

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

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ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
FIRST REGULAR SESSION
59th Legislative Day
Thursday, June 9, 2011

The Speaker resumed the Chair.
The House met according to adjournment and was called to order by the Speaker.
Prayer by Pastor Robert Emrich, Plymouth.
National Anthem by Julia LoSciuto, Topsham.
Pledge of Allegiance.
The Journal of yesterday was read and approved.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act Concerning Fees for Users of County Registries of Deeds" (EMERGENCY)

(H.P. 1100) (L.D. 1499)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-503) in the House on June 3, 2011.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-503) AS AMENDED BY SENATE AMENDMENT "A" (S-280)** thereto in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act To Create Consistency and Fairness in Maine's Bottle Bill"

(H.P. 970) (L.D. 1324)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-316) in the House on May 23, 2011.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-316) AS AMENDED BY SENATE AMENDMENT "A" (S-275)** thereto in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Use a Portion of the Sales and Use Tax for the Protection of Maine's Fish and Wildlife

(S.P. 155) (L.D. 563)

(S. "B" S-237 to C. "A" S-154)

FAILED OF FINAL PASSAGE in the House on June 7, 2011.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-154) AS AMENDED BY SENATE AMENDMENT "C" (S-284)** thereto in **NON-CONCURRENCE**.

On motion of Representative CURTIS of Madison, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

Non-Concurrent Matter

Bill "An Act To Provide an Internship Employment Tax Credit"

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

Majority (8) **OUGHT NOT TO PASS** Report of the Committee on **TAXATION READ** and **ACCEPTED** in the House on June 8, 2011.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Minority (3) **OUGHT TO PASS AS AMENDED** Report of the Committee on **TAXATION** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-229)** in **NON-CONCURRENCE**.

The House voted to **INSIST**.

Non-Concurrent Matter

Bill "An Act Concerning Tort Claims and Governmental Entities"

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

Minority (5) **OUGHT NOT TO PASS** Report of the Committee on **JUDICIARY READ** and **ACCEPTED** in the House on June 8, 2011.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Majority (8) **OUGHT TO PASS AS AMENDED** Report of the Committee on **JUDICIARY** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-266)** in **NON-CONCURRENCE**.

The House voted to **INSIST**.

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

COMMUNICATIONS

The Following Communication: (H.C. 195)

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

June 8, 2011

The Honorable Heather J.R. Priest

Clerk of the House

2 State House Station

Augusta, Maine 04333

Dear Clerk Priest:

In reference to the action of the Senate on June 7, 2011 in which it Insisted and Joined in a Committee of Conference on L.D. 1167, "An Act To Protect the Privacy of Persons Involved in Reportable Motor Vehicle Accidents" (H.P 865) I am pleased to appoint the following as conferees on the part of the Senate:

Senator Ronald F. Collins of York

Senator David R. Hastings of Oxford

Senator G. William Diamond of Cumberland

Please contact my office if you have any questions regarding these appointments.

Sincerely,

S/Kevin L. Raye

President of the Senate

READ and **ORDERED PLACED ON FILE**.

The Following Communication: (S.C. 432)

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

June 8, 2011

The Honorable Heather J.R. Priest

Clerk of the House

2 State House Station

Augusta, Maine 04333

Dear Clerk Priest:

Senate Paper 102, Legislative Document 340, "An Act Regarding Timber Harvesting On State Land," having been returned by the Governor, together with objections to the same, pursuant to Article IV, Part Third, Section 2 of the Constitution of the State of Maine, after reconsideration, the Senate proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

16 voted in favor and 18 against and 1 excused, and accordingly it was the vote of the Senate that the Bill not become a law and the veto was sustained.

Sincerely,

S/Joseph G. Carleton, Jr.

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Pursuant to Statute

Department of Health and Human Services

Representative STRANG BURGESS for the **Department of Health and Human Services** pursuant to the Maine Revised Statutes, Title 5, section 8072 asks leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 101, MaineCare Benefits Manual, Chapter III, Section 97, Private Non-Medical Institution Services, Appendix D: Principles of Reimbursement for Child Care Facilities, a Major Substantive Rule of the Department of Health and Human Services (EMERGENCY)

(H.P. 1173) (L.D. 1585)

Be **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and printed pursuant to Joint Rule 218.

Report was **READ and ACCEPTED** and the Resolve was **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

Pursuant to Statute

Department of Health and Human Services

Representative STRANG BURGESS for the **Department of Health and Human Services** pursuant to the Maine Revised Statutes, Title 5, section 8072 asks leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 101, MaineCare Benefits Manual, Section 40, Chapters II and III: Home Health Services, a Major Substantive Rule of the Department of Health and Human Services (EMERGENCY)

(H.P. 1174) (L.D. 1586)

Be **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and printed pursuant to Joint Rule 218.

Report was **READ and ACCEPTED** and the Resolve was **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

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

ORDERS

On motion of Representative LIBBY of Waterboro, the following Joint Resolution: (H.P. 1176) (Cosponsored by Senator

LANGLEY of Hancock and Representatives: HARMON of Palermo, HARVELL of Farmington, McCABE of Skowhegan, O'BRIEN of Lincolnville, O'CONNOR of Berwick, TIMBERLAKE of Turner, VALENTINO of Saco, Senator: SHERMAN of Aroostook)

JOINT RESOLUTION EXPRESSING THE SENTIMENT OF THE LEGISLATURE FOR FOOD SOVEREIGNTY

WHEREAS, according to the Declaration of Independence, all people "are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness"; and

WHEREAS, food is human sustenance and is the fundamental prerequisite to life; and

WHEREAS, the basis of human sustenance rests on the ability of all people to save seed and grow, process, consume and exchange food and farm products; and

WHEREAS, it is our obligation as elected representatives of the people of Maine to protect the fundamental freedoms as enshrined by the Constitution of Maine and the United States Constitution and to protect agricultural, ecological and economic diversity and sustainability for a free and healthy society; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-fifth Legislature now assembled in the First Regular Session, on behalf of the people we represent, and in recognition of our State's proud agricultural heritage, take this opportunity to oppose any federal statute, law or regulation that attempts to threaten our basic human right to save seed and grow, process, consume and exchange food and farm products within the State of Maine.

READ and ADOPTED.

Sent for concurrence.

On motion of Representative STRANG BURGESS of Cumberland, the following Joint Order: (H.P. 1175)

ORDERED, the Senate concurring, that Bill, "An Act To Require Use of the Electronic Death Registration System," S.P. 392, L.D. 1271, and all its accompanying papers, be recalled from the Governor's desk to the House.

READ.

On motion of Representative STRANG BURGESS of Cumberland, **TABLED** pending **PASSAGE** and later today assigned.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Evan P. Kendall, of Durham, a member of Boy Scout Troop No. 92, who has attained the high rank and distinction of Eagle Scout. This is the highest award in Boy Scouting and is given for excellence in skills development, leadership, personal growth and community service. For his Eagle Scout project, Evan built an outdoor information kiosk at a small community park in Yarmouth. We extend our congratulations to him on this achievement;

(HLS 499)

Presented by Representative ESPLING of New Gloucester.

Cosponsored by Senator SNOWE-MELLO of Androscoggin.

On **OBJECTION** of Representative ESPLING of New Gloucester, was **REMOVED** from the Special Sentiment Calendar.

READ and PASSED and sent for concurrence.

REPORTS OF COMMITTEE

Divided Reports

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought Not to Pass** on Bill "An Act To Allow Municipalities To Restrict the Possession of Firearms in Certain Circumstances"

(S.P. 170) (L.D. 578)

Signed:

Senators:

MASON of Androscoggin
WHITTEMORE of Somerset

Representatives:

PLUMMER of Windham
BURNS of Whiting
HANLEY of Gardiner
LAJOIE of Lewiston
LONG of Sherman
MORISSETTE of Winslow
SANDERSON of Chelsea

Minority Report of the same Committee reporting **Ought to Pass** on same Bill.

Signed:

Senator:

GERZOFISKY of Cumberland

Representatives:

BLODGETT of Augusta
CLARKE of Bath
HASKELL of Portland

Came from the Senate with the Minority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-143)**.

READ.

Representative PLUMMER of Windham 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 **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-277)** on Bill "An Act To Create Innovative Public School Zones and Innovative Public School Districts"

(S.P. 466) (L.D. 1488)

Signed:

Senators:

LANGLEY of Hancock
ALFOND of Cumberland
MASON of Androscoggin

Representatives:

RICHARDSON of Carmel
EDGECOMB of Caribou
JOHNSON of Greenville
MAKER of Calais
McCLELLAN of Raymond
McFADDEN of Dennyville
NELSON of Falmouth

RANKIN of Hiram

WAGNER of Lewiston

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

Signed:

Representative:

LOVEJOY of Portland

Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the Majority **Ought to Pass as Amended by Committee Amendment "A" (S-277)** Report.

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-277)**.

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" (S-277)** 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-277)** in concurrence.

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act To Create a 5-year Statute of Limitations for Environmental Violations"

(S.P. 87) (L.D. 281)

Signed:

Senators:

BLISS 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 to Pass as Amended by Committee Amendment "A" (S-239)** on same Bill.

Signed:

Senator:

HASTINGS of Oxford

Representatives:

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

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-239)**.

READ.

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

The SPEAKER: The Chair recognizes the Representative from Acton, Representative Nass.

Representative NASS: Thank you, Mr. Speaker. LD 281, "An Act To Create a 5-year Statute of Limitations for Environmental Violations," brings closure. It puts limits on enforcement actions from the Department of Environmental Protection violations for civil penalties.

How does it do this? The action, there are three basic things. The action must begin by the commissioner or AG within six years following whatever occurs last, discovery of an action or omission giving rise to a violation, identification by commissioner, AG, of the party of fault, or the last day of a continuing violation.

Enforcement commences when there is a proposed consent agreement in writing, an enforcement hearing on the violation is scheduled, the DEP files a complaint with the District Court with approval of the AG's office, the AG files a complaint with either the District Court or the Superior Court. I ask that you vote and follow my light. Businesses need to have closure. This amendment fixes things so that that can happen. Thank you.

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. I would ask you to not adopt the Minority Report and go on to move to the Majority Ought Not to Pass Report, and let me tell you why.

At the present time, for the vast majority of environmental violations, there is no statute of limitations. This bill suggests a 6-year statute of limitations. Statute of limitations, of course, is the time in which you can bring an action for an environmental violation. For contracts there is a 20-year statute of limitations. For some deed actions there is a 10-year statute of limitations. For murder, there is no statute of limitations.

The concern here is hidden environmental violations. Right now, this says that the six years begins to run, if this bill is passed, the six years begins to run upon the discovery by the commissioner or attorney general of an act or omission giving rise to a violation. Now if I were a clever lawyer representing somebody I know who had polluted a dump that no one knew about, I would send an email saying there may be an environmental violation in this area to an overworked clerk in the Department of Environmental Regulation or in the AG's office and see what happened. In fact, it may get filed and that's probably what would happen, and then six years would go by and all of the sudden your client would be off the hook under this bill. We don't think this is a good idea. We think what this does is it shifts the responsibility from environmental violations, especially serious environmental violations, from the doer to the taxpayer. That, we think, is a bad idea. Therefore, we ask you to vote against the Minority Ought to Pass Report so we can move on the Majority Ought Not to Pass. Thank you.

Representative CAIN of Orono **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 am voting red because LD 281 will raise our taxes and the taxes of all of our constituents. I am also voting red because the last thing this state needs is more lawsuits.

I am on the Judiciary Committee and we heard that only 10

percent of the cases would fall outside the proposed 6-year statute of limitations. We were provided with a chart showing exactly which cases would fall outside of the proposed 6-year statute of limitations.

So what happens with that 10 percent? Well, one of two things happens. Either nothing, we don't pursue them and after six years the environmental mess is still there. So who gets to clean it up? We do. Our tax dollars clean it up and the tax dollars of our constituents, because if the company that causes the problem doesn't clean it up, we're left doing this. In some cases, the amount of money to clean up these places is significant; it can be in the millions of dollars.

The second thing that could happen is that the Department of Environmental Regulation will just have to file lawsuits more quickly. We heard from the Attorney General's office that many of the reasons these cases fall outside of the six years is because they are trying to work out agreements. Well, you can't work out an agreement if there is a statute of limitations deadline hanging over your head. We heard that this is going to force DEP to initiate the enforcement process against large industrial facilities much more quickly than is the current process. It will have the unintended consequence of actually increasing litigation in this area. That's not something that I want to see.

Finally, I'm concerned that most of the businesses in our state are actually very good environmental stewards. Most of them are not going to be affected by this law and that we're actually hurting all of the responsible businesses by letting the few that are not responsible off the hook. So I hope you'll join me in voting red.

The SPEAKER: The Chair recognizes the Representative from Oxford, Representative Hamper.

Representative HAMPER: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to remind the body that federal regulations on the Clean Air Act are a 6-year statute of limitations, on Clean Water it's three years, and Hazardous Waste, there is no limit. Thank you, Mr. Speaker.

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

Representative MOULTON: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. There are a few instances when my name comes up on a Minority Report or another report and I choose to remain silent, and usually that's for reason, but not high enough for me to address the body. This morning, on the other hand, I do rise having voted on the Majority Report in committee and wish to speak in opposition to the motion, moving the Minority Report.

Essentially, this bill represents a major departure from existing law, wherein violations that are currently addressed with few exceptions are self reported and a clock begins to run for 10 years, where the AG's office may choose or not choose to take action. It does represent a hardship for those entities or individuals that self report violations because they have to wait. As the House chair of the committee has already related, there will be a difference, and she enumerated three reasons, one of which uses the word "discovery."

In committee, a question was posed to the representatives of the AG's office and the Department of Environmental Protection: What is the meaning of discovery? Forgive me, I suffer an occupational hazard of being too educated and an attorney, and sometimes you have to ask those questions, "What is the definition of this?" because there was no clear answer. "Well, it's what we always use." Well, that gives me a lot of comfort, Mr. Speaker.

In addition to that, I am conflicted because there is a whole panoply of actions that the Department of Environmental Protection may take against or with respect to numerous

activities. I know that I'm using broad terms, but as a local practicing attorney I have people that build houses, sometimes in soils that happen to be too wet and they run into problems 12 years after the fact, and then I worry with them whether or not the bad DEP is going to come in and order the removal of the house. I mean I have good and legitimate reasons to like a bill like this that will put some closure on things, but on the other hand the confliction results from, again, asking a question of the DEP. "Well, how many programs are affected?" "Well, Mr. and Ms. Representative, we've got a book and a half of programs that will be affected." "Well, would you please enumerate?" "Well, it's a book and a half." Well, I'm sorry folks, but some of us are interested in what those specifically are. If we're opening up a major change in the law from a limited application of a statute of limitations to something that is broad and encompassing, forgive me, but I would like to know what those are before I vote to make the change.

Now having said that, the last thing that I'd like to add to my comments is again referring back to the Representative from Acton, having stated that the clock starts to run from the last date of violation of a continuing violation. The problem in land use cases, whether it's on the state level or the local level, is that some of these things are like the tree falling in the forest, because who of us takes notice of that? So you may have instances, not so much of a small time violator, but say a major violator, and they stop doing whatever nasty things they're doing and they wait out the clock. Mr. Speaker, six years from that date, we could run into a lot of problems. So I know in one sense I'm reiterating what the two Representatives, one from Brunswick and one from Augusta, have stated. I am stating it a little differently, but I am expressing the same concern, Mr. Speaker, and wish the body to take notice and vote in opposition to this motion. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Hudson, Representative Duchesne.

Representative **DUCHESNE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. First of all, I would like to thank the Judiciary Committee because the Environment and Natural Resources Committee used to get this bill and we always used to come to the exact same majority conclusion, and probably for pretty much the same reasons. So I'm glad to see that the committee system works, we still come to the same majority conclusion, and my committee didn't have to do any work.

A couple of distinctions, I think, need to be drawn. If you have an air violation that goes up the smokestack, you know who did it, you know what's in it, and a good west wind cleans it up. If you spill something at the surface it gets a little more complicated. It's not always clear who did it and it's not exactly clear whether you clean it all up, but generally speaking you know the consequences and you can fix it.

If something goes underground, a buried hazardous waste contamination or some kind of underground contamination, you don't necessarily know who did it for sure, you don't know how bad it is, and you don't know how long the lingering effects are. So now it gets complicated. You don't necessarily want a statute of limitations for a situation like that. This bill is a blanket statute of limitations no matter what the violation is. That's not appropriate and I'm glad the majority reached the report it did and I would encourage you to reject the Minority Report. Thank you.

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

Representative **AYOTTE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I believe it's extremely important that you do consider another side of this bill.

You've heard the story before, I'm sure. I'll repeat it again; it's worth repeating.

How would any of you like to go down to your mailbox some day and open a letter and find a bill there for \$12,500 10 years after the fact? A gentleman in northern Maine was told by the DEP that the work accomplished by the DEP would be taken care of by a superfund and he had nothing to worry about. He asked them twice and in a period of 10 years never received any communication whatsoever, none. No interim communication. He had to walk down to his mailbox one day and received a bill for \$12,500. If you think this is not giving an entity in State Government a carte blanche to send a bill to a citizen 10 years after, I don't know what is, and I think six years is too long. If any one entity should be expected to treat its citizens fairly, it should be your State Government. If any one entity that should be expected to treat its citizens the way they would want to be treated, it should be your State Government, your state leaders, the people you put in power to protect you.

Again, I'm not going to belabor this. How would any of you like to go down to your mailbox and receive a bill 10 years later when there was no interim communication during that time? I think you should certainly consider and six years may be a little better, but it's still too long before someone is notified that they owe the government or owe their State Government any bill. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Oxford, Representative Hamper.

Representative **HAMPER**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just want to read this summary on the Senate Amendment (S-329), which is part of the Minority Report. This amendment establishes a 6-year statute of limitations for actions for civil penalties for violations of laws administered by the Department of Environmental Protection. An action must be commenced within 6 years of when the Commissioner of the DEP or the Attorney General discovers the act or omission giving rise to the violation or identifies the party responsible for the violation, or identifies the party responsible for the violation.

Discovery or identification. So the Commissioner proposed an administrative consent agreement. That starts the 6-year period. The Commissioner schedules an enforcement hearing on the alleged violation. That starts the 6-year period. The Commissioner, with the prior approval of the Attorney General, files a complaint in District Court. That starts the 6-year period. Or the Attorney General files a complaint in District Court or Superior Court. Discovery of the violation, that's what we're dealing with here. Nobody is getting off scot-free. 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. In listening to the debate so far, I think we've lost the basis of the issue. Most of the environmental violations in this state are surface bills. Why in the world would you allow a 10-year period to exist that would hopefully bring to a resolution the stabilization and potential cleanup of a surface bill of fuel or other contaminants? Are we going to sit there and argue the legalities? Are we going to sit there and argue the bureaucracy of law and special regulation? Or is the intent of the law in its beginning, in the concept of the law, an effort to clean this up to protect people from what that contaminant might do?

We've seen this time and time in the State of Maine, where old gas stations were found to have bad fuel tanks that leached out, not just for 50 feet or 100, but destroyed the personal water

supply in many neighborhoods or other homes. The goal here shouldn't be to argue the legality of the law and take 10 years to do it. It should be to move as swiftly and effectively as possible to stabilize the environmental impact of the violation once it's perceived. I think 6 years is ample time for that.

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 agree with the good Representative from Caswell that there are certainly things that are not perfect and they need to be fixed, but the statute of limitations is not the way to fix the case, the description that we heard. We've got to change the way that the agency works, not just put a blanket number of years as far as when things needed to be filed by, and the biggest reason for that is because this does affect Chapter 38 of the Maine Revised Statutes, which is two huge books of the Maine Revised Statutes. So the number of laws that it affects, we don't even know. We asked for a list of all the laws that it would affect and they pulled out all of the books and said, well, we can't list them for you, they're too thick. I mean it would be ridiculous. So this just isn't the way to go about getting the solution that you want. Should there be a solution? Yes, but this one doesn't do the work.

Also, as far as what the Representative from Oxford said, I appreciated his testimony very much because it really showed that it is the word "discovery" that's the issue here. It's the word "discovery" that's going to cause all the lawsuits. What does discovery mean? We have a difference of opinion as to what that word means. Could it be an email sent to someone at the DEP or to someone at the AG's office? Could that constitute discovery? Could it be someone there seeing, going by a sight? I mean we don't know and that's where all the lawsuits are going to revolve around. What does that word mean? I just think that's a waste of time for us to spend a whole bunch of time in the courts discussing what discovery means.

Finally, I think it's really important to point out that we did not have a single business, not one business, testify before the Judiciary Committee that the current law was a problem for them. They did not come in and say, oh, we need a 6-year statute of limitations; this would make a difference for us. Nothing. So it doesn't seem that people are concerned about this in the State of Maine, at least not the business people.

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. I would remind you that by the DEP's own admission before the committee, 10 percent of all environmental violations will not be pursued if this is passed. If one of those environmental violations is HoltraChem, for example, the taxpayers are going to be stuck with a mighty bill. Thank you.

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. 153

YEA - Ayotte, Beaulieu, Bennett, Bickford, Black, Burns DC, Burns DR, Cebra, Celli, Chase, Clark T, Crafts, Cray, Crockett, Curtis, Cushing, Davis, Dow, Dunphy, Edgcomb, Espling, Fitts, Fitzpatrick, Flood, Fossil, Foster, Fredette, Gifford, Gillway, Guerin, Hamper, Hanley, Harmon, Harvell, Johnson D, Johnson P, Keschl, Knapp, Knight, Libby, Long, Maker, Malaby, McClellan, McFadden, McKane, Morissette, Nass, Newendyke, O'Connor, Olsen, Parker, Parry, Picchiotti, Plummer, Prescott, Richardson W, Rioux, Rosen, Sarty, Sirocki, Strang Burgess,

Tilton, Timberlake, Turner, Valentino, Volk, Waterhouse, Weaver, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

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

ABSENT - Bryant, Carey, Damon, Eves, Innes Walsh, Sanderson, Wintle.

Yes, 74; No, 69; Absent, 7; Vacant, 1; Excused, 0.

74 having voted in the affirmative and 69 voted in the negative, 1 vacancy with 7 being absent, and accordingly the Minority Ought to Pass as Amended Report was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (S-239) 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-239) in concurrence.

Majority Report of the Committee on STATE AND LOCAL GOVERNMENT reporting Ought Not to Pass on Bill "An Act To Ensure Accountability in State Contracts"

(S.P. 468) (L.D. 1492)

Signed:

Senators:

THOMAS of Somerset
COLLINS of York
SULLIVAN of York

Representatives:

COTTA of China
CASAVANT of Biddeford
CELLI of Brewer
HARVELL of Farmington
MOULTON of York
TURNER of Burlington

Minority Report of the same Committee reporting Ought to Pass as Amended by Committee Amendment "A" (S-262) on same Bill.

Signed:

Representatives:

BOLAND of Sanford
BOLDUC of Auburn
GRAHAM of North Yarmouth
KAENRATH of South Portland

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-262) AS AMENDED BY SENATE AMENDMENT "A" (S-278) thereto.

READ.

Representative COTTA of China moved that the House ACCEPT the Minority Ought to Pass as Amended Report.

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

Representative **COTTA**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm not having a senior moment. The actual reason for that, if you look in your calendar you'll see that there was a Senate Amendment and that improved the bill and it makes it a good bill, it set a threshold, and what this is all about on this particular bill is that the RFPs, or request for proposals or bids, from DAFS, those will be published on a website maintained by them and the Senate Amendment just sets a threshold. So it's a good piece of legislation now. I concur with the other body's action and I hope I can count on your support. Once again, this isn't senior activity. It actually is a good reason. Thank you.

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

Representative **MOULTON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This morning I rise to declare that I'm voting with my committee chair this morning on this one.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-262)** was **READ** by the Clerk

Senate Amendment "A" (S-278) to **Committee Amendment "A" (S-262)** was **READ** by the Clerk and **ADOPTED**.

Committee Amendment "A" (S-262) as Amended by Senate Amendment "A" (S-278) thereto was **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-262) as Amended by Senate Amendment "A" (S-278)** thereto in concurrence.

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act To Protect Municipalities That Host Wind Energy Developments"

(S.P. 387) (L.D. 1266)

Signed:

Senators:

TRAHAN of Lincoln
HASTINGS of Oxford
WOODBURY of Cumberland

Representatives:

KNIGHT of Livermore Falls
BERRY of Bowdoinham
BICKFORD of Auburn
BURNS of Alfred
FLEMINGS of Bar Harbor

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-274)** on same Bill.

Signed:

Representatives:

BENNETT of Kennebunk
BRYANT of Windham
HARMON of Palermo
PILON of Saco

WATERHOUSE of Bridgton

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

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

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought Not to Pass** on Bill "An Act To Enhance Self-defense by Removing Restrictions on the Carrying and Use of Weapons"

(H.P. 923) (L.D. 1232)

Signed:

Senators:

MASON of Androscoggin
GERZOFISKY of Cumberland
WHITTEMORE of Somerset

Representatives:

PLUMMER of Windham
BLODGETT of Augusta
BURNS of Whiting
CLARKE of Bath
HANLEY of Gardiner
HASKELL of Portland
LAJOIE of Lewiston
MORISSETTE of Winslow
SANDERSON of Chelsea

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-584)** on same Bill.

Signed:

Representative:

LONG of Sherman

READ.

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

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-581)** on Bill "An Act To Protect the State from Accumulating Future Hospital Debt"

(H.P. 628) (L.D. 831)

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.

On motion of Representative STRANG BURGESS of Cumberland, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. Committee Amendment "A" (H-581) 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-581)** and sent for concurrence.

Majority Report of the Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought Not to Pass** on Bill "An Act To Allow Hunting on Sunday for Landowners"

(H.P. 669) (L.D. 910)

Signed:
Senators:
MARTIN of Kennebec
TRAHAN of Lincoln

Representatives:
DAVIS of Sangerville
BRIGGS of Mexico
CLARK of Millinocket
CRAFTS of Lisbon
EBERLE of South Portland
ESPLING of New Gloucester
GUERIN of Glenburn
SARTY of Denmark
SHAW of Standish
WOOD of Sabattus

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-587)** on same Bill.

Signed:
Senator:
PATRICK of Oxford

READ.

Representative DAVIS of Sangerville moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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. This is my swan song for a bill. I've been singing this song for seven years and I don't do that lightly and I do know that this is controversial for some folks. But for people who hunt and want to have the full week available to them, or especially people who hunt who work the other six days of the week, or have children that they want to teach to hunt and don't have access to the woods because either

their kids are busy on Saturdays, we are losing hunters. We are losing hunters quickly, generation by generation, and part of that is because our lives have changed.

Now this bill is an attempt to address at least some of that issue, and it's designed to allow people who have land adequate to support hunting on Sunday to be able to do so. It's designed around the same criteria that one would apply when you consider landowner doe permits. Landowner doe permits are given to landowners who have 20 acres of land and who don't post their land against access to hunters.

Now one of the arguments that was brought forward is from the landowners themselves. One group in particular, SWOM, claims that if any bill related to Sunday hunting is passed everybody is going to post their land. Well, I sat through the committee hearing on this bill and one of the members of the public who testified came in and said "Under no circumstance should you allow Sunday hunting, and if you do, I'm going to post my land." Well, I happen to know that that land is already posted. It's an interesting argument. It sounds good, but it's a stretch.

Now has this got a cute twist to it in that when the landowners come in and say we're going to post our land if we do this, but yet it allows people to make the choice who are landowners? You know, this is designed to say, if you're a landowner and you want to hunt on Sunday, go ahead, it doesn't bother anybody else. So I struggle with that argument.

But when you look at the map of the United States and I had that distributed to you, in all of the red across the country, from California to the East Coast, all but seven states, Maine being tucked up in the corner, all but seven states allow Sunday hunting in one form or another and only four have limitations placed on where and when people can hunt on Sundays. This would make Maine one of those other colors. It wouldn't make Maine red, but at least we'd move off the map of being one that bans something that really there is no logic to it.

You know, a lot of the arguments are what is controlling the flight of a bullet, how do you know it's going to stay within the boundary? Well, we're talking about really four weekends a year. That's what this is all about. It's about deer season. So this bill as amended would allow the department to make that decision as to what areas are safe to do it, what areas it makes sense due to species management. It is not specific to any species. It was originally drafted to be about deer. It's not about deer. It's about allowing people access to their land to do what they want to do on it, and that's it. So I'd appreciate rejecting the Ought Not to Pass. I think it's a reasonable step towards giving landowners access to something that they want to be able to do. Not all of them do, but those who do would have the ability to do it and they'd be able to do it by getting a permit, paying the department for that privilege, which I think is offensive, but I think it's a reasonable compromise. Thank you, Mr. Speaker.

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

Representative **PARKER**: Thank you, Mr. Speaker. Mr. Speaker, Members of the House. I own a lot of land. I have a 358-acre parcel of land. I bought that particularly because the way land goes in the state, becoming posted and you cannot hunt, I have sons, I have grandchildren who I want to be able to hunt. So I hope this land would provide that opportunity. I've put it through a very aggressive forest management program and I have a very aggressive wildlife management program. That land at this time is open to the general public to do what they choose on it, as long as it's legal and they don't trash my land too bad.

I was a member of SWOM. SWOM came out with a position to oppose Sunday hunting without polling its members. I was never asked if I had an opinion in that matter. Right now, I get to

use my land six days a week for what I want to use it for; the general public uses it seven days a week for what they want to use it for.

The argument at the hearing was that if we allow Sunday hunting on individuals' land, then that land, a lot of people will start posting it. I assure you, if I cannot use my land on Sunday, the way this thing appears to be going, then I will post my land and I will post my land to no trespassing, not to no hunting. That will allow me to hunt, it will allow me to allow people to hunt, but no one else can go on my property without my permission in any form. So if we're trying to keep land open for public use, maybe we should consider letting the landowner use their land as well. Thank you, Mr. Speaker.

Representative FITTS of Pittsfield **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 Sabattus, Representative Wood.

Representative **WOOD**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Oh my God, I'd love to vote for this bill. But if I voted for it I'd be front page on the *Sun Journal*: "Representative Wood votes for a self-serving bill." I can't do that, unfortunately.

I also was on IF and W, and I received over a couple of hundred emails about Sunday hunting. It was about 50/50. Yes allow Sunday hunting, no don't allow Sunday hunting. This particular bill, it's not fair because if you have 20 acres or more you get to hunt. If you don't have 20 acres or more you don't get to hunt. So unfortunately, I can't vote for it. 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. The Committee Report was 12-1 on this. Of those 12, I think at least 60 percent have personal opinions that would probably lean towards Sunday hunting. But when you look at the reality of it and I think the very handout that Representative Fitts gave to all of us here today is a good example of why it just doesn't work in Maine. All the states that are in red, for the most part, have more public land than we have, more opportunity to hunt on land that isn't necessarily privately controlled property. But also, most of those red states, you don't go on private property without permission, unlike our state, which has had that tradition of open land access to private lands unless they are posted.

Landowner views as to what should happen on a lot of natural resource issues in this state have to be weighed heavily, whether I like it or not or anyone else likes it or not, because we are dependent on access to those private lands to enjoy our outdoor recreational activities in this state. Most landowners do not favor Sunday hunting. Reluctantly, I support that for that reason. 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. 154

YEA - Ayotte, Beaudoin, Beaulieu, Beavers, Berry, Black, Blodgett, Boland, Bolduc, Briggs, Burns DC, Burns DR, Cain, Casavant, Cebra, Chapman, Clark H, Clark T, Clarke, Cotta, Crafts, Crockett, Cushing, Davis, Dill J, Dion, Dow, Driscoll, Duchesne, Dunphy, Eberle, Espling, Flemings, Flood, Fossel, Foster, Fredette, Gifford, Gilbert, Goode, Guerin, Hanley, Harlow, Haskell, Hayes, Herbig, Hogan, Hunt, Johnson P, Kaenrath, Kent, Knapp, Knight, Kruger, Kumiega, Lajoie, Longstaff,

Lovejoy, Luchini, MacDonald, Maker, Malaby, Maloney, Martin, Mazurek, McCabe, McClellan, McKane, Morissette, Morrison, Moulton, Nass, Nelson, Newendyke, O'Brien, Olsen, Peoples, Peterson, Picchiotti, Priest, Rankin, Richardson D, Richardson W, Rochelo, Rosen, Rotundo, Russell, Sanborn, Sarty, Shaw, Stevens, Strang Burgess, Stuckey, Theriault, Timberlake, Treat, Tuttle, Valentino, Wagner R, Weaver, Webster, Welsh, Willette A, Willette M, Wood, Mr. Speaker.

NAY - Beck, Beliveau, Bennett, Bickford, Chase, Cornell du Houx, Cray, Edgecomb, Fitts, Fitzpatrick, Gillway, Graham, Hamper, Harmon, Harvell, Hinck, Johnson D, Keschl, Libby, Long, McFadden, O'Connor, Parker, Parry, Pilon, Plummer, Prescott, Rioux, Sanderson, Sirocki, Tilton, Turner, Volk, Waterhouse, Winsor.

ABSENT - Bryant, Carey, Celli, Chipman, Curtis, Damon, Eves, Innes Walsh, Wintle.

Yes, 106; No, 35; Absent, 9; Vacant, 1; Excused, 0.

106 having voted in the affirmative and 35 voted in the negative, 1 vacancy with 9 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act To Transfer Jurisdiction of Traffic Adjudications"

(H.P. 757) (L.D. 1021)

Signed:

Senators:

HASTINGS of Oxford
BARTLETT of Cumberland
WOODBURY of Cumberland

Representatives:

NASS of Acton
BEAULIEU of Auburn
FOSTER of Augusta
DILL of Cape Elizabeth
MALONEY of Augusta
PRIEST of Brunswick
ROCHELO of Biddeford
SARTY of Denmark
WATERHOUSE of Bridgton

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-588)** on same Bill.

Signed:

Representative:

MOULTON of York

READ.

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

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

Representative **MOULTON**: Thank you, Mr. Speaker. I did want to speak briefly to the House before this bill is gavelled through to say that about 20 years ago, a past Legislature actually passed a law that not only decriminalized traffic offenses, but created an alternative method for adjudicating that is here in traffic offenses. And as recently as the last Legislature, as a result of a bill introduced by our own Representative Pilon from Saco, there was a study done by the Judicial Branch and the Secretary of State's office, which the report is available online.

One of the recommendations of that report was to create an alternative method for adjudicating traffic offenses.

In a former lifetime, I worked in a traffic court in a jurisdiction two-thirds the size of Maine where we had a single court. As a former reserve police officer and attorney, I've seen my share of traffic offenses. So getting to the point, Mr. Speaker, our courts have seen a gradual, if not steady, and maybe even an overflowing increase in not only the volume of cases at the district court level, but also the types of cases at the district court level.

It was one of the findings of this report that traffic offenses are a basic bread and butter type hearing or proceeding, which would be handled by an administrative form of process with a hearing officer to decide the case, and as close as Rhode Island and in New York State, they do this. With our courts being overwhelmed by the number of cases and the shortage of personnel, if you look at the statistics, they are easily four or seven of the district courts where they can't even begin to handle the volume of traffic offenses, that it is saddening to see that we're not making some effort, not only to address this overflow of cases by dealing with an expedient fashion by instituting this type of proceeding, but also that we still cling to a process where people too often are treated like cattle.

People lose respect for the process when they come in and they see themselves being just sort of ramrodded through, and I think that it's time that we address the situation, hence my bringing it to the attention of this body. This morning and in this environment of austerity, Mr. Speaker, I realize we don't have that extra million dollars a year to pay for the hiring of some additional hearing officers that could handle the volume of cases that we have in the system. But I think that for the future we really need to do this. Thank you, Mr. Speaker.

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

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act To Prevent and Treat Cancer in Maine by Implementing Critical Portions of the Comprehensive Cancer Program"

(H.P. 917) (L.D. 1226)

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" (H-589)** on same Bill.

Signed:

Representatives:

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

READ.

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

The SPEAKER: 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. I rise in opposition to the pending motion and would like to give you folks a little update, education, on what we call tobacco equalization tax.

Folks, this really is a tax loophole that has been in our laws for the last few years and it needs to be corrected. We have already made a public policy decision in this state to tax tobacco. We all made that, we've played around with it over the last Legislatures here. We believe that by taxing tobacco it makes it, it increases the price of it, and hopefully as we know from facts, every time we've done an increase on actual cigarettes, the smoking rates go down. So that is a well known fact across the country and we have that as a public policy in this state. However, because it's a little complicated, we have been shy to actually create the tax on all of the tobacco products besides cigarettes.

This bill has nothing to do with cigarettes. Right now, you can go to any convenience store or place where you can buy your favorite smoke and a pack of 20 cigarettes is \$6.39 or 29¢ or whatever, and right beside it you'll see a box of little cigars in exactly the same size box, usually with some pretty colorful comments and things on it, and it's like a \$1.89. So yes, you're not supposed to sell cigarettes to people under 18. If you're over 18, you should be allowed to do whatever. This is about just making the tax equal, okay?

We know that tobacco increases are the best and one of the most effective ways to reduce smoking. Equalizing this tax on other tobacco products will decrease initiation of tobacco use, especially for anybody who is under that age of 18, which of course they're not getting them now, and deter people from switching to these cheaper tobacco products. Excise tax on tobacco products is applied evenly and some people, you'll hear about that this is very complicated and unfair. Well, if we have a public policy to tax tobacco, then we should tax tobacco. So we want to tax it the same. The Minority Report has an amendment on it that says that we'll work with Revenue Services to figure out an equitable and fair way. Usually what most of the other states have, it's a combination of the weight or ounces and mils, and we would propose a combination thereof.

In addition to the fact that this really is about public policy, it's about public health policy and it's money that is on the table. Just to let you know, President Obama, as part of the Health Care Act, increased some of this. Some of this is a federal tax that's in there. The previous Chief Executive did the same and there is actually still a level in there, we have made an unlevelled playing field. So my number one goal is that it's a health policy issue. And okay, p.s., my secondary goal is that it would have a small tax income to the state, specifically for 2011-2012, the next fiscal year, it would generate \$3.8 million. The following year it is projected to generate about \$5.6 million. I think folks are pretty aware of what's going down on the second floor and the people in Approps are working real hard. This might be a great tool there, but I think one of the greatest things that we could do as a body is to vote against the pending motion, give it a strong support, flip this report, and show everybody that we are for public health for this state. We're seeing smoking rates tip up for the first time and this is just an area to me that really is a loophole that needs to be fixed.

You also have a handout from me showing you the wonderful New England states and where everybody is when it comes to this equalization tax. We are currently at 20 percent of the wholesale value. We are the lowest state in New England. On the back of the handout, you have a list of all of the states in the country and how they are taxing tobacco, and you will see it's a combination of different kinds of formulas. Whatever works, we'll figure that part out and it will be made equitable and fair and linked to the cigarette price, so that we tax tobacco and whatever tobacco product you get, it's taxed the same. That's fair, that's equitable, that's appropriate.

So Ladies and Gentlemen of the House, I implorably ask that you folks vote red on this motion. Let's turn this report over. Let's show people in the State of Maine that we actually are interested in a public health issue here, that this should be fixed regardless, and yes this bill began to also generate some of that money. Well, the money would all go to the General Fund. And okay, I confess. I was kind of hoping that maybe there might be a crumb of that money to go towards cancer prevention education for this state. It's a little bit of a broken record, but since I don't have any bills left, you're going to get to hear the fact that cancer is the number one killer of Maine citizens and education is critical. Early detection saves lives and costs a lot less to get it in the beginning than it does later on. So it's the classic win/win situation.

So Ladies and Gentlemen of the House, I ask you, I beg you, please follow my light, vote red, turn this over, show that we have a consistent public policy regarding tobacco. This is not about cigarettes; this is about all the other products. I'm sure you remember, I think people sort of know that we had a high rate of tobacco tax, but folks, that was a long time ago. We are now one of the lowest states. So this is just leveling the playing field. It's tobacco equalization, it's a loophole. Let's fix it. Thank you.

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. You heard some compelling testimony from my good friend, the Representative from Cumberland. However, I'm going to disagree on some of the points.

The process and the reason for this bill, as you can see in the title, has nothing to do with getting people off tobacco use. This bill had to do with funding a program that currently doesn't have any funding. This is a program that's asking us to tax State of Maine residents \$5 million. Many of us took a pledge and that pledge was to not raise taxes. I, for one, do not plan to raise taxes.

It's been proven in other states that when they overtax other tobacco products, they lose their market share. Not only do they lose market share, but when they lose market share they lose revenue. If we really want to get people off tobacco, whether it be cigarettes or other tobacco, ban the product. We can't do that, not in Maine. We rely too heavily on those taxes. This is about money. All of our tax increases that we have on any tobacco products, whether it be cigarettes or other, are about raising revenue. Thank you.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Sanborn.

Representative **SANBORN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm not going to speak long on this. I think that our good HHS chair, Representative Strang Burgess, presented the case well. I just have to say that there were those on our committee this year who, I believe, seem to forget that we were a health policy committee, and the issue seemed to be more about money and

that was quite openly stated. It was more about profit, it was more about money. I think that our role should be about protecting the health of all Maine citizens.

This bill really is about trying to keep kids from starting smoking, trying to keep them from causing all the serious health care consequences that come from smoking. We can do this. We know that it's effective. We know that if we equalize this tax that it will benefit our kids and that's what this is really about and that's what your vote should be about. Thank you.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative McClellan.

Representative **McCLELLAN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. First off, I don't smoke. I'm trying to think if anybody in my family or my wife's family smokes. I don't really think so.

A real quick story. I like horror movies, I like scary stuff, and one time when I was a kid I saw a real interesting vampire story where the vampire actually captured somebody and tied them up and just kind of fed off of them. It was just kind of like a savings account. It just kind of fed off of them and fed off of them. I thought that was kind of unique and I kind of see this. If we really want to deal with the smoking issue then let's be gutsy enough to propose that we end smoking and put a bill in saying, in the year 2028, that smoking is illegal in Maine. I'd be in on that. I just see this as just that vampire sucking off this tied up victim.

I want to say also that I'm on the Education Committee and early in the session we had some groups come to us with ideas for bills and they were good ideas for, I forget what they were. I know one was the Red Cross, I think. They were good ideas. We were struggling with money, didn't have the money, and said, how do you propose we pay for this? They said, well, the proponent of this bill had promised them money from this, and at the time, I found that pretty inappropriate, promising money that wasn't really there yet. So that really put me off on this bill and I'll be voting, I guess, with the Ought Not to Pass. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Bennett.

Representative **BENNETT**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I just wanted to defer to the good Representative from Augusta. We're looking to use tax dollars to clean it up. I heard that earlier when she was mentioning on another bill. Bruins, 2, Canucks, 2. We're trying to use the zamboni machine to clear the ice here, to clean it up at the state level. Follow my light. 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. Once again, we're looking at putting more tax on cigarettes and cigarette products. As I've stated before, whenever you tax a certain group only, that is the most unfair of all taxes. Look up the word "prejudice" in the dictionary, as I've said before, because that's what we're doing.

Also, I believe that we should make it fair; we should equalize it by bringing the tax on other tobacco products down to the tax what we have on these papers. Smoking is not illegal. Please do not tax one group of individuals over all the others. It is unfair. Thank you.

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

Representative **HARMON**: Thank you, Mr. Speaker and Ladies and Gentlemen of the House. Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **HARMON**: Thank you, Mr. Speaker. One of the issues that we talked about in Tax and I see it on the back of the handout that the good Representative from Cumberland had passed out was in regards to these little cigars. What I was told in committee, that per case it's going to be almost a \$300 tax increase. I see on the back of this sheet where there are exemptions or limits on these little types of cigars. I was just wondering, is there anywhere in the bill that that exemption takes place?

The **SPEAKER**: The Representative from Palermo, Representative Harmon, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Cumberland, Representative Strang Burgess.

Representative **STRANG BURGESS**: Thank you, Mr. Speaker. I want to try to answer the question as best I can, but I'm not sure that I'm going to provide enough facts to the situation. You know, there probably is a pretty large percentage from that standpoint because, as I said to you, a pack of cigarettes is \$6 and some odd cents and a pack of these little cigars that is exactly the same size is about \$1.89. So it would, in theory, they would become equal to do that.

The only last point I'd like to make and I'm sure we all want to move on is that yes this bill was designed to raise some revenue to pay for a cancer plan, but please remember how this process works, folks. This bill is about taxing or raising the non-cigarette tax to the same price as the tax on cigarettes, equalizing it. It goes to Appropriations and essentially they get to do whatever they would like with it, so it isn't necessarily saying that this bill only supports the cancer plan. It's projected to raise \$3.8 million the first year, \$5 point whatever the second year, and it's up to Appropriations what they do with it at that point. Obviously, sure, a lot of people would love to get their hands on some money, but right now I know the Appropriations folks would like to get their hands on some money to use for lots of things, so that's for them to decide. Thank you very much.

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 rise for a second time just to remind people that the number one health problem in Maine is not tobacco, it's obesity. Not once has anyone proposed an excise tax on Twinkies, on pizza, on prepared frozen meals that have 1,500 calories each. But we're going to attack other tobacco products now. We need to treat people fairly. If we're going to target unhealthy behavior, let's target it all or not target any. Thank you.

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

Representative **BRIGGS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Morally I rise in opposition of this bill. I lost both of my parents to lung cancer due to them being chain smokers for all of their adult lives, starting at early teenagers. This bill is to help educate the people of the State of Maine of what smoking does to them, and if this is another way to receive revenue to help that purpose, I can't help but support this measure. God knows we've tried to do this for alcohol. We know how devastating alcohol is and how much it destroys thousands and thousands and thousands of families, including mine, dealing with this type of issue with alcoholism as well.

I feel that this is a very important component with educating the State of Maine and if it helps somebody else, if it deters them and says I'm finally going to quit because it costs too much, it could save their life. It could save their life. So in all moral,

ethically, for me, this is the right thing to do. Thank you, Mr. Speaker.

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

Representative **PARKER**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I lost my father to lung cancer. I lost my sister to heart failure, which was a result of her smoking. I'm opposed to increasing any more taxes on tobacco. That may seem strange, but we are addicting ourselves as a state to the revenue, and if we ever try to ban smoking to benefit the people, there's going to be such a fiscal impact that anything we try to pass for legislation will fail. We have to be cognizant of the fact that we have to solve this problem, but we can't do it by taxing it because we're becoming addicted to the taxes. As a result, we will never reach the end goal we'd like to accomplish. Thank you.

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 remind the body that cancer is the leading killer of Maine people and that each day nearly 24 Mainers are diagnosed with cancer, on average. Each day nine die from the disease.

This bill is an effort to solve a loophole, to close a loophole in existing law where small cigars and loose tobacco are taxed at a different rate, at a lower rate than cigarettes. That difference, that loophole, has had a very damaging effect on our youth.

The Maine Public Health Association testified as follows: To combat the declining sale of cigarettes nationwide, the tobacco industry is introducing new generations of tobacco products at a rapid pace in an effort to keep people hooked. Whether it is smokeless products advertised to be used everywhere smoking is prohibited or flavored little cigars packaged in brightly colored crayon-like boxes, these products are attracting a new generation of tobacco users in a significant way. Youth are disproportionate users of these tobacco products. They smoke little cigars and cigarettes at a rate of 15 percent. More than 8 percent of kids say they use smokeless tobacco, with teen boys reporting use at a rate of more than 15 percent. Adult use of these products is a mere fraction of underage rates.

This bill does raise revenue in closing the loophole and helping to deter, as our tobacco taxes have done in the past, new youth smoking. It uses that money, \$2 million a year or so, to help fund cancer prevention and research. I think we can all agree that that's a very appropriate use. This Legislature ultimately would have to decide exactly how that money would be used down in Room 228 and up here. I think we can all think of better ways to use it than to encourage our young people to take up a new form of tobacco habit other than cigarettes.

Over 200 years ago, Adam Smith, widely cited as the father of modern free market economics, author of *The Wealth of Nations*, said this: "Sugar, rum, and tobacco are commodities which are no where necessities of life, which are become objects of almost universal consumption, and which are therefore extremely proper subjects of taxation."

Mr. Speaker, Adam Smith had it right, the good Representative who brought this bill to the Taxation Committee had it right, and I would encourage my colleagues to vote against 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. I rise in support of the pending motion. Somewhere in a distant pasture on the border of Maine and New Hampshire there is a fence holding in

the cash cow.

As the good Representative from Bowdoinham mentioned, the loophole that's been created, well, the loophole has been created through state greed and state spending, and how can we go back and fund this and how can we go back and fund that.

I tell you, I probably might be wrong but I don't think I am, that you could walk into any kindergarten class in this state, stand in front of that classroom and ask the question, who in this classroom thinks smoking or tobacco products are good for you? I don't think you'll see one hand go up. The education is there. Our children know smoking and tobacco products are bad for you. The adults know smoking and tobacco products are bad for you. Those of us above the age of 18 have a choice.

We find it so easy in our hearts, just like some of the bills we talked about yesterday, if I don't like it, I'm going to create legislation to kill it, ban it or tax it. Is that really what we've come to? Cars crash every day, it's a tragic thing. People die in car accidents. Well, I'm going to put in a bill to ban driving or I'm just going to double the tax on the sales of a car to cover costs. We've got to stop doing this. We've got to start letting people have choice. Whether those choices are healthy or unhealthy, pretty much people know that. So please follow my light and vote this bill down and continue to give people choice. Thank you, Mr. Speaker.

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

Representative **BEAUDOIN**: Thank you, Mr. Speaker. Mr. Speaker, Members of the House. I'm not going to talk about others. I'm going to talk about myself. Years ago we didn't know what would happen to you when you smoked. In my day, everybody smoked. Movie stars, everyone did. If you didn't, you were the oddball. Of course, like my specialist for the lungs said lately, "And of course, Paulette, you had to be chic and follow the others." Yes, I did. But in the process I ruined my lungs. That was 10 years ago. I stopped smoking 32 years ago, but the damage was done, and as I'm getting older it's getting worse, the problem is getting worse, so it never stops. When I see someone pick up a cigarette I could scream and tell them how awful because of what's going to happen to you. I wish nobody did. I wish they'd stop.

The cigarette industry is going further. They're making cigarettes now that are very attractive to kids. They're like a candy. I think that's sick and I cannot understand why our government doesn't stop this. I'm sorry. Money is the root of all evil and as far as smoking is concerned, it is still. The cigarette industry is very strong and I wish something could be done about it. But there is one thing we can do here and I think bringing up the price, I always say the higher it goes, maybe, just maybe it will stop even two kids from stopping and not starting, or even grownups, for that matter. I wish people didn't. I wish in my day we knew what it would do to you, but we didn't. But today you do know that it's going to ruin your life. That's it. Thank you, Mr. Speaker.

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 apologize for getting up and taking up time a second time, but we need to make sure, on the record, we are giving people the facts.

According to the Maine Department of Human Services, the leading causes of death in Maine for adults greater than 24 years of age are the same as for the rest of the country: Cardiovascular disease including stroke, diabetes, chronic disease. According to the Center of Disease Control and Prevention, Maine had the fourth highest percent of people in the

nation who died from these diseases. It is estimated that three-quarters of Maine people die from these chronic illnesses, which are among the most preventable through proper eating and nutritious food. Once again, we did not tax whoopie pies. We made it a state dessert. Thank you.

The Chair ordered a division on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

A vote of the House was taken. 67 voted in favor of the same and 55 against, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Eight Members of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (H-582)** on Bill "An Act To Legalize the Sale, Possession and Use of Fireworks" (EMERGENCY)

(H.P. 71) (L.D. 83)

Signed:

Senators:

MASON of Androscoggin
WHITTEMORE of Somerset

Representatives:

PLUMMER of Windham
BURNS of Whiting
HANLEY of Gardiner
LONG of Sherman
MORISSETTE of Winslow
SANDERSON of Chelsea

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

Signed:

Senator:

GERZOFISKY of Cumberland

Representatives:

CLARKE of Bath
HASKELL of Portland
LAJOIE of Lewiston

One Member of the same Committee reports in Report "C" **Ought to Pass as Amended by Committee Amendment "B" (H-583)** on same Bill.

Signed:

Representative:

BLODGETT of Augusta

READ.

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

On motion of Representative CURTIS of Madison, **TABLED** pending the motion of Representative PLUMMER of Windham to **ACCEPT** Report "A" **Ought to Pass as Amended** and later today assigned.

Committee of Conference

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act Regarding the Attendance of Attorneys at Pupil Evaluation Team Meetings"

(H.P. 822) (L.D. 1110)

has had the same under consideration, and asks leave to report:

That the House RECEDE from PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-251). RECEDE from ADOPTION of COMMITTEE AMENDMENT "A" (H-251) and INDEFINITELY POSTPONE same.

That the House READ and ADOPT COMMITTEE OF CONFERENCE AMENDMENT "A" (H-590) and PASS THE BILL TO BE ENGROSSED AS AMENDED BY COMMITTEE OF CONFERENCE AMENDMENT "A" (H-590) in NON-CONCURRENCE.

That the Senate RECEDE and CONCUR.

Signed:

Representatives:

STRANG BURGESS of Cumberland

RANKIN of Hiram

RICHARDSON of Carmel

Senators:

MASON of Androscoggin

HASTINGS of Oxford

DIAMOND of Cumberland

The Committee of Conference Report was READ and ACCEPTED.

Subsequently, the House voted to RECEDE.

Subsequently, Committee Amendment "A" (H-251) was INDEFINITELY POSTPONED.

Subsequently, Committee of Conference Amendment "A" (H-590) was READ by the Clerk and ADOPTED.

Subsequently, the Bill was PASSED TO BE ENGROSSED as Amended by Committee of Conference Amendment "A" (H-590) in NON-CONCURRENCE and sent for concurrence.

CONSENT CALENDAR

First Day

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

(S.P. 52) (L.D. 159) Bill "An Act To Foster Economic Development by Improving Administration of the Laws Governing Site Location of Development and Storm Water Management" Committee on ENVIRONMENT AND NATURAL RESOURCES reporting Ought to Pass as Amended by Committee Amendment "A" (S-139)

(S.P. 327) (L.D. 1094) Bill "An Act To Improve the Delivery of School Psychological Services to Children" Committee on EDUCATION AND CULTURAL AFFAIRS reporting Ought to Pass as Amended by Committee Amendment "A" (S-279)

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

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

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

ENACTORS

Acts

An Act To Reduce Regulations for Residential Rental Property Owners

(H.P. 889) (L.D. 1198)

(C. "A" H-575)

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

On motion of Representative NASS of Acton, was SET ASIDE.

On further motion of the same Representative, 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-575) was ADOPTED.

The same Representative PRESENTED House Amendment "A" (H-595) to Committee Amendment "A" (H-575), which was READ by the Clerk and ADOPTED.

Committee Amendment "A" (H-575) as Amended by House Amendment "A" (H-595) thereto was ADOPTED.

The Bill was PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-575) as Amended by House Amendment "A" (H-595) thereto 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.

SENATE DIVIDED REPORT - Majority (10) Ought to Pass as Amended by Committee Amendment "A" (S-64) - Minority (3) Ought Not to Pass - Committee on EDUCATION AND CULTURAL AFFAIRS on Bill "An Act To Allow School Administrative Units and Educational Advisory Organizations To Participate in the State's Group Health Plan"

(S.P. 200) (L.D. 619)

- In Senate, Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-64).

TABLED - May 11, 2011 (Till Later Today) by Representative CURTIS of Madison.

PENDING - Motion of Representative RICHARDSON of Carmel 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" (S-64) 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-64) in concurrence.

HOUSE DIVIDED REPORT - Majority (8) Ought Not to Pass - Minority (5) Ought to Pass as Amended by Committee Amendment "A" (H-237) - Committee on HEALTH AND HUMAN SERVICES on Bill "An Act To Include Medicinal

Marijuana Patients in the Controlled Substances Prescription Monitoring Program"

(H.P. 654) (L.D. 887)

TABLED - May 17, 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 Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (7) Ought to Pass as Amended by Committee Amendment "A" (H-268) - Minority (6) Ought Not to Pass - Committee on LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT on Bill "An Act To Amend the Labor Laws Relating to Certain Agricultural Employees"

(H.P. 898) (L.D. 1207)

TABLED - May 19, 2011 (Till Later Today) by Representative PRESCOTT of Topsham.

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

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

Representative **CRAFTS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Thank you for this opportunity to speak on this. I did get a call three days ago. I just want to give some additional information from Quality Eggs of Maine from Chris Grimbalis to inform me that there is an ongoing negotiation on the sale of Quality Eggs of Maine and that there is a division of Land O'Lakes that is negotiating with them now and that the nonstarter of the negotiation is the contractual abilities to unionize, and the company that is interested owns several farms around the United States. California, Texas, I think Maryland, and none of them are unionized. I just wanted to also, for the record, say that this is new information for me that I learned three days ago. I just want to say that on record, that somebody may want to suggest that I put this bill in for him to work this deal. I did not.

Now I'd like to give my testimony on LD 1207, which was introduced to repeal a Maine law, 26 MRSA 1321, uniquely giving collective bargaining and organizational rights to the workers of essentially one egg farm in Maine. No other farm in the state is subject to such a law. From the day of the passage of this law, it is obvious the intent was to punish one farmer for allegations occurring long ago.

The law LD 1207 would repeal and not only flies in the face of the legislative mandate not to single out one individual, it flies in the face of the National Labor Relations Act which excludes agricultural workers from the Act's reach as well as the underlying reason for the National Labor Relations Act's exclusion on agricultural workers. The National Labor Relations Act, 29 USC 152, provides, when used in the Act the term "employee" shall include any employee but shall not include any individual employed by an agricultural laborer. Maine's Labor Relations Act also generally excluded agricultural workers.

The predicate to the National Labor Relations Act was legislation begun with a New Deal recovery program which was divided into industry and agriculture, from its inception, to restore the nation's economy to operating efficiently. Two broad programs were created, one for agriculture, the Agricultural Adjustment Act which was never contained organizing rights for workers, and one for industry, the National Industrial Recovery Act which was, from its inception, was responsive to the demands of organized labor. Both were enacted in 1933.

In 1939, when the scope of the agriculture exclusions from organized labor was being debated in Congress, it was argued and concluded that the National Labor Relations Act coverage of agricultural workers would impose unbearable hardship on farmers. This was primarily owing to the perishable nature of agriculture commodities and the consequent need for uninterrupted harvesting and preparation for market, in addition to the farmers' lack of control over production and price. These commodities are such a highly perishable nature and these farmers have their efforts all tied up in the field and when trouble comes, strikes come, and the propositions are advanced by the labor groups which are impossible to meet, absolutely impossible, and then the farmer is lost and has no place to go. His product must move. This is why agriculture should be exempt.

The three corporations that make up what used to be called DeCoster Egg Farm employs 190 workers. First, in 2010 alone, the payroll of these companies was approximately \$3,866,659, just under \$4 million in total. Of that, \$99,000 went to the State of Maine by way of withheld income tax. An additional 15.3 percent, just under \$600,000, was paid to Social Security and Medicare by the farms and their employees by way of withholding. An additional \$230,000 was withheld for federal taxes.

In addition, many of the workers buy lunch in Turner and surrounding communities every day. At \$6 per lunch is \$1,100 per day, equaling \$400,000 per year. Countless other retailers are also the beneficiaries of the consumption of egg farms' employees. Cars, clothing and all types of household goods are purchased, of course, with the result of sales tax occurring for the State of Maine. The company also contributes \$400,000 to \$500,000 in real estate excise tax for trucks and other vehicles owned by the company. They produce and ship 120,000 dozen eggs a day. Grain is stored at chicken feeds in Leeds, Maine, which also pays real estate tax. They purchase approximately \$45 million a year by the company for grain. More indirect payment is estimated that \$2 million is paid by the company to hire Maine trucking industry that transports these eggs.

These farms also assist dairy farmers all over the State of Maine. Hen manure is used by dairy farmers, generally in the amount of about 100,000 tons of fertilizer per year. Because of the high cost of fuel and therefore the transportation, the savings realized of these dairy farmers, savings of about \$55 a ton or \$5.5 million per year when compared to commercial fertilizer from other sources. This helps approximately 65 to 80 dairy farmers within the State of Maine. Aside from paying real estate taxes on much of the land owned by the farmers, much of the land is used by those in the dairy business to grow hay, corn and cattle feed for Maine dairy farmers.

Last, LD 1207 seeks to repeal the law that targets one farmer out of more than 5,000 who work, operate, and produce in the State of Maine. The law sought to be repealed are exceedingly unfair, probably unconstitutional under both Maine and United States Constitutions as just targeting one farm. For these reasons, LD 1207 ought to pass. If it does not, it will be the workers as much as, more than management, and the economy of central Maine that will be harmed to a very significant degree. Thank you.

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

Representative **TUTTLE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I would hope that you would defeat the pending motion. It is current law and investigative diligence, in my opinion, that should be cited for keeping the DeCoster farm at a higher level. DeCoster farms in Iowa were blamed for the 2010 salmonella outbreak. The barns

there look like the Turner barns and before Maine litigation tightened that oversight. DeCoster Egg Farms are run more like an assembly line factory and not like a traditional Maine farm. The list of legal violations and lawsuits against DeCoster Egg Farm and Jack DeCoster include repeated violations of federal minimum wage and overtime laws, health and safety violations, violations of child labor laws, and numerous public health and safety...

The SPEAKER: Will the Representative defer. The Representative from Topsham, Representative Prescott, will she state the reason for why she rises.

Representative PRESCOTT: Mr. Speaker, Point of Order. I'm wondering about the germaneness to the argument here. We are debating LD 1207 and not the past history of DeCoster Egg Farm.

On POINT OF ORDER, Representative PRESCOTT of Topsham asked the Chair if the remarks of Representative TUTTLE of Sanford were germane to the pending question.

Representative TUTTLE: Mr. Speaker, if I might...

The SPEAKER: Representative Tuttle, go ahead.

Representative TUTTLE: I would think that the history does have a direct bearing on what we're doing today.

The SPEAKER: The Chair is willing to allow some latitude to look at a brief history, a brief history of Jack DeCoster, but if you concentrate on this LD that would be great.

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

Representative TUTTLE: I will try. Thank you, Mr. Speaker. This bill would provide the opportunity for exploitation of workers who are poor and unable to defend their own interests. No amount of birds to be fed, eggs to be processed, or money to be made can justify the mistreatment of honorable workers. The current laws are not only justifiable, but they should be broadened because groups like Domestic Workers and Farm Workers are exempt from federal policies, such as the National Relations Act and Fair Labor Standards Act.

In reference to the latest statement that Land O'Lakes is interested in buying the DeCoster property in Turner, my response is why should we trust Jack DeCoster in this latest rumor when we have been lied to for the last 20 years, Mr. Speaker? How is repealing collective bargaining rights...

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Crafts, to state his Point of Order.

Representative CRAFTS: Thank you. I'm sorry, Mr. Speaker, but this is not germane to this bill whatsoever.

On POINT OF ORDER, Representative CRAFTS of Lisbon asked the Chair if the remarks of Representative TUTTLE of Sanford were germane to the pending question.

The SPEAKER: Once again the Chair would rule that we have allowed discussion briefly about DeCoster's operation. We have also allowed discussion briefly about the possible future of Land O'Lakes's operation. I think they have both had equal time. I think we can now move away from Land O'Lakes and Mr. DeCoster and move to the merits of the bill.

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

The SPEAKER: Representative Tuttle may proceed.

Representative TUTTLE: Thank you, Mr. Speaker. I did feel compelled based upon the new information.

The SPEAKER: I understand.

Representative TUTTLE: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I received a letter from Bishop Richard Malone of the Catholic Dioceses of Portland and I'd like to share it with you.

The Catholic Church has for decades been outspoken in defense of workers and worker rights. We take this position out of the conviction that work must always be at the core respect and serve to enhance the dignity of a human person. Work of its own accord has no value. It is the human element present in work that brings value. It is from this perspective that we oppose LD 1207. If enacted, it would impact upon the lives of the most abused, most forgotten, most ignored laborers in America. The agriculture worker and specifically those working in the egg processing industry, my personal history with issues impacting upon egg processing workers in a certain particular plant goes back several decades. I can still vividly remember the documented abuses to workers which led to a lawsuit in which the Catholic Church pardoned fathers. Members of the Legislature, I humbly ask that you would scrutinize this proposal and judge it on its merits, that this bill recognize the respect, the God given dignity of a worker, and what it proposes to do, or does its unintended consequence further exploit vulnerable agricultural workers. Indeed, the answer is the latter. You have no choice but to vote this bill down, Ought Not to Pass. Thank you, Mr. Speaker.

Representative CAIN of Orono 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 Topsham, Representative Prescott.

Representative PRESCOTT: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Since when do we discriminate one business against all the others? I think the courts are the ones that should handle the infractions of law and anything that a company does that is against the law is not to be handled here in this body. That's why we have the courts. This bill is not about Jack DeCoster or the DeCoster Egg Farms and the Representative that just spoke is assuming that a lot of negative things are to come on the history of one owner versus a new owner. In my eyes, you are guilty until proven innocent. Why do we trust all the other agricultural businesses and egg farmers in this state, but we're not going to trust a possible new business coming to the State of Maine?

Representative Crafts gave you a very good history of why this bill came about and what it does, and it's very simple. This is about a large business coming to the State of Maine with a clean slate, a brand new reputable company that wants to be in the egg business, and all other egg farms in the State of Maine go by one set of rules but this one would have to go by a different set. In my eyes, that is completely unfair. We are looking for bringing jobs to the State of Maine. We all ran on that platform: Jobs to the State of Maine. The town of Turner absolutely positively supports this business and they don't want to see the doors close. But this new business needs to abide by the same set of rules as every other agricultural farm and every other egg farm in Maine. This is about righting a wrong and I believe we need to welcome this new business into the state, fix this law...

The SPEAKER: Will the Representative defer. The Chair recognizes the Representative from Deer Isle, Representative Kumiega, and requests the reason for his standing.

Representative KUMIEGA: Point of Order, Mr. Speaker. We're discussing the bill and not a prospective business that may acquire another business in the State of Maine.

On POINT OF ORDER, Representative KUMIEGA of Deer Isle asked the Chair if the remarks of Representative PRESCOTT of Topsham were germane to the pending question.

The SPEAKER: The Chair would ask that from now on we don't use the words "DeCoster" or "Land O'Lakes." If you can argue your point in the abstract without referring to those two pieces you can talk about the history, you can talk about what might be to come. I would still prefer that you stick to the topic. If not, we're going to be here through lunch. So one more time, let's stay away from the words "DeCoster," let's stay away from the words "Land O'Lakes," and briefly, every so briefly, discuss the history and the future. The Representative may continue.

The Chair reminded Representative PRESCOTT of Topsham to stay as close as possible to the pending question.

Representative PRESCOTT: Thank you, Mr. Speaker. I will end my comments by saying that the legislation that we are trying to correct was punitive against one company in the State of Maine. That was 15 years ago. We need to fix this today and move on. I will be gladly pushing my green button and I hope you will be too. Thank you.

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

Representative HARVELL: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm glad a name was mentioned because I was having trouble figuring out what it meant when it said a farm with over 300,000 laying hens. One might as well pass a law that says it only applies to middle aged, balding, loud mouth fat men from Farmington. The reality is such laws do not work for this very reason.

A rap sheet was handed around by a named source that shows that not only the law didn't stop the offenses in this state, one would only have to look at two other states to why they haven't been enforced. But that's not the problem. The problem is you want to stop the actions of this, whatever we're going to call it, the very competition that may come in behind this is affected by the decision you've made against whoever, and that is it doesn't work. It doesn't work. You're penalizing a future person from a past person's actions. It's absurd. If you want to stop it, get rid of this and someone might come and take him out with a free market.

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. When we go before committee with potential new laws or new resolves, one of the first questions that gets asked to us, how's it done around the other states locally, around New England? Then we're asked further, how about the rest of the United States? How do we compare with them? We don't want to be an outlier. We don't want to be different than all of the other states.

You heard with a bill earlier about how we wanted to raise the tax because it would put us more in line with other states. Well, I think we should be in line with a lot of other states because there is only one state besides Maine that allows agricultural employees to unionize, and that is the second most liberal state in the United States, and that is California, behind Maine. Thank you, Mr. Speaker.

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

Representative GILBERT: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I urge you to oppose this motion.

When LD 1207, "An Act To Amend the Labor Laws Relating to Certain Agricultural Employees," was presented to the Joint Committee on Labor, Commerce, Research and Economic Development 16 people testified on the bill, in addition to the bill's sponsor and a couple of cosponsors.

Of those 16 people testifying, three testified in favor of the bill and 13 testified against. The three who testified for this bill were a company boss, a lawyer engaged by the company, and a line supervisor who said that he was told to attend the hearing to support the company's position but was not told the full substance of the bill to be heard.

Testifying against LD 1207 were two non-English speaking workers, testifying through an interpreter. They were brave and in relating their work experiences and broken promises. Each left his homeland based on empty promises for a better life by recruiting contractors on the company's behalf. The promises included paid round-trip transportation for coming here to Maine to work.

However, upon receiving compensation for their 80 to 90 hour work week, they soon realized that those transportation expenses were deducted from their wages. By the way, 80 to 90 hours per week is a normal work week for these minimum wage workers. The original bill sought to remove the required overtime for these workers. Men and Women of the House, we are talking about permanent workers here in Maine. We are not talking about migrant seasonal farm workers with H-2A visas. Protections accorded to migrant seasonal farm workers do not apply to them.

Also submitting testimony against this bill included Maine's Roman Catholic Diocese of Portland; the Maine AFL-CIO; James Tierney, current director of the National State Attorneys General Program; the Immigrant Legal Advocacy Project; the Maine Chapter of the National Association of Social Workers; the Maine People's Alliance; and the Maine Women's Lobby, among others.

After reading the bill and listening to testimony, I can say that the affected company gave three reasons for repealing the current law: One, they have posted federal and state postings for employees as required of every employer. That was reason number one. Number two, an argument to support this bill, the second argument was that they provide personnel handbooks in English and in Spanish to their workers. And number three, that they are a farm.

Mr. Speaker, the law that we have in place should remain as is. The law does not regulate farms as we are accustomed to thinking of farms here in Maine or anywhere else. This is an industrial factory farm that produces eggs from more than a half a million hens that are tightly caged. The business employs more than 180 people. True, it employs some people who cull dead chickens from those cages every day and perform farm duties that are associated with large industrial factory farms like no other here in Maine. Of those 180 workers, more than half, 55 percent, about 100 are employed as mechanics, equipment operators, inspectors, hand packers, cleaners, office workers, and more. Is this a family farm as we visualize a family farm? I don't think so.

The current law was adopted because the company, now advocating for its repeal through the passage of this bill, has a history of legal violations and lawsuits that include violations of federal minimum wage and overtime laws, health and safety violations, violations of child labor laws and public health and safety transgressions. These violations, spanning decades beginning in 1975, began here in Maine and spread to other states such as Iowa and the Carolinas, where this company has other industrial factory farms.

Ladies and Gentlemen of the House, I ask you to be fair to the workers that this bill promises to harm. I ask you stand for all those who work here in Maine. Our current law protects workers on industrial factory farms and it is fair. I ask you to vote no on LD 1207 and support some of our most vulnerable workers who toil on Maine's only industrial factory farm. Again, I urge you to protect the rights of these workers and vote no. Thank you.

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

Representative **SHAW**: Thank you very much, Mr. Speaker. Mr. Speaker, Men and Women of the House. I have a slightly different take on this bill and I think most of you will be interested to hear about it. But first I'd like to say that we hear a lot about jobs and I would just like to say that I believe every single person in this room and down at the other body is interested in preserving and increasing jobs in the State of Maine. It's not about pegging one Representative or Senator against the other because of their take on jobs. We all have an interest in creating good jobs in the State of Maine.

Now on to my topic, if you look at the current law and I will stay strictly to the germaneness of this bill, Mr. Speaker. If you look at the current law it talks about an egg processing facility. The bill talks about agricultural employees. Now I've been working for the DECD for several years on the Pine Tree Development Zone law and this is what people here will find interesting, I believe. These facilities that have more than 300,000 laying birds, if you look at the current law, it talks about egg processing facilities. You can think of it as a factory. This would probably, if you eliminated the fact that it was agricultural, it would probably fall under the Pine Tree Development Zone law. The money that this company would save, the company that is coming to potentially purchase this facility, would save countless more dollars by using the Pine Tree Development Zone law and paying the minimum wage to their employees than not paying the minimum wage to their employees and trying to say that they're an agricultural facility.

So I would be happy to work with the DECD, the company that is potentially coming in to buy this, the sponsor of the bill, anyone on the BRED Committee, to try to get this new company qualified because they would qualify if we said that they're an egg manufacturer, they would qualify under the Pine Tree Development Zone law. That law provides far better, much far better benefits, especially for a new company because they get one percent of the benefit and in that area they would qualify for 10 years of benefits. So I'd be happy to work with anybody to get them qualified as a Pine Tree Development Zone business and I think we should vote down the current motion, because if they did go with the Pine Tree Zone law, they'll make a heck of a lot more money and this would not even be considered because they would have to pay at least minimum wage. Thank you, Mr. Speaker.

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

Representative **TIMBERLAKE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I stand before you as a Representative of most of those employees, 190 employees we're talking about. As a Representative of all of the businesses that we're talking about that are represented here – Radlo Egg, Dorothy Egg and Quality Egg – I can tell you that as a former selectman of our town that this organization pays a lot of taxes, property taxes to our community, and it would be a devastation to have this farm shut down because they couldn't compete in the fair market value in the State of Maine, because we have a law in the State of Maine that is different than any other except for the State of California.

I think that after giving long thought to this, you really need to support the people of the town of Turner in my area because this is important to them, the employees that work there, because you've got to understand for all that we talked about today, the man that owns this, I'm not going to mention any names, but he could walk away tomorrow and abandon it. It was talked about a year and a half in the town of Turner with our selectmen of him

closing down and walking away. It would be a devastation to our community. We'd look at almost a 10 percent tax increase on all of our houses in the town and our schools. You really have to look at who you're really going to affect here. The guy that owns this, he doesn't need the money. He doesn't need it. He could walk away tomorrow morning, okay? This is business. We're talking about something that is going to totally affect a community.

For any other reason in the world that you can look at yourself today, you talk about all the people and all the people, I've heard about how they're imported here from other countries and so forth. Well, if he closes down tomorrow morning, they're definitely not going to have a ride home, okay? They need to go to work tomorrow. They shop at my stores, they visit at my farm. They are part of it, okay? This isn't about any person. This is about three different organizations and the value of their property. You're robbing the value because we're the only other state other than California that has this law, and it lowers the value of the property. If we want it to go away, pass this bill and follow my light. Thank you, folks.

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. I want to thank the Representative from Lisbon, Representative Crafts, for mentioning that the prospective buyer has facilities in California. California can have unionized agricultural workers, so this should not be an issue in any further negotiations. They should just be used to it. And speaking of negotiations, they don't always go right. If this were signed and a contract was had I might be more supportive, but I don't see that.

Well, let's get back to Maine. Maine can have unionized employees, but they haven't. They have not exercised that right. They are allowed to, but they have not. I put it to you. Just because somebody does not own a gun does not mean you take that right away from them. I think this is a bad path to go down. You want to take a right away from somebody who has not exercised that right. It doesn't mean they shouldn't have it. Thank you, Mr. Speaker.

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 is repealing laws that govern labor relations between agricultural workers and an agricultural employer considered discrimination of this particular factory farm?

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 Hallowell, Representative Treat.

Representative **TREAT**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I don't rise to answer the question, but I was in the queue, I guess, at this point. I urge you to vote against the pending motion. First of all, I don't think that workers and the rights of workers should be used as pawns in some corporate negotiation that has been mentioned here, that at least some of us don't know any of the details of. I don't really think that that is an appropriate place to go.

Second of all, I think history is important. We've had a number of people posing points on the floor here and questioning the germaneness of history. I think germaneness of history is pretty evident. We are bound to repeat history that we do not know and heed, as is so often said by many, and the history here

is that this law was enacted in the first place, actually when I was serving in the other body so I am very familiar with the reasons why it was enacted, and it was enacted to allow these workers to collectively bargain in response to outrageous working and living conditions in a large factory-like operation back in the 1990s.

I'd also like to point out that the statement that has been made repeatedly on the House floor that there is only one other state that allows such collective bargaining is actually not true. The State of New Jersey has enshrined in its constitution the right to bargain for all workers and in fact in New Jersey, in the 1980s, they did organize an agricultural union and not even in a factory situation, but for farm workers involved in picking broccoli and other vegetables. The fact that these Maine employees have not yet organized a union despite having the right to do so is of no import. The right to organize and to improve your lot is a basic right that should not have an expiration or sell by date. Please vote against the pending motion and in support of basic human rights and human decency.

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

Representative **BLODGETT**: Thank you, Mr. Speaker. Mr. Speaker, Members of the House. In addition to this being a serious labor issue, it reminds me of another issue, an animal abuse registry. I believe if we'd had this in place, this so-called unnamed company would probably have been at the top of this registry. Please vote against this pending motion. Thank you.

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

Representative **VOLK**: Thank you, Mr. Speaker. I'd like to sort of talk about the history of how we've wrestled with this bill, because we did wrestle in committee with this bill tremendously. The original bill would have removed the right to organize and it would also have removed time and a half. As a compromise the amended version, which you have before you now, leaves in the right for these workers to continue to earn time and a half for their overtime work. These people do work very, very hard. They work upwards of 80 hours a week sometimes. They do receive overtime pay for that, so I just wanted to make sure that everybody understood that.

You know, OSHA is a very important governmental oversight agency and it's pretty much a given. You can talk to any business owner and if OSHA comes to do an inspection, chances are they are going to find a violation. That's just pretty much how it works. Our family business, Volk Packaging, we run a very tight ship. Some of the Representatives here have been and had a tour and there were no obvious safety violations. We try very, very hard for the safety of our workers. They are like family to us. I don't know that it's true in the case of the company that we are talking about right now, but I do know that an egg farm is a very messy place. You are dealing with a lot of chicken poop. You are dealing with chickens who die. You are dealing with farm buildings that have sometimes been built many, many years ago and it would be probably a huge challenge to never have an OSHA violation found at a chicken farm, and my guess is that all across the country OSHA has visited chicken farms and probably never left without issuing a violation.

I know that our business has had violations and I also understand the State House has had OSHA violations. So talking about this farm having OSHA violations, you know you've got to put it in the proper context. But should OSHA be on this company? Absolutely. Given the history, you know I think they should be in there on a regular basis and I believe that that is the case and that that does happen. That's the purpose of a governmental agency. Should the Maine Human Rights Commission be actively investigating this company and staying

on top of them? Absolutely. Is it the job of this body to pass laws to penalize one company? Absolutely not. That is not the job of this body. So I ask that you would follow my light and uphold the pending motion.

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 will be very brief. I want to point out that the employees that we're referring to and that we're talking about have had many years to organize, should they have chose to. They have not chosen to organize. This bill does not hurt them in any way because they were not taking away anything they've had. They haven't unionized. If they were unionized and we were trying to take that away. They haven't unionized. They haven't shown any interest in any unionizing. I believe that we all probably have our minds made up pretty much how we're voting on this and maybe we should get on with it. Thank you.

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

Representative **GOODE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just want to respond to some of the different arguments that I've heard as this debate has gone on. One of the first arguments I've heard pretty consistently is people pointing out that we shouldn't craft laws that impact one company. The second argument is that Maine is straying from the norm.

On the first argument I would point out that we draft laws to improve the lives of people, to fix problems and to make Maine a better place. The original bill that was passed in '97 that granted factory farm workers on large-scale egg farms the right to organize for a better life grew out of these exact goals: Fixing problems, improving lives, and making Maine a better place. We should be passing laws that make Maine a better place, not repealing them. If our communities were confronted with a drunk driver who broke the law repeatedly, injured people repeatedly and somehow was able to do it again and again, we would seek any kind of remedy that we could, including legislative remedies. The people of Maine and the workers that we're talking about here today have faced a similar situation for 50 years. A group of workers was victim to an institution that repeatedly and habitually broke the law, faced consequences and penalties, and then did the same thing over and over. Faced with this situation I would ask, what should people do? Passing laws like the 1997 bill that granted these workers the right to have their voice heard is very, very reasonable.

The second argument that we've heard consistently is about Maine straying from the norm by granting collective bargaining rights to these factory farm workers. The National Labor Relations Act, passed in 1935, is the primary federal law that establishes a worker's right to organize in a union. It lays out clear processes and procedures for collective bargaining. In 1935, racially discriminatory laws prevailed in much of the United States. In drafting the National Labor Relations Act Congress deferred to such laws by excluding two categories of predominantly non-white workers, agricultural laborers and domestics, from these labor protections. This was done in large part to gain southern votes needed to pass the NLRA. The National Labor Relations Act does allow states to grant collective bargaining rights to workers not covered under the NLRA, such as agricultural workers. For example, we've heard about California having their California Agricultural Labor Relations Act established in 1975. This allows agricultural workers to organize and establishes collective bargaining processes and procedures for these workers. Maine legislators passed the Agricultural

Workers Labor Relations Act in 1997 granting employees working at egg processing facilities these same types of rights. It's perfectly compatible with federal law.

I'd also like to reflect on my experience as a lifelong Mainer, knowing that our state's motto is "I lead." I don't feel like our state prides itself on following every other state. When we cross the border to come into our state, it says "The way life should be," not "Maine, we're like the rest of the country." I think I've also heard a number of comments about how these workers do not use their right to organize. I don't feel like a right disappears should you not use it. Just because you may not vote does not mean that that right would disappear. So I urge you to vote against the pending motion. Thank you.

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 was present at the public hearing and work session that we had. There was testimony by the attorney Daniel Bates representing the farm in question, and I asked him if he could provide me with, he was making representations that the owner of the farm was making sure that things were being bettered at the farm and, over a specific period of time, that things had been better. However, it seemed to be a contrary statement to what's available from certain sources on the internet or in the press, and so I asked the attorney that represents the specific farm if he could provide me with any information with respect to serious or willful violations, the company had been cited for by the Occupational Safety and Health Administration over the past decade. He refused to offer me that information; however, it is readily available to anybody that might want to look that up.

I just wanted to speak just to a couple of comments that have been made here on the House floor with respect to this process. Obviously a lot of us here have all served on city councils, town councils, school committees, specific boards, economic development committees in our communities, and you know we're all sort of looking to bring business to our communities. Businesses will not only provide jobs, income and security to our residents, but also businesses that will, you know, become a real meaningful part of the community, somebody who supports the community and the people who live and work in the community and have respect for the community as well. You know, I just have a concern. I mean there were some comments here made around, you know this business apparently pays a lot of property taxes in the community that it operates, but you know, from this history that I see and further disregard of people who live in that community from the history that I see at specific times, in past history, fairly recent past history, I'm not sure that this business has had the community in its best interest at these certain times with respect to health and safety. So I kind of question, you know, are communities willing to sacrifice the health and safety of their citizens? Not only that, but to bring business into the community that support their employees in a respectful way.

Representative Crafts from Lisbon, he presented testimony to us in the committee. He spoke to the fact that about 75 percent of the workers at this specific farm are Hispanic in nature and it just, you know, at the committee hearing there were a number of what I would consider Hispanic folks that were there to testify and those folks needed an interpreter. So I just, you know, to look at changing laws such as this that impact workers who don't necessarily all speak English, I just look at it as kind of you know a discriminatory act toward the workers to take something away from them that they have always enjoyed in the workplace, solely to help a business that is in place that's had a history of not necessarily helping the employees that work in that business.

You know, since when do we discriminate against one business? I think the Representative from Topsham, Representative Prescott, had brought up that question. I think it's, you know if you just look at the history of this specific business, I think you can see why action had to be taken care of with respect to that business, because of the business's egregious and woeful disregard for the health and safety of its employees as well as the community, as well as the apparent depth of people with respect to their disregard for health and safety issues within their disregard for health and safety issues within their own factory. I haven't seen and this is all new to me. I just heard about it either this morning or I believe it was this morning; there wasn't anything that was brought up in committee. However, you know that doesn't surprise me because there have been other issues that we've dealt with here in this House, this session, that I've kind of questioned the process.

But in any event, the fact that there is apparently some business out there willing to take over this farm and turn things around, well you know, like I said, we've all, a lot of us have been involved with negotiations and people coming to our towns and promising a lot of things. A lot of times those lofty words and discussions fall through the cracks and essentially leave us with nothing. You know, I'd like to see something in writing. I'd like to see some kind of a contract if somebody is deciding to take over this farm factory to correct the rights that have been wronged over the years. I haven't seen that. I mean essentially we're going by hearsay here and I didn't think that was ever a proper thing to do, you know, when you're looking to make those types of significant changes in your community, especially where you have the people's, the taxpayers' welfare in your hands with respect to making those kind of deals.

So you know to make these unsubstantiated, from my perspective, types of last minute assertions, we have nothing. We have nothing in our hand that says somebody is going to go over and take over this farm and we're going to correct all of the wrongs that have been created over the many years that this current owner has owned this facility. We have nothing, nothing but hearsay. Provide me with something on paper. I'm willing to look at it and my hope is that somebody that does have regard for health and safety and human rights and respect for their workers, I hope somebody would go in there and take this process over, and I think the town of Turner would be better for it as well as its residents. That's all I have to say, Mr. Speaker. Thank you very much.

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

Representative TUTTLE: Thank you, Mr. Speaker. Has a roll call been requested?

The SPEAKER: The Chair would answer in the affirmative.

Representative TUTTLE: Thank you, Mr. Speaker.

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

Representative GILBERT: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'd just like to comment on a couple of things. In the hours of testimony that we heard in committee, no one testified that the current law put the company in jeopardy.

The other thing that I'd like to point out, I've heard testimony of speakers here today talk about that they never organize, they don't need it. Does that mean since I don't have a concealed weapons permit because I haven't seen the need for it, that I should provide a concealed weapons permit in the future? Thank you.

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Black.

Representative **BLACK**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This bill not only affects the employees of this agricultural farm that we're talking about and its availability to stay in business, but it also affects many other farms in the central Maine area. As a farmer in central Maine, we rely greatly on this hen manure. It's a vital fertilizer. The organic dairy farmers would be unable to stay in business without this source of organic fertilizer. If this farm closes, it will put many of the family farms in my area out of business. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Belfast, Representative Herbig.

Representative **HERBIG**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I represent Belfast. I grew up there. I actually come from a poultry family and I grew up working on my grandfather's chicken farm. So this is a business I have had my hands in, so to speak. I can speak firsthand to tough working conditions.

What I will say about this bill is that on my grandfather's farm, my grandfather never asked me, forced me, to go into a collapsed building to collect eggs, nor did he order me to shovel snow off the roof of a chicken house without any safeguards. This bill is not about farms like my grandfather's poultry farm. It is not about small-scale farms. These things that I just spoke of – of the collapsed buildings, of the lack of safety for these agricultural workers – that is part of Maine's history in large-scale industrial factory egg farming. That's why these laws exist.

I will be voting against LD 1207 because I respect Maine workers. That's what this bill is about. I firmly believe that workers in Maine have the right to feel protected and safe while they are working hard. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Lisbon, Representative Crafts.

Representative **CRAFTS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This won't be long. I requested from OSHA in a written letter on violations in the State of Maine from January 1, 2011 to May 29, less than six months. I'm holding in my hand right here over an inch thick...

The **SPEAKER**: The Chair would remind the member not to use displays or props.

The Chair reminded Representative **CRAFTS** of Lisbon that no props were allowed during the floor debate.

Representative **CRAFTS**: Thank you, Mr. Speaker. Sorry...of OSHA violations. Some of them have as many as two violations on each page and I will not read the names off of these companies because we're on live mic, but every one of us in the body would recognize many of these companies in the State of Maine that have had multiple violations. I'm just wondering if this body would think it would be wise that we draft some legislation to punish them for having OSHA violations. My point being that there's been OSHA violations at some of these egg farms, there's no doubt, and probably too many, but OSHA is in place to deal with them and has dealt with them and that's why we have OSHA. That's why there is no need to punish businesses in the State of Maine and write legislation when we have another way of punishing 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. 155

YEA - Beaulieu, Bennett, Bickford, Black, Burns DC, Burns DR, Ceбра, Celli, Chase, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Davis, Dow, Dunphy, Edgecomb, Espling, Fitts, Fitzpatrick, Flood, Fossil, Foster, Fredette, Gifford,

Gillway, Guerin, Hamper, Harmon, Harvell, Johnson D, Johnson P, Keschl, Knapp, Libby, Long, Maker, Maiaby, 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, Casavant, Chapman, Chipman, Clark H, Clarke, Cornell du Houx, Dill J, Dion, Driscoll, Duchesne, Eberle, Flemings, Gilbert, Goode, Graham, Hanley, Harlow, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Kaenrath, Kent, Knight, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maloney, Martin, Mazurek, McCabe, Morrison, Nelson, Peoples, Peterson, Pilon, Priest, Rankin, Rochelo, Rotundo, Russell, Sanborn, Shaw, Stevens, Stuckey, Theriault, Treat, Tuttle, Valentino, Wagner R, Webster, Welsh.

ABSENT - Ayotte, Bryant, Carey, Damon, Eves, Innes Walsh, O'Brien, Wintle.

Yes, 74; No, 68; Absent, 8; Vacant, 1; Excused, 0.

74 having voted in the affirmative and 68 voted in the negative, 1 vacancy with 8 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-268) 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-268)** and sent for concurrence.

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

The House recessed until 2:00 p.m.

(After Recess)

The House was called to order by the Speaker.

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

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 (8) Ought Not to Pass - Minority (5) Ought to Pass as Amended by Committee Amendment "A" (H-560) - Committee on AGRICULTURE, CONSERVATION AND FORESTRY on Resolve, To Improve the Predictability of Land Use Regulation in the Unorganized Territories (EMERGENCY)

(H.P. 615) (L.D. 819)

TABLED - June 8, 2011 (Till Later Today) by Representative **EDGECOMB** of Caribou.

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

Representative McCABE of Skowhegan moved that the House **INDEFINITELY POSTPONE** the Resolve and all accompanying papers.

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

Representative **McCABE**: Thank you, Mr. Speaker. LD 819 is a bill that I brought forward to the Ag, Conservation and Forestry Committee to take an objective look at some of the issues facing the management of the unorganized territories, and I moved to Indefinitely Postpone that so that we can move forward and debate several other bills having to do with LURC and an objective look. Thank you, Mr. Speaker.

Subsequently, the Resolve and all accompanying papers were **INDEFINITELY POSTPONED** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (8) Ought to Pass as Amended by Committee Amendment "A" (H-561) - Minority (5) Ought to Pass as Amended by Committee Amendment "B" (H-562) - Committee on AGRICULTURE, CONSERVATION AND FORESTRY on Bill "An Act To Reform the Land Use and Planning Authority in the Unorganized Territories"

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

TABLED - June 8, 2011 (Till Later Today) by Representative **EDGECOMB** of Caribou.

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

Representative **CAIN** of Orono **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 Skowhegan, Representative McCabe.

Representative **McCABE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise today in opposition to the pending motion and will spend a little bit of time discussing why I posed the pending motion and want to move forth and actually vote for the Minority Report. But right now, a little bit about the motion before us.

Several of us in the chamber have actually been on the ACF Committee together for two terms now, or at least a term and a half, and we realized that some of the concerns brought forth in regard to the UT and LURC are not new concerns. Folks who have been in this chamber for five, 10 years, even more, realize that there are some concerns and hurdles or even burdens in the UT. I was in the little café downstairs and I was happy to find a floor sheet discussing some of the issues of UT and LURC and also some of the issues around economic and community development in the UT.

Myself, I represent District 85, which is the town of Skowhegan. We serve as the county seat and there is a large portion of UT in Somerset County and the UT is vital for the wellbeing of the citizens of Somerset County. It's actually an economic engine or driver you could say. It's an economic driver in the sense that it drives our mills, it drives our trucking companies, it drives our recreational industry, and it supports not only the towns that border the UT, but places like Skowhegan. So I rise today to just echo some concerns that were raised during the public hearings.

You've probably heard of LD 1534. I imagine many people have gotten some emails about this bill. At this point, the bill is not in its original form. I'd like to thank the good Representative, Representative Gifford, for his drive to move the issue of LURC

forward in the original bill and actually bring all sorts of folks to Augusta to express their concerns about the UT and the management of the UT. During that time, there was all sorts of testimony before the committee in regards to improving LURC, reviewing LURC's permit history, making improvements, expanding local community input, establishing predictable decision-making, coming up with a way for more efficient applications and to compare LURC's regulations with DEP's regulations. It seems like with LURC and DEP, maybe there could be some common ground, where that those regulations may be the same, as many folks looking to build in the UT or develop in the UT are probably also looking to do the same thing in DEP jurisdiction. So why not have those be the same?

Another issue that was brought up time and time again was considering transferring some of the permitting to DEP. Another big issue that came up was a uniform standard for timber harvesting and wildlife protection in the UT. We heard a lot about deer yards here in this House.

The other issue was creating involvement from our regional and economic and community development commissions. I know we've heard a lot from those folks. I know in Somerset County those folks are driving a lot of any future development business growth and I know that I frequently hear from folks in other counties, whether it's Washington County, Piscataquis County or Aroostook County.

The other suggestion that has come forward is this concept of prospective zoning. This concept of prospective zoning is not a new concept. It's to really look at some areas in the UT to promote growth and this is something that's been talked about time and time again but has not happened.

Another issue, the qualifications and requirements for commissioners. So time and time again we're hearing about the commissioners who are the LURC commissioners and ways that we could improve those qualifications. So I've just read to you a litany, a list of concerns/questions that were brought forward, not only in this bill but every bill regarding LURC since I have been here, and the one thing about that list is that none of those items, in my opinion and the Minority Report members' opinions, are being addressed in this report. This report yes is a study commission and you'll hear about the discussion around that.

For me, this discussion today is more about the policies that we are sending forward and not the procedure at how we got here today with these two reports. If there are folks that want to follow me and discuss procedure, I will be happy to rise again a second time to actually talk about the procedure, but I am here today to talk about the policy of sending forth good policy, good bipartisan policy, moving forward so that a report can be written, come back to us and address concerns. By concerns, I mean real concerns that address outcomes that need to be addressed in regards to permitting, economic growth, job creation, a level playing field, and clear outcomes. I encourage folks and I have sent around a number of pieces of paper. I try to color code them so that they're different, so that you can take a look and see the side by side comparisons between these two reports.

The other thing that will probably be raised today is the concern of a cost. And yes, the two reports have costs associated with them. One of them is kind of clear. It has a higher number than the two. But I will tell you, the report that is before us right now also says other costs will be absorbed by the Department of Conservation. So that's not really clear to me at how those costs will be absorbed by the Department of Conservation or what the actual cost will be. It just says they will be absorbed. So I encourage folks to vote down the pending motion. After that point, we'll have the opportunity to discuss the Minority Report and we'll go forward from there. Thank you, Mr. Speaker.

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

Representative **MARTIN**: Thank you, Mr. Speaker. Based on the early morning Appropriations Committee, let's hope I can stay awake long enough to give you the speech that I really would like to give you.

Some of you may know that this legislation was adopted in the '70s during a period of time where this Legislature, in my opinion, in both houses was truly bipartisan and actually, I might point out, controlled by the opposite party with a Democratic Chief Executive. LURC was one of those things that came as a result of the work of former members of the Legislature. Marion Fuller Brown being one of those – who recently just passed away in York, and some of you had the pleasure of meeting her daughters on a bill dealing with outdoor advertising, who sat behind me as I was a young legislator – and Harry Richardson, who served as majority floor leader, were some of the people involved in the creation of the Land Use Regulation Commission. It was clearly an attempt to try to protect the unorganized territory and to preserve as much as possible of the land for future use in the forest industry, and also to protect our deer population.

It's ironic as I look around what's happened in those years and I look at the lists of people who appeared in opposition at the hearing when LURC was created and look at the people who appeared in opposition at the last hearing we had on this bill. Some of the people are the same. The landowners and managers are the same and the reasons are the same. Their views haven't changed at all. So I am not at all surprised that we are now involved in, frankly, a review of the Land Use Regulation Commission because it's driven by a group of people who basically don't care about the rest of Maine. They care only about the property they own and how they can make money from it and nothing to do with anything else. If they could, they'd restrict property use as well, and if it were not for a good old custom that goes down to the kings of England, the right of egress that was a result of custom law handed down, we wouldn't have the right to fish or fowl on those lands as well.

So when I look at the background to all of that and I think about where we are today, I am extremely pleased that the committee did away with the abolition of LURC, because I think that's a step in the right direction. I think that I would have loved that fight, but I can't have it because I have to deal with the Majority Report and the Minority Report that I have before you, so I will be fairly brief today. That may not be as true later on this issue. But I want to tell you just one thing about this and that is the two reports. Both of them are reports. One of them are made up of appointees that are unrelated to the Legislature directly. The other contains legislators. I just want to tell you about my experience with non-legislator committees. Non-legislator committees, because there is no ownership of the report, when the report comes back they die and the Legislatures over time, since I've been here, will say, oh gee, that was someone else's study. We need to study this.

So what I see envisioning if we go with the Majority Report and I'm not saying the Minority Report is perfect, I'd change that one if I had my way too, but if we go with the Majority Report, look at the make up and who will be there and you will not have a cross-section, in my opinion, but more important, you're not going to have any legislators on it, not one. So when it comes back, myself included, we'll be looking at it with a jaundiced eye and we'll start this battle all over again. We'll get the study, but it won't be fruitful. Frankly, I think that that's one of my greatest concerns and I really think that LURC needs to be studied. I have no problems with that. But I think the makeup and the structure is a real issue here and so when that report comes back

to us in January, you'll have the bill to repeal, you'll have the bill to restructure, you'll have a recommendation or amendment to do something else, and we'll be right back where we are with the original bill that we have that these two studies are attached to. That's my concern.

Obviously the majority party can choose to do the Majority Report and that's not a problem, that's the way the joys of being in the minority are, and then it is the end that isn't going to work. So I will be, you can rest assured if we move forward with the Majority Report, I will be the first to rise in January to say I told you so, and I would wish I wouldn't have to do that. So if you want to stop me from speaking in January on that issue, I would suggest that you take a look at both reports and find a way to combine them into a study that will be fruitful and productive, and that way, even if you have to make a study which is more than 13 people, even if you have to go 18 or whatever the number has to be, because the cost is not there for the Legislature, per se. We're looking at outside and inside ability to do and produce a product which will work and so I am hopeful that before we're through this and before we adjourn, regardless of what the vote is on this bill today, that we can come together to put together a document which will be effective in doing things that we need to do. Otherwise than that I can guarantee you from my experience here that we will have gone nowhere and we will not have moved forward with a job we have to do to take care of the problem. Thank you, Mr. Speaker.

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

Representative **THERIAULT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Representing Aroostook County I do have my share of UTs that I represent. I also have had my share of run-ins with the LURC group. In my first term, we worked on an issue of 13 landowners who were not able to permit in any way their 48, and some 98, acre lots up in the back of Long Lake in Bay Creuse. Basically I wouldn't qualify myself as a fan of LURC.

With that said, I would like to say that we or I, we just can't say that we should abolish LURC at this time. There is a need for changes and the people or the citizens who will live there need to be directly involved in the study that is proposed in this LD 1534, and I would support the Minority Report and not the Majority Report because of some of the reasons that the good Representative from Eagle Lake just listed to you. I won't go over them again.

Suggestions to pass on the LURC Commission to the counties or to someone else have been given to us and it will mean, in my estimation, an increase in taxes to those areas, which if you worked with people from the UT areas, there is one thing that they despise is any kind of increase in taxes and that I can vouch for. Changes are needed, but let's do it the right way. Let's have the study, let's do it, and I would recommend, if you would please, the Minority Report for you. 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. I'm the type of person who you know likes to tell it like it is and you know sort of call a spade a spade, but – and as I've always said, I usually have a but – in this case I think the spade is really a shovel and if you vote for the Majority Report you're going to be using that shovel to bury LURC.

I think everybody on the ACF Committee was in agreement that an overhaul of some type needs to be made of LURC. Does that mean burying it? Perhaps, perhaps not, but it definitely needs some tweaking and I don't think tweaking it means taking

one large LURC and creating eight mini county LURCs out of that. Let's be objective. Let's give this process a fair chance to work and look at all aspects of the unorganized territory land use, and let's find the best solution for 50 percent plus of our state. Please vote against the Majority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Woolwich, Representative Kent.

Representative **KENT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The motion before us concerns a committee that is charged with reporting back to us in January concerning their recommendations about the future of LURC and the unorganized territories. Now who and what are the unorganized territories is something that many of you might not know. I certainly didn't three years ago, until I sat on the Agriculture, Conservation and Forestry Committee. So for those of you who may not know, I will briefly outline what this committee is charged with looking at.

The unorganized territories are 52 percent of the land mass of Maine. That's a little bit more than three times the size of Connecticut. Nine thousand people live in 10.4 million acres of Maine. Now 40 years ago, most of that 10.4 million acres was in the charge of paper companies who had a lot at stake in stewarding the forest that they were harvesting. In the last 40 years, that percentage of paper company owned land has diminished to 2 percent. The rest has been sold and probably sold over and over again. At this point, 33 percent or 3.7 million acres of that land that LURC, the Land Use Regulation Commission, overlooks called the unorganized territories, 33 percent of that is owned by financial investment firms. They are not in-state entities. All of that land, nearly 98 percent of that land is owned by 18 different entities. Ninety-eight percent of that 10.4 million acres is owned by 18 different entities. Most of them not local, not in-state entities. Now this committee, the division in the Divided Report does not concern whether there should be a committee to look at LURC and the unorganized territories and who should be overseeing it in the future. The report concerns, the division comes with the make up of that committee.

One of the fundamental problems with the Majority Report is that it creates a 13-member study commission without a single appointed member of the House or the other body, as was pointed out by the Representative from Eagle Lake. The Legislature creates all sorts of studies to address issues of concern. In recent years, the Legislature has created study commissions that included legislators that included health care reform opportunities, energy infrastructure, teachers' compensations, home-based and community-based care, human trafficking, compliance with the Indian Child Welfare Act, and over and over. Legislators have been involved. We have to consider very carefully how this committee is made up. Although this committee will only report recommendations, if those recommendations are incomplete, lopsided in focus, appear predetermined or entertain only one interest, there will be no legislative consensus, the consequence of which the Representative from Eagle Lake pointed out. I also believe that no consensus is the precursor to either no progress or very bad policy. So please, I urge you to follow my light and vote against the pending motion on the floor.

The SPEAKER: The Chair recognizes the Representative from Hudson, Representative Duchesne.

Representative **DUCHESNE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. If there is a mistake to be made on LURC, I have made it. In the 122nd, I was a member of the commission to study the cost of certain services in the unorganized territories. In the 124th, I was on the Governor's Natural Resources Agency Task Force looking at consolidation

among some of the departments. I also served in the working group in 2010 trying to find stakeholder consensus in the Comprehensive Land Use Plan. I spent six years on the Community Preservation Advisory Committee, two of those as chair, looking at sprawl and smart growth issues. I also served as the minority leader on the Joint Select Committee on Fairness and Regulatory Reform where these issues also came up. I put this all on record so that my wife will know where I was every summer. I have been dealing with this for a long time and, oh boy, did the Representative from Eagle Lake get it exactly right. There must be legislators on this committee. Now there can be under the Majority Report. Who knows who will show up there? I give credit to both the Majority and Minority Reports for recognizing what a can of worms is being opened here. It is a can that needs to be opened. The time has come.

I oppose the Majority Report because it does not specify that legislators need to be on the study commission. This is so complicated and it is so controversial that we're going to need to cultivate legislative experience on this. It's not just the buy-in that Representative Martin spoke about. You actually have to know who the players are, get to know them, recognize what the hidden agendas are and really get to know how all of this works, and that's going to take some at the table experience. If we don't have that, when we get back next year, it is true that we're going to have a very hard time going through this because we're going to need some of our own compatriots to explain it to us. This is tough stuff.

The Majority Report gives much of the power of assembling this commission to the Chief Executive. I oppose that because this is really a legislative policy. This is one of the biggest policy decisions we're going to have to make and the Legislature makes the policy. Putting this commission together really should be, for the most part, in the hands of you, Mr. Speaker, and your Senate President Raye, because these are policy areas. The Minority Report makes that pretty clear. The Majority Report, I therefore oppose. I oppose the Majority Report because when it specifies the duties, it identifies nine fewer worms to study than the Minority Report does.

Now both reports don't even come close to recognizing all the worms in this can. Whoever ends up on the commission is really in for a surprise because these worms can run. Here's a night crawler that's lacing up its track shoes right now. Who pays for what? One of the recommendations of the UT study commission in 2006 was to equalize certain assessments that paid for LURC services. That was a unanimous bipartisan recommendation. It came back here, got killed on the House floor. It got resurrected by leadership. It got sent back to committee. It got held over. It got worked three more times by the Taxation Committee. It finally won by two votes two years later and that was a unanimous bipartisan recommendation. I urge the body to move beyond the Majority Report so that we can accept a slightly less naïve Minority Report. Thank you, Mr. Speaker.

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

Representative **CLARK**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I would be really remiss if I didn't get up and say a few words on this because ever since I came here in 1980, I've always had a bill in on behalf of my constituents to abolish LURC. When I left in 1996, my predecessor came in. He always had a bill in to abolish LURC based on our constituents back home and where we live in the UT. Also, the Representative beside us in the town of East Millinocket and Medway, he always put in bills to eliminate LURC. I don't know so much now that I've gotten a little bit older and wiser to strongly eliminate it altogether, but I can tell you

something right now. Mr. Speaker, and Men and Women of the House, something needs to be done. Something needs to be done. I know an old saying, if you watch Kramer, "Giddy up." Giddy up, we have to giddy up to the bar and do something. I was hoping that the committee would at least put out something in the small magnitude to assist the people in the UT.

Last year I had the opportunity to do a new septic system to upgrade my camp. When I first called, I said I was Herbie Clark from Millinocket. The person on the other end did not know who Herbie Clark was. Time went by, time went by. When I called again, I said "I'm State Representative Herbie Clark" and I had it in and completed in three weeks. So it does depend who you are.

I will give you a little example. When Plum Creek was going through their process we had a very aggressive young gentleman outside of my district in the UT, who wanted to put in a small resort. As the crow flies, he had another gentleman beside him who has been trying for the last 10 or 15 years and a prior owner had tried for about 10 years to get something from LURC. Hundreds and thousands of dollars spent. The little guy never got an application. The other gentleman slid underneath the radar now has a resort being built. I can tell you right now, ladies and gentlemen, something needs to be done.

I'm going to vote for either report because I know what it's like serving on some of these commissions and boards. Being a legislator we can have an opportunity to make it extremely political and sometimes we overlook why we were there, because we may be a Democrat and we may be a Republican. We forget the process, we forget why we were on that board and who we're supposed to be working for. It behooves me right now why a code enforcement officer in these small towns couldn't do some of these small projects. It behooves me right now why county commissioners couldn't step up to the plate and do some of these projects. When you have to deal with a Plum Creek, that's something different. But ladies and gentlemen, if you think for one moment something does not need to be done, you've got another story coming.

There isn't a day goes by when I'm here in the Legislature or even at home I have to call LURC or go to hearings on behalf of my constituents. They get summonses. They go the hearing; they get justified or penalized by the same ones who gave them the summonses. They can't win. They just can't win. Trying to identify the gray area to some of these men and women who work there is like pulling teeth. Why is it all right when a gentleman can put in a lodge and move rocks on a beach 300 yards, a guy next door gets penalized \$500 for moving a rock? But I can tell you right now and I'm going to tell you one more time, I don't care how you vote but something needs to be done. Thank you very much, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Lincoln, Representative Gifford.

Representative GIFFORD: Thank you, Mr. Speaker. I will try to be short with this, but the majority amendment that you're going to vote on is my amendment. I think it's unbiased. I think it's a pretty good make up of committees.

I've done a little history on LURC, once I had done the bill and I got into it a little bit. The Land Use Regulation Committee was created in the late '60s, '69, I think, to be exact. But the good Representative from Eagle Lake could probably clarify that for sure. It was created with good intentions. You've got 10 million acres of land up there which consists of 52 percent of the land mass of the State of Maine and probably something needed to be done, so they created what they called the Wildlands Use Regulation Committee, and it was set up to oversee regulations. There was no regulations to speak of in the state, so that's why it

was created. But since then, you know, we've all, you've heard the Representatives say about the abuses that LURC has had over the years, and it's true. I've got a stack of them here. I think this amendment that has come through, eventually, the studying and what we do, we'll get control back closer to the people of the State of Maine. This team that we're putting in place, I think, will be an unbiased team. It won't be political. I think there will be some good people on that team and I don't know who there will be, but I've got all the faith in the world that they'll work all right.

The first statute of LURC was created and formed a board with no oversight and had the ability to the director to answer only to the board that created the commission. LURC was put in place at the time, the first big push into the woods, in the late '60s and early '70s. I understand that the first Wildland Protection Act only protected 500 feet from an access road and at that time an access road was considered something you would get on with a two-wheel drive vehicle. It's changed considerably today. As of today, June 2011, the ACF Committee heard hours of testimony. Almost 90 percent of the people spoke in favor of doing something with a broken agency and you have heard our colleagues across the aisle say the same thing; it's something that needs to be corrected.

There are folks here who thought we were forcing our agenda on this body and that we should slow the process down, so that's why we came up with this Majority Report. It's comprised of people that will look at it objectively and come up with something, hopefully, in what would be in January. I hope by next fall, if people have any doubts of the ability of county commissioners, and there was a lot of talk about this. In my first proposal I proposed that county commissioners take over the duties of the LURC commissioners and I think that could have been handled very well, but some people had doubts about that. So we got a summons to look over the problems and hopefully we'll come back next fall and next January and we'll have a better understanding of this whole project. Education is key and I hope that I can help do that.

Lastly, I'm going to leave you with, we're not looking to do away with any regulations. The regulations that are in place today will be in place after this commission, whatever happens. The big projects will be handled by DEP, the wind power projects and all of that. The Plum Creeks will be handled by DEP. So nothing other than the make up of the board will change. I thank you, Mr. Speaker and ladies and gentlemen, for enduring my speech.

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

Representative McCABE: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I just rise to address a couple things that were brought up and to also just go on the record and recognize that I was listening the entire time that the good Representative, Representative Gifford, was speaking. As Representative Gifford is my seatmate in committee for the last couple of years, I listen to him frequently.

A couple of points were raised in regards to sort of a compromise that was reached and I just want to be clear today that any compromise that was reached with this bill seems, to me, to be driven by leadership possibly in the other body and with certain members on the committee. I think that time and time again when compromise was offered, it fell on deaf ears. I think some of the concerns that people have raised today are important and need to be looked at, and I think it's important that this commission is done in a manner that is transparent, very public and has credibility. That being said, there were questions in regards to, or discussion about, meetings.

Under the current proposal, it describes that this commission

shall meet as necessary. I'm not really sure what that means other than that they will meet as necessary. To me, a commission of this sort needs to meet in a place like the Cross Building, it needs to meet in a room like a committee room, and it needs to be done in a manner that is accessible to the public, accessible to those not only here in Augusta but able to be listened to from afar.

As far as the issue of compromise, time and time again we offered compromise, including making sure that the appointees were appointed by not only yourself, Mr. Speaker, but by President Raye and the Executive. To me, the Minority Report is the true compromise. 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. The make up of this committee, if we removed from that committee sportsman or someone involved with an environmental group, a conservation organization person, an outdoor recreation individual representing that group, somebody from a local government council, a small landowner, a large landowner, and there are several other groups we worked hard to try to include in this interest group so that all groups would be represented. Now you've got to, out of the 13-member group, appoint a majority of legislators to that. Someone will be left out without question. Out of that, a Senator and Representative would be the chairs, and imagine you serving on a committee that you're outvoted by the Legislature and you said "Well, what good would it do me to be on this commission? There is a majority of legislators." They're going to do what they want.

I can tell you that this commission, the LURC Commission that governs 10.4 million acres, if it had been in reverse, if we would have had eight or 10 local boards representing all the unorganized territory, had someone had suggested that we have one board to govern all of this area, the outcry for loss of local representation would be enormous. Imagine your school board, someone telling them we're doing away with your school board, there will be one board to take care of that statewide. The loss of local control would be absolutely, if you think you have emails now, you would receive them by the hundreds. 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. I'll be very, very honest. I don't understand LURC well, but I do understand how we should address very, very important issues like LURC.

I want to give you an example of what transpired with State and Local Government. We started out January or so and before us was, in the budget, the Chief Executive said we want to eliminate the State Planning Office. We as a committee said, well, we actually don't want that to happen. We think that we want to reform the State Planning Office, but we don't want to eliminate it. So in good work, we worked with the Chief Executive's office and they came back and we had a big committee and on that committee were many people from many agencies within State Government and they didn't have legislators. We said, well, you know, we really need to have legislators, and again, it was excellent. They said, you're right, we'll put legislators on.

Well, this is the dilemma: The intent was, what we thought, was to reform the State Planning Office. Subsequently, the head of the State Planning Office came before our committee on another issue and in a round about way I asked the individual "Are you going to eliminate the State Planning Office?" and he said yes. So that's my concern. I think that we need to reform

things, not repeal them. I think we don't throw the baby out with the bathwater. I understand there has been a long storied history with LURC, and again, I will be the first to tell you that I don't understand any of it because I don't live in the UT. But I really think that it's important that we support the Minority Report, listen to the good Representative from Eagle Lake and his experience, and really try to get some good work done so we can make LURC work better. I thank you, Mr. Speaker.

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

Representative **HAYES**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I'm going to do this because this is important to me and I really appreciate your patience and your indulgence. I know my voice is not at its best and it will probably be much worse by the time I'm finished.

I often describe my service in the Legislature as that of being in graduate school and I'm majoring in the State of Maine and I have the opportunity to learn a lot about this great state. This whole issue has been a particular curiosity of mine because I do not live in the UT, but I play there, I have a great appreciation for it, and I've gone out of my way to try to meet the people who do live and work and play there. So I know just enough to be dangerous, but I know that, which I think is important.

I want to say thank you to the Ag Committee. I want to thank you for stepping back to take a broader look at the Land Use Regulation Commission before deciding to gut it. I think that's an important thing to acknowledge, and frankly, I'm glad that you've taken that step. I want to thank you for including broad base representation in the Majority Report. I recognize that the ultimate goal is for positive change for all of the customers of the Land Use Regulation Commission, all of them. Frankly, I think we all can agree on that, that's what we would like.

The concern that I have is that ultimately any change designed to bring that positive, those positive impacts on LURC's customers, has to come back through here, back through the committee process again, back through this body and the body at the other end of the hall. If there isn't enough participation and buy-in by us, the likelihood is this attempt will fail as well and I don't think we can afford to do that. So I stand today because I believe in the process, I'm grateful that the process is going to occur. I think the outcomes will be more sustainable if there is a broader participation by people here, in recognition that ultimately we're the ones that will be the deciders on this. I thank you very much for your patience.

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

Representative **AYOTTE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. If I was able to interpret Representative Martin's presentation, he did allow that LURC did need to be modified or modernized. That I agree with but would probably go a little farther.

As we speak two of my constituents are embroiled in a problem with LURC. I have a message here from LURC in Augusta to go and visit them because of a problem in my district. It is my belief that when the State Legislature approved the establishment of LURC in the early '70s, their intentions were in the best interest of the citizens of the unorganized territories of Maine. They did want to control the growth and development of these unorganized territories and felt they were better able and better equipped to help them do it. However, as with many bureaucracies, it gradually became top-heavy and unaccountable to the people that it served. LURC became encumbered by its own power and developed into an organization that lorded its power over individual landowners, hindered development progress, and became a self-serving agency that absolutely

forgot its original reason for its establishment.

Ladies and gentlemen, the length of time it took to secure and permit the increased amount of rules and regulations that a landowner had to comply with became insurmountable. It appeared as if the people that were responsible for LURC began to gradually lose communication with their branch offices. Branch offices became enforcement officers and were powers unto themselves. I know; I've been dealing with LURC for many years. LURC became one of the most reviled organizations I ever had to deal with.

There seems to be a vast disconnect between the headquarters in Augusta and the field offices, especially in Aroostook County. When I spoke with LURC, the administration here in Augusta, about having workshops on teaching diplomacy, they all agreed it was a good idea. But as far as I could tell, they did not implement such a program. I could relate various stories where any one of you in this House, in this chamber, would have been greatly disturbed had you been treated the way LURC officials treated some people in northern Maine.

You may hear a lot of testimony today about how a central office down here in Augusta can better serve the unorganized communities and know what is best for you, the old saying "We are the government and we are here to help you." Why do we feel that entities in Augusta better know what we need? No, my friends, they are here to preserve their jobs and to fabricate and create things to do in order that their jobs may become more secure. Yes, I firmly believe that LURC has served its purpose and a similar organization could be implemented on a county to county level, or better yet, and I spoke to some of the unorganized territory selectmen and said they could do it better on a town to town level, where there is more accountability and would be better administered. 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. 156

YEA - Ayotte, Beaulieu, Bennett, Bickford, Black, Bolduc, Burns DC, Burns DR, Cebra, Chase, Clark H, Clark T, Crafts, Cray, Crockett, Curtis, Cushing, Davis, Dow, Dunphy, Edgcomb, 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, 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, Briggs, Cain, Casavant, Chapman, Chipman, Cornell du Houx, Dill J, Driscoll, Duchesne, Eberle, 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, Moulton, Nelson, O'Brien, Peoples, Peterson, Pilon, Priest, Rankin, Rochelo, Rotundo, Russell, Sanborn, Shaw, Stevens, Stuckey, Theriault, Treat, Tuttle, Valentino, Wagner R, Webster, Welsh.

ABSENT - Bryant, Carey, Celli, Clarke, Cotta, Damon, Dion, Eves, Innes Walsh, Wintle.

Yes, 75; No, 65; Absent, 10; Vacant, 1; Excused, 0.

75 having voted in the affirmative and 65 voted in the negative, 1 vacancy with 10 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-561)** was **READ** by the Clerk.

Representative McCABE of Skowhegan **PRESENTED** House **Amendment "A" (H-591)** to **Committee Amendment "A" (H-561)**, which was **READ** by the Clerk.

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

Representative **McCABE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I present this House Amendment as yet another opportunity to, in my view, actually improve the piece of legislation before us. This amendment would actually amend what was just accepted to describe the duties of this committee. I do this so that when this report comes back, we've heard that there are a lot of concerns of the makeup of this committee, but really I want this committee to focus on good work and objective and constructive outcomes. That's why I bring this forward today and I hope that folks will follow in supporting this amendment. This will really actually address many of the concerns, some of the concerns that you've heard today, concerns from folks like Representative Clark, Representative Ayotte, and bring back hopefully a piece of legislation that takes a constructive look at the problems that are facing the unorganized territory and problems that folks in this House, in this chamber, have presently with LURC. I respectfully ask for a roll call, Mr. Speaker.

Representative McCABE of Skowhegan **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-591)** to **Committee Amendment "A" (H-561)**.

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

Representative CURTIS of Madison moved that **House Amendment "A" (H-591)** to **Committee Amendment "A" (H-561)** be **INDEFINITELY POSTPONED**.

Representative McCABE of Skowhegan **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** House **Amendment "A" (H-591)** to **Committee Amendment "A" (H-561)**.

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-591) to Committee Amendment "A" (H-561). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 157

YEA - Ayotte, Beaulieu, Bennett, Bickford, Black, Burns DC, Burns DR, Cebra, Celli, Chase, Clark H, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Davis, Dow, Dunphy, Edgcomb, Espling, Fitts, Fitzpatrick, Flood, Fossil, Foster, Fredette, Gifford, Gillway, Guerin, Hamper, Harmon, Harvell, Johnson D, Johnson P, Keschl, Knight, Libby, Long, Maker, Malaby, McClellan, McFadden, McKane, Morissette, 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, Casavant, Chapman, Chipman, Cornell du Houx, Dill J, Driscoll, Duchesne, Eberle, Flemings, Gilbert, Goode, Graham, Hanley, Harlow, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Kaenrath, Kent, Knapp, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maloney, Martin, Mazurek, McCabe, Morrison, Moulton, Nelson, O'Brien, Peoples, Peterson, Pilon, Priest, Rankin, Rochelo, Rotundo, Russell, Sanborn, Shaw, Stevens, Stuckey, Theriault, Treat, Tuttle,

Valentino, Wagner R, Webster, Welsh.

ABSENT - Bryant, Carey, Clarke, Damon, Dion, Eves, Innes Walsh, 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 **House Amendment "A" (H-591) to Committee Amendment "A" (H-561) was INDEFINITELY POSTPONED.**

Representative McCABE of Skowhegan **PRESENTED House Amendment "B" (H-603) to Committee Amendment "A" (H-561)**, which was **READ** by the Clerk.

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

Representative **McCABE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I bring this amendment forward to sort of address an issue that I view and that issue, I guess you could say this is many a small technical change in this bill. It would actually take the county commissioner appointees that will be on this new commission and it would require that those appointees come from the unorganized territories from the counties with the largest amount of UT acreage. So it just seemed important that those two county commissioners be from those counties with the largest UT jurisdiction. Thank you, Mr. Speaker.

Representative **CURTIS** of Madison moved that **House Amendment "B" (H-603) to Committee Amendment "A" (H-561) be INDEFINITELY POSTPONED.**

Representative **McCABE** of Skowhegan **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "B" (H-603) to Committee Amendment "A" (H-561).**

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 "B" (H-603) to Committee Amendment "A" (H-561). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 158

YEA - Ayotte, Beaulieu, Beavers, Bennett, Bickford, Black, Burns DC, Burns DR, Cebra, Celli, Chase, Clark H, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Davis, Dow, Dunphy, Edgecomb, Espling, Fitts, Fitzpatrick, Fossel, Foster, Fredette, Gifford, Gillway, Guerin, Hamper, Harmon, Harvell, Johnson D, Johnson P, Keschl, Knapp, Knight, Libby, Long, Maker, Malaby, McClellan, McFadden, McKane, Morissette, 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, Beck, Beliveau, Berry, Blodgett, Boland, Bolduc, Briggs, Cain, Casavant, Chapman, Chipman, Cornell du Houx, Dill J, Driscoll, Duchesne, Eberle, 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, Moulton, Nelson, O'Brien, Peoples, Peterson, Pilon, Priest, Rankin, Rochelo, Rotundo, Russell, Sanborn, Shaw, Stevens, Stuckey, Theriault, Treat, Tuttle, Valentino, Wagner R, Webster, Welsh.

ABSENT - Bryant, Carey, Clarke, Damon, Dion, Eves, Flood, Innes Walsh, Wintle.

Yes, 76; No, 65; Absent, 9; Vacant, 1; Excused, 0.

76 having voted in the affirmative and 65 voted in the negative, 1 vacancy with 9 being absent, and accordingly **House**

Amendment "B" (H-603) to Committee Amendment "A" (H-561) was INDEFINITELY POSTPONED.

Subsequently, **Committee Amendment "A" (H-561) 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-561)** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (8) Ought to Pass as Amended by Committee Amendment "A" (H-563) - Minority (5) Ought Not to Pass - Committee on HEALTH AND HUMAN SERVICES on Bill "An Act To Reimburse Pharmacies under the MaineCare Program Based on Wholesale Acquisition Costs"

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

TABLED - June 8, 2011 (Till Later Today) by Representative **STRANG BURGESS** of Cumberland.

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-563) 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-563)** and sent for concurrence.

SENATE DIVIDED REPORT - Majority (7) Ought to Pass as Amended by Committee Amendment "A" (S-161) - Minority (6) Ought Not to Pass - Committee on HEALTH AND HUMAN SERVICES on Bill "An Act Regarding the Scope of Services That May Be Provided by Pharmacies Owned by Hospitals"

(S.P. 434) (L.D. 1406)

- In Senate, **Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-161).**

TABLED - May 31, 2011 (Till Later Today) by Representative **STRANG BURGESS** of Cumberland.

PENDING - ACCEPTANCE OF EITHER REPORT.

Representative **STRANG BURGESS** of Cumberland moved that the House **ACCEPT** the **Minority Ought Not to Pass Report.**

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

Representative **HARMON**: Mr. Speaker, I rise in opposition to the motion and this is a bill where it's a long-term care facility bill. Currently there is 10 to 11, possibly 12 over the next year, where the existing long-term care facilities that go to retail pharmacies to purchase their prescription drugs for skilled patients. What this bill entitles is to strip away some of the red tape where a hospital can provide pharmaceutical drugs to the long-term facilities that they currently own. I mean it's pretty simple, and skilled patients go back and forth from hospitals to long-term care facilities. It's something that's very important. Why shouldn't a hospital have the right to provide those pharmacies at a lower cost than prescription drugs? It's something that's very important.

The other thing that's very important is hospitals may not

profit from the sales of these pharmaceuticals to legally related nursing homes under federal law. Hospitals aren't going to gain. What's going to gain is the individual patient in the existing long-term care facility. That's something that's very important...

The SPEAKER: Will the Representative defer. The House is in order. The Representative may continue.

Representative **HARMON**: Hospitals are currently prohibited from selling pharmaceuticals to legally related nursing homes with a retail license issued by the Board of Pharmacy. So again, it's a red tape thing that long-term care facilities are not able to do. This came out of the other body passed. I think it's something that we need to realize that, again if you want to look at it from a philosophical point of view, it's also a private property right. Mr. Speaker, I ask for the Clerk to read the Committee Report as well. Thank you.

Representative **HARMON** of Palermo **REQUESTED** that the Clerk **READ** the Committee Report.

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

Representative **EDGEComb** of Caribou **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 Gorham, Representative Sanborn.

Representative **SANBORN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Be aware when you cast your vote on LD 1406 that there are a number of independent pharmacies that make their business to supply medications to long-term care facilities. By allowing the hospitals to provide these meds to long-term care facilities, these independent pharmacies may be put out of business. Is it our intention to create jobs and support small business or is it our intention to kill them? I would suggest that you follow my light and vote in favor of the Minority Ought Not to Pass and support the small businesses that you ran on. Thank you.

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

Representative **O'CONNOR**: Thank you, Mr. Speaker. Mr. Speaker, Esteemed Colleagues of the House. We're all worried about health care costs and rightly so. This bill helps define hospital scope of services, which have been previously undefined. It allows hospitals to dispense prescription drugs to their own patients as well as employees in nursing facilities that are directly affiliated with the hospital. Cost analysis has been done by many hospitals and nursing facilities and it showed that this is a true cost-saving measure. Hospitals will be able to form bulk purchasing collaboratives to buy prescription medication at a substantial savings. Hospitals could pass along these savings to their affiliated nursing facilities. I'd be remiss at this time if I didn't remind you that 70 percent of our nursing home beds are financed by MaineCare. This is a substantial opportunity to improve care by making medication immediately available and eliminate emergency delivery charges as well as faster delivery of medication to patients. In fact, our committee only had one person testify against this bill. Thank you.

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. I look at this on a very simple basis and that is, will this save money, and why should I do it only on this basis? Well, we have the highest health care costs in the country which means we have the highest health care costs in the world, and we're growing at 7.8 percent annually, which makes us the fastest growing health care

cost in the country. In the latest recession, you're absolutely right. The jobs that have been created are health care jobs. This is a little bit like saying you've got a malignant cancer so your body is growing. Unless we can cut health care costs, we're going to bankrupt the system, and we are by far in the worst condition. We are something like 35th in per capita income and 45th in wage income. So if you're earning your living in the State of Maine rather than having the checks flow here, there is an impossible situation. You simply don't have the money to meet basic needs and it's time we turn that around and this is one of the first steps. 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. There was mention that retail pharmacies could go out of business. Know there are less than 500 skilled nursing beds in nursing homes owned by the hospitals in Maine. If you spread that out throughout the state, we'll use the number 10, even though it could go to five to make it simple. That is about five people that are in skilled beds in the nursing homes. That number is so insignificant to the retail pharmacies, probably less than one percent, especially if you have the Wal-Marts or the CVSs of the world, even some of the Walt's Pharmacies. The number is so insignificant to some of the retail pharmacies that that's not a big deal. It's just a cost savings for the patient. That's what is key here. I mean skilled patients can bounce back and forth from hospital to the long-term care facility and those prescription drugs can go with them. It reserves their continuity. It's something that is a cost savings for the patient and something very important and very good that this bill accomplishes.

The SPEAKER: 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. I just wanted to rise to give folks a little bit more of a background here. I think you've heard some good points on all sides here, however, I view this as a small business bill. Whether it is insignificant or not, right now any drop of business is significant to any small business.

The background behind this is that this is a conversation that's been going back and forth to various essential bodies. They've gone to the pharmacy board. This has a change that's been attempted to be made over the course of time. There is like all of us, there is specialty pharmacies who actually specialize in filling scripts to this audience. So there are about 20 different facilities that are involved here that are subsidiaries of hospitals existing.

The other part that was a little bit of a concern to those of us on the Minority Report is that included in the bill is to, under their scope of services that are being expanded, would be to they will also be able to dispense prescription drugs not only to active employees, which is I understand is sort of kind of done now, but retired employees, hospital staff members and to all the dependents of these people, and it just struck us as a pretty big growth of scope of services. So I appreciate your consideration. Thank you.

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 will be against the pending motion. In our town we have a small hospital that has an attached long-term care facility. It is a magnificent long-term care facility. Most of the patients are Medicare patients or MaineCare and they are treated wonderfully. This facility has

received award after award at the state and national level and it is truly magnificent. The problem is that it lives from month to month. The costs of taking care of these patients are reimbursed only at a partial rate of the actual costs. So anything that can be done to lower those costs would be a great advantage. Thank you.

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

Representative PRESCOTT: Thank you, Mr. Speaker. I am rising in support of the Minority Ought Not to Pass as I have received much opposition to this bill in my district. This bill simply would allow a different set of rules for hospitals. The same service, different rules. Not fair. If hospitals want to get a license, which they don't want to do, then we may have a solution. But this bill does not do that, so we are putting some businesses at risk over others and I don't feel I can support that. So I will be voting for the Minority Report in hopes that a better bill will come along at another time. Let's not hurt our local pharmacies. Thank you.

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

Representative STUCKEY: Thank you, Mr. Speaker, and after three tries I actually did want to stand up. I appreciate it. Mr. Speaker, Men and Women of the House, this bill starts us down a slippery slope. The Maine Pharmacy Act does not include hospital pharmacies so they are exempt from the playing field that the small independent pharmacies have to play on.

The reason there may have only been, I can't recall, there may have only been one person that spoke on behalf of the small pharmacies, but he was in fact someone who did speak on behalf of the small pharmacies. He spoke quite eloquently in opposition to the bill. The bill would allow inpatient hospital pharmacies to operate without a license and without the regulations when providing pharmacy services to long-term care facilities. It would limit choices of residents of long-term care facilities and it is unnecessary because inpatient hospital pharmacies currently have the option to secure a retail license from the Maine Board of Pharmacy and abide by the same regulations designed specifically to serve the special needs of long-term care patients.

Mr. Speaker, this amended bill backs off a little bit from the original draft but still pushed us closer to the slippery slope that is the expansion of major hospital networks and their competition with big pharmacy chains to control the prescription drug marketplace. It's bad policy, it's bad for small pharmacies, and it's bad for consumers. Please support the Ought Not to Pass Report. Thank you, Mr. Speaker.

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

Representative MARTIN: Thank you, Mr. Speaker. Mr. Speaker, Members of the House. Very quickly, if you live in an area where there is a hospital and a pharmacy, the pharmacy is struggling to survive, and if you want to see that pharmacy disappear, you end up having to go to an area where there are more people and they can survive with that pharmacy, this will get you there. But in my opinion, if you want to preserve the small pharmacy in your home town where there is a hospital, you really should be voting for the Ought Not to Pass Report.

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

Representative SIROCKI: Thank you, Mr. Speaker. I'd like to read part of a testimony from a patient and I think that this speaks from a patient's point of view as to why this would be important.

Isabelle was lying in her bed with Jan by her side. Isabelle began to have severe pain. Jan, having worked in the health care industry, knew to report this to her nurse immediately. The

nurse called a physician to obtain the order for the medication but the retail pharmacy with whom we are contracted makes only one to two deliveries each day at scheduled times. That day, Isabelle had to wait five hours before we received the delivery of the pain medication she needed. Jan, as you can imagine, was heartbroken to witness her mother experiencing pain and waiting to wait such a long period of time to receive her medication. As an administrator I sat before Jan and cried while I apologized to her for her experience and promised that I would work on a solution to this problem. After all, that was all Jan wanted. She wanted to share with me her story in hopes of preventing this from happening to anyone else, and that's why she is here today. 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. 159

YEA - Beaudoin, Beaulieu, Beavers, Beck, Beliveau, Bennett, Berry, Black, Blodgett, Boland, Briggs, Burns DC, Cain, Casavant, Celli, Chapman, Chipman, Clark H, Clark T, Cornell du Houx, Cotta, Crockett, Curtis, Dill J, Driscoll, Duchesne, Eberle, Espling, Fitts, Fitzpatrick, Flemings, Fredette, Gifford, Gilbert, Goode, Graham, Hamper, Hanley, Harlow, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Kaenrath, Kent, Knapp, Knight, Lajoie, Long, Lovejoy, Luchini, MacDonald, Maloney, Martin, McCabe, McFadden, Morissette, Morrison, Moulton, Nass, Nelson, Newendyke, Olsen, Parker, Parry, Peoples, Peterson, Picchiotti, Plummer, Prescott, Priest, Rankin, Richardson W, Rioux, Rochelo, Rosen, Rotundo, Russell, Sanborn, Shaw, Stevens, Strang Burgess, Stuckey, Theriault, Tilton, Treat, Tuttle, Valentino, Wagner R, Webster, Willette A, Wood, Mr. Speaker.

NAY - Ayotte, Bolduc, Burns DR, Cebra, Chase, Crafts, Cray, Cushing, Davis, Dow, Dunphy, Edgecomb, Flood, Fossel, Foster, Gillway, Guerin, Harmon, Harvell, Johnson D, Johnson P, Keschl, Kruger, Kumiega, Libby, Longstaff, Maker, Malaby, Mazurek, McClellan, McKane, O'Brien, O'Connor, Richardson D, Sanderson, Sarty, Sirocki, Timberlake, Turner, Volk, Waterhouse, Weaver, Welsh, Willette M, Winsor.

ABSENT - Bickford, Bryant, Carey, Clarke, Damon, Dion, Eves, Innes Walsh, Pilon, Wintle.

Yes, 95; No, 45; Absent, 10; Vacant, 1; Excused, 0.

95 having voted in the affirmative and 45 voted in the negative, 1 vacancy with 10 being absent, and accordingly the Minority **Ought Not to Pass** Report was **ACCEPTED** in **NON-CONCURRENCE** and sent for concurrence.

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

SENATE REPORT - Ought to Pass as Amended by Committee Amendment "A" (S-117) - Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act To Require That Notaries Public Keep Records of Notarial Acts"

(S.P. 409) (L.D. 1312)

- In Senate, Unanimous **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-117)**.

TABLED - May 19, 2011 (Till Later Today) by Representative CAIN of Orono.

PENDING - ACCEPTANCE OF COMMITTEE REPORT.

Representative COTTA of China moved that House **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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

Representative COTTA: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This bill initially started and it was a change for the notaries to keep a journal of their activity. The Secretary of State had requested this bill be put in because there wasn't that history that would be available for what the notary had done and for whom. Some did, some didn't. In discussion with other members of this body, the actual way to notify all of the notaries that there had been a change, we really couldn't find a good way economically to do that. So rather than jump through that hoop and with just a good idea die on a bad application, we've elected or I've elected to Indefinitely Postpone it and in the next session the Secretary will be bringing something forward. Thank you.

Subsequently, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** in **NON-CONCURRENCE** and sent for concurrence.

SENATE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (6) **Ought to Pass as Amended by Committee Amendment "A" (S-124)** - Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Allow the Repayment of Improperly Awarded Workers' Compensation Benefits"

(S.P. 389) (L.D. 1268)

- In Senate, Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-124)**.

TABLED - May 25, 2011 (Till Later Today) by Representative PRESCOTT of Topsham.

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

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-124)** 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-124)** in concurrence.

HOUSE DIVIDED REPORT - Majority (11) **Ought Not to Pass** - Minority (2) **Ought to Pass** - Committee on **JUDICIARY** on Bill "An Act Regarding the Consent of Minors for Mental Health and Substance Abuse Aid"

(H.P. 553) (L.D. 746)

TABLED - May 26, 2011 (Till Later Today) by Representative CURTIS of Madison.

PENDING - **ACCEPTANCE OF EITHER REPORT**.

Subsequently, on motion of Representative NASS of Acton, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

HOUSE REPORT - **Ought to Pass as Amended by Committee Amendment "A" (H-425)** - Committee on

JUDICIARY on Bill "An Act To Protect Homeowners Subject to Foreclosure by Requiring the Foreclosing Entity To Provide the Court with Original Documents"

(H.P. 128) (L.D. 145)

TABLED - June 1, 2011 (Till Later Today) by Representative KNIGHT of Livermore Falls.

PENDING - **ACCEPTANCE OF COMMITTEE REPORT**.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-425)** was **READ** by the Clerk.

On motion of Representative NASS of Acton, the Bill and all accompanying papers were **COMMITTED** to the Committee on **JUDICIARY** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (11) **Ought Not to Pass** - Minority (2) **Ought to Pass as Amended by Committee Amendment "A" (H-486)** - Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Waive Snowmobile Registration Requirements for Canadians Riding on Maine Trails"

(H.P. 237) (L.D. 293)

TABLED - June 6, 2011 (Till Later Today) by Representative DAVIS of Sangerville.

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

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

ENACTORS

Acts

An Act To Allow Law Enforcement Officers from Out of State To Carry Concealed Firearms

(H.P. 339) (L.D. 446)

(C. "A" H-331)

An Act To Require That Law Enforcement Officials Collect DNA Samples from Persons Arrested for Certain Crimes

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

(C. "A" H-576)

An Act To Prohibit Bullying and Cyberbullying in Schools

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

(C. "A" H-570)

An Act Relating to Locations where Concealed Weapons May Be Carried

(H.P. 988) (L.D. 1347)

(C. "A" H-530)

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.

An Act To Change the Campaign Contribution Limits

(S.P. 260) (L.D. 856)

(S. "A" S-220)

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

On motion of Representative CUSHING of Hampden, was **SET ASIDE**.

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

An Act To Preserve the Integrity of the Voter Registration and Election Process

(H.P. 1015) (L.D. 1376)

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

On motion of Representative CAIN of Orono, was **SET ASIDE**.

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

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

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

Representative **CHIPMAN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I cannot myself allow this bill to be passed without speaking one more time on it and offering a few comments on this bill.

Mr. Speaker, Ladies and Gentlemen of the House, for the last forty years, Maine has allowed people to register to vote on Election Day and cast a ballot if they have proof of residency and some form of identification. This bill, if passed, would prohibit same-day voter registration and eliminate voting rights we have had in Maine since 1972.

It is hard enough to get people to vote now. I don't know why anyone would want to make voting more difficult. Some have said that processing new registrations on Election Day is too much of a burden for city and town clerks and that allowing people to register and vote the same day opens up the potential for fraud.

I serve on the Veterans and Legal Affairs Committee. When we held the hearing on this bill we did not hear from clerks that there are any problems with the current law. In fact, with so many people voting by absentee ballots compared to five or ten years ago, there are far fewer people going to the polling place, which means poll workers have more time to process new registrations than they did in the past.

In terms of fraud, Mr. Speaker, we only heard evidence of four cases since 1972 and only two were prosecuted and neither one would have been prevented by this bill.

Maine has the third highest voter turnout in the country. There are only two states with higher turnout and they also have same-day registration. Before allowing this bill to be enacted in 1972, our turnout was twenty-first in the country. I don't know why we'd want to turn back the clock to a time when voting was not as accessible and reduce our voter turnout.

The people who register to vote on Election Day tend to be young voters voting for the first time, college students, single mothers, homeless, and low-income people who move frequently, mostly about 50 percent of my district. There are a lot of people in my district that I represent, that would be impacted if this bill is passed, and that's why I'm speaking on it again today.

According to the Secretary of State's Office, and we heard this at the public hearing, if this bill had been in effect during the 2008 presidential election, ladies and gentlemen, 56,000 people would not have been able to vote in Maine. With another presidential election around the corner next year, in my opinion it would be morally wrong to pass this law today that we know would disenfranchise so many voters.

Whether you are Democrat, Republican, Green, or Independent, everyone has a right to vote and a right to register to vote regardless of what the timing is of that registration. I hope that we can defeat this bill today and protect this basic right for all Maine residents. Thank you.

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

ROLL CALL NO. 160

YEA - Ayotte, Beaulieu, Bennett, Black, Burns DC, Burns DR, Cebra, Chase, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, 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, Rioux, Rosen, Sanderson, Sarty, Sirocki, 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, Casavant, Chapman, Chipman, Clark H, Cornell du Houx, Dill J, Driscoll, Duchesne, Eberle, 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, Strang Burgess, Stuckey, Theriault, Treat, Tuttle, Valentino, Wagner R, Webster, Welsh.

ABSENT - Bickford, Bryant, Carey, Celli, Clarke, Damon, Dion, Eves, Innes Walsh, McCabe, Pilon, Richardson W, Wintle.

Yes, 72; No, 65; Absent, 13; Vacant, 1; Excused, 0.

72 having voted in the affirmative and 65 voted in the negative, 1 vacancy with 13 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

CONSENT CALENDAR

First Day

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

(H.P. 954) (L.D. 1302) Bill "An Act To Extend Fire Code Rules to Single-family Dwellings Used as Nursing Homes for 3 or Fewer Patients" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass**

(H.P. 1095) (L.D. 1490) Bill "An Act To Amend the Laws Regarding Custody of the Remains of Deceased Persons" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-596)**

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

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

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.

Bill "An Act To Promote the Hiring of Seasonal Workers" (H.P. 829) (L.D. 1117)

- In House, Minority (5) **OUGHT TO PASS AS AMENDED** Report of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** READ and **ACCEPTED** and the

Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-272)** on May 25, 2011.

- In Senate, Majority (8) **OUGHT TO PASS AS AMENDED** Report of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-271)** in **NON-CONCURRENCE**.

TABLED - June 1, 2011 (Till Later Today) by Representative **FREDETTE** of Newport.

PENDING - FURTHER CONSIDERATION.

Subsequently, the House voted to **RECEDE AND CONCUR**.

HOUSE DIVIDED REPORT - Majority (12) **Ought to Pass as Amended by Committee Amendment "A" (H-403)** - Minority (1) **Ought Not to Pass** - Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act Regarding Write-in Candidates in Municipal and City Elections"

(H.P. 629) (L.D. 832)

TABLED - June 1, 2011 (Till Later Today) by Representative **BEAULIEU** of Auburn.

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

Representative **BEAULIEU** of Auburn **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 Palermo, Representative Harmon.

Representative **HARMON**: Thank you, Mr. Speaker. I read the summary of this bill and this is what kind of spooked me. It's a mandate on municipalities for all of those that have 1,000 residents or over. It's basically telling people that two days before, as amended, two days before any municipal candidate has to file some paperwork at the local town office, and if they don't, they can't be considered a write-in candidate, even if they obtain the vote. So if you go in and cast a ballot and you write someone's name in, they end up winning the election, it doesn't matter because town clerks now have to throw those votes out. I just think this is a dangerous part of democracy. 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. 161

YEA - Ayotte, Beaudoin, Beaulieu, Beavers, Beck, Beliveau, Berry, Blodgett, Boland, Bolduc, Briggs, Burns DC, Cain, Casavant, Cebra, Chapman, Chase, Chipman, Clark H, Clark T, Cornell du Houx, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Dill J, Dow, Driscoll, Duchesne, Dunphy, Eberle, Edgecomb, Fitts, Fitzpatrick, Flemings, Flood, Fossel, Fredette, Gifford, Gilbert, Graham, Hamper, Hanley, Harlow, Harvell, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Kaenrath, Kent, Knapp, Knight, Kruger, Kumiega, Lajoie, Long, Longstaff, Lovejoy, Luchini, MacDonald, Maker, Malaby, Maloney, McFadden, McKane, Morissette, Morrison, Moulton, Nass, Nelson, Newendyke, O'Brien, O'Connor, Olsen, Parker, Parry, Peoples, Picchiotti, Plummer, Prescott, Priest, Rankin, Richardson D, Rochelo, Rosen, Rotundo, Sanborn, Sanderson, Sarty, Shaw, Sirocki, Stevens, Strang Burgess, Stuckey, Theriault, Tilton, Timberlake, Treat, Turner, Valentino, Volk, Wagner R, Weaver, Webster, Welsh, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

NAY - Bennett, Black, Burns DR, Davis, Espling, Foster, Gillway, Goode, Guerin, Harmon, Johnson D, Johnson P, Keschl, Libby, Martin, Mazurek, McClellan, Peterson, Rioux, Tuttle, Waterhouse.

ABSENT - Bickford, Bryant, Carey, Celli, Clarke, Damon, Dion, Eves, Innes Walsh, McCabe, Pilon, Richardson W, Russell, Wintle.

Yes, 115; No, 21; Absent, 14; Vacant, 1; Excused, 0.

115 having voted in the affirmative and 21 voted in the negative, 1 vacancy with 14 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. Committee Amendment "A" (H-403) 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-403)** and sent for concurrence.

Resolve, Directing the Maine Center for Disease Control and Prevention To Conduct a Review of Wood Smoke Laws (EMERGENCY)

(H.P. 430) (L.D. 547)

(C. "A" H-407)

TABLED - June 3, 2011 (Till Later Today) by Representative **CUSHING** of Hampden.

PENDING - FINAL PASSAGE. (Roll Call Ordered)

The **SPEAKER**: 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. I wanted to just rise and fill you in on a little information to do with this bill. This was an unanimous report out of the HHS Committee and like so many of the wonderful pieces of paper and ideas and bills and good hard work that everybody has done this session, this was a unanimous report. It went flying through here. When we came back and we were in the posture that we're in now, which was doing its Final Passage, and it is an emergency, I think a few people started to sort of say, hmm, I wonder what this really is. So that's why we've Tabled it so that I could tell you the answer to what this is.

This is an issue, it's a health issue. It's not a new one. Some of you have been here for the last few sessions. It's to do with the subject of outdoor wood boilers and excessive smoke issues and all. We have been trying to figure out how exactly to deal with this as a health issue. So it was bounced around through different departments and this year it was brought to the Department of Health and Human Services and specifically came to us as a bill. There are health nuisance laws and this was kind of a last resort to try to figure out how it would help the situations. We think we have a really great solution here. This is going to be a convening of an organization or group that actually already meets. They meet on a regular basis. This just gets added to the list to talk about it and they'll probably bring back some ideas for us.

This costs us nothing. The American Lung Association is involved with this, in helping to make sure that we all do this. We frankly got caught up in the classic situation of my department doesn't have time to do it and then the next department says they don't have time to do that. So we needed that little extra push to make sure that people do pay attention to this very important health issue. As I say, it did receive unanimous approval from

the HHS Committee and I hope that you will give it your support here for its Emergency Enactment. Thank you.

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

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

ROLL CALL NO. 162

YEA - Beaudoin, Beaulieu, Beavers, Beck, Beliveau, Berry, Boland, Bolduc, Cain, Casavant, Chapman, Chipman, Cornell du Houx, Cushing, Dill J, Driscoll, Duchesne, Eberle, Flemings, Fossel, Gilbert, Goode, Graham, Hanley, Harlow, Haskell, Hayes, Herbig, Hinck, Hunt, Kent, Keschl, Knapp, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maker, Malaby, Maloney, Martin, Mazurek, Morrison, Moulton, Nelson, O'Brien, O'Connor, Olsen, Peoples, Peterson, Priest, Rankin, Richardson D, Rochelo, Rosen, Rotundo, Sanborn, Shaw, Sirocki, Stevens, Strang Burgess, Stuckey, Treat, Tuttle, Volk, Wagner R, Weaver, Webster, Welsh, Winsor, Mr. Speaker.

NAY - Ayotte, Bennett, Black, Blodgett, Briggs, Burns DC, Burns DR, Cebra, Chase, Clark H, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Davis, Dow, Dunphy, Edgecomb, Espling, Fitts, Fitzpatrick, Foster, Fredette, Gifford, Gillway, Guerin, Hamper, Harmon, Harvell, Johnson D, Johnson P, Kaenrath, Knight, Libby, Long, McClellan, McFadden, McKane, Morissette, Nass, Newendyke, Parker, Parry, Picchiotti, Plummer, Prescott, Rioux, Sanderson, Sarty, Theriault, Tilton, Timberlake, Turner, Valentino, Waterhouse, Willette A, Willette M, Wood.

ABSENT - Bickford, Bryant, Carey, Celli, Clarke, Damon, Dion, Eves, Flood, Hogan, Innes Walsh, McCabe, Pilon, Richardson W, Russell, Wintle.

Yes, 74; No, 60; Absent, 16; Vacant, 1; Excused, 0.

74 having voted in the affirmative and 60 voted in the negative, 1 vacancy with 16 being absent, and accordingly the Resolve **FAILED FINAL PASSAGE** and was sent to the Senate.

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

Representative **CHIPMAN**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. In reference to Roll Call No. 154 on LD 910, had I been present I would have voted yea.

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

On motion of Representative MORRISON of South Portland, the House adjourned at 5:25 p.m., until 9:00 a.m., Friday, June 10, 2011.