone in leadership positions in the bodies, either in this body or the other body, that would want to support Maine Clean Elections, and I think that we all get a sense of the value of Maine Clean Election law. So this is extraordinarily important.

Finally, the testimony that was given on that day provided to the committee questioned whether, as written, this bill went far enough. Despite the fact that it could be a step in the right direction, one individual stated that we don't see the benefit to Maine people of making this single change alone, which is what I suggested the other day when we talked about PAC limitations. Doing it alone, independent of any other spending, independent of any other part of election law in fact creates problems as opposed to finding resolutions to them.

In hindsight, I realize that the sponsor was interested in broadening the intent of the law. If you read all of her testimony, which she doesn't mention here, she's concerned with a lot of other things that should be done and truly she should be the one to do it because she has the information and the knowledge in order to carry it through. Even the Commission, which she mentioned, on Government Ethics inferred that a more comprehensive study would be necessary to evaluate all the policy questions which would arise if one were started. Unfortunately, because of a variety of factors, this certainly has not been achieved, yet I hope that we can meet this goal in creating an equitable and relatively foolproof system, as difficult as that's going to be.

So I urge you to go with the motion, follow my light, Representative Carey's light, but understand that the point and the position held by Representative Valentino was one that needs

to be listened to and, I think, needs to be studied in order to be adequately taken care of for the State of Maine and certainly for elections that we are all engaged in at one time or another. Thank you very much, Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bethel, Representative Crockett.

Representative CROCKETT: Thank you, Mr. Speaker. Mr. Speaker, Distinguished Members of the House. As a member of the committee and the attorney on the committee, we analyzed this pretty thoroughly. I, too, would like to pay ode and homage to the great Representative from Saco, Representative Valentino. Her intellectual prowess and her integrity are paralleled only by her grace and beauty, so I wanted to throw that in there for you.

There were some constitutional issues as the Representative had mentioned. We wanted to do something, but the question is how much do you support the Constitution? You either do or you don't, so in the end that's why the Report was so overwhelming.

But there were also some practical issues of how people would work around no longer having leadership PACs but having issue PACs that supported regional candidates or candidates with particular interests. There is other ways of working around this. It just didn't really achieve what we wanted it to, even if it overcame the constitutional hurdles.

So I'm not going to waste your time in elaborating. I'm just collaborating with the other members of the committee and also mentioning that I really encourage Representative Valentino to bring these forward. She keeps the ideas fresh and she keeps us discussing things. So thank you and I too will be supporting the pending motion.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Chipman.

Representative CHIPMAN: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to this motion. I also serve on the committee and there was a spirited debate there. I just want to point out one correction to the good Representative from Auburn. There are actually 10 members that are on the Majority Report, not 11.

Actually, this is a chance where we have a chance to vote on principle. It's always struck me as odd that somebody can accept Clean Elections funding for their campaign and yet raise tens of thousands of dollars in private funds for a leadership PAC. Running as a Clean Elections candidate is a privilege, not a right, and I'm not a lawyer but it seems like we have a right as taxpayers to decide who qualifies for Clean Elections funding and who should receive those funds. If somebody can raise tens of thousands of dollars in private funds for a leadership PAC, it seems to me they don't have public funding for their campaigns. Please join me in voting red. Thank you.

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

Representative HAYES: Thank you, Mr. Speaker. This will be short, maybe shorter than I thought. Reasonable people differ. This is something that I've learned as I've served. I will say ditto to everything that Representative Valentino said.

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

#### ROLL CALL NO. 152

YEA - Ayotte, Beaulieu, Berry, Bickford, Black, Boland, Burns DC, Cain, Carey, Cebra, Chase, Clark H, Clark T, Cornell du Houx, Cotta, Crafts, Crockett, Curtis, Cushing, Damon, Davis, Dill J, Dow, Duchesne, Dunphy, Edgecomb, Espling, Fitts, Fitzpatrick, Flemings, Flood, Fossel, Foster, Fredette, Gillway, Hamper, Hanley, Harmon, Haskell, Hinck,

Hunt, Johnson D, Johnson P, Keschl, Knapp, Kumiega, Long, Longstaff, Lovejoy, Malaby, Martin, McCabe, McClellan, McFadden, McKane, Morissette, Moulton, Nass, Nelson, Newendyke, Parker, Peterson, Picchiotti, Plummer, Prescott, Richardson D, Richardson W, Rioux, Rochelo, Rosen, Sanderson, Strang Burgess, Theriault, Tilton, Timberlake, Turner, Tuttle, Volk, Waterhouse, Weaver, Webster, Welsh, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

NAY - Beaudoin, Beavers, Beck, Beliveau, Bennett, Blodgett, Bolduc, Briggs, Bryant, Casavant, Chapman, Chipman, Clarke, Cray, Eberle, Eves, Gifford, Gilbert, Goode, Graham, Guerin, Harlow, Harvell, Hayes, Herbig, Hogan, Kaenrath, Kent, Knight, Kruger, Lajoie, Libby, Luchini, MacDonald, Maker, Maloney, Mazurek, Morrison, O'Brien, O'Connor, Olsen, Parry, Peoples, Pilon, Rankin, Rotundo, Russell, Sanborn, Shaw, Sirocki, Stevens, Stuckey, Treat, Valentino, Wagner R.

ABSENT - Burns DR, Celli, Dion, Driscoll, Innes Walsh, Priest, Sarty, Wintle.

Yes, 87; No, 55; Absent, 8; Vacant, 1; Excused, 0.

87 having voted in the affirmative and 55 voted in the negative, 1 vacancy with 8 being absent, and accordingly Report "A" Ought Not to Pass was ACCEPTED and sent for concurrence.

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**BILLS RECALLED FROM GOVERNOR**

(Pursuant to Joint Order - House Paper 1170)

An Act To Provide a Temporary License To Operate a Public Dance Establishment

(H.P. 645) (L.D. 878)

(C. "A" H-299)

- In House, **PASSED TO BE ENACTED** on May 26, 2011.

- In Senate, **PASSED TO BE ENACTED** on May 26, 2011.

On motion of Representative PRESCOTT of Topsham, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

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

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

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

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-299)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "A" (H-578)** to **Committee Amendment "A" (H-299)**, which was **READ** by the Clerk and **ADOPTED**.

**Committee Amendment "A" (H-299) as Amended by House Amendment "A" (H-578)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-299) as Amended by House Amendment "A" (H-578)** thereto in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH**.

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(Pursuant to Joint Order - House Paper 1166)

An Act To Limit Interest Assessed against Municipalities

(H.P. 984) (L.D. 1343)

(C. "A" H-323)

- In House, **PASSED TO BE ENACTED** on May 26, 2011.

- In Senate, **PASSED TO BE ENACTED** on May 26, 2011.

On motion of Representative COTTA of China, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

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

On further motion of the same Representative, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** in **NON-CONCURRENCE** and sent for concurrence.

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(Pursuant to Joint Order - House Paper 1169)

An Act To Establish the Maine Wild Mushroom Harvesting Certification Program

(S.P. 436) (L.D. 1407)

(C. "A" S-149)

- In House, **PASSED TO BE ENACTED** on May 26, 2011.

- In Senate, **PASSED TO BE ENACTED** on May 26, 2011.

On motion of Representative STRANG BURGESS of Cumberland, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

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

On further motion of the same Representative, the Bill and all accompanying papers were **COMMITTED** to the Committee on **HEALTH AND HUMAN SERVICES** in **NON-CONCURRENCE** and sent for concurrence.

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(Pursuant to Joint Order - House Paper 1167)

An Act To Amend the Laws Concerning the Child Care Advisory Council and the Maine Children's Growth Council

(H.P. 1093) (L.D. 1486)

- In House, **PASSED TO BE ENACTED** on May 26, 2011.

- In Senate, **PASSED TO BE ENACTED** on May 26, 2011.

On motion of Representative STRANG BURGESS of Cumberland, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

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

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

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

The same Representative **PRESENTED House Amendment "A" (H-593)**, which was **READ** by the Clerk.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Cumberland, Representative Strang Burgess.

**Representative STRANG BURGESS**: Thank you, Mr. Speaker. I just would like to let the members of the House know that this is a slight correction. We're working on getting some key folks added to the Maine Child Care Advisory Council and this is a slight correction to that, just so you know what's going on. Thank you.

Subsequently, **House Amendment "A" (H-593)** was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by House Amendment "A" (H-593) in **NON-CONCURRENCE** and sent for concurrence.

(Pursuant to Joint Order - House Paper 1171)

An Act To Amend the Laws Governing Comprehensive Planning To Encourage the Development of Affordable Housing (H.P. 743) (L.D. 1007) (C. "A" H-320)

- In House, **PASSED TO BE ENACTED** on May 26, 2011.

- In Senate, **PASSED TO BE ENACTED** on May 26, 2011.

On motion of Representative PRESCOTT of Topsham, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

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

On further motion of the same Representative, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** in **NON-CONCURRENCE** and sent for concurrence.

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

**CONSENT CALENDAR**

**First Day**

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

(H.P. 848) (L.D. 1142) Bill "An Act To Amend the Farm and Open Space Tax Law". Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-580)**

(H.P. 1147) (L.D. 1562) Bill "An Act To Prohibit the Sale or Possession of So-called Bath Salts Containing Dangerous Synthetic Drugs" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-586)**

(H.P. 1148) (L.D. 1563) Bill "An Act To Regulate the Licensing and Oversight of Professional Investigators" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-585)**

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

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

**ENACTORS**

**Emergency Measure**

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) (S. "A" S-271 to C. "A" H-354)

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. 107 voted in favor of the same and 1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

**Acts**

An Act To Improve Maine's Energy Security

(H.P. 436) (L.D. 553) (C. "A" H-572)

An Act To Support Farm Programs at Department of Corrections Facilities

(H.P. 513) (L.D. 685) (C. "A" H-569)

An Act To Amend Standards for Participation in Certain Public School Services by Students Who Are Homeschooled

(H.P. 888) (L.D. 1197) (C. "A" H-571)

An Act To Amend Seasonal Licenses for the Operation of Beano or Bingo Games

(S.P. 441) (L.D. 1427) (C. "A" S-252)

An Act To Protect Consumer Information at the Efficiency Maine Trust

(S.P. 478) (L.D. 1516) (S. "A" S-267 to C. "A" S-198)

An Act To Reduce Energy Prices for Maine Consumers

(S.P. 501) (L.D. 1570) (C. "A" S-272)

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

**Resolves**

Resolve, To Reduce Funding to Maine Clean Election Act Candidates

(S.P. 215) (L.D. 726) (C. "A" S-253)

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

**UNFINISHED BUSINESS**

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

An Act To Amend the Process of Federal Aviation Administration Airport Improvement Program Grants

(H.P. 585) (L.D. 778) (C. "A" H-193)

TABLED - May 16, 2011 (Till Later Today) by Representative CEBRA of Naples.

PENDING - **PASSAGE TO BE ENACTED**.

On motion of Representative CEBRA of Naples, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

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

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-193)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "A" (H-479)** to **Committee Amendment "A" (H-193)**, which was **READ** by the Clerk.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Naples, Representative Cebra.

Representative **CEBRA**: Thank you, Mr. Speaker. Just for the edification of the body and those members in the Transportation Committee, we have moved this, the process by which the FAA Airport Improvement program grants are done. We then got word from the department and from the airports that while we tried to fix one thing, we had moved another thing, and we made a mess of things. This actually straightens that out.

At this point, the department, the airports, the FAA, everybody is happy and we like to make everybody happy in the Transportation Committee. So I appreciate it. Thank you, Mr. Speaker.

Subsequently, **House Amendment "A" (H-479)** to **Committee Amendment "A" (H-193)** was **ADOPTED**.

**Committee Amendment "A" (H-193)** as Amended by **House Amendment "A" (H-479)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-193) as Amended by House Amendment "A" (H-479)** thereto in **NON-CONCURRENCE** and sent for concurrence.

**HOUSE REPORT - Ought to Pass as Amended by Committee Amendment "A" (H-382)** - Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Encourage Fishing for Individuals with Disabilities"

(H.P. 825) (L.D. 1113)

**TABLED** - June 1, 2011 (Till Later Today) by Representative **DAVIS** of Sangerville.

**PENDING - ACCEPTANCE OF COMMITTEE REPORT.**

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-382)** was **READ** by the Clerk.

Representative **STRANG BURGESS** of Cumberland **PRESENTED** **House Amendment "A" (H-505)** to **Committee Amendment "A" (H-382)**, which was **READ** by the Clerk.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Cumberland, Representative **Strang Burgess**.

Representative **STRANG BURGESS**: Thank you, Mr. Speaker. Every now and then we all get a chance, hopefully, in our legislative career to do kind of the classic win/win bill that really, really makes a lot of people or actually very special people very happy. This is a bill that was brought to me by a constituent who has a very, very special sister who has a number of developmental disabilities, but one of her favorite things in the whole wide world is to go fishing. It came to light, one of those gee whiz things, that if you have some level of disability it's really hard to go fishing by yourself. So we have, thanks for the folks at Inland Fisheries and Wildlife, we've come up with a solution to modify these special fishing licenses, which we already do, to allow a caregiver to go along.

It also gave us a chance to update a little of what we call the respectful language that currently exists in some of the definitions out there, a project that we're going to work on a lot more. So this amendment actually addresses some of that language, cleans it up, and I have to tell you there is a number of organizations around the state that are really looking forward to, because this also has an emergency enactor on it, to taking a lot of folks who have never had the opportunity to feel a fish, be by the water, experience the sensory things that one gets from fishing, and this bill is going to do it. So I thank you and appreciate your support.

Subsequently, **House Amendment "A" (H-505)** to **Committee Amendment "A" (H-382)** was **ADOPTED**.

**Committee Amendment "A" (H-382)** as Amended by **House Amendment "A" (H-505)** thereto was **ADOPTED**.

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-382) as Amended by House Amendment "A" (H-505)** thereto and sent for concurrence.

**HOUSE REPORT - Ought to Pass as Amended by Committee Amendment "A" (H-444)** - Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act Concerning Solid Waste Facility Citizen Advisory Committees"

(H.P. 522) (L.D. 693)

**TABLED** - June 1, 2011 (Till Later Today) by Representative **HAMPER** of Oxford.

**PENDING - ACCEPTANCE OF COMMITTEE REPORT.**

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-444)** was **READ** by the Clerk.

Representative **DUCHESNE** of Hudson **PRESENTED** **House Amendment "A" (H-500)** to **Committee Amendment "A" (H-444)**, which was **READ** by the Clerk.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Hudson, Representative **Duchesne**.

Representative **DUCHESNE**: Thank you, Mr. Speaker. Mr. Speaker, remaining Men and Women of the House. This is a magic amendment. It makes the fiscal note disappear. It is a technical amendment that doesn't actually change anything in the real world, but if it makes OFPR happy, I'm happy. Thank you.

Subsequently, **House Amendment "A" (H-500)** to **Committee Amendment "A" (H-444)** was **ADOPTED**.

**Committee Amendment "A" (H-444)** as Amended by **House Amendment "A" (H-500)** thereto was **ADOPTED**.

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-444) as Amended by House Amendment "A" (H-500)** thereto and sent for concurrence.

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

**SENATE DIVIDED REPORT - Majority (7) Ought Not to Pass - Minority (6) Ought to Pass as Amended by Committee Amendment "A" (S-205)** - Committee on **HEALTH AND HUMAN SERVICES** on Resolve, To Amend the Rules Concerning Long-term Care Services To Better Support Family Caregivers

(S.P. 232) (L.D. 739)

- In Senate, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

**TABLED** - June 2, 2011 (Till Later Today) by Representative **STRANG BURGESS** of Cumberland.

**PENDING - ACCEPTANCE OF EITHER REPORT.**

Subsequently, on motion of Representative STRANG BURGESS of Cumberland the Minority Ought to Pass as Amended Report was **ACCEPTED**.

The Resolve was **READ ONCE**. Committee Amendment "A" (S-205) was **READ** by the Clerk.

The same Representative **PRESENTED** House Amendment "A" (H-518) to Committee Amendment "A" (S-205), which was **READ** by the Clerk.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Cumberland, Representative Strang Burgess.

Representative **STRANG BURGESS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is also one of these sort of special happy ending situations where this was a really great bill. It came through our committee. First of all, I might say the HHS, as being one of the best committees here this session, has really tried to work with folks and reach some good solutions and this actually is an example of one of them.

This is a "Resolve, To Amend the Rules Concerning Long-term Care Services To Better Support Family Caregivers." Some of you folks are way too young and some of you folks actually will understand, have had parents that reached that wonderful age and have had to go into different forms of taking care of your family. There are lots of very complicated rules that come from the Federal Government regarding Medicaid and Medicare.

One of the things that trips up a lot of our Maine citizens is that, when you, we actually have a provision where you as an individual can make a contract with one of your family members to take, actually assist them for a certain amount of hours in compensation, and that, as long as it's done properly, is exempt for the consideration, perhaps in future years, for your family member to go into a situation for MaineCare. A lot of our Maine citizens really get tripped up on this. We were trying to figure out something and how we were able to help and initially we're able to figure that out, but given enough time and persistence, we have come up with a solution, and that's why we have moved the Minority Report and presented to you this amendment.

It simply is going to help and we're going to let people know, families know, that there will be a form available on the DHHS website, because what has to happen, and this is a little tidbit, we all learn something about every four minutes here. Here's your tidbit for tonight: If you have ever any older family members that you are involved with, anybody in your family involved with taking care of them, it has to be in writing, otherwise you have potential problems in the future. So you actually can make an arrangement to have compensation for someone in your family taking care of an older person, but it needs to be in writing and that writing has to have been done before you actually began that service. So there, take that home and that will help your families a lot, and by passing this amendment, will really put that into action. It doesn't cost anything. It will put the form up on the website and we're going to let people know about it and we're going to save Maine citizens the potential of getting in trouble in future years. Thank you very much.

Subsequently, House Amendment "A" (H-518) to Committee Amendment "A" (S-205) was **ADOPTED**.

Committee Amendment "A" (S-205) as Amended by House Amendment "A" (H-518) thereto was **ADOPTED**.

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

Under further suspension of the rules the Resolve was **PASSED TO BE ENGROSSED** as Amended by Committee Amendment "A" (S-205) as Amended by House Amendment

"A" (H-518) thereto in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH**.

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HOUSE REPORT - Ought to Pass as Amended by Committee Amendment "A" (H-389) - Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Encourage Prompt Payments by the State When It Contracts with Outside Agencies"

(H.P. 912) (L.D. 1221)

TABLED - June 1, 2011 (Till Later Today) by Representative COTTA of China.

PENDING - **ACCEPTANCE OF COMMITTEE REPORT**.

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

The Bill was **READ ONCE**. Committee Amendment "A" (H-389) 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**.

Representative **MOULTON** of York **PRESENTED** House Amendment "B" (H-594), which was **READ** by the Clerk.

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

Representative **MOULTON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House, belatedly. Currently Title 5 provides in the case of late payment of fees to outside agencies a nominal late fee, and at the request of the Behavioral Health Community Collaborative, five nonprofits that typically do business with an agency that the good Representative from Cumberland may be familiar with, have run into a problem with late payment of charges such that in January there was over \$10 million owed to these five agencies, which include, in York County, Sweetser.

The State and Local Government Committee, by unanimous vote, adopted a change in the language to that section in Title 5 to allow for a flat rate late payment fee. The purpose of the amendment being offered is simply to conform the language with the shoals of legislating, that is that the two things being offered through this amendment are, one, that it not apply to any existing contracts, and secondly, owing to the timetable of contracting between these agencies and many others with the state and not just through a single agency, that we apply and adopt an emergency, a preamble. That's the substance of the amendment, following which, if this were adopted and enacted, then it would face the shoals of the special Appropriations Table before final adoption, so I would encourage the adoption of this amendment. Thank you, Mr. Speaker.

Subsequently, House Amendment "B" (H-594) was **ADOPTED**.

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED** as Amended by Committee Amendment "A" (H-389) and House Amendment "B" (H-594) and sent for concurrence. **ORDERED SENT FORTHWITH**.

Reference was made to Bill "An Act To Protect the Privacy of Persons Involved in Reportable Motor Vehicle Accidents"

(H.P. 865) (L.D. 1167)

In reference to the action of the House on June 7, 2011 whereby it Insisted and Asked for a Committee of Conference, the Chair rescinded the appointment of the Representative from Acton, Representative NASS, and appointed the Representative from Rockland, Representative MAZUREK, as a member on the part of the House.

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On motion of Representative CRAY of Palmyra, the House adjourned at 9:52 p.m., until 9:00 a.m., Thursday, June 9, 2011.