

MAINE STATE LEGISLATURE

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ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
FIRST REGULAR SESSION
60th Legislative Day
Friday, June 10, 2011

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

Prayer by Father Arthur Pechillo, St. Michael Parish, Augusta.
Pledge of Allegiance.

The Journal of yesterday was read and approved.

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

ORDERS

On motion of Representative TURNER of Burlington, the following Joint Resolution: (H.P. 1177) (Cosponsored by Representatives: CLARK of Easton, CRAFTS of Lisbon, FREDETTE of Newport, GIFFORD of Lincoln, RIOUX of Winterport, TIMBERLAKE of Turner, WILLETTE of Mapleton, WILLETTE of Presque Isle) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214)

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO AWARD THE DESIGNATION OF "VETERANS OF THE UNITED STATES AND THE STATE OF MAINE" TO THE PROTECTORS AND DEFENDERS OF THE NORTHEASTERN BOUNDARY DURING THE AROOSTOOK WAR

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

WHEREAS, there was an undeclared confrontation in 1839 that lasted until 1842 between the United States and Great Britain over the international boundary between British North America, specifically the provinces of Quebec and New Brunswick in Canada, and Maine, referred to as the Aroostook War; and

WHEREAS, this confrontation had its origins at the end of the Revolutionary War because the Treaty of Paris of 1783 did not clearly determine the boundary between British North America and the United States and, during the War of 1812, British forces occupied most of eastern Maine, including Washington County, Hancock County and parts of Penobscot County, intending to permanently annex the region into Canada; and

WHEREAS, the Treaty of Ghent ended the war in 1814 and reestablished the boundary but left the border ambiguities intact, and when Maine separated from Massachusetts in 1820 as a new state, the status and location of the border emerged as a chief concern, with Massachusetts also retaining some interests in the land as part of the statehood agreement; and

WHEREAS, the dispute continued into the next decade as the area became more and more settled and the wealth of the lumber and land became apparent to both sides of the border, and in 1839 the Maine Legislature authorized newly elected Governor John Fairfield to send land agents and militia to the border; and

WHEREAS, high tensions and heated rhetoric in New Brunswick led both sides to raise troops and arm them and march them to the disputed border, but eventually negotiations between diplomats from Great Britain and United States

Secretary of State Daniel Webster resulted in the Webster-Ashburton Treaty of 1842; and

WHEREAS, this dispute involved no actual confrontation between military forces, but 10 to 12 companies of more than a thousand men as well as drafted militia were sent to Aroostook County; and

WHEREAS, the men who were the protectors and defenders of the northeastern boundary of the United States and Maine and Massachusetts primarily were volunteers in service to the State of Maine, members of the Maine State Militia, members of a drafted militia and civilian suppliers, support personnel and settlers in the Aroostook Valley; and

WHEREAS, as Governor Israel Washburn, who was Governor of Maine during the Civil War, stated long after the dispute was settled, "The Aroostook war . . . forms a chapter in the history of the State which does real honor to its border chivalry"; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request that the United States Congress award the designation of "Veterans of the United States and the State of Maine" to those who protected and defended the northeastern boundary and who served between February 5, 1839 and December 31, 1842 and who were willing to risk their lives; and be it further

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

READ and ADOPTED.

Sent for concurrence.

On motion of Representative HAMPER of Oxford, the following House Order: (H.O. 26)

ORDERED, that Representative Robert S. Duchesne of Hudson be excused May 23 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Aaron F. Libby of Waterboro be excused May 31 for health reasons.

READ and PASSED.

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

UNFINISHED BUSINESS

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

Joint Order, To Recall L.D. 1271 from the Governor's Desk to the House

(H.P. 1175)

TABLED - June 9, 2011 (Till Later Today) by Representative STRANG BURGESS of Cumberland.

PENDING - **PASSAGE.**

Subsequently, this Joint Order was **PASSED** and sent for concurrence.

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

REPORTS OF COMMITTEE
Divided Reports

Majority Report of the Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-598)** on Bill "An Act Regarding Eligibility for the Moose Lottery"

(H.P. 235) (L.D. 291)

Signed:

Senator:

PATRICK of Oxford

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

WOOD of Sabattus

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-599)** on same Bill.

Signed:

Senators:

MARTIN of Kennebec

TRAHAN of Lincoln

Representative:

SHAW of Standish

READ.

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

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

Representative **SHAW**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. There are a couple of slight differences between the Majority and the Minority Report on this. Basically, if you have any hunters in your district, they may be interested in these two reports. They are regarding the moose lottery.

The committee did make some changes to the moose lottery this year and under the Majority Report, both reports are very similar. The only difference in the two reports is if you get a moose permit, the Majority Report makes you sit out for three years; the Minority Report doesn't. The goal was to make it so that people that have been in the lottery for a long time would get a better chance, the chances would be better at getting the permit. That was the goal.

The two reports differ in the wait out time. You have to wait out for three years under the Majority Report and the problem that I have mostly is that during the three years on the Majority Report, they give you the opportunity to buy your bonus points. So on the fourth year, your chances are exactly the same if you haven't gotten a permit as they would be if you had gotten a permit four years ago, and every year continuing on out. Now if the goal was to make it so that people that have been in the lottery for a longer period of time have better chances, then I would say you should vote with me on the Minority Report.

Right now the moose lottery is set up so that you can buy one, three, or six chances to get your moose lottery permit. Most people do buy six chances. Long before I was here and probably

just about everyone else other than maybe the Representative from Eagle Lake, they changed it. This was about 13 years ago. They changed it so that you could buy the six. I believe it was probably nothing more than trying to get a little bit of money out of people, because what it did was it skewed your chances if you bought the six to be much greater than the people buying the one chance. So both reports bring it back to one chance only, which I think is great. It puts it back on even playing field for everybody. For every year you put in for the lottery and don't get it, you get one bonus point. After five years, on both reports, you'd get two points, and after 10, on both reports, you'd get three. The difference is the Majority Report makes you sit out for three years, which is fine, but it allows you to buy that bonus point for those three years. Your constituents, the ones that are in the lottery, are going to feel like they're paying for nothing under that report, and it's true. But what happens, even worse than that, it defeats the goal of allowing the people that have been in for long-term to get the permit, because their chances would be exactly the same as someone that got it the year they started back to zero bonus points and started working through. They wouldn't be allowed to get the permit the first three years, but they still would be buying those bonus points. It puts the odds right back at the same on the fourth year. To me, I can't vote for that. It defeats the purpose of what we were trying to do in the committee. Thank you, Mr. Speaker.

Representative SHAW of Standish **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 Sangerville, Representative Davis.

Representative **DAVIS**: Thank you, Mr. Speaker. My friend from Standish has portrayed the difference between the two quite correctly. I would disagree with his interpretation of it all. The hunters that I heard from over and over and over again are upset because people got a permit year after year after year. This increases it to three years that they have to stay out of the hunt. It is true they can, if they want to, purchase a point or the chance during those three years, they can. But they will be getting, it's incorrect to say they'll be getting nothing for their money. They will get an extra chance each year so at the end of their time, they'll have those extra chances going for them.

I told the committee it was my luck if we didn't have the three-year sit out, I would have about eight hunters that would get a permit two years in a row. If you want to excite people, if you want to have that happen or something like that happen, I would urge you to support the Majority Report. Thank you.

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

Representative **SARTY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I support the bill before us right now. I think it was a quick solution to an immediate problem.

I'd also agree with Representative Shaw from Standish that the point system could be changed to offer more advantages. However, the committee deliberated this for two and a half or three hours and I don't think even the committee truly understood the whole complexity of the point system and the bonus system. I do think it should be readdressed and streamlined to be made clearer. After all, if we don't fully understand it, how can we expect the people that are participating to fully understand it?

This bill is a quick solution to offer better chances to people who haven't been drawn in years and I agree with Representative Shaw. When the committee meets again, I think we should

readdress the bonus and point system and try to simplify the issue.

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

Representative **BRIGGS**: Thank you, Mr. Speaker. I, too, rise in support of the pending motion and I echo good Representative Sarty in regards to the point system and how it's working. That's all I have heard as well in my district, is how the same people continue to have the opportunity to be drawn time and time again and others have put in all of their life and had not gotten drawn. I as well put in for like 24 or 25 years and finally gotten drawn a couple of years ago. So in this way, I feel it is better balanced, better opportunities for hunters who have never been drawn or minimally been drawn for the moose permit. So thank you, Mr. Speaker.

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

Representative **CRAY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I don't get up very often to talk on stuff, but this is an issue that I've had a couple calls on. I happen to be one of the people that buy a Superpack license, which is part of what will be stripped out of this if this bill passes. It is a six-chance drawing to the moose permit is part of the Superpack license when you buy it. I don't send in for a moose permit every year, but I do buy the Superpack license.

I have two friends that have contacted me to buy the Superpack license. One of them happens to be a guy that has been drawn three times, I think. But this will eliminate that drawing for the moose permit. So one of the reasons he does send in for this is because of that and he has told me that he will not support the Superpack licensing. He will not buy the Superpack license, which I think will be detrimental to the income for the IF and W. But that's just my point on that. Thank you very much.

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

Representative **SHAW**: Thank you very much, Mr. Speaker, and I apologize for rising twice. Just an update on the Superpack for the good Representative, I forget where he's from. The Superpack will still include the one point. So both of these reports make it so that when you buy your moose lottery chance, you only get one chance now. The whole six chance and three chance is gone on both reports, and that's in an effort to make it so that people that have been in for a longer period of time have the opportunity to get the permit. But the Superpack, people who buy the Superpack license would still get the one chance. So it's still included in the Superpack. I would encourage everyone to still buy their Superpack license, such as I do too.

But just while I'm here since I clarified that, I might as well just reiterate once more that the goal was to make it so that people long-term, that have been in the lottery for long-term, would get their moose permit. The report that's on the floor right now equalizes the chances from the first to fourth year. On the fourth year the chances are exactly the same and that's on and on until one of those people, if you had two hunters, one just got the moose permit and one is just putting in for the first time, going forward the one that just got the permit would be ineligible for three years, but he could buy those bonus points. On the fourth year, the odds are the exact same on the four-year person to the guy that never got one and going out all the way until they either get one or stop putting in for it. The Minority Report doesn't do that. The chances are much better the longer you're in the lottery. The chances are much better on the Minority Report for

you to actually get the permit, which was the goal of the bill in the first place. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Sangerville, Representative Davis.

Representative **DAVIS**: Thank you, Mr. Speaker. Not to belabor this issue. The committee asked the department early in the session to study the moose issues regarding the chances and everything with the moose permit system. The department study, which included people from the Sportsman's Alliance of Maine and other places, came back and recommended a five-year waiting period. The committee, after a long deliberation as Representative Sarty said, came up with a three-year. It was a compromise, I believe with the exception of my friend from Standish. 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. 163

YEA - Ayotte, Beaudoin, Beck, Beliveau, Berry, Bickford, Black, Briggs, Burns DC, Burns DR, Cain, Casavant, Ceбра, Chapman, Chase, Chipman, Clark H, Clark T, Clarke, Cornell du Houx, Cotta, Crafts, Crockett, Curtis, Cushing, Davis, Dill J, Dion, Dow, Driscoll, Duchesne, Dunphy, Eberle, Edgcomb, Espling, Eves, Fitts, Fitzpatrick, Flood, Fossil, Foster, Fredette, Gifford, Gillway, Goode, Graham, Guerin, Hamper, Hanley, Harlow, Harmon, Harvell, Haskell, Hayes, Hinck, Hogan, Hunt, Johnson D, Johnson P, Keschl, Knapp, Knight, Kruger, Kumiega, Long, Longstaff, Lovejoy, Luchini, Maker, Malaby, Maloney, Martin, Mazurek, McCabe, McCiellan, McKane, Morissette, Morrison, Moulton, Nass, Nelson, Newendyke, Olsen, Parker, Parry, Peoples, Peterson, Picchiotti, Pilon, Plummer, Prescott, Priest, Rankin, Richardson D, Richardson W, Rioux, Rochelo, Rosen, Rotundo, Russell, Sanderson, Sarty, Sirocki, Strang Burgess, Theriault, Tilton, Timberlake, Treat, Turner, Tuttle, Valentino, Volk, Wagner R, Waterhouse, Weaver, Webster, Welsh, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

NAY - Beaulieu, Beavers, Bennett, Blodgett, Boland, Bolduc, Cray, Flemings, Gilbert, Herbig, Kaenrath, Kent, Lajoie, Libby, MacDonald, McFadden, O'Brien, O'Connor, Sanborn, Shaw, Stuckey.

ABSENT - Bryant, Carey, Celli, Damon, Innes Walsh, Stevens, Wintle.

Yes, 122; No, 21; Absent, 7; Vacant, 1; Excused, 0.

122 having voted in the affirmative and 21 voted in the negative, 1 vacancy with 7 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-598)** 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-598)** and sent for concurrence.

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act To Provide a Tax Credit for High-quality Child Care Sites"

(H.P. 830) (L.D. 1118)

Signed:

Senators:

TRAHAN of Lincoln

HASTINGS of Oxford

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-597)** on same Bill.

Signed:

Senator:

WOODBURY of Cumberland

Representatives:

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

READ.

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

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

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

The **SPEAKER**: The Chair recognizes the Representative from 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 I would like to explain to you why.

This is a bill that I put in at the encouragement from what I have learned from serving on the, gosh, I can't talk this morning, I'm sorry. On the Early Childhood...I can't talk at all. I'm really sorry. Anyway, I serve on the Commission for Early Childhood, the Growth Council, and one of the issues that we've been working on for the last couple of years since the council was created is to work on an awareness within all of us, as parents, as grandparents, of the importance of early childhood education and awareness and intervention if necessary and whatever. The better that we get our kiddos launched into our scholastic and our educational system, the more successful they will be and therefore they will be a success as they move through the process. We have spent many years and people toil endlessly to try to make the system work to the best advantage of our children. So one of the areas that folks have been working on very strongly around the country is we understand that child care is a huge challenge because so many of the parents work. So we had created a licensing system that child care centers, for certain sizes, you have to be licensed by the state.

But there is also this whole other group of child care centers that were child care providers that are home based. In fact, there is some 2,000 or so of those folks. They do not have to be licensed by the state, but the state obviously encourages folks to, like anything, sort of continue your education. Most professions have educational credits, learning credits that you get when you sort of complete different things, and usually you get either rewarded, maybe because you have an extra degree that you've picked up so now you can get 50¢ more an hour or something like that. So one of the programs that's been created around the

country and that Maine has adopted along with 20 other states is what's called the Quality Ratings System or Quality Rating and Improvement System, and this is a system that's very similar to many, many, many professions. Your restaurants, hotels, lots of professionals' societies encourage their membership to continue to better themselves. So that's underway.

This bill is not about taking your children. This bill is not about brainwashing or putting a style or something on to your children, that's not what this bill is about. I've heard all kinds of really interesting things that people think that it is about and I'm here to tell you it is not. It is saying that we have, the State of Maine, adopted several years ago this Quality Rating System and they are encouraging through education, not mandatory, that child care, home based child care providers learn and grow. So the next step is that we would like, in marketing terms I call this the "push-pull," is that it's like a chicken and the egg. We basically need to get child care providers, keep encouraging to learn, learning never stops. God knows we learn every second up here. But it's also we have to tell the parents about it and, if we can, encourage the parents to actually understand that there is this education process that's available so they can actually ask their child care provider, gee, are you in the system? If not, is there any reason why you're not or did you know about it, because a lot of times it's really just knowing about it. Then, if they go ahead and get that rating and there are several levels of the rating, that if they get to the upper levels, this bill says that the current child care credit – this is not a new credit. There is nothing, no fiscal note, or actually there is a fiscal note but the fiscal note is not for the tax credit. The tax credit already exists. What this bill does is say that we will skew the current child care tax credit towards parents who have their kiddos at child cares who are currently working and keeping their education credits up. That's all this bill does. It has a \$10,000 fiscal note, which like all of us, we know we all want to debate our fiscal notes, but essentially what that's for is to update the state's computer system so that they can calculate or know which child care providers are in this category. It actually says that it's to the Maine Revenue Services to update the existing child care credit calculation used by internet filing and electronic filing programs to administer the income tax credit for high-quality child care. Any other additional costs will be done, absorbed within existing budgeted resources. So you know I could tell you that I can't believe it would take \$10,000 to update, but that's that. So this is not a new tax credit. I know we've been trying to not do new tax credits. This is using the money that we currently have for child care and saying, if we, the State of Maine, are giving parents a child care credit, shouldn't we encourage them to be sure that their child is getting the best that they can possibly get? Now are there high-quality child care centers, the home based centers across the State of Maine? No, but here's how you guys right here today, tonight when you leave here, you have a handout on your desk. It's about five pages long and all of you parents, I hope that you will read it, perhaps take it home, perhaps give it to your child care provider. Maybe your child care provider doesn't know that these programs exist. It's not a charge for them to know and it's a way for them to kind of keep up on the latest and greatest of education tips and information. As you know, we've been learning a lot, that basically your brain architecture is pretty much in place by age three was a fact that we were told my first session and was sort of a depressing fact because I probably could have done a lot more if I realized it was all over at three. But you know, so you've got to read to those kiddos all the time, and that's the education. That's all. We're not trying to indoctrinate anybody into anything. This is teaching, if you will, I think good parenting skills that we all need to know, you need to

read to our kids. The better we interact and make sure that our kids are stimulated, the better they're going to do in society. So this is sort of a really simple bill that I think has been a little victimized with some misinformation of what it really is and what it really isn't. So it is not a new tax credit. It's encouraging existing child care systems to avail themselves of national data and education materials so that they are providing the best to their clients, and then you all as parents know that that exists and you can sort of be aware. It's like you could ask for it, you could try to find it, you could try to seek it out, and therein you have the push-pull system of marketing. So this is a very important piece to put into place. Thank you very much.

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

Representative **BERRY**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in opposition to the pending motion and I do so because the good Representative from Cumberland has brought forward a measure in LD 1118 which is modest, which is revenue neutral, which would encourage people to take advantage of the existing quality incentives that are built into our tax code and would make them available to more individuals. A solution which is market-driven and which enjoys very broad support in the provider community.

LD 1118 received no opposition, no testimony neither for nor against, but there were proponents, including a working mother from South Portland; the United Way; the Alliance for Children's Care, Education, and Supporting Services; the Maine Children's Alliance; and the Maine Head Start Directors. I haven't gone through the entire list, but suffice it to say that there were many who testified in favor.

The way that our existing Quality Rating System works is fairly simple and it's the same system, essentially, that 19 other states have. The tax credit is based on the federal credit and is a portion, currently 25 percent, of that credit for all child care, and then this quality system builds off of that.

Quality care centers exist across the state. I'm quite sure you have some in your community who would benefit from this, and although I don't have it in front of me I can provide access to information that would allow you to find out who in your community would benefit. I received that information myself from the Department of Health and Human Services and it was very enlightening.

The table I want to refer you, Mr. Speaker, to the table on the five-page handout, the very front of it, that was circulated by the Representative from Cumberland. In this state overall there are a total of 519 family child care centers who are in the Quality Rating System, 435 center-based and Head Start providers in the Quality Rating System, so a grand total of almost 1,000.

The table that you see on that front page is a little hard to read so I just want to make clear that the first row is the first step in the quality system, the second is the second step, third, fourth, and the last line is the total number of providers who are currently enrolled in those categories. I hope that's helpful and clarifies that handout.

So the quality incentive that we currently have, if this bill were to pass, would be very slightly increased for those in the second step of the quality rating and in the third step of the quality rating. This is important because those folks are in the system now, they've taken a lot of time and have worked very hard to receive quality ratings that show that the children that attend their facilities are getting good child care, and we need to reward their work.

In addition, the bill would encourage public/private partnerships, would encourage donations from the private sector by expanding the income tax credit for child quality care

investments to include contributions to public/private partnership funds. And we would spend no more than \$50,000 to incentivize that sort of private donor activity.

Overall, if we restructure the credits in this way, the bill is revenue neutral, except as the Representative from Cumberland mentioned for the \$10,000 in initial expense to re-jigger the system.

I want to finally refer people's attention to the second handout, the second page of the five sheets that were distributed. I think if you look at that and look through the definitions of quality, you'll understand why this is so important. Many of the facilities in our state are legal unlicensed facilities. No one checks on them except for the provider themselves and perhaps the parent when dropping the child off. But they are legal unlicensed facilities.

There is essentially no certification process, no understanding on our part of what those children are exposed to while there. They could be exposed to insensitive, overwhelmed or unengaged staff, to an unsafe, unhealthy or uninspiring environment, to activities and routines that are too chaotic or inflexible, and sadly, in many cases, this is what's going on. The quality system brings us to staff who are educated, attentive and engaged, a safe, healthy and child-friendly environment, stimulating activities, and appropriately structured routines. And more detail about how that quality works is in these handouts. I strongly encourage people to look at it.

I would note also that by restructuring the credit in this way, we would be providing an incentive that helps not only to make quality child care affordable to those who desire it, but it also rewards the efforts of the providers to train themselves, to improve their quality in a way that is somewhat like merit pay in education. I know that's something that some folks here may disagree on. I think within this Quality Rating System it's a very appropriate way to go forward.

Again, this is a revenue neutral, market-based approach that would improve the chances of our young people to get ahead. I hope you'll vote against the pending motion. Thank you, Mr. Speaker.

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. Since when is the state in the business of handing out rewards, tax credits for rewards versus tax credit for assistance? These rewards come on the backs of those taxpayers. They say that it's no fiscal note, but yet they're taking the opportunity to take money from those that are not doing what they feel is right and trying to influence parents. Again, the state trying to tell parents where to put their children in daycare services.

The two previous speakers, the good Representatives from Bowdoinham and Cumberland, one says there is a limited number and the other one says there is enough in the state or a good number.

Many communities will be affected. Think of the rural portions of Maine. You're trying to put small business out of business with this. You're trying to influence those parents to take their children miles and miles down the road to this super rated daycare center. Not all privately owned daycare centers are bad, not all folks are under trained, and we all do care about the children and the advancement and the education of them. I just don't agree with giving out rewards because you're doing something that you've already been doing for years, and now we're going to reward you or we're going to influence your behavior?

If you look at the handout that was handed out by the good

Representative from Cumberland, right under that chart, LD 1118 will influence the market, generating greater competition. In other words, they're trying to widen the gap between those small private daycare centers that provide the services for their friends and families in their community and move them on to these big regionalized state-subsidized daycare centers. Please, please support this motion and vote green. Thank you, Mr. Speaker.

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

Representative **KUMIEGA**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. In this body we frequently debate the unknown. This is not one of those situations.

The good Representatives from Cumberland and Bowdoinham, I could bury this House with data on the benefits of quality early childhood care. The emphasis there is on quality. There is no benefit to flopping a 3-year-old down in front of a television set and letting him watch "Sesame Street" for six hours or eight hours while their parents are working. This is a known issue.

This bill, this tax credit will expand the incentive for parents to choose quality care and thereby create an incentive for child care providers to get the training they need to be quality providers. This is a long-term project that will improve educational outcomes for Maine children. Please vote no on the pending motion and pass LD 1118. Thank you, Mr. Speaker.

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

Representative **GRAHAM**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I indulge your attention, please. I recognize that this has been a ridiculously long week and I am exhausted as you. Mr. Speaker, you are a parent, a grandparent. Ladies and Gentlemen of the House, you're parents, you're grandparents. This is a very good bill for your children, for your grandchildren. It just makes sense.

I have been involved in early care in education programs of this state for the past 10 years. You've heard me say that I've worked in pediatric neurology, I've worked in primary care, but I worked and trained to be a child care health consultant. Come on, do you really need a child care health consultant? Yes, you do. Yes, you do, because children's brains develop rapidly from birth through three, as the good Representative from Cumberland said, up to five, so we've got to get at it early on to make a difference in our children's lives. Quality child care is a positive thing. This bill incentivizes quality care. This doesn't say that you can't continue to take your child to your neighbor who does an excellent job. This says, gee, if you become a quality child care provider at several levels then we'll be even better for your child and your neighbor who cares for your child.

Brain development is enormously important. We have nature and we have nurture. We have children who go to early care and education, who will grow and thrive and receive just great support from the teachers that are there. We also have kids who may have learning disabilities, who will be identified earlier. I will be very honest with you. When my children went to child care, I would go in and look at the child care provider and say, hey man, he's not sleeping and I'm a pediatric nurse practitioner, but I'm a mom and I wanted some advice. I'd say, what do you think? What is he doing with you guys? We'd work together and it was a very positive, positive experience.

To those of you who want to understand why this is important from an economic standpoint, I will give you this. When I started approximately 10 years ago with early care in education, for every dollar we invested studies told us that every dollar spent you got a \$7 return. Well, guess what? It's now for every dollar

you spend, it's \$14. Prevention is what we're doing. Children will be ready and able to learn once they walk in the door in kindergarten. In the long run, we will see children be better educated, be able to be out in the workforce sooner, and it makes a huge difference. Prevention is hard to quantify. This really makes a difference.

This bill helps parents be able to afford the best care they can for their children. Again I ask you, you're parents, you're grandparents, and oh by the way, are you guys noting how cute these kids are? You're delightful. Again, this is very important. I thank the good Representative from Cumberland for bringing this forward. This is so important. This is an investment so worth it. Please, I urge you to vote down the motion on the floor and vote for the Minority Report. I thank you and I hope you all have a great weekend.

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

Representative **VOLK**: Thank you, Mr. Speaker. My degree was in human development and I agree with the Representative from Cumberland that early child care is very, very important to our kids, and I think most of us who went on the legislative tour had the privilege of seeing what they've done in Waterville. But it doesn't have to be and I thought that was fabulous, it was wonderful, but I also thought "Wow, what did this cost?" when I was there. But this isn't about spending money; this isn't about having a big fancy facility. This is about having well trained providers and incentivizing people who are in the home care market, who just have the small daycares to get the proper training so that they can better take care of the children that they are essentially raising part of the time for the parents.

This is really, really important. This is not a new tax credit. This is something that we are already offering. It just changes it a little bit and it incentivizes the centers to strive for improvement so that the parents will choose them for their kids. I mean if you already know that your kids are receiving good care, you're going to tell other parents about it. They're going to want their kids to go there too. So this gives you the confidence in knowing that the people who are taking care of the children while you can't be with them really know what they're doing. I would ask that all of you would follow my light and support and defeat this motion actually. And just remember that this is not about the big child care centers. This is about improving and helping the small care providers that are all over our state. Thank you, Mr. Speaker.

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

Representative **FLEMINGS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the pending motion and in support of LD 1118. I don't want to add too much more. Many folks have spoken very eloquently on this bill. I did just want to respond from my good friend, the Representative from Alfred, Representative Burns, and add some more information to this discussion, particularly around what this bill does in particular.

If we do nothing, if we support the Majority Ought Not to Pass motion, we will continue the program, this system as it works now, which is currently giving a very enhanced benefit of the enhanced tax credit only to parents who send their children to the very highest quality child care centers. So currently, under current law, there are the graduated quality child care centers that exist and currently parents who are able to send their children to the very highest quality do get a benefit. They get an enhanced tax credit that is double the rate of anything else. So if we do nothing, if we Accept the Majority Ought Not to Pass, we will continue to benefit only those few businesses, those few child care centers who are at the very highest quality rating, and we

will continue to benefit only those few parents who are able to send their children to that very highest quality rating child care centers.

On the other hand, if we move forward with the good Representative from Cumberland, Representative Strang Burgess's bill, we will not create anything new but we'll simply enable, we'll reapportion that tax credit a little bit so that child care centers that are at the number two quality rating, number three quality rating, number four all get a benefit and it's a graduated benefit. So essentially what we're doing is we're not creating anything new, as the good Representative from Scarborough, Representative Volk said. We're not creating any new tax credit. We're simply expanding the benefit of this existing tax credit to benefit those child care centers who may not have reached the very highest quality rating, but who are moving towards that rating and therefore they've reached number two, number three, and they're moving towards that very highest quality rating system.

One of the reasons this is so beneficial is that there are not the very highest quality rating child care centers in every part of the state as folks have said, and so for many of us our constituents do not have access to that very highest quality rating child care centers. However, there are many more child care centers that are moving towards there, that are getting the number two and number three quality rating. So by expanding this to the credit, not expanding but reapportioning it so that more businesses benefit and more parents benefit, I really believe we're doing a great service to the State of Maine, to our parents and to our children.

And again, as folks have mentioned, this is not a new program. If we do nothing the program will exist and the enhanced child care credits will be given, but will only be given to a very few number of parents who are able to send their children to the very highest quality rating child care centers. So I do hope you will join me in opposing the Majority Ought Not to Pass Report, voting red on this, so that we can move on to support this very reasonable, very beneficial bill. Thank you very much, Mr. Speaker.

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

Representative **DUNPHY**: Thank you, Mr. Speaker. I rise simply to say that I will be supporting the Ought Not to Pass. High-quality health care is in the eyes of the beholder. I know a number of unlicensed, if you will, health care providers who absolutely love the children that they're watching. They attend their graduations; they are invited to their weddings. I just think that this is not only selectively choosing your opinion of high-quality health care and funding that, but it's also a little bit arrogant in its assumption, in my opinion, that you are the one to determine who is quality and who is not. Thank you, Mr. Speaker.

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

Representative **BURNS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to rise to say I am supporting the motion Ought Not to Pass. We can't even afford to support our schools the way the law dictates that we're to and here we are trying to take tax money to support elitist programs. I urge you to support the motion on the floor. 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 provide a little bit of additional information. I have a website available

which details the enrollment in each county in Maine, similarly to the table that you have in front of you on your desks.

I want to do this for two reasons: One is to correct. There may be a misunderstanding around the idea that these quality programs exist only in certain areas, only in more urbanized areas or are only larger child care facilities. Neither of those impressions are really borne out by the data.

For example, Washington County has 73 percent of the licensed family child care providers. These are the home based, very small child care providers, 73 percent are already enrolled in the Quality Rating System. And yet only a very small number of those, 5.3 percent of those, are actually at step four, meaning that they receive the existing credit. So all of the others are not receiving any credit.

This would help these very small providers who are enrolled in the system, are moving forward, that are in Washington County. And again, those are 73 percent, 73 percent of all of the family child care providers in Washington County are in the system. Most of them are not receiving the benefit.

I could, for example, take Somerset County and I would show you that, a little lower number, 40 percent are enrolled in the Quality Rating System. Many more might be interested if this credit were available to them, if they didn't have to get all the way to step four to receive the credit.

But I don't want anyone here to think that the family based smaller centers are somehow left out. In fact, we have more of them involved in the overall quality system than the larger centers. And certainly the rural areas would benefit enormously if this measure were to pass and if a more reasonable restructuring of the tax credits that we already provide could be allowed to go forward. Thank you, Mr. Speaker.

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. Briefly, I support the Ought Not to Pass as well. My two young adult children were well served by private homes, small and loving daycares, not centers but daycares, people in our neighborhood. My issue is more for another day, I suppose, that now as young adults they can't find a job in this state. So that's, I think, more of my concern. Thank you, Mr. Speaker.

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

Representative **TUTTLE**: Thank you, Mr. Speaker. Briefly, I'd pose a question through the Chair.

The SPEAKER: The Representative may pose his question.

Representative **TUTTLE**: I believe the fiscal note is \$10,000. Is that correct?

The SPEAKER: The Representative from Sanford, Representative Tuttle, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Winterport, Representative Rioux.

Representative **RIOUX**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise to support the hardworking Representative from Cumberland because I, like her, believe that we need to raise the bar, and this is going to raise the bar for all daycares. It's going to provide better service for all of our children. Thank you, Mr. Speaker.

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 to attempt to answer the good Representative's question about the fiscal note. The fiscal note is \$10,000. As I said initially, this is not a new tax credit. It already exists. It will

continue to exist. The \$10,000 is what was estimated for the Maine Revenue Services to update their computer system in order to properly be able to identify which parents are attending or have their kiddos at different level of the child care centers out there. Hopefully that clears that up. I'd like to think that it could have been done for a lot less than that, but you know how we all have that challenge when we deal with fiscal notes.

I know we've had way too much conversation on this, but I just wanted to say I appreciate people's support in opposition to the pending motion and this is not forcing anybody to do anything. This is education. It is not an elitist system. If you think reading to your children when they are young is an elitist thing, then I really find myself speechless. Thank you.

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

Representative O'CONNOR: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I was reading through this "Quality for Maine" here and what I see in step two, the program has some policies, procedures, and staff qualifications that are above and beyond those required by child care licensing. This tells me that this increases the regulations that will be applied to the daycare centers that will be rewarded with our tax dollars.

It also has several policies, procedures and staff qualifications above and beyond those. I'm looking at this and I can see this is going to be an increase in regulation to our daycare providers. And I have been a preschool teacher. Then you have to do written daily communications for infants and toddlers? This will literally put hundreds of small businesses out of business, those people that are our neighbors and our friends and are going to be taking care of our kids. I stand in total support of the motion that's on the floor. Thank you.

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

Representative FLEMINGS: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just want to respond briefly to assure the good members of this body that this is no way a required program. If a daycare center does not choose to enroll in the Quality for Maine Rating System quality rating system, there is no penalty whatsoever on that child care center.

Many centers choose not to participate and that is no problem whatsoever. This is only an opportunity for child care centers to, should they choose, to go through a number of steps, should they choose to be rated on this rating system. So this is completely voluntary. It is completely within the child care centers' rights and decisions to choose whether or not to participate and to choose at what step, what goal they want to make for themselves, at what step they want to grow.

And again, if we do support the Majority Ought Not to Pass motion that is before us today, the Quality for Maine Rating System will still exist and there will still be a greatly enhanced child care credit for those parents who take their children to the very highest quality rated child care centers, and those in between, those child care centers that are choosing to go from step one to step two or step three, will see no benefit at all. But the service, the program, and the opportunity will still exist should we vote for the Ought Not to Pass. So I do urge folks to reject the Ought Not to Pass motion so that we can provide greater benefit within using the same resources for greater child care centers and greater numbers of parents. Thank you, Mr. Speaker.

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

Representative HARMON: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am looking at the fiscal note. It says "The amount of the revenue reduction cannot be forecast until a conflict in the bill regarding the credit is addressed." If I may also pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative HARMON: Has that been addressed?

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 Bowdoinham, Representative Berry.

Representative BERRY: Thank you, Mr. Speaker. I believe that the fiscal note that the good Representative from Palermo was reading was from the original bill. The fiscal note to the LD 1118 as amended with the Committee Amendment would be \$10,000 in this year and zero in the out years.

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

Representative MacDONALD: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in opposition to this motion and just would like to point out a couple of things. It's been stated in some of our debate here today that the rating systems that are used are arbitrary or judgmental. I don't think that's the case. If you do look at the material that's been provided to you, you see there is a national organization that looks at quality of child care operations and has a number of well developed, not arbitrary but comprehensive quality measurements that are used to make these kinds of judgments. This is not judgmental. This is an effort to have both parents and daycare providers increase the quality of the daycare experience for young children.

We all, I think, know that it is in the first five years of life that the greatest development in intellectual ability happens in human beings and it is to our total benefit, both as individuals and as families and as communities, that we build up the opportunities that are available for young children through quality child care and through early childhood education. All this bill does is try to extend that benefit to child care operations that are coming up the scale from the lowest scale to the highest in quality and extend that benefit to parents who want to bring their children to those centers, and to incentivize the centers to grow in quality. This should be a goal that we all have for the youngest in our society and it will in essence benefit us all over the long run. I think it's a wise policy. I do think that we ought to reject the Ought Not to Pass and extend this to a greater number of child care centers in the State of Maine. Thank you, Mr. Speaker.

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

Representative BURNS: Thank you, Mr. Speaker. Sorry folks for rising a second time. Just in response also to the fiscal note on the amendment, it is still unclear that the issue is resolved. I guess, may I pose a question through the Speaker?

The SPEAKER: The Representative may pose his question.

Representative BURNS: I think my concern and I think the question is, Mr. Speaker, is so what do we do for the younger kids and the parents that can't afford these high-quality daycare centers? In other words, a family struggling can't afford the daycare centers that are providing these great services, but they can afford a small town neighborhood daycare center at a lower cost. It would seem to me that the folks that are struggling to pay for daycare services could use the tax credits more than the ones that could really afford the more expensive daycare centers. So what's in it for the persons, the young people that are going to miss out on this education that is so important that we heard the

good Representative before me say, what's the incentive for them and their folks if they can't afford these centers? Thank you, Mr. Speaker.

The SPEAKER: The Representative from Alfred, Representative Burns, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Boothbay, Representative MacDonald.

Representative MacDONALD: Mr. Speaker, in response to the question from the good Representative from Alfred, if you look at the bill, what it does is it starts to, it has a gradation of tax credits for child care centers that are working their way up the quality scale. There are four stages from one to four and if the child care center is at step two, the credit increases to 30 percent of the federal credit. If the child care services are at step three, the credit increases to 38 percent, and if it's at step four, then it's 50 percent of the federal credit. So I think the answer to the question is if you're in an area that doesn't have the highest quality, but you are in an area that has child care centers that are on these steps and perhaps hopefully working their way up, there is a child care tax credit provided under this bill. Today there is no credit if you're going to those lower quality rated institutions. This provides a new set of credits for parents sending kids to daycare centers that have not yet reached that highest pinnacle. I think that might be in some of the more rural areas and it might be some of the younger families that can't afford what might be available in other areas. So I think that's an answer to the Representative's question. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Strang Burgess.

Representative STRANG BURGESS: Thank you, Mr. Speaker. I just rise to answer the previous question which was the fiscal note. I have the copy that was distributed here in this body and the fiscal note on the back says nothing about what is being questioned. So I'm really at a loss as to where that sentence is coming from. So if there is no question that's been written here on the fiscal note. Finally, this tax credit...

The SPEAKER: Will the Representative defer. The Representative from Cumberland, Representative Strang Burgess, having spoken twice now requests unanimous consent to address the House a third time. Is there objection? The Chair hears no objection, the Representative may proceed.

Representative STRANG BURGESS: Thank you, Mr. Speaker. Thank you, Members of the House. Again, I'm just trying to respond to the question that this tax credit is given to hardworking families that do not receive any other subsidy from the State of Maine or the Federal Government. In other words, the types of families that have been explained here that can't get it together probably are on some sort of state or MaineCare or some level of assistance. So this is for the hardworking families that are out there working and currently this tax care credit exists and it is nothing in there that it's mandatory nor is there anything there that says that just because a child care center or your neighborhood child care provider, which is where my kiddos went, has to charge anything more or less. They don't have to pay. This is about expanding your educational mind. 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. 164

YEA - Ayotte, Beaulieu, Bennett, Bickford, Black, Burns DC, Burns DR, Cebra, Chase, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Davis, Dow, Dunphy, Edgecomb, Espling, Fitts, Fitzpatrick, Fossil, Foster, Fredette, Gifford, Gillway, Guerin, Hamper, Hanley, Harmon, Harvell, Johnson D, Johnson P,

Keschl, Knight, Libby, Long, Maker, Malaby, McClellan, McFadden, McKane, Morissette, Moulton, Nass, Newendyke, O'Connor, Olsen, Parker, Parry, Picchiotti, Plummer, Prescott, Richardson D, Richardson W, Rioux, Rosen, Sanderson, Sarty, Sirocki, Tilton, Timberlake, Turner, 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, Eves, Flemings, Gilbert, Goode, Graham, Harlow, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Kaenrath, Kent, Knapp, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maloney, Martin, Mazurek, McCabe, Morrison, Nelson, O'Brien, Peoples, Peterson, Pilon, Priest, Rankin, Rochelo, Rotundo, Russell, Sanborn, Shaw, Stevens, Strang Burgess, Stuckey, Theriault, Treat, Tuttle, Valentino, Volk, Wagner R, Webster, Welsh.

ABSENT - Bryant, Carey, Celli, Damon, Flood, Innes Walsh, Wintle.

Yes, 72; No, 71; Absent, 7; Vacant, 1; Excused, 0.

72 having voted in the affirmative and 71 voted in the negative, 1 vacancy with 7 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **VETERANS AND LEGAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act To Amend the Laws Governing Corporate Political Donations" (H.P. 493) (L.D. 663)

Signed:

Senators:

FARNHAM of Penobscot
PATRICK of Oxford
PLOWMAN of Penobscot

Representatives:

BEAULIEU of Auburn
CAREY of Lewiston
CROCKETT of Bethel
DAMON of Bangor
JOHNSON of Eddington
LONGSTAFF of Waterville
VALENTINO of Saco
WILLETTE of Presque Isle

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

Signed:

Representatives:

CHIPMAN of Portland
RUSSELL of Portland

Representative MITCHELL of the Penobscot Nation - of the House - supports the Majority **Ought Not to Pass** Report.

READ.

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

CONSENT CALENDAR

First Day

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

(H.P. 702) (L.D. 958) Resolve, To Direct the Department of Education To Review the Essential Programs and Services Model Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-604)**

(H.P. 1086) (L.D. 1477) Bill "An Act To Protect Owners of Real Property" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-600)**

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

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

ENACTORS

Acts

An Act Relating to Concealed Firearms Locked in Vehicles

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

(C. "A" H-422)

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

On motion of Representative HASKELL of Portland, 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 Haskell.

Representative **HASKELL**: Thank you very much, Mr. Speaker. Mr. Speaker, Men and Women of the House. You've heard me speak on this bill a number of times now, but I want you to understand that it is important to me. It is critical to a number of our businesses and I think it's important that even on enactment we take one more opportunity to take a look at what this bill does and what this bill does not do.

First of all, what this bill does is it bans companies from having a policy regarding firearms in their parking lots. I think it's inappropriate and unconscionable of us to be imposing that ban on these companies. I would ask you to think seriously about what those implications are and think about the kinds of businesses and companies that are going to be impacted.

The second thing, what it does not do. It does not restrict anybody from allowing people to bring their firearms locked in their vehicles on to their property. It does not require them to have a policy. All this bill does is ban them from having any input at all about the policy in their own parking lots. I would ask you to vote against the pending motion to Enact this bill. Thank you.

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

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

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

Representative **VOLK**: Thank you. Will this apply to state and municipal government property and include State House grounds?

The **SPEAKER**: The Representative from Scarborough, Representative Volk, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Haskell.

Representative **HASKELL**: Thank you very much, Mr. Speaker. Mr. Speaker, Men and Women of the House. I believe the answer to that is that municipal and state and county localities are all employers and it is my understanding that this would actually apply to them and would not therefore allow those municipalities or counties to impose any of those at any time, any of those bans, that it would also be restricting those bans in those places as well. So that would be automatically allowing concealed weapons to be in locked vehicles on the property of your local municipalities and they don't have any choice about that. We wouldn't have any choice in this parking lot here, I don't believe. I think we'd have to check on the state one, but certainly with all those other employers, I believe that this ban would be consistent for employers. 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. 165

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

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

ABSENT - Bryant, Carey, Celli, Damon, Innes Walsh, Wintle.

Yes, 73; No, 71; Absent, 6; Vacant, 1; Excused, 0.

73 having voted in the affirmative and 71 voted in the negative, 1 vacancy with 6 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

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

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act Regarding Establishing a Slot Machine Facility"

(I.B. 1) (L.D. 985)

Minority (2) **OUGHT TO PASS AS AMENDED** Report of the Committee on **VETERANS AND LEGAL AFFAIRS READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-436)** in the House on June 6, 2011.

Came from the Senate with the Majority (11) **OUGHT NOT TO PASS** Report of the Committee on **VETERANS AND LEGAL AFFAIRS READ** and **ACCEPTED** in **NON-CONCURRENCE**.
The House voted to **INSIST**.

COMMUNICATIONS

The Following Communication: (S.C. 434)

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

June 8, 2011

The Honorable Robert W. Nutting
Speaker of the House
2 State House Station
Augusta, Maine 04333

Dear Speaker Nutting:

In accordance with 3 M.R.S.A. §158 and Joint Rule 506 of the 125th Maine Legislature, please be advised that the Senate today confirmed the following nomination:

Upon the recommendation of the Committee on Transportation, the nomination of the Honorable Daniel E. Wathen of Augusta for appointment to the Maine Turnpike Authority.

Sincerely,

S/Joseph G. Carleton, Jr.

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on Bill "An Act To Modify the Requirements for Municipal Code Enforcement Officer Training"

(H.P. 840) (L.D. 1128)

Signed:

Senators:

THOMAS of Somerset

COLLINS of York

SULLIVAN of York

Representatives:

COTTA of China

BOLAND of Sanford

BOLDUC of Auburn

CASAVANT of Biddeford

CELLI of Brewer

GRAHAM of North Yarmouth

HARVELL of Farmington

KAENRATH of South Portland

TURNER of Burlington

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-601)** on same Bill.

Signed:

Representative:

MOULTON of York

READ.

On motion of Representative COTTA of China, the Majority **Ought Not to Pass** Report was **ACCEPTED** 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 Rail Competition in Northern Maine" (EMERGENCY)

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

(Committee on **TRANSPORTATION** suggested)

TABLED - May 3, 2011 (Till Later Today) by Representative CEBRA of Naples.

PENDING - **REFERENCE.**

Representative FITTS of Pittsfield moved that the House **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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

Representative **FITTS**: Thank you, Mr. Speaker. As our calendar gets thinner and we near the end of a session and run out of time to work on issues, I feel this is one of those issues, but given our limited time, I just want to share with the body what the issues were that brought this bill forward. All of us are familiar with the bond issue, that we purchased a section of rail in northern Maine and negotiations that were underway regarding that. I think most of us also read in the newspapers about situations of certain shippers that were having difficulties within the negotiation process and this bill was initially brought forward to help with that. I think it did accomplish its objective.

But in addition, in the drafting of the bill and during all of that time that followed, it came to my attention that there is also an issue in the interface between our ports and our rail system, specifically at Searsport, Mack Point, where that port facility is interconnected with the same rail system that we purchased and that there are issues going forward for that facility. So I look forward to working with the Transportation Committee and our Executive to find ways to maximize the value of the assets that we have.

We put \$19 million into Mack Point. It barely sees ships today and some of that is as a result of the limited access that they have to rail. When loads arrive at Mack Point they are put into 100,000 pound trucks and travel on our secondary roads rather than on our rail system because of deficiencies that we have. I think that and other issues related to the interface between all of our transportation infrastructure is an important discussion that needs to go forward and I look forward to participating in that. Thank you, Mr. Speaker.

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

HOUSE DIVIDED REPORT - Majority (7) **Ought to Pass as Amended by Committee Amendment "A" (H-335)** - Minority (4) **Ought Not to Pass** - Committee on **TAXATION** on Bill "An Act Regarding the Recognition of Corporate Entities for Tax Purposes"

(H.P. 432) (L.D. 549)

TABLED - May 26, 2011 (Till Later Today) by Representative KNIGHT of Livermore Falls.

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

Subsequently, on motion of Representative KNIGHT of Livermore Falls, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** and sent for concurrence.

SENATE DIVIDED REPORT - Majority (10) **Ought to Pass as Amended by Committee Amendment "A" (S-133)** - Minority (3) **Ought Not to Pass** - Committee on **TAXATION** on Bill "An Act To Conform Maine's Estate Tax to the Federal Estate Tax" (S.P. 347) (L.D. 1147)

- 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-133) AS AMENDED BY SENATE AMENDMENT "B" (S-217)** thereto.

TABLED - June 2, 2011 (Till Later Today) by Representative **KNIGHT** of Livermore Falls.

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

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

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

SENATE DIVIDED REPORT - Majority (9) **Ought Not to Pass** - Minority (4) **Ought to Pass** - Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Allow Municipalities To Restrict the Possession of Firearms in Certain Circumstances"

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

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

TABLED - June 9, 2011 (Till Later Today) by Representative **PLUMMER** of Windham.

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

Representative **CEBRA** of Naples moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

Representative **HASKELL** of Portland **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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

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

Representative **HASKELL**: Thank you very much, Mr. Speaker. Mr. Speaker, Men and Women of the House. This bill is a bill which would allow municipalities to restrict the possession of firearms under certain circumstances. Let me tell you a little bit about what those circumstances are. Those would be the circumstances when you were holding a meeting like this, a matter of legislative assembly or municipal meeting, and currently they are not allowed to restrict somebody from coming into their council meeting, town meeting, carrying a concealed weapon, or for that matter, openly carrying a weapon into those meetings. I've heard many times that sitting here up on this floor we feel, there are some of us that have indicated that we feel as though we might be a target or in danger or concerned and therefore the fact that folks can't bring firearms in here is probably a good thing. But we haven't allowed municipalities to make any rules about that. We currently are allowing both open carry and concealed carry in municipal meetings of that sort. This has come as a surprise to some folks. I know it came as a surprise to the sponsor of the bill who was serving in a municipality very

close to here, as a matter of fact this municipality, when a sign that had been up there for many, many years had to be taken down, which restricted people from bringing their firearms or coming to the town meeting with a firearm. So this bill was introduced in an effort to provide those municipalities who wish to.

Again, this is permissive. It is not required. But would allow those municipalities who wish to, to have a policy, and frankly, to trust those folks at the municipal level to be able to make that decision. In your communities they may not wish to make that. They may have all of their councilors or selectmen maybe feeling as though they are perfectly comfortable. But there are those communities in which they would like to have that opportunity, and ladies and gentlemen, that's what this bill does. It gives them the opportunity to put a policy in place. Now, since apparently they can carry them on to the parking lot, this would be an opportunity for them to say that's where it stops, you can't bring it into the council meeting. Again, this is permissive and simply allows those municipalities to do it. So I urge you to reject the current motion so that we can go on to consider the Minority Report. Thank you, Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Gorham, Representative **Knapp**.

Representative **KNAPP**: Thank you, Mr. Speaker. As a former town councilor I and many of the town councilors did not like State Government telling us what we could or could not do. This is an issue of local control. Thank you.

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

Representative **CEBRA**: Thank you, Mr. Speaker. I would like to make a couple of corrections, if I might. This is not a matter of local control. We have a long standing state statute in Maine. It's called preemption. It means that Maine state law, when it comes to Second Amendment issues, preempts municipal or any other political subdivision laws and there is a reason for that, because we don't want to create in this state a patchwork of firearm prohibitions that would confuse law-abiding citizens. What a bill like this would do would be to begin the creation of that patchwork. So no in fact it's not a local control issue because the state, for pretty close to some of the people in this building's lifetime, has had preemption in place for the protection of both the law-abiding citizen who decides to exercise their Second Amendment right as well as the general public. So I urge you to support the Indefinite Postponement.

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

Representative **MARTIN**: Thank you, Members of the House. As the original sponsor of the preemption law many years ago, I urge you to vote for the motion to Indefinitely Postpone. The purpose of the law then as it is now was to prevent the patchwork of different regulations from one place to another. So I feel strongly that this is not the way to approach this issue.

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

Representative **MAKER**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I also am a former city councilor. I voted this past couple of weeks on gun issues, which probably I never would have done before if I hadn't come here. I support the right to bear arms; however, I believe our city councilors have that same right to make that suggestion as we would here. I would not, I will tell you that up front, I will not support guns being brought into this House, and I think they should have the right to do the same. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of the Bill and all accompanying papers. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 166

YEA - Ayotte, Beaulieu, Beck, Bennett, Black, Burns DC, Burns DR, Cebra, Chase, Clark H, Clark T, Cornell du Houx, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Davis, Dow, Dunphy, Edgecomb, Espling, Fitts, Fitzpatrick, Flood, Fredette, Gifford, Gillway, Guerin, Hamper, Hanley, Harmon, Harvell, Johnson D, Johnson P, Keschl, Knight, Libby, Long, Malaby, Martin, McClellan, McFadden, McKane, Morissette, Moulton, Nass, Newendyke, O'Connor, Olsen, Parker, Parry, Peterson, Picchiotti, Plummer, Prescott, Richardson D, Richardson W, Rioux, Rosen, Russell, Sanderson, Sarty, Shaw, Sirocki, Theriault, Tilton, Timberlake, Turner, Tuttle, Waterhouse, Weaver, Willette A, Winsor, Wood, Mr. Speaker.

NAY - Beaudoin, Beavers, Beliveau, Berry, Bickford, Blodgett, Boland, Bolduc, Briggs, Cain, Casavant, Chapman, Chipman, Clarke, Dill J, Dion, Driscoll, Duchesne, Eberle, Eves, Flemings, Fossel, Foster, Gilbert, Goode, Harlow, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Kaenrath, Kent, Knapp, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maker, Maloney, Mazurek, McCabe, Morrison, Nelson, O'Brien, Peoples, Pilon, Priest, Rankin, Rochelo, Rotundo, Sanborn, Stevens, Strang Burgess, Stuckey, Treat, Valentino, Volk, Wagner R, Webster, Welsh.

ABSENT - Bryant, Carey, Celli, Damon, Graham, Innes Walsh, Wintle.

Yes, 78; No, 65; Absent, 7; Vacant, 1; Excused, 0.

78 having voted in the affirmative and 65 voted in the negative, 1 vacancy with 7 being absent, and accordingly the Bill and all accompanying papers were **INDEFINITELY POSTPONED** in **NON-CONCURRENCE** and sent for concurrence.

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

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

Representative **CLARKE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. In reference to Roll Call No. 156 on LD 1534, had I been present I would have voted nay. In reference to Roll Call No. 160 on LD 1376, had I been present I would have voted nay. Thank you, Mr. Speaker.

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.

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Require a Two-thirds Vote To Approve the Issuance of a Bond or Security by the Maine Governmental Facilities Authority

(H.P. 728) (L.D. 984)
(C. "A" H-304; S. "A" S-182)

TABLED - June 2, 2011 (Till Later Today) by Representative CURTIS of Madison.

PENDING - **FINAL PASSAGE**. (Roll Call Ordered)

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 a Constitutional Amendment, and a two-thirds vote of the House being necessary, a total was taken.

ROLL CALL NO. 167

YEA - Ayotte, Beaulieu, Bennett, Bickford, Black, Burns DC, Burns DR, Cebra, Celli, Chase, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Davis, Dow, Dunphy, Espling, Fitts, Fitzpatrick, Flood, Fossel, Foster, Fredette, Gifford, Gillway, Guerin, Hamper, Harmon, Harvell, Johnson D, Johnson P, Keschl, Knight, Libby, Long, Maker, McClellan, McFadden, McKane, Morissette, Moulton, Nass, Newendyke, O'Connor, Olsen, Parker, Parry, Picchiotti, Plummer, Prescott, Richardson W, Rioux, Rosen, Sanderson, Sarty, Sirocki, Strang Burgess, Tilton, Timberlake, Turner, Volk, Waterhouse, Weaver, Willette A, 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, Duchesne, Eberle, Flemings, Gilbert, Goode, Hanley, Harlow, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Kaenrath, Kent, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maloney, Martin, Mazurek, McCabe, Morrison, Nelson, O'Brien, Peoples, Peterson, Pilon, Priest, Rankin, Rochelo, Rotundo, Russell, Sanborn, Shaw, Stevens, Stuckey, Theriault, Treat, Tuttle, Valentino, Wagner R, Webster, Welsh.

ABSENT - Bryant, Carey, Damon, Driscoll, Edgecomb, Eves, Graham, Innes Walsh, Knapp, Malaby, Richardson D, Willette M, Wintle.

Yes, 71; No, 66; Absent, 13; Vacant, 1; Excused, 0.

71 having voted in the affirmative and 66 voted in the negative, 1 vacancy with 13 being absent, and accordingly the RESOLUTION **FAILED FINAL PASSAGE** and was sent to the Senate.

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)

- In House, **FAILED OF FINAL PASSAGE** on June 7, 2011.

- In 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**.

TABLED - June 9, 2011 (Till Later Today) by Representative CURTIS of Madison.

PENDING - **FURTHER CONSIDERATION**.

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

SENATE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (S-41)** - Committee on TAXATION on Bill "An Act To Provide an Income Tax Credit for Logging Companies That Hire Maine Residents"
(S.P. 100) (L.D. 338)

- In Senate, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

TABLED - April 28, 2011 (Till Later Today) by Representative KNIGHT of Livermore Falls.

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

Subsequently, Representative KNIGHT of Livermore Falls **WITHDREW** his motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

The same Representative moved that the House **ACCEPT** the Minority **Ought to Pass as Amended** Report.

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

Representative MARTIN: Thank you, Mr. Speaker. Mr. Speaker, Members of the House. I'm hoping that we can move the Minority Report that is before us at which time I am going to offer an amendment which probably has long since disappeared from your desks, but it's (H-339), which deals with the issue in a more comprehensive way and has greater support. That's why we are moving it forward at this point. What I will do following this, we'll then give the bill its Second Reading and then we'll attach the amendment at that time and I will talk about the amendment at that time.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-41)** was **READ** by the Clerk.

On motion of Representative CUSHING of Hampden, **TABLED** pending **ADOPTION** of **Committee Amendment "A" (S-41)** and later today assigned.

ENACTORS

Emergency Measure

An Act To Encourage Fishing for Individuals with Disabilities
(H.P. 825) (L.D. 1113)
(H. "A" H-505 to C. "A" H-382)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 110 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act To Encourage Prompt Payments by the State When It Contracts with Outside Agencies
(H.P. 912) (L.D. 1221)
(C. "A" H-389; H. "B" H-594)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 115 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act Concerning Fees for Users of County Registries of Deeds

(H.P. 1100) (L.D. 1499)
(S. "A" S-280 to C. "A" H-503)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 108 voted in favor of the same and 1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act To Prohibit the Sale or Possession of So-called Bath Salts Containing Dangerous Synthetic Drugs

(H.P. 1147) (L.D. 1562)
(C. "A" H-586)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 114 voted in favor of the same and 1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Acts

An Act To Foster Economic Development by Improving Administration of the Laws Governing Site Location of Development and Storm Water Management

(S.P. 52) (L.D. 159)
(C. "A" S-139)

An Act To Create a 6-year Statute of Limitations for Environmental Violations

(S.P. 87) (L.D. 281)
(C. "A" S-239)

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)
(C. "A" S-64)

An Act To Improve the Delivery of School Psychological Services to Children

(S.P. 327) (L.D. 1094)
(C. "A" S-279)

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

(H.P. 970) (L.D. 1324)
(S. "A" S-275 to C. "A" H-316)

An Act To Fully Enfranchise Voters

(H.P. 1087) (L.D. 1478)
(H. "A" H-566 to C. "A" H-508)

An Act To Create Innovative Public School Zones and Innovative Public School Districts

(S.P. 466) (L.D. 1488)
(C. "A" S-277)

An Act To Ensure Accountability in State Contracts

(S.P. 468) (L.D. 1492)
(S. "A" S-278 to C. "A" S-262)

An Act To Regulate the Licensing and Oversight of Professional Investigators

(H.P. 1148) (L.D. 1563)
(C. "A" H-585)

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

Resolves

Resolve, Directing the Department of Administrative and Financial Services, Bureau of Revenue Services To Review the Farm and Open Space Tax Law

(H.P. 848) (L.D. 1142)
(C. "A" H-580)

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

An Act To Amend the Laws Pertaining to High-stakes Beano
(H.P. 418) (L.D. 535)
(H. "A" H-498 to C. "B" H-402)

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

On motion of Representative SOCTOMAH of the Passamaquoddy Tribe, 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 "B" (H-402) as Amended by House Amendment "A" (H-498)** was **ADOPTED**.

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

On further motion of the same Representative, **House Amendment "A" (H-498) to Committee Amendment "B" (H-402)** was **INDEFINITELY POSTPONED**.

The same Representative **PRESENTED House Amendment "B" (H-606) to Committee Amendment "B" (H-402)**, which was **READ** by the Clerk.

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

Representative **SOCTOMAH**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. What that amendment does is address the bingo fee that was left out in the original amendment and puts it back in. That's all it does. Thank you.

Subsequently, **House Amendment "B" (H-606)** to **Committee Amendment "B" (H-402)** was **ADOPTED**.

Committee Amendment "B" (H-402) as Amended by House Amendment "B" (H-606) thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "B" (H-402) as Amended by House Amendment "B" (H-606)** thereto in **NON-CONCURRENCE** and sent for concurrence.

Acts

An Act To Amend the Process of Federal Aviation Administration Airport Improvement Program Grants

(H.P. 585) (L.D. 778)
(H. "A" H-479 to C. "A" H-193)

An Act To Provide a Temporary License To Operate a Public Dance Establishment

(H.P. 645) (L.D. 878)
(H. "A" H-578 to C. "A" H-299)

An Act Regarding the Attendance of Attorneys at Individualized Education Program Team Meetings

(H.P. 822) (L.D. 1110)
(CC. "A" H-590)

An Act To Allow the Repayment of Improperly Awarded Workers' Compensation Benefits

(S.P. 389) (L.D. 1268)
(C. "A" S-124)

An Act To Amend the Laws Concerning the Child Care Advisory Council and the Maine Children's Growth Council

(H.P. 1093) (L.D. 1486)
(H. "A" H-593)

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

Resolves

Resolve, To Amend the Rules Concerning Long-term Care Services To Better Support Family Caregivers

(S.P. 232) (L.D. 739)
(H. "A" H-518 to C. "A" S-205)

Resolve, To Require the Commissioner of Labor To Convene a Stakeholder Group To Determine the Most Appropriate Amount of Time an Employer May Employ an Employee without Being Subject to Unemployment Compensation Requirements

(H.P. 829) (L.D. 1117)
(C. "A" H-271)

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

An Act Concerning Solid Waste Facility Citizen Advisory Committees

(H.P. 522) (L.D. 693)
(H. "A" H-500 to C. "A" H-444)

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

On motion of Representative **HAMPER** of Oxford, was **SET ASIDE**.

On motion of the same Representative the Bill and all accompanying papers were **COMMITTED** to the Committee on **ENVIRONMENT AND NATURAL RESOURCES** and sent for concurrence.

An Act To Amend the Laws Governing the Deadline and Conditions for Municipal Approval of a Second Racino and To Allow a Tribal Racino in Washington County

(I.B. 2) (L.D. 1203)
(C. "A" H-400)

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

On motion of Representative **HAYES** of Buckfield, 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 Biddeford, Representative Casavant.

Representative **CASAVANT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This particular bill has been very emotional in both ends of the hall. Some very good arguments have been mentioned by both sides. Many people have spoken on the benefit of the Tribes and I agree there are many potential benefits there. People have talked about the benefits for the horsemen, and again, I find that there is some appealing attributes to that particular argument. However, when it comes to the City of Biddeford I have great reservations and so do the other two members of my delegation. Our issue remains we need to see all the cards on the table.

There are many doubts regarding the potential benefits of this particular project on the City of Biddeford. There are issues about socioeconomic points. For example, I'm not saying this is true, but there is an academic study that indicates that for every \$49 of money that comes into a community, there are \$289 worth of social costs. It makes one think and in the bigger picture, again it makes me wonder, why the rush? Why can't we look at that even more, and at least in terms of Biddeford, since day one the developers have been very aggressive gambling on their money by a rapid pursuit of this particular project, many promises. All I want to do is to strip away the promises and try to look at the reality of it all. It's sort of like when you go into a grocery store and you look for any apple, if the apple is bruised you put it back.

In terms of this bill, while there are things that look very attractive, I see bruises to it too. So I see no reason why, Mr. Speaker, we should hurry this and vote as a body to bypass what has been tradition. I see no problem with putting it out as a referendum. I ask, what is the rush? I have no real clear answer for that, but I think that it deserves some sort of investigation to learn the true ramifications of what we're about to do.

The last few days have been particularly revealing to me, as again the developers have ramped up the gambling on this, more money has been poured into getting us to sway or think about their particular ideas. As I said a couple of days ago, in the world of gambling the house always wins. I think it's too important to allow that philosophy to be part of our consideration, because I think that when we can detach ourselves and begin to question the bigger picture, when in fact this House wins by being able to circumvent and look beyond, I think that's when it's not the gambling interest that becomes part of the view, but the people's interest. So I ask everyone here today to think about the bigger socioeconomic considerations and to think about why should we hurry this through, wouldn't it be better just to slow it down, because inevitably it's not about really gambling, per se, or it's not about horseracing, it's just about public vetting. Thank you, Mr. Speaker.

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

Representative **SOCTOMAH**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise again to defend 1203 and ask that you support it.

The good Representative from Biddeford, Mr. Casavant's concerns about investigation, I think, would be merited by the already operating casino or racino that you have in the State of Maine. But when it comes to Native American tribes, it's always investigate, investigate, investigate and investigate. The Native Americans here in Maine are tired of being investigated and we're tired of handing a handout. I think that your comments

were ill-warranted and I think it is dishonorable to my Tribe when you say think about...

The SPEAKER: Will the Representative defer. If the Representative would just make her case without commenting on comments from others, that would be my preference.

The Chair reminded Representative **SOCTOMAH** of the Passamaquoddy Tribe to not criticize others during her debate before the House.

Representative **SOCTOMAH**: Thank you, Mr. Speaker. The social impact of any casino or racino in this state have already been seen by the operation in the State of Maine. I think and I feel that the racino in Washington County is very well deserved. I think that we've been doing our reports in all areas of gaming and I hope that the members of the House support 1203.

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

Representative **FITTS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I won't subject this body to another long debate. I just want to state that if you recall the debate from our past discussion on this bill, that the timing issue that's been stressed is just relative to the process that we have, and any implication or inference that this seems to be being rushed, I think, is being misrepresented and that this process has been going on for nearly six months now. So I think the body has heard the arguments. I think we can move on. I don't think we need to re-debate it. I appreciate you following my light in support.

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

Representative **BEAUDOIN**: Thank you, Mr. Speaker. Mr. Speaker, Members of the House. I understand about Representative Soctomah. I understand the way she feels, but I hope that others will realize how we feel with Biddeford. I concur with Representative Casavant and everything he said and, for us, this was done very quickly and it really, really was pushed unbelievably. It just hurts to see things going like that. It just does. I mean we've never had anything like this in our town and I would like for things to be slowed down. We're not asking to stop. We're asking it to slow down for people to really get a chance to know what's going on. Thank you, Mr. Speaker.

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

Representative **CASAVANT**: Thank you, Mr. Speaker. I want to apologize to Representative Soctomah if she believes or felt that I was insulting or hurting the Tribes. That wasn't my intent whatsoever.

Mr. Speaker, Ladies and Gentlemen of the House, what I was trying to say, obviously clumsily, was that what fits the goose doesn't always fit the gander. What might be working or might be desirable in one end of the state might not be of benefit in the other end. So when you look at this particular bill, because it was all bundled together, either it was a move of genius or it was a move that had some flaws in it too.

So again, it's one of those big picture issues. For us in my community, we have doubts. In my view, that pollutes the whole bill. That's not to say that what's good for others is correct. So anyway, my apologies are extended.

One last thought. The other issue that I think we have to consider is the cannibalistic nature of these facilities. In other words, the more you have, they're all after the same dollar and I think that's important to consider. Thank you, Mr. Speaker.

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

Representative **SOCTOMAH**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. The good Representatives from Biddeford are concerned about being pushed. I reiterate, in my initial speaking of 1203, that we have been working on getting a racino or a casino for the past 17 years. So I do not believe the good Representatives from the Biddeford area. That would be a response, that we've been working on it for 17 years and, to date, we still do not have one. However, you do have one in Bangor, Maine. Thank you, Mr. Speaker.

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

Representative **VALENTINO**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. We had a very lengthy debate on this. I do not want to prolong the debate that we had the other evening. I just want to rise to support the Representatives from across the river and my citizens in the town of Saco who would like to see this go to referendum. I would like to also rise to support the Majority Report of the committee, which the Majority Report of the committee was to send this to the voters. 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. 168

YEA - Ayotte, Beavers, Beck, Bickford, Black, Burns DR, Cain, Cebra, Chapman, Clark H, Clarke, Cotta, Cray, Curtis, Dill J, Dion, Dow, Duchesne, Dunphy, Eves, Fitts, Fitzpatrick, Flemings, Flood, Foster, Fredette, Gifford, Gilbert, Gillway, Goode, Hanley, Harmon, Harvell, Haskell, Herbig, Hogan, Hunt, Johnson P, Keschl, Knight, Kruger, Libby, Long, Lovejoy, Luchini, MacDonald, Maker, Maloney, Mazurek, McCabe, McClellan, McFadden, Nelson, Newendyke, O'Brien, O'Connor, Olsen, Parker, Parry, Peoples, Peterson, Picchiotti, Pilon, Plummer, Prescott, Priest, Rankin, Richardson D, Richardson W, Rioux, Sanborn, Sanderson, Sarty, Shaw, Stevens, Stuckey, Theriault, Tilton, Turner, Tuttle, Volk, Waterhouse, Welsh, Winsor, Wood, Mr. Speaker.

NAY - Beaudoin, Beaulieu, Beliveau, Bennett, Berry, Blodgett, Boland, Briggs, Burns DC, Casavant, Celli, Chipman, Clark T, Cornell du Houx, Crafts, Crockett, Cushing, Davis, Eberle, Espling, Fossel, Guerin, Hamper, Harlow, Hayes, Hinck, Johnson D, Kaenrath, Kent, Kumiega, Lajoie, Longstaff, McKane, Morissette, Morrison, Moulton, Nass, Rochelo, Rosen, Rotundo, Russell, Sirocki, Strang Burgess, Timberlake, Treat, Valentino, Wagner R, Weaver, Webster.

ABSENT - Bolduc, Bryant, Carey, Chase, Damon, Driscoll, Edgecomb, Graham, Innes Walsh, Knapp, Malaby, Martin, Willette A, Willette M, Wintle.

Yes, 86; No, 49; Absent, 15; Vacant, 1; Excused, 0.

86 having voted in the affirmative and 49 voted in the negative, 1 vacancy with 15 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act To Provide Options to Municipalities Concerning the Maine Uniform Building and Energy Code

(H.P. 1042) (L.D. 1416)
(C. "A" H-553)

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

On motion of Representative **CURTIS** of Madison, was **SET ASIDE**.

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

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

ORDERS

On motion of Representative **CURTIS** of Madison, the following Joint Order: (H.P. 1178)

ORDERED, the Senate concurring, that when the House and Senate adjourn, the House does so until Tuesday, June 14, 2011, at 9:00 in the morning and the Senate does so until Monday, June 13, 2011, at the call of the President of the Senate.

READ and PASSED.

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. 205) (L.D. 624) Bill "An Act To Require a Person Who Commits a Sex Offense against a Dependent or Incapacitated Adult To Register under the Sex Offender Registration and Notification Act of 1999" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-286)**

(S.P. 402) (L.D. 1299) Bill "An Act To Allow Deferred Disposition in Juvenile Cases" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-289)**

(S.P. 473) (L.D. 1503) Bill "An Act To Promote School Attendance and Increase School Achievement" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-287)**

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.

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.

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Change the Schedule for Redistricting

(H.P. 387) (L.D. 494)

(C. "A" H-76)

TABLED - April 28, 2011 (Till Later Today) by Representative **CURTIS** of Madison.

PENDING - FINAL PASSAGE.

On motion of Representative **KESCHL** of Belgrade, the House **RECONSIDERED** its action whereby the **RESOLUTION** was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (H-76)**.

The same Representative **PRESENTED House Amendment "B" (H-565)**, which was **READ** by the Clerk.

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

Representative **KESCHL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I submitted LD 494 after talking to one of my constituents, Kevin Lamoreau, who expressed concern that the State of Maine currently waits almost three years after a national census to redistrict our State, Senate and House districts. While this might not have been necessary in the past which much of the redistricting was done by hand calculations, now with technology advancements the time it takes to perform this task is greatly reduced. Almost all other states redistrict before the first election after the national census and this bill seeks to do the same, starting after the 2020 Census. This would allow Maine to redraw the current districts with the most recent census data to ensure that districts are fair and reflect the actual population so that every person is represented proportionately and has the same voting power. That is, one person one vote.

This amendment to LD 494 is intended to correct an inconsistency in our Constitution's reapportionment and redistricting that was brought to the attention of the Legislature this spring. Currently, in Maine's Constitution, redistricting is only mentioned for the State Senate and House of Representatives. The redistricting for the Congressional County Commissioner Districts is only in statute. To be consistent to ensure a smooth redistricting process after the 2020 Census, I believe we should adopt this amendment, have all of the elected districts that require redistricting be clearly stated in the Maine Constitution. Thank you.

Subsequently, **House Amendment "B" (H-565)** was **ADOPTED**.

Subsequently, the **RESOLUTION was PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-76)** and **House Amendment "B" (H-565)** in **NON-CONCURRENCE** and sent for concurrence.

SENATE DIVIDED REPORT - Majority (12) Ought to Pass as Amended by Committee Amendment "A" (S-201) - Minority (1) Ought to Pass as Amended by Committee Amendment "B" (S-202) - Committee on ENVIRONMENT AND NATURAL RESOURCES on Bill "An Act To Conform the Authority of the Department of Environmental Protection to Federal Law" (EMERGENCY)

(S.P. 507) (L.D. 1575)

- 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-201)**.

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

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 Veazie, Representative **Parker**.

Representative **PARKER**: Thank you, Mr. Speaker. Mr. Speaker, Members of the House. I rise in support of this motion, an emergency measure as well, because it is a very important measure. I just want to very briefly, without giving you a lot of detail, try to explain so we understand it very simply.

The state has a rule that if you receive in excess of 10 percent of your annual income or 50 percent of your retirement from an employer who has a wastewater discharge license issued under the National Pollutant Discharge Elimination System the EPA administers, then you are no longer eligible to serve as the commissioner of DEP or to serve on the Board of Environmental Protection. Well, we ran into that recently and, as a result, the commissioner stepped down, but we also have put our Board of Environmental Protection in an inactive status because several of the board members no longer qualify as well.

Let me explain to you one very simple thing that I think will help you understand the situation. The current chair of the board, Susan Lessard, who is the Town Manger of the Town of Hampden, she receives in excess of 10 percent of her income from the Town of Hampden because that's her full-time job. The Town of Hampden has a stormwater discharge license. As a result of that license she is no longer eligible to serve. Likewise, if you were an employee of Wal-Mart, and most Wal-Marts have stormwater discharge licenses, because of the size of the Wal-Marts, as an employee of Wal-Mart you would not be eligible to serve either as commissioner or as a member of the Board of Environmental Protection.

The reason it's important to look at this fairly quickly is since this was determined earlier this year, the Board of Environmental Protection has been put on hold. They have actual projects before them now that they cannot act on because there is no ability for them to react because their members basically are disqualified under this.

The title of the bill reads basically to put the State of Maine's rules regarding this in conformance with the federal rules. Well, we're doing that to some degree, but there are some caveats that we've added along with that that the attorneys working with our committee and working with the state have accomplished. Basically, if an individual who is under the law we're trying to cover now, if an individual meets the condition of where they could have a conflict, for example, on the Board of Environmental Protection, they could still serve on that board as long as they recuse themselves from an action that relates to their employer. Likewise, if the Department of Environmental Protection's next commissioner, whoever it might be, has a conflict or a potential conflict, then as they come in and take that, they have to actually prepare a plan and present it to the committee I sit on and before the confirmation to show how they would resolve an issue should it arise, so if something happens. The Department of Environmental Protection handles five or six thousand applications a year. Several hundred of those applications actually deal with the wastewater discharge licenses, so there is potential for conflict. But I think what we're doing with this, revising this law, is basically allowing us to appoint members to these boards who can serve, because if we don't do that, it's going to be very difficult to find anybody who can serve either as commissioner or members of the Board of Environmental Protection.

I've been around quite a long time. I actually worked with the DEP before it was the DEP. It was the Water Improvement Commission. Then it was the Environmental Improvement Commission. Then it became the DEP. The very first commissioner we had of DEP would be disqualified under the current law. Several of the other people who have worked for us, commissioner of DEP, may well be disqualified. I've never researched that. In effect, a municipal attorney probably would be disqualified under the current regulation because most municipalities have stormwater licenses or wastewater treatment plant discharges. So I think we have to look at this. It's very important, I think, that we get together and put this through on an

emergency clause today so at least we can put the Board of Environmental Protection back to work. I know that Representative Duchesne is going to follow up on this. He said he'd try to correct any errors I made in this, but I think we're pretty much on the same wavelength of this. So 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. This is technical and complicated so I invite members to either listen closely or snooze through the dull part and just vote yes.

This is really about delegation of federal authority to the State of Maine under the Clean Water Act. What happened was when the Clean Water Act was passed back in the 1970s, it turned out a lot of commissioners. A lot of board members were sitting on boards giving each other permits and the conflict was obvious and the Federal Government stepped in and said, okay, no more of that. From now on, if over the last two years you made so much money from these permits, you are no longer able to do this permitting activity. That's the way this stood for a very long time. States taking delegation must conform their own laws to the federal standard and the federal standard is, if you made a certain amount of money, as Representative Parker said, 10 percent or more of your income in the last two years from permits, then you are ineligible to serve. Maine actually set the bar a little bit higher. Under Maine's law, under the federal law you can serve, but if you deal with a permitting situation you have to recuse yourself. Under Maine's law you can't participate at all, you are ineligible to serve. That didn't use to be a problem, but something else happened in the 1980s to the Clean Water Act and that is we started doing more stormwater discharge permits, and more and more discharge permits came along. So if there was a site law project, a Wal-Mart, a university campus, all of these now have stormwater discharge permits. So people who didn't use to have them now do. The end result is we have conflicted out a lot of qualified people. I would say some of the most qualified people in America are now ineligible to serve. Let's say the dean of engineering from a university campus, that campus has a stormwater discharge permit, he no longer is eligible to serve under Maine law. It would be under federal, it isn't under Maine. Basically our pool of candidates is lawyers, lobbyists, bureaucrats, and political patronage appointees. We can do a little bit better. It is going to take a little bit of work. Our committee's solution is to set the bar higher than the federal standard but lower than it is right now. It would conform to the Feds to allow a candidate to disclose and recuse, but it would change our confirmation process and this is the key point. If the Executive offers a candidate with a conflict, the conflict would have to be disclosed with all the information published about that candidate prior to the hearing. It would have to include how the administration will rearrange the duties within the department to avoid the conflict and what the fiscal cost is going to be, and it is going to be expensive, so it's going to have to be a pretty high bar to get over. This is still a significant hurdle. I think the confirmation process would probably kick out an awful lot of people who have any semblance of an expensive conflict there.

The majority of the committee agrees that the problem is serious enough to fix now. It certainly has to be fixed with the Board of Environmental Protection. Some of the regulatory relief we passed in LD 1 is sitting there waiting for DEP attention. It needs to be addressed over the summer. There are major permits in rulemaking that are in limbo right now and have to be addressed. That is why this is an emergency piece of legislation. Thank you, Mr. Speaker.

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

Representative **HARLOW**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I've been on more than one report where it was a 12-1 and I was the one and I have not spoken and I find it kind of interesting that there have already been two people speaking on this 12-1 report. While I appreciate the work that the committee did on the 20th, I feel that this bill is compromising a compromise. This bill was referred to the E and NR Committee on the 18th of May and on the 20th we did our public hearing and our work session all day long and this was the compromise we came up with and it was a unanimous report actually. Over the weekend, I don't know, I thought about it. I was very uncomfortable with my decision and on the 25th there was a move for, I'd say, political reasons to Reconsider this motion. I did not make the Reconsideration motion and I did not second it. I agree that it's vitally important to get the DEP back to work. That's what we were told. I think everybody can agree with that and can agree that the emergency clause should be put on that. I think the difference, one thing I haven't heard is that the BEP is a volunteer board, whereas the DEP commissioner isn't quite a volunteer. When I think about it, I just wonder why we wouldn't hire one un-conflicted qualified person who could do the job, and I think that everybody on the committee, including me, would agree that there are people who are currently working within the DEP who are more than qualified and are not conflicted who could do the job, and these people are not necessarily on my side of the aisle. I'm just wondering in this time of fiscal crisis how we could justify hiring an additional person to do the duties that this conflicted DEP commissioner would not be able to.

Lastly, having a conversation about a totally different bill, I just find it with a colleague, I find it really interesting how we take bills. Generally a lot of times you'll see something that everybody can agree on one part of it, the bill, and then there is another part that might not be so palatable if it weren't attached to this other part, and then you feel like you have to vote for it because of that. I just find it very interesting. I also find it interesting that this is such an emergency for the DEP commissioner when there are qualified people, not from my side of the aisle, ready to serve. Thank you so much.

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

Representative **TREAT**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I share the concerns of the Representative from Portland and I do not plan to vote for this Majority Ought to Pass Report and the reasons are this. I'm in support of thoughtful conflict of interest rules and I'm concerned that we're unnecessarily rolling back conflict rules that are appropriate and should apply to the commissioner of the Department of Environmental Protection. I'm concerned about the way that this bill comes to us in this form, which doesn't appear to distinguish much between what needs to be done now on the part of the Board of Environmental Protection to address the conflicts that they have, and what should be done to address the role of the commissioner, which we really have more time.

It also would have been well within the capabilities of what I consider to be a very smart, intelligent Natural Resources Committee to figure out how to distinguish between a conflict that is the result of, say, a university having a single stormwater discharge permit versus somebody who has a very large percentage of his business or her business representing various companies seeking to get wastewater discharge permits. I think that could have been addressed differently, but the committee chose to lump the two together so that the choice was to fix the BEP problem. We have to fix the commissioner issue in the way

that the committee has put it forward. That way also is a concern to me. I don't think that it's the best policy to have a commissioner who is the commissioner for air pollution and for hazardous waste rules and for, what else is there, not water pollution. You know, land use planning. But to have that same commissioner not be the commissioner of water. You know, water and land use are sort of related. These are issues that should be dealt with and should be managed by a single person and to then delegate that to someone who is not really being supervised by that commissioner and isn't accountable in the same way that the commissioner is accountable to the people of Maine, I think, is a concern. I just feel that this solution is not the best solution and it's not the most appropriate solution that could have been developed, and so I don't intend to vote for it. Thank you.

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

Representative **DUCHESNE**: Thank you, Mr. Speaker. I, unlike previous speakers this session who did not intend to speak on this issue, I did intend to speak twice. The issue that the Representative from Hallowell brings up, Representative Treat, is very valid. What would have to happen if you had a conflicted commissioner, for instance, is you would really have to do some siloing within the department, where the person who is in charge of the entire Department isn't able to touch certain aspects of what the department does. That's troublesome. That's why we said we'll give the green light to bring such a candidate forward, but the confirmation process is going to be a lot harder and you're going to have to tell us how you're going to do this and how expensive it's going to be. That was our fix because we didn't fix another fix. The problem is the law at the federal level is really quite frankly outdated. The other thing we did is send a letter to our Congressional Delegation saying, look, this has got to be fixed. What the end result is if you have a stormwater permit, if you work for an employer who has a permit, nothing can happen for you under Maine law. You are ineligible to serve. It doesn't matter what state you're in. You could be in Ohio working for a university and if it has a stormwater permit, you cannot come here and work. It's a federal permit.

Another category of people who are ineligible to serve. If you are in city management of any kind, under any circumstances, in any city in America and you've got a wastewater discharge permit, you are ineligible to serve in any capacity under Maine law right now. That sets the bar just too high. So it is true what Representative Treat said, that we could have just addressed the Board of Environmental Protection. We certainly had a long conversation about that, but the majority of the committee admitted that if we put any politics aside whatsoever and just addressed the policy, this was a policy that needs to be fixed on two levels. First at the state level so we can consider a wider range of candidates, and frankly, it does need to be fixed at the federal level too because they are simply precluding too much of what it is we do. Maine does have a particularly unique problem because, this will surprise some people, we actually are business friendly. We bundle a lot of our regulatory structure into things like site law, which handles a lot under one permit. So once you bundle that altogether, it really removes, it really creates a fairly big conflict that doesn't exist in other states. Other states silo this out. They may have a water resources board. They may have a different structure. Ten states don't take delegation at all. Maine, because it does have a pretty comprehensive regulatory system, actually has a bigger conflict problem than other states, which is why we decided this was the time to deal with the commissioner's part of this as well. 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. 169

YEA - Ayotte, Beaudoin, Beaulieu, Beck, Beliveau, Bickford, Black, Blodgett, Bolduc, Briggs, Burns DC, Burns DR, Cain, Cebra, Celli, Clark H, Clark T, Clarke, Cornell du Houx, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Davis, Dill J, Dion, Dow, Duchesne, Dunphy, Eberle, Espling, Eves, Fitts, Fitzpatrick, Flood, Fossel, Foster, Fredette, Gifford, Gilbert, Gillway, Guerin, Hamper, Hanley, Harmon, Harvell, Haskell, Hayes, Herbig, Hunt, Johnson D, Johnson P, Kaenrath, Keschl, Knight, Kruger, Kumiega, Lajoie, Libby, Long, Lovejoy, Luchini, MacDonald, Maker, Maloney, Mazurek, McClellan, McKane, Morissette, Morrison, Moulton, Nass, Nelson, Newendyke, O'Connor, Olsen, Parker, Parry, Peoples, Peterson, Picchiotti, Pilon, Plummer, Prescott, Priest, Richardson D, Richardson W, Rioux, Rosen, Sanderson, Sarty, Shaw, Sirocki, Stevens, Strang Burgess, Stuckey, Theriault, Tilton, Timberlake, Turner, Tuttle, Valentino, Volk, Wagner R, Waterhouse, Weaver, Webster, Welsh, Winsor, Wood.

NAY - Beavers, Berry, Boland, Casavant, Chapman, Chipman, Flemings, Goode, Harlow, Hinck, Hogan, Kent, McCabe, O'Brien, Rankin, Rochelo, Rotundo, Russell, Sanborn, Treat.

ABSENT - Bennett, Bryant, Carey, Chase, Damon, Driscoll, Edgecomb, Graham, Innes Walsh, Knapp, Longstaff, Malaby, Martin, McFadden, Willette A, Willette M, Wintle, Mr. Speaker.

Yes, 112; No, 20; Absent, 18; Vacant, 1; Excused, 0.

112 having voted in the affirmative and 20 voted in the negative, 1 vacancy with 18 being absent, and accordingly the Majority Ought to Pass as Amended Report was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (S-201) 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-201)** in concurrence.

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

SENATE DIVIDED REPORT - Majority (7) Ought to Pass as Amended by Committee Amendment "A" (S-226) - Minority (6) Ought to Pass as Amended by Committee Amendment "B" (S-227) - Committee on VETERANS AND LEGAL AFFAIRS on Bill "An Act To Create a New Liquor License, Provide Funding for Prevention of Underage Drinking and Provide Municipal Control over the Agency Liquor Store Application Process"

(S.P. 403) (L.D. 1300)

- 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-226)**.

TABLED - June 6, 2011 (Till Later Today) by Representative BEAULIEU of Auburn.

PENDING - ACCEPTANCE OF EITHER REPORT.

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

The Bill was READ ONCE. Committee Amendment "A" (S-226) 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-226)** in concurrence.

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

On motion of Representative MCKANE of Newcastle, the House adjourned at 4:38 p.m., until 9:00 a.m., Tuesday, June 14, 2011.