

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

Daily Edition

Second Regular Session

January 4, 2012 – May 31, 2012

pages 1084 - 1604

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
SECOND REGULAR SESSION
17th Legislative Day
Tuesday, February 21, 2012

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

Prayer by Pastor Bob Ripley, Glenburn Evangelical Covenant Church.

National Anthem by Encore, Wells.

Pledge of Allegiance.

Doctor of the day, Richard Fein, D.O., Manchester.

The Journal of Thursday, February 16, 2012 was read and approved.

SENATE PAPERS

The following Joint Resolution: (S.P. 631)

**JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF
THE UNITED STATES AND THE UNITED STATES
CONGRESS TO ENACT THE SOCIAL SECURITY FAIRNESS
ACT OF 2011**

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

WHEREAS, under current federal law, an individual who receives a Social Security benefit and a public retirement benefit derived from employment not covered under Social Security is subject to a reduction in the individual's Social Security benefit; and

WHEREAS, these laws, known as the Government Pension Offset and the Windfall Elimination Provision, greatly affect public employees and the Government Pension Offset requires a reduction in the spousal benefit received under Social Security equal to 2/3 of the surviving spouse's benefit under another government pension plan even though the spousal benefit was fully earned; and

WHEREAS, the Windfall Elimination Provision reduces the Social Security benefit of a person who is also receiving a pension from a public employer that does not participate in Social Security; and

WHEREAS, the Government Pension Offset and the Windfall Elimination Provision are particularly burdensome on the finances of low-income and moderate-income public service workers such as school teachers, clerical workers and school cafeteria employees; and

WHEREAS, the Government Pension Offset and the Windfall Elimination Provision both unfairly reduce benefits for those public employees and their spouses whose careers cross the line between the private and public sectors; and

WHEREAS, since many lower-paying public service jobs are held by women, both the Government Pension Offset and the Windfall Elimination Provision have a disproportionately adverse effect on women; and

WHEREAS, in some cases, additional support in the form of income, housing, heating and prescription drug assistance and other safety net assistance from state and local governments is needed to make up for the reductions imposed at the federal level; and

WHEREAS, other participants in Social Security do not have their benefits reduced in this manner; and

WHEREAS, to participate or not to participate in Social Security in public sector employment is a decision of employers,

even though both the Government Pension Offset and the Windfall Elimination Provision directly punish employees and their spouses; and

WHEREAS, although the Government Pension Offset was enacted in 1977 and the Windfall Elimination Provision was enacted in 1983, many of the benefits in dispute had been paid into Social Security prior to the enactment of those laws; and

WHEREAS, H.R. 1332, the Social Security Fairness Act of 2011, a bipartisan bill introduced in the United States House of Representatives, would repeal these 2 unfair federal pension offsets, which penalize so many people in Maine and the rest of the Nation; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request that the President of the United States and the United States Congress work together to enact the Social Security Fairness Act of 2011, permitting retention of a combined public pension and Social Security benefit with no applied reductions; 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 each Member of the Maine Congressional Delegation.

Came from the Senate, **READ** and **ADOPTED**.

READ.

On motion of Representative MARTIN of Eagle Lake, **TABLED** pending **ADOPTION** and later today assigned.

COMMUNICATIONS

The Following Communication: (H.C. 313)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

February 15, 2012

The Honorable Kevin L. Raye

President of the Senate

The Honorable Robert W. Nutting

Speaker of the House of Representatives

125th Legislature

State House

Augusta, Maine 04333

Dear Mr. President and Mr. Speaker:

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

Sincerely,

S/Senator Douglas A. Thomas

Senate Chair

S/Representative H. David Cotta

House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication: (H.C. 314)

STATE OF MAINE

CLERK'S OFFICE

2 STATE HOUSE STATION

AUGUSTA, MAINE 04333-0002

February 21, 2012
The Honorable Robert W. Nutting
Speaker of the House
2 State House Station
Augusta, Maine 04333

Dear Speaker Nutting:

Pursuant to Joint Rule 310, the following Joint Standing Committees have voted unanimously to report the following bills out "Ought Not to Pass.":

Criminal Justice and Public Safety

L.D. 1701 Resolve, To Establish a Pilot Program in Penobscot County for Assessment and Treatment of Individuals Arrested for Unlawful Possession of Drugs

L.D. 1707 An Act To Define, Prevent and Suppress Gang Activity in the State (EMERGENCY)

Energy, Utilities and Technology

L.D. 1614 An Act To Create Efficiency in E-9-1-1 Call Centers

Judiciary

L.D. 1606 An Act To Provide Magistrates To Assist the Court in Handling Small Claims and Landlord-tenant Cases (EMERGENCY)

Taxation

L.D. 1730 An Act To Require the Review of Proposed Tax Expenditures

The sponsors and cosponsors have been notified of the Committee's action.

Sincerely,
S/Heather J.R. Priest
Clerk of House

READ and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication: (S.C. 704)

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

February 16, 2012
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 Veterans and Legal Affairs, the nomination of Barbara J. Dresser of Saco for appointment to the Gambling Control Board.

Sincerely,
S/Joseph G. Carleton, Jr.
Secretary of the Senate

READ and **ORDERED PLACED ON FILE.**

The Following Communication: (S.C. 705)

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

February 16, 2012
The Honorable Heather J.R. Priest
Clerk of the House
2 State House Station

Augusta, Maine 04333

Dear Clerk Priest:

Please be advised the Senate today insisted to its previous action whereby it referred Bill "An Act To Create Transparency and Accountability in Economic Development Subsidies" (H.P. 1065) (L.D. 1451) to the Committee on Labor, Commerce, Research and Economic Development, in non-concurrence.

Sincerely,
S/Joseph G. Carleton, Jr.
Secretary of the Senate

READ and **ORDERED PLACED ON FILE.**

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

Emergency Measure

Resolve, To Name 2 Bridges in the Town of Harmony
(S.P. 525) (L.D. 1615)
(C. "A" S-374)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

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

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Ruth Sousa, of Calais, who has received the Veterans of Foreign Wars Citizenship Education Teacher Award. Ms. Sousa, a teacher at Alexander Elementary School, has taught for over twenty-nine years. She maintains a positive relationship with parents and fosters a strong school-to-home connection. Ms. Sousa is a skilled practitioner at translating theory into practice by implementing techniques of collaborative and student-centered learning in her daily lessons. She has made a lasting impression on the students and the community where she works. We congratulate Ms. Sousa on her receiving this distinguished award and send her our best wishes for future successes;

(HLS 988)

Presented by Representative MAKER of Calais.
Cosponsored by President RAYE of Washington.

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

READ.

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. Today, I have the great pleasure of honoring Mrs. Ruth Sousa who has recently received the recognition of the State VFW National Citizenship Education Teacher Award. I have known Ruth for 28 years. I first met her when her husband (Dr. David Sousa) became my boss at Washington County Community College and they soon became a part of our family. She started working as a migrant teacher for the Calais School System and worked with students in the high school chorus. Not only is she a great teacher, she is

a great singer. Both our children requested her to sing at their weddings. She also leads our choir at St. Anne's Episcopal Church.

Father David Sivret, who serves as the chaplain of our local VFW, nominated Ruth for the Award and his nomination letter was as follows:

I am honored to recommend Mrs. Ruth Sousa for VFW National Citizenship Education Teacher Award. I met Ruth Sousa when we moved into the Alexander school district over seven years ago. I was impressed by Ruth's openness and approachability. Ruth maintains a positive relationship with parents and fosters a strong school-to-home connection. Her rapport with children is natural and instinctive.

With her articulate way of speaking and her enthusiasm, Ruth is one of those teachers that challenge students academically and personally. Ruth is a talented teacher who takes time to plan, reach students from diverse backgrounds and trains students to be independent and collaborative learners.

Ruth has been a teacher for over twenty-nine years. She has a multi-level class of pre-K, kindergarten, first and second grades, at times having children who are both physically and learning disabled. She is aware of different learning styles and has adequately adjusted assignments to meet the varied needs of students. Her units are always thoroughly prepared. Ruth possesses a positive and enthusiastic personality. She is respected as a strong member of the elementary school and team.

Ruth has a gift for communication and the ability to articulate difficult concepts with ease. She has designed solid curriculum that gives students regular practice in reading, writing and math while developing strong study skills. She has used her strong background in English to create successful units that have made students think critically and tie them to their own lives.

I have appreciated Ruth's thoughtful, reflective comments about education as she thinks carefully about the reasons behind her actions and decisions in the classroom. I recognize her as an exceptional teacher who has made a lasting impression of the students and community where she works. What sets her apart is her strong grasp of subject matter, her ability to relate to students and her creative style of teaching that makes learning both meaningful and fun.

I would like to end today by reading "When You Thought I Wasn't Looking," by Mary Korzan.

When you thought I wasn't looking, you displayed my first report, and I wanted to do another.

When you thought I wasn't looking, you fed a stray cat, and I thought it was good to be kind to animals.

When you thought I wasn't looking, you gave me a sticker, and I knew that little things were special things.

When you thought I wasn't looking, you put your arm around me, and I felt loved.

When you thought I wasn't looking I saw tears come from your eyes, and I learned that sometimes things hurt--but that it's all right to cry.

When you thought I wasn't looking, you smiled, and it made me want to look that pretty too.

When you thought I wasn't looking, you cared, and I wanted to be everything I could be.

When you thought I wasn't looking--I looked...and wanted to say thanks for all those things you did when you thought I wasn't looking.

Thank you Ruth and to all our great teachers for what you do and what you have done for our children.

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

REPORTS OF COMMITTEE

Refer to the Committee on Criminal Justice and Public Safety

Pursuant to Joint Order

Representative STRANG BURGESS for the **Joint Standing Committee on Health and Human Services** on Bill "An Act To Amend the Laws Governing Prosecution of Individuals Possessing a Controlled Substance under Certain Circumstances"

(H.P. 1348) (L.D. 1827)

Reporting that it be **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** pursuant to Joint Order, H.P. 1328.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY**.

Sent for concurrence.

Divided Report

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-377)** on Bill "An Act To Amend the Laws Governing Discontinued Town Ways"

(S.P. 522) (L.D. 1596)

Signed:

Senators:

THOMAS of Somerset

COLLINS of York

SULLIVAN of York

Representatives:

COTTA of China

BOLAND of Sanford

BOLDUC of Auburn

CASAVANT of Biddeford

GRAHAM of North Yarmouth

MOULTON of York

TURNER of Burlington

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

Signed:

Representative:

HARVELL of Farmington

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-377)**.

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-377)** was **READ** by the Clerk and **ADOPTED**. The Bill was

assigned for **SECOND READING** Wednesday, February 22, 2012.

Ten Members of the Committee on **TAXATION** report in Report "A" **Ought to Pass as Amended by Committee Amendment "B" (H-703)** on Bill "An Act To Strengthen Maine's Economy through Improvements to the Educational Opportunity Tax Credit"

(H.P. 632) (L.D. 835)

Signed:

Senators:

COURTNEY of York
HASTINGS of Oxford
WOODBURY of Cumberland

Representatives:

KNIGHT of Livermore Falls
BENNETT of Kennebunk
BERRY of Bowdoinham
BICKFORD of Auburn
BRYANT of Windham
FLEMINGS of Bar Harbor
PILON of Saco

One Member of the same Committee reports in Report "B" **Ought to Pass as Amended by Committee Amendment "C" (H-704)** on same Bill.

Signed:

Representative:

HARMON of Palermo

One Member of the same Committee reports in Report "C" **Ought Not to Pass** on same Bill.

Signed:

Representative:

WATERHOUSE of Bridgton

READ.

Representative KNIGHT of Livermore Falls moved that the House **ACCEPT** Report "A" **Ought to Pass as Amended.**

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

CONSENT CALENDAR

First Day

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

(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 "B" (S-378)**

(H.P. 1261) (L.D. 1709) Bill "An Act To Amend the Limited-entry Program for Taking Lobsters in the Monhegan Lobster Conservation Area" Committee on **MARINE RESOURCES** reporting **Ought to Pass**

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

CONSENT CALENDAR

Second Day

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

(S.P. 595) (L.D. 1736) Bill "An Act To Make Allocations for Maine Turnpike Authority Funds for the Maine Turnpike Authority, for the Calendar Year Ending December 31, 2013"

(S.P. 527) (L.D. 1617) Bill "An Act To Ensure the Alignment of Truck Weight Limitations on the Interstate with Those Allowed under Federal Law" (EMERGENCY) (C. "A" S-376)

(H.P. 1272) (L.D. 1723) Resolve, Regarding Legislative Review of Chapter 122: Grant Application and Award Procedure: Fund for the Efficient Delivery of Educational Services, a Major Substantive Rule of the Department of Education (EMERGENCY)

(H.P. 457) (L.D. 627) Bill "An Act To Expand the Capacity of York County Community College" (C. "A" H-699)

(H.P. 1230) (L.D. 1640) Bill "An Act To Promote POW/MIA Recognition Day" (C. "A" H-705)

(H.P. 1294) (L.D. 1759) Bill "An Act To Amend the Laws Governing the Pull Events Commission" (C. "A" H-701)

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

ENACTORS

Acts

An Act To Amend Deferred Disposition under the Maine Juvenile Code

(H.P. 1206) (L.D. 1599)

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 Create a Working Group To Study Multidistrict Online Learning Options in Maine

(S.P. 206) (L.D. 675)

(C. "B" S-375)

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

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-710)** on Bill "An Act To Support Maine Farms and Alleviate Hunger"

(H.P. 862) (L.D. 1164)

Signed:

Senators:

COURTNEY of York
HASTINGS of Oxford

Representatives:

KNIGHT of Livermore Falls
BENNETT of Kennebunk
BERRY of Bowdoinham

BICKFORD of Auburn
 BURNS of Alfred
 FLEMINGS of Bar Harbor
 HARMON of Palermo
 PILON of Saco

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

Signed:

Representative:

WATERHOUSE of Bridgton

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-710)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Wednesday, February 22, 2012.

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

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment Thursday, February 16, 2012, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (6) **Ought to Pass as Amended by Committee Amendment "B" (H-691)** - Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Amend the Labor Laws Relating to Certain Agricultural Employees"

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

TABLED - February 8, 2012 (Till Later Today) by Representative PRESCOTT of Topsham.

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

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

Representative TUTTLE: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I hope that you would vote against the Minority Ought to Pass Report and would instead vote for the Majority Ought Not to Pass Report. LD 1207 would eliminate collective bargaining rights for agricultural workers on the largest egg factory farm, specifically the former DeCoster Egg Farm. In its original form the bill removed overtime pay and state minimum wage for these workers as well. The amended version strips workers of their right to form a union.

As many of us know, in November of last year, Moark, LLC, a subsidiary of Land O'Lakes, entered into a 10-year lease agreement with DeCoster Egg Farms in Maine. Now we all hope for better treatment of workers and safer worker conditions at the DeCoster Egg Farms under new management. However, new management doesn't translate into workers' rights no longer being relevant. Just because the factory farms are being leased doesn't mean that workers now deserve less protection and fewer rights. Across the country, and in Maine, factory farming like DeCoster is low-wage, difficult work. We all want to help Maine workers increase their economic productivity and improve their lives. Factory farm workers do some of the most difficult,

dangerous and dirty work in the state. Why should the Legislature be repealing the right to form a union? Rights are rights. Some have argued that because workers at the factory farm have not formed a union, the right to do so should be revoked. This logic, in my opinion, does not make sense and would see a dangerous precedent, with rights, by their nature, do not have an expiration date.

In closing, these plants in question are industrial factory farming, not small scale agriculture, as most of us understand about Maine. They are more akin to a factory setting and therefore should be covered by workplace standards and rules that are appropriate to this type of large setting. Therefore, I would ask that you would defeat the pending motion. You know, I think what makes sense here is allowing to see what happens in a couple of years. Things are new up here. I think we all might be willing to revisit this in a couple of years, but I think until things get going I think it makes a lot of common sense and wise sense to us to sort of hold off on that, and that's why I'm asking you to defeat the pending motion. With that, Mr. Speaker, I request a roll call.

The same Representative **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought to Pass as Amended** Report.

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

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

Representative PRESCOTT: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This bill has nothing more to do with equity and fairness. It is our job as legislators to make laws that are fair and equitable and consistent, and all this bill does is corrects that. Fifteen years ago, a company was punished by legislation passed in this House. That time has come and gone. We have a new business in town that deserves to be on the same level playing field as every other business that does exactly what they do, and the only difference is the number of birds that they have. This is the number of birds that they have. If you have over 300,000 laying birds you have to go by this law, but if you don't, if you're an agricultural business and any other egg laying business in the State of Maine, you go by a different set of rules. I ask you, ladies and gentlemen, how fair is that?

We want to be open for business in the State of Maine. The town of Turner desperately needs this business to stay. It creates jobs. It's an update that is desperately needed on a business that was punished. Land O'Lakes has a great reputation. They're coming into the State of Maine to create jobs and to help a facility that was in desperate need of help. This is not about the prior business that was there and I ask you to just consider the fact the business that has been there did not try to organize at all in the past 15 years. That is all this bill does. It takes them and it puts them into the same set of laws that the rest of the agricultural and egg farmers have to go by, and they're not allowed to organize either. Why punish one business? Please follow my light. Thank you.

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

Representative HARVELL: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I was listening to the comments by the Representative from Sanford and found it rather interesting that we revisit this in a couple of years. I would make that recommendation as well. We pass it today and we visit it in a couple of years, because it is clear from the language that is being used that this bill is doing exactly what it should be doing and redressing the fact that, in fact for a number of years,

this Legislature was punitively punishing one individual. And in my reading of history, and even scripture, I find that the sins of the father will not be visited upon the son. Don't they deserve a fair shot, a reason to start anew? No, we'll leave this hanging over their head like the sword of Damocles for something they never have even done, and what message does that send? Shall we rewrite the entire history of agriculture in this state in relation to labor unions?

I milked cows in high school. Me and my friend would have liked to have formed a union, but that's not the way it is because agricultural and harvesting traditions in this state have always been about areas in times that were extreme in the amount of hours you had to put in and not. That's why they never had these laws and still don't. Imagine if you'd of had an overtime law in 1950 for harvesting potatoes in Aroostook County. What might their bill have been in October? No, I recommend that we pass this just as it is and give these people a fresh start.

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

Representative **HERBIG**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. We talked about this last year. It was argued that having workers' rights protections on the book would prevent a company from coming into Maine. Clearly that didn't happen. We welcome Moark and I'm confident that they'll respect Maine's laws and our values, that workers be treated with respect and dignity. With that being said, new management doesn't translate into workers' rights no longer being relevant. Repealing these workers' collective bargaining rights will not create a single job, nor will it do anything to improve Maine's economy or working conditions. I urge you to vote against this. Thank you.

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

Representative **GILBERT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I urge you to vote no on the Minority Report. When LD 1207, "An Act To Amend the Labor Laws Relating to Certain Agricultural Employees," was presented to the Joint Committee on Labor, Commerce, Research and Economic Development, 16 people testified on the bill, in addition to the bill's sponsor and a couple of cosponsors.

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

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

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

After submitting testimony against this bill, also including, also submitting testimony against this bill included Maine's Roman Catholic Diocese of Portland; the Maine AFL-CIO; James Tierney, current director of the National State Attorneys General

Program; the Immigrant Legal Advocacy Project; the National Chapter of the National Association of Social Workers; the Maine People's Alliance; and the Maine Women's Lobby, among other.

After reading the bill and listening to testimony, I can say that the affected company gave three reasons for repealing current law. Number one, that they post federal and state postings for employees as required by every employer. Their second reason was that they provide personnel handbooks in English and Spanish. Their third reason for opposing the bill is that they are a farm.

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

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

We are told that another company is now responsible for the operation. However, that is only while the lease is in effect. When the lease expires, the factory farm would revert to its owner, therefore it is premature to change the law at this time.

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

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

Representative **HUNT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is a bright moment. We welcome a new company to the state and we wish them luck in their endeavor here and we're thrilled that they have decided to lease this operation. But let's keep in mind it is a lease, it is not a purchase. At the end of the lease, it could very well revert to the previous owners. So let's take a moment to check in where we stand.

As it stands, the workers have the right to form a union, but as of yet have not done so. In fact, if they ever went through the motions of forming a union, they would be prohibited to strike. Is it this company's intention to begin a relationship with the State of Maine by repealing the rights of workers? I don't think so. I think that's an interesting way to start a relationship. As my brother's father-in-law used to say, trust in God but lock your car. And that is the situation we have here. Let's welcome this new group to the state, but let's make sure they are good stewards for these employees. I'm sure when they come in they will greatly improve the working conditions for the workers at the farm, a place where employees work long hours under extremely challenging conditions. And when they do, and I hope they do, when they

prove they can do the right thing, that is the time for this legislation. Otherwise, we are simply just hoping they do the right thing. Let's make sure they do the right thing. I encourage them to do so. Thank you, Mr. Speaker.

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

Representative **EDGEComb**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This bill could have huge implications for the future of agriculture in the State of Maine, whether it be for broccoli, potatoes, beef or wild Maine blueberries, or any large agricultural enterprise. Please support Maine agriculture and vote Ought to Pass on this legislation. 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 don't serve on the Labor Committee with my colleagues who have already spoken to this bill, but I do know a little bit about chicken farming because I grew up on a chicken farm in Bowdoinham and caught the birds for processing at an early age, was cleaning and processing birds when the Berlin Wall came down in the 1980s with my father. And my grandfather in Bowdoinham was the owner of what, at the time, was the largest employer in town, a chicken processing facility and chicken farm in the town of Bowdoinham, and was the president of the Maine Poultry Association.

Mr. Speaker, I do know something about farms and especially about poultry farms, and I want to say that this operation that we're discussing here today is the only operation affected by this bill, is not truly a farm in the sense that we think of the farm down the road in our town. It's a factory and I think that the multiple issues that were referred to by the good Representative from Jay, Representative Gilbert, don't need to be repeated for us to understand the difference between this factory and the farms down the road from all of us. Thank you, Mr. Speaker.

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

Representative **RUSSELL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. We heard from the good Representative from Jay that there had been a number of violations at this particular establishment. Well, let me take you back to the early 1990s when those violations actually occurred. I had just moved to Turner at that point and I was trying to fit in and my little brother befriended one of the kids from school. They spoke Spanish in the home, and they were an outstanding family and everybody knew them and loved them, and we were very pleased that my brother had found a really great best friend. And he was a good kid and they were inseparable. My brother had dinner over at their place all the time, played basketball together, and all of the sudden we started hearing about how there were armed guards outside of this farm and they were preventing government officials from coming in to inspect the properties.

As the accusations started coming more and more, we started learning about what was happening in that facility. We started learning that people were being recruited from Mexico to come up here, being told that they were here legally and then they were given false social security numbers. We learned that families were living in trailers, 10 and 12 people deep. They were sleeping in shifts. We learned that some of the showering and the hygiene facilities and the bathrooms were overrun. We learned that the family that my brother had spent so much time with had been the family, the head of the household had been recruiting those people to come, had been recruiting people under the guise of promises, promises of the American dream,

promises that their families were going to have an income, that they were going to live a better life. And in fact when they came here, they were put into squalor, they were under locked guard. These violations are not simply minor problems. This was a human rights violation on such a catastrophic level. We were embarrassed. I will never forget the day that my mother had to look at my brother and say to him "You will no longer be allowed to go over there. We do not condone this behavior. We do not condone the maltreatment of our fellow citizens, no matter what color skin they are." And so when we look at...

The SPEAKER: Will the Representative defer? The Chair recognizes the Representative from Chelsea, Representative Sanderson, and asks for what purpose does the Representative rise?

Representative **SANDERSON**: Thank you, Mr. Speaker. Point of Order. Is this germane to the bill at hand?

On **POINT OF ORDER**, Representative SANDERSON of Chelsea asked the Chair if the remarks of Representative RUSSELL of Portland were germane to the pending question.

Representative **RUSSELL**: With all due respect, Mr. Speaker, if I might answer that?

The SPEAKER: I'm going to allow the Representative from Portland to continue.

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

Representative **RUSSELL**: Thank you, Mr. Speaker. We are debating whether or not we want to take away rights from people that we don't know and I'm trying to bring to the record the reason those rights exist in the first place, so I do think it's relevant to the conversation and I would hope that people remember that there was a reason why this is here. I hope that when you look your kids in the eye, you don't ever have to say "You don't get to go visit your best friend because we don't condone that kind of behavior." Thank you, Mr. Speaker.

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

Representative **TIMBERLAKE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm going to clear a few points up here this morning. I, too, am from Turner, ninth generation farmer. This bill, these people have a 10-year lease purchase, not a 10-year lease. This is a purchase. The present owner is never coming back to this organization, okay? Moark Industries have bought it over, which is a company which is part of Land O'Lakes's operation. That's who's taking it over.

As far as expanding, this company does intend to expand. They haven't run the brooder houses, the hatchery, in over seven years. This company has all intentions to bringing it back into business and running them and employing people. This company has a great tradition across the United States of America of employing people and taking care of their people. As far as overtime goes, this bill doesn't take overtime out, nor does this company want to take overtime away from its employees. They want to pay time and a half over 40 hours. They feel it's right. It's not important to them. What happened to being proven innocent in this grand state until found guilty? We have people in this state who uphold our laws and prosecute people when they do wrong. The rest of the United States, this farm would be called a farm, except in the State of Maine and one county in California. Everywhere else in the United States under law this is a farm.

In my work, in my upbringing, I watched this farm grow. It's still a farm. They harvest eggs, they feed chickens, they water chickens. They support the local dairy industry within this state. They support all sorts of industries within this state. This company is important to the State of Maine. It's important that we

welcome. It's important that they've come and taken over this. I ask you today to vote with me on Ought to Pass on this bill. This is important, this is welcoming, and all these facts, this is a purchase, this is not a lease. Thank you, Mr. Speaker.

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

ROLL CALL NO. 231

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

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

ABSENT - Beck, Cebra, Celli, MacDonald, Parker, Shaw, Volk, Wagner R.

Yes, 73; No, 69; Absent, 8; Vacant, 1; Excused, 0.

73 having voted in the affirmative and 69 voted in the negative, 1 vacancy with 8 being absent, and accordingly the Minority **Ought to Pass as Amended Report** was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "B" (H-691)** was **READ** by the Clerk.

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

Representative **DRISCOLL**: Mr. Speaker, I'd like to request to speak on the record please.

The SPEAKER: We are addressing Committee Amendment "B" and you are on the record, sir.

Representative **DRISCOLL**: May I speak?

The SPEAKER: The Representative may proceed.

Representative **DRISCOLL**: Thank you very much, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The National Labor Relations Act, passed in 1935, is the primary federal law that establishes workers' rights to organize a union and lays out clear processes and procedures for collective bargaining. In 1935, racially discriminatory laws prevailed in much of the United States. In drafting the NLRA, Congress deferred to such laws by excluding two categories of predominantly non-white workers – agricultural laborers and domestics – from labor protections. This was done in large part to gain the southern votes needed for passage of the NLRA in 1935.

The National Labor Relations Act does allow states to grant collective bargaining rights to workers not covered by the NLRA, such as agricultural workers. For example, California has a California Agricultural Labor Relations Act, established in 1975. It allows agricultural workers to organize and establishes

collective bargaining processes and procedures for agricultural workers.

Maine legislators passed the Agricultural Workers Labor Relations Act in 1997, granting employees working at egg processing facilities that have over 500,000 laying birds the right to collectively bargain. This legislation was perfectly compatible with federal law.

It was mentioned of the previous or the current owner who has leased the egg processing facility in question here, that he was punished for 15 years as a company. I'd just like to say that although in breaking the law multiple times to the tune of millions of dollars, those efforts might have been punitive. But it seems to me that the owner at that time brought that on to himself, with a total disregard for health and safety and protections for the workers at that previously owned egg facility.

We do welcome Moark, LLC to Maine. It seems to me that this company took on the lease of this company with the current protections that have been in place for 15 years – in place. So it seems to me that Moark took over this processing plant with the knowledge of the laws that were in place here in Maine with respect to agricultural workers, which are defined in law.

Moark is a company that's not without its own indiscretions as well. Moark had a lawsuit filed against it in 2008. It was a price-fixing collusion-type lawsuit, which Moark came to the table and settled in 2010. So although that's the only history I can see with respect to this country, they certainly don't have a totally clean record which was spelled out in committee and then had to be addressed because of the lawsuit that they went through. This is about equity and fairness for workers and the protection for workers' rights in the workplace. That's all I have to say, Mr. Speaker. Thank you very much to you and Men and Women of the House.

Subsequently, **Committee Amendment "B" (H-691)** was **ADOPTED**.

Representative TUTTLE of Sanford **OBJECTED** to suspending the rules in order to give the Bill its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Subsequently, the Bill was assigned for **SECOND READING** Wednesday, February 22, 2012.

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

On motion of Representative PRESCOTT of Topsham, the House adjourned at 11:31 a.m., until 10:00 a.m., Wednesday, February 22, 2012.