

MAINE STATE LEGISLATURE

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One Hundred and Twenty-Fifth Legislature
State of Maine

Daily Edition

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ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
SECOND REGULAR SESSION
25th Legislative Day
Thursday, March 8, 2012

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

Prayer by Reverend Shirley Bowen, Christ Episcopal Church, Biddeford.

National Anthem by Stephen S. Lowe, Pittsfield.

Pledge of Allegiance.

Doctor of the day, Richard Flowerdew, M.D., Falmouth.

The Journal of yesterday was read and approved.

SENATE PAPERS

Bill "An Act To Define Cost Responsibility for Transporting Deaf and Hard-of-hearing Students to the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf"

(S.P. 637) (L.D. 1839)

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

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

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Bill "An Act To Provide a More Comprehensive Ban on the Possession of Synthetic Hallucinogenic Drugs"

(H.P. 1370) (L.D. 1852)

Sponsored by Representative BEAVERS of South Berwick.

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

Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** suggested and ordered printed.

REFERRED to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed.

Sent for concurrence.

Bill "An Act To Expand Educational Opportunities for Maine Students"

(H.P. 1372) (L.D. 1854)

Sponsored by Representative JOHNSON of Greenville. (GOVERNOR'S BILL)

Committee on **EDUCATION AND CULTURAL AFFAIRS** suggested and ordered printed.

REFERRED to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed.

Sent for concurrence.

Bill "An Act To Improve Environmental Oversight and Streamline Permitting for Mining in Maine"

(H.P. 1371) (L.D. 1853)

Sponsored by Representative MARTIN of Eagle Lake.

Cosponsored by Senator JACKSON of Aroostook and Representatives: AYOTTE of Caswell, DUCHESNE of Hudson, LONG of Sherman, Senators: GOODALL of Sagadahoc, SHERMAN of Aroostook.

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

Committee on **ENVIRONMENT AND NATURAL RESOURCES** suggested and ordered printed.

REFERRED to the Committee on **ENVIRONMENT AND NATURAL RESOURCES** and ordered printed.

Sent for concurrence.

Bill "An Act To Amend the Laws Concerning Municipal Inspections of Establishments"

(H.P. 1369) (L.D. 1851)

Sponsored by Representative STRANG BURGESS of Cumberland.

Cosponsored by Senator McCORMICK of Kennebec.

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

Committee on **HEALTH AND HUMAN SERVICES** suggested and ordered printed.

REFERRED to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.

Sent for concurrence.

Pursuant to Statute

Criminal Law Advisory Commission

Representative PLUMMER for the **Criminal Law Advisory Commission** pursuant to the Maine Revised Statutes, Title 17-A, section 1354, subsection 2 asks leave to report that the accompanying Bill "An Act To Implement Certain Recommendations of the Criminal Law Advisory Commission"

(H.P. 1374) (L.D. 1856)

Be **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

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

ORDERS

On motion of Representative HAMPER of Oxford, the following House Order: (H.O. 43)

ORDERED, that Representative Sheryl J. Briggs of Mexico be excused March 1 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Alan M. Casavant of Biddeford be excused March 1 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Ralph Chapman of Brooksville be excused March 1 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Timothy E. Driscoll of Westbrook be excused February 28 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Walter A. Kumiega III of Deer Isle be excused March 1 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Kimberly J. Monaghan-Derrig of Cape Elizabeth be excused January 31 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Mary Pennell Nelson of Falmouth be excused February 29 and March 1 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Ann E. Peoples of Westbrook be excused March 1 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Michael A. Shaw of Standish be excused March 1 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Linda M. Valentino of Saco be excused March 1 for personal reasons.

READ and PASSED.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

David Whitney, of Machias, and his business, Whitney Wreath, which have been honored by White House officials and the United States Department of Agriculture. Whitney Wreath is one of the nation's largest wreath manufacturers and was one of 40 businesses in the country recognized at the White House for their manufacturing success in rural America. Whitney Wreath, through support provided by the United States Department of Agriculture Rural Development's Business and Industry Guaranteed Loan Program, which helps provide capital and technical assistance to create jobs and spur economic development, constructed a 75,000 sq. ft. manufacturing facility in the Machias area. We wish to congratulate Mr. Whitney for his recognition and extend our best wishes for the future success of Whitney Wreath. We send our appreciation for his commitment to rural development in Washington County and the State;

(HLS 1032)

Presented by Representative BURNS of Whiting.
Cosponsored by President RAYE of Washington, Representative McFADDEN of Dennysville.

On **OBJECTION** of Representative BURNS of Whiting, was **REMOVED** from the Special Sentiment Calendar.

READ.

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. It's with great pleasure that I bring you this Sentiment to you this morning, just to show you some of the great things that are going on in Washington County. David Whitney learned about balsam wreaths when he was 8 years old, the first time he went "tipping" for fir branches to make Christmas wreaths. His first business was selling wreaths out of the back of his pickup truck in 1984. Since then, David has built four separate businesses, successful businesses, in Downeast Maine. Like his grandfather, Millard Whitney and father Dale Whitney, David continues to provide many jobs and opportunities and products for our community and this country.

In 2010, David took a chance and expanded his already successful wreath business by building a new 75,000 square foot wreath manufacturing facility for \$3.3 million. Whitney Wreath directly employs approximately 455 people during the fall season. About half of the production from Whitney Wreath goes to supply L.L. Bean customers all over the world. Whitney Wreath is said to be the nation's biggest producer of Christmas wreaths. David Whitney is now developing plans to make his new facility a year-round operation, which would employ many more Washington County residents and bring more economic development to our community.

It's people like David Whitney that are willing to step out of their comfort zone and make things happen and help create more economic opportunities for all of us. We are very proud of the

contributions that Mr. Whitney and others like him have made to Downeast Maine. Mr. Speaker, at the appropriate time, I would ask that we recognize Mr. Whitney who is in the audience. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Dennysville, Representative McFadden.

Representative **McFADDEN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I knew David's grandfather, and I know David's father as well as knowing David. This prestigious award is not surprising to me as I know the business background and the family and David's work ethic. I am well aware of his contribution to the economy of Washington County as well as the State of Maine. He employs several hundred people during the wreath-making season and the blueberry season as well as many year-round employees. He supplies L.L. Bean, so that means his finished products are sold world wide. I have visited his new facility in Machias and, believe me, it is a state-of-the-art manufacturing center. It's one thing that intrigues me and if you people ever are in that area and have a chance to visit that facility, I recommend that you do. The thing that really amazes me is the wreath is placed in a cardboard box and it is completely sealed and the packing slip is inserted inside of that box after it's completely sealed. You need to stop in and see how this is done. It's amazing. We Downeasters are very proud of David and Whitney Wreath and the shot in the arm to the economy of Washington County. Congratulations to Whitney Wreath and David Whitney, the recipient of this most prestigious recognition and award. Thank you, Mr. Speaker.

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

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Public Law

Report of the **Joint Standing Committee on Health and Human Services** on Bill "An Act To Implement the Recommendations of the Department of Health and Human Services and the Maine Developmental Disabilities Council Regarding Respectful Language" (EMERGENCY)

(S.P. 640) (L.D. 1845)

Reporting **Ought to Pass** pursuant to Public Law 2011, chapter 186, Part B, section 3.

Came from the Senate with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Report was **READ**.

On motion of Representative CURTIS of Madison, **TABLED** pending **ACCEPTANCE** of the Committee Report and later today assigned.

Refer to the Committee on Health and Human Services Pursuant to Joint Order

Representative STRANG BURGESS for the **Joint Standing Committee on Health and Human Services** on Bill "An Act Regarding the Fund for a Healthy Maine's Prevention, Education and Treatment Activities Concerning Unhealthy Weight and Obesity"

(H.P. 1373) (L.D. 1855)

Reporting that it be **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** pursuant to Joint Order, H.P. 1355.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES**.

Sent for concurrence.

Divided Report

Majority Report of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-412)** on Resolve, To Establish the Task Force To Facilitate the Development of Unoccupied Mills (EMERGENCY)

(S.P. 574) (L.D. 1675)

Signed:

Senators:

RECTOR of Knox
JACKSON of Aroostook
MARTIN of Kennebec

Representatives:

PRESCOTT of Topsham
DOW of Waldoboro
DRISCOLL of Westbrook
GILBERT of Jay
HERBIG of Belfast
HUNT of Buxton
TUTTLE of Sanford
VOLK of Scarborough
WALLACE of Dexter

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

Signed:

Representative:

NEWENDYKE of Litchfield

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-412)**.

READ.

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

The Resolve was **READ ONCE**. **Committee Amendment "A" (S-412)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Resolve was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-412)** in concurrence.

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought to Pass** on Resolve, Directing the Maine Turnpike Authority To Place Signs on Interstate 95 Directing Motorists to the Southern Maine Veterans Memorial Cemetery in Springvale

(S.P. 625) (L.D. 1807)

Signed:

Senators:

COLLINS of York
DIAMOND of Cumberland
THOMAS of Somerset

Representatives:

CEBRA of Naples
GILLWAY of Searsport
HOGAN of Old Orchard Beach
PARRY of Arundel

PEOPLES of Westbrook
ROSEN of Bucksport
THERIAULT of Madawaska
WILLETTE of Mapleton

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

Signed:

Representatives:

MAZUREK of Rockland
RIOUX of Winterport

Came from the Senate with the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED**.

READ.

On motion of Representative CEBRA of Naples, the Majority **Ought to Pass** Report was **ACCEPTED**.

The Resolve was **READ ONCE**.

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

Under further suspension of the rules the Resolve was **PASSED TO BE ENGROSSED** in concurrence.

Majority Report of the Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-743)** on Bill "An Act To Prohibit Computer Software Programs Used To Evade Sales Tax" (EMERGENCY)

(H.P. 1297) (L.D. 1764)

Signed:

Senators:

COURTNEY of York
HASTINGS of Oxford
WOODBURY of Cumberland

Representatives:

KNIGHT of Livermore Falls
BERRY of Bowdoinham
BICKFORD of Auburn
BRYANT of Windham
FLEMINGS of Bar Harbor
PILON of Saco
WEAVER of York

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

Signed:

Representatives:

BENNETT of Kennebunk
HARMON of Palermo
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-743)** 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-743)** and sent for concurrence.

**CONSENT CALENDAR
First Day**

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

(S.P. 321) (L.D. 1088) Bill "An Act Regarding the Writing of Bad Checks" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-408)**

(S.P. 530) (L.D. 1620) Bill "An Act To Amend the Charter of the Ogunquit Sewer District" Committee on **ENERGY, UTILITIES AND TECHNOLOGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-414)**

(S.P. 550) (L.D. 1651) Bill "An Act To Clarify Health Insurance Benefits for Disabled Participants in the Maine Public Employees Retirement System" (EMERGENCY) Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-411)**

(S.P. 557) (L.D. 1658) Bill "An Act To Protect Gasoline Marketers from Liability for Selling Federally Mandated Gasoline" Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-413)**

(S.P. 586) (L.D. 1721) Bill "An Act To Improve the Method of Classifying Shellfish Harvesting Areas and Providing Notification of Changes" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-415)**

(S.P. 598) (L.D. 1741) Bill "An Act To Streamline the Paperwork Requirements of the State's Forest Practices Laws" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-409)**

(S.P. 617) (L.D. 1780) Bill "An Act To Enhance Career Pathways for Adult Learners" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-410)**

(H.P. 1236) (L.D. 1684) Bill "An Act To Amend the Uniform Commercial Code Regarding Motor Vehicle Warranties" Committee on **JUDICIARY** reporting **Ought to Pass**

(H.P. 1330) (L.D. 1804) Bill "An Act To Implement Recommendations of the Right To Know Advisory Committee Concerning Public Records Exceptions" Committee on **JUDICIARY** reporting **Ought to Pass**

(H.P. 1199) (L.D. 1594) Bill "An Act To Clarify the Requirements of Income Withholding Orders" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-746)**

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 and the House Papers were **PASSED TO BE ENGROSSED or PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

ENACTORS

Emergency Measure

An Act Concerning Copying Fees for Users of County Registries of Deeds

(S.P. 526) (L.D. 1616)

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

Emergency Measure

An Act To Correct Errors in Recently Enacted Laws Governing Agency Liquor Stores

(S.P. 562) (L.D. 1663)

(C. "A" S-395)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 124 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act To Allow Employees of the Small Enterprise Growth Board To Participate in the State's Group Health Plan

(S.P. 582) (L.D. 1682)

(C. "A" S-393)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 126 voted in favor of the same and 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 Establish Veterans Treatment Courts

(H.P. 1250) (L.D. 1698)

(C. "A" H-729)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 130 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act To Amend Certain Provisions of the Fish and Wildlife Laws

(S.P. 592) (L.D. 1732)

(C. "A" S-391)

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. 125 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.

Mandate

An Act To Provide for School Enrollment and an Appeal Process in Specific Cases in Which Students Do Not Reside with Parents

(H.P. 722) (L.D. 978)

(C. "A" H-720)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section

21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 129 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 Codify the Review Practice of Certain Changes in the Application of the Sales and Use Tax Law

(H.P. 448) (L.D. 590)
(C. "C" H-718)

An Act To Increase Access to Information Regarding Health Care Facility and Practitioner Payments

(H.P. 602) (L.D. 806)
(C. "A" H-719)

An Act To Lessen the Regulatory Burden on Medical Laboratories by Removing Outdated Requirements from the Maine Medical Laboratory Act

(S.P. 534) (L.D. 1624)
(C. "A" S-396)

An Act To Extend Certain Insurance Protection to Emergency Responders

(H.P. 1226) (L.D. 1636)
(C. "A" H-722)

An Act To Permit Financial Institutions To Share Certain Information for the Purpose of Preventing Electronic Bank Card Losses and Other Fraud

(H.P. 1227) (L.D. 1637)
(C. "A" H-717)

An Act To Conform Maine's Prescription Drug Privacy Laws with the United States Constitution

(S.P. 578) (L.D. 1679)
(C. "A" S-397)

An Act To Provide Additional In-store Space for Maine's Businesses by Removing License and Permit Posting Requirements

(H.P. 1247) (L.D. 1695)
(C. "A" H-726)

An Act To Create Excise Tax Equity and Consistency for Buses

(H.P. 1251) (L.D. 1699)
(C. "A" H-724)

An Act To Eliminate the Deposit Requirements for Containers of Limited and Restricted Use Pesticides

(S.P. 606) (L.D. 1758)
(C. "A" S-392)

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.

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

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

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (7) **Ought to Pass as Amended by Committee Amendment "A" (H-723)** - Minority (6) **Ought Not to Pass** - Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Limit Health Care Mandates"

(H.P. 649) (L.D. 882)

TABLED - February 29, 2012 (Till Later Today) by Representative RICHARDSON of Warren.

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

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

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

The SPEAKER: The Chair recognizes the Representative from Warren, Representative Richardson.

Representative **RICHARDSON**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Under the approach to essential benefits under the Affordable Care Act, all existing Maine mandates would continue to be covered under the amended LD 882. This bill creates consistency with the Affordable Care Act. The essential benefits under the ACA are expansive and cover most services that would be considered important.

There are 10 categories of essential benefits under the ACA: ambulatory patient services; emergency services; hospitalization; maternity and newborn; mental health and substance abuse disorder services, including behavioral health treatment; prescription drugs; rehabilitative and habilitative services and devices; laboratory services; preventive and wellness services and chronic disease management; and pediatric services, including oral and vision care. Under the ACA, all of these services will have to be included in the individual and small group policies.

The ACA requires that states pay the subsidy cost associated with mandates that exceed essential benefits. The Majority Report allows Maine to avoid potential subsidy costs for mandates that go beyond the essential benefits under the ACA.

LD 882 provides greater flexibility on plan design and as we know over past mandates, in 2009, added costs due to mandates in our health insurance has risen anywhere from 4% or created a 4% to 8% increase in those premiums. Thank you, Mr. Speaker.

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 urge you to vote no on the pending motion. This bill is one of the more irresponsible measures that we have debated in recent memory. It leaves to federal bureaucrats and yet unknown state employees to make the important decisions about what health benefits will be covered by insurance policies, instead of legislators taking responsibility. It abdicates our Constitutional responsibility to be a separate branch of government and to represent our constituents.

It will have the effect of repealing basic health coverage such as some cancer drugs, services for autistic children up to age 5, hearing aids for children up to age 18 or medical supplies for diabetes - except that at the time we take the vote today, we have no way of knowing if we are repealing all of these health benefits, some of these health benefits, other health benefits or none of the above. Really, do we want to do that?

Let's take the example of hearing aids. Do you know anyone who uses a hearing aid? I do. I have a friend who is actually a brilliant law professor. She is a Colby graduate and went on to

get her law degree at Yale. Without her hearing aids she can't hear. Without hearing aids as a child, she would have been considered a slow learner and there is no way she would be teaching law students today, and she is now a law professor. She would have been considered stupid because she could not understand what was going on in school.

So, right now Maine law requires insurance plans to cover children's hearing aids. However, this bill, LD 882, says that the hearing aid requirement will be repealed – without a public hearing or specific legislation – if the so-called "essential benefits plan" picked this summer does not include hearing aids. One of the options that could be used to determine "essential benefits" is a federal insurance plan that does not include children's hearing aids.

Who will make this decision? We don't know. When will they decide? We don't know. Will they have a public process in deciding what plan to pick, so that deaf children and their parents or autistic children and their parents can participate and explain how the decision will affect them? We don't know. Why are we voting on this bill today when we don't know what we are voting on? Good question.

LD 882 decides today what should happen on January 1, 2014, even though, one, the information needed to make this decision won't be known until next session; and, two, there is plenty of time next session to act.

I have no doubt that this Legislature will need to look at Maine's health care mandates next year and make some important decisions about what should remain a state mandate once these provisions of the federal Affordable Care Act go into effect. The ACA sets a floor of mandated health benefits, called "essential benefits," and says that state mandates above that floor must be paid for by state taxpayers. Obviously, we will have to think long and hard about whether anything above and beyond the federal minimum is justified by medical necessity and whether Maine taxpayers can and should foot the bill. But to make this decision without even knowing what we are repealing is to abdicate our own responsibility to make decisions and will deprive people whose lives and livelihood, as well as quality of life, may depend on the continued availability of these medical services.

I have a basic rule – if you can't explain to your constituents what's in a bill that you voted on, vote no. Please follow my lead.

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

Representative **MORRISON**: Thank you, Mr. Speaker. Good morning Mr. Speaker, and Ladies and Gentlemen of the House. I oppose this measure before us for a couple of reasons. One, I think this bill is unnecessary. Two, I think this bill is premature. Number three, I think this bill is counterproductive to our process here. If we don't know what's in the essential benefits package, why vote on something? We're voting on a measure today for legislation that we have no idea what's in it. So I think it would be in our best interest now to hold off on this bill and wait for the appropriate time when the Federal Government gives us the essential benefits package. It's really counterproductive for us to even be talking about this right now when we don't even know what's coming before us.

One of the things I thought most of through this process is our limited ability if we pass this bill. It limits our ability to find a package that best suits all of the Mainers' needs, from the small groups to the larger groups to every individual in this room, and every individual in our districts have individual health care needs and if we are selling ourselves short and cutting our constituents off from health care plans that could benefit them, we're not doing our job right. So I would ask and urge everyone to vote against

this measure today, follow my light, and just wait for the essential benefits package first before leaping and making decisions based upon unknowns. Thank you very much, 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 rise in opposition to the motion on the floor. The essential benefits package of the ACA has yet to be determined. The ACA has the expectation that each state should maintain or enhance the benefits that are in place. The Administration urges each state to have a health insurance program that will meet the needs of that unique state. The Federal Government aims not to be prescriptive or restrictive. LD 882 would do just that. It would irreparably damage the health of all Mainers.

There is a reason that Maine asks insurers to cover care for children with autism, hearing aids for children up to age 18 and early intervention for children up to 3 years of age. It makes a huge difference for families and it is absolutely cost effective. Do you want to tell the family with a child with autism spectrum disorder, that "Tough luck, we hope someone will help your child but we are not going to provide insurance coverage for him and we won't take care of his autism until he gets to school"? Or for a child who hasn't learned to sit up or not spoken any words by the time they are 2 years old, parents will be told "Too bad. When she gets to school maybe they'll help her." The time and care invested in children early on saves costs, particularly if their health condition deteriorates and results in more expensive treatment. It just makes sense to provide care early. LD 882 will take that away.

Two tests that are in Maine's health insurance coverage are for prostate cancer and pap smears. It is inexpensive and it saves lives, period. These two extremely cost effective tests are contrasted with the high cost, in every way, of prostate and cervical cancer. LD 882 would eliminate these tests. If these cancers are detected early, they are often curable. If undetected, it likely will result in severe illness and possibly death. When do you want to pay?

LD 882 is short sighted and unnecessary. These suggestions of good care are in place because previous legislatures heard the evidence and voted to include tests and care that make a huge difference for the people of Maine. I suggest that the majority of these suggestions were passed in a bipartisan manner.

I urge you to vote no on this motion because, my friends and colleagues, this is about quality, preventive cost-effective health care. I have dedicated the past 30 years of my life to the health of children. I can tell you firsthand what happens when we skip tests and we defer or not provide necessary care. Let's not let political sound bites and partisan views take away the excellent health care that all Mainers deserve. Thank you, Mr. Speaker.

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

Representative **MARTIN**: Thank you, Mr. Speaker. Mr. Speaker, Members of the House. Every now and then in politics you get a piece of legislation in front of you like this one, and this one is one of those where the minority should be for the majority and the majority should be in the minority, if you think this through. What I hear basically is Democrats saying we don't want control from Washington and the majority is now telling us we want control from Washington. So all those people who have been complaining about the President and that bill that sometimes has a name with the President's name in it, which I won't use today, basically we're now shifting the authority to Washington.

Now someone can explain the logic of where the majority is

coming from. You know, I kind of want to go with the majority because I sometimes wonder, if I'm going to get health care determined by some higher being, I'm going to listen to Washington, perhaps, which is what the Majority Report of this bill does. So I am amazed. I am truly amazed to see the Majority Report before us today and those who will vote for the Majority Report today can no longer campaign this fall against the President's bill, because that's exactly what they will be doing. If you read the bill, which I just managed to get my hands on, you may not have it because it's a carryover, but if you do, you may really want to look at it and for those of you who are running for reelection, it may just be the perfect vehicle that some of us can use to illustrate you voted for the President's approach to health care.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Webster.

Representative **WEBSTER**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I have a strong personal reaction to the idea we would abdicate our responsibility. Many of us worked long and hard to balance the costs and needs that evolved into hearing aids for children. I have a strong personal reaction to the need and the possibility that we would abdicate our ability to make the decisions in the future regarding that issue, and many others, because I went through elementary school and middle school and junior high school and high school with my family not being able to afford the hearing aids I needed. I worked hard to make sure that wasn't going to happen to other children. For us to abdicate the responsibility that we have to find a balance that's right for this state is wrong. Thank you, Mr. Speaker.

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

Representative **McKANE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is not about giving any control to Washington; let's make that clear right now. This is about us doing no more than we have to do under federal law. We have to comply with federal law. That's not giving control to Washington. They dictate we have to do that. This is about us not doing any more than we have to.

A couple of other things here. No tests are going to be skipped. All existing mandates are going to stay in place. No coverages are going to be repealed. In the future, health insurance companies can still offer new coverages. What this does is it helps prevent the heaping on of mandates which we have seen in this state for decades, year after year, after year, more mandates, more mandates, more mandates, and you know as well as I have, I know, everybody in this body who has campaigned has heard from their constituents that they would love to have the option of buying a Chevrolet policy instead of a Cadillac policy. I would love to do that. This doesn't repeal mandates. I wish it did. I wish we could offer a low mandate policy for those people in our districts who can't afford any insurance, and there is a lot of them out there. It's 130,000 in this state that can't afford any insurance, and I would love to be able to offer them a policy with no or low mandates. You can't do that because of the Affordable Care Act. We have to comply with the Affordable Care Act. All the existing mandates have to stay in place and they will. This just prevents in the future the heaping on of mandates for everything that comes down the pike, every new idea. This is a good bill. It's not as good as I would like it to be because we're prevented from doing that by federal law. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Webster.

Representative **WEBSTER**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I urge you to join me in deciding that this state will do more than what the bare minimum of the law requires, but rather to do that which is morally and economically sound. Thank you.

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

Representative **TREAT**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I just wanted to correct something that it's now been stated twice, and I quote, "all Maine mandates are continued under the ACA as a result of this bill," and the following quote which is essentially "nothing can be repealed by this, that's currently a Maine mandate." That is just not true. The intent of this legislation, and as amended in the amendment, is to repeal anything that is not included in the health insurance plan that is picked by whoever picks it that meets the essential benefits, and the essential benefits do not spell out a lot of detail and there is a number of things that are on, especially the federal employee plan, which are not covered there, and they include autism services for children up to age 5, which is a mandate that this Legislature decided after having multiple public hearings, much debate but made a choice. It also includes hearing aids for children up to age 18 and a number of other things, diabetes equipment, things like that.

Now I am not saying today that we should definitely continue those mandates into the future. I'm not saying that. I'm saying there is no need to vote today to repeal things in advance without knowing what you're repealing. There is no need to do that today. We have to make that decision before January 1, 2014. There is an entire year, the year of 2013, that intervenes, and that year is next year and we would be able to make any decisions that we need to make. But don't you think as a matter of fundamental fairness, if you are removing from the scope of health insurance something that people decided in this legislative body and that usually was a bipartisan vote, as a matter of fundamental fairness you give an opportunity to the parents and the individuals who are affected to at least come and testify in favor or against that bill or that proposal. That's what we're doing here. We're completely jumping over that and putting something on automatic pilot based on something the Federal Government is doing. I frankly find it incomprehensible that people who defend the Constitution so strongly, who defend so strongly the authority of the legislative branch, would be willing to make a decision that could affect the life and health of one or more or many of their constituents, and to do that without knowing what they're doing, I find it amazing. But just to clarify, this legislation will in fact have the effect of repealing some mandates we're pretty sure, but we don't know what they are.

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

Representative **GOODE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in opposition to LD 882. The federal Affordable Care Act leaves many decisions to states regarding the future of health care, and we're very fortunate that we get to make those decisions. One of the obvious decisions is around mandated health benefits. The Federal Government has not yet done a decision on the essential benefits package. Today we are deciding our course of action without knowing what the Federal Government will do. The type of coverage at risk includes things like cancer drugs, services for autistic children, hearing aids for children and medical supplies for diabetics.

On the issue of hearing from constituents, I'm not going to pretend that public policy around mandates isn't controversial. We've heard from constituents that like mandates and

constituents that don't, and I would be surprised if there are many people in this room that haven't heard from constituents last year who were opposed to LD 882 at the time, largely because they either benefit from or perform medical services that are mandated in state law right now. Since my time in the Legislature and serving on the Insurance and Financial Services Committee, when we have had mandated bills come forward, we have thought through them in a thoughtful way, worked with the Bureau of Insurance about the costs of the mandate, the effectiveness of that type of health care, and members from both parties have supported mandates and opposed mandates based on actual facts about the value of that mandate and state law. So this bill goes to the federal floor for what our mandates are. We are prescribing for future legislators what we will do, and it completely abdicates our responsibility and skirts our responsibility to have that thoughtful process that we've had in the past, that have led to members from both parties voting for and against mandates based on what's best for Maine families. So I'm opposed to LD 882, I'm opposed to skirting our responsibility and I urge you to vote against the pending motion. Thank you.

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 is simply about choice and I haven't heard this argument yet. People already choose high deductibles right now to keep their premiums low or they keep their premiums high and they get a lot more coverage. So you get a choice. This bill allows a choice for a less expensive option, if you choose to have that less expensive option, and if you don't want it, then pay more and get the coverage that's allowed now.

I agree with the Representative from Newcastle. It's like buying an auto policy. You choose what kind of coverage you want or what you don't want. If you want comprehensive and collision and many of the bells and whistles that you get with getting an auto policy, you choose it. Why should it be any different with health care? Why shouldn't we have the same decisions allowed by ourselves to be able to choose what kind of things we want covered and what kind we don't? And yes, we are limited by the feds. I'd like to see a little bit more of the same as the Representative from Newcastle would like to see more, and unfortunately we haven't gone far enough. So I would support LD 882 wholeheartedly and I would have no problem explaining that to my constituents because that's what they want too. They want the choice. 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. Why should my 20-year-old son have to get a mandate for insurance that would require him to have a pap smear? Why would someone without children need insurance for autistic children? Why should the youth of this state, whose median age is now over 46 and not in very good health, be required to continually fund what they have not been responsible with the only thing that God has given them, perhaps, good health? This is really what this is about. One of the reasons that they don't have health insurance, the youth of this country, is because they're having to pay for everybody else's bad health and things that they have no need for whatsoever. Forty percent now of the young in this country marry. Why would they need mandates for plans that don't include anything that's relative to them? It's as simple as that. This sets it up for the future so that they have a shot to get

insurance for the one thing you have when you're young, hopefully, your health.

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 need to rise again because I bring experience. I spent six years practicing in a pediatric neurology practice. Let's get real. Let's get real. When people came to our office they were looking not only for treatment of their child with autism spectrum disorder but for a diagnosis, for health, for answers. I have to disagree with the good Representative from Topsham. If I looked at an individual who came in with their child who was so worried and tried to provide the best care for their child, make the diagnosis, and guess what? Their insurance plan won't cover it. Oh, but if you have enough money and you get a high enough coverage, good job. Well, you know what? I have to be very honest with you. Many of the individuals that I saw in those families could not afford a high-cost insurance plan and we don't even know if they'd be covered by MaineCare the way things are going. So please, I ask my colleagues to really think about what this means. This means an enormous amount to families who struggle every day for no fault of their own with children with disabilities. Are you going to tell them that we can only provide care to you if you can afford a high-cost policy? Thank you, Mr. Speaker.

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

Representative **GOODE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I apologize for rising a second time. I just feel compelled to rise and speak about choice and health care, and I really feel as though I've heard from young people on both sides of this issue, but, as a young person who is phenomenally healthy, I recognize that good health does not last forever and that some day I might have cancer and there are lots of young people who might some day get sick. So in terms of having a choice, this simply says that insurance companies have to offer something that people might want some day, and I think the question is, what if there is somebody who needs medical supplies for diabetes and there is no mandate on it and no insurer in the state covers it? Then there probably is not going to be a choice to get a policy that covers that, so my understanding is that we would want a person to be able to find a policy that covers something that they need when they do get sick, and despite there being lots of healthy people and lots of sick people in the state, I think most healthy people understand that they or a loved one might some day get sick. That's all I have to say at the moment and I still urge you to vote against the pending motion.

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

Representative **McKANE**: I apologize, Mr. Speaker, for getting up twice. Again, I want to say that nothing is getting repealed. There are a number of ways we can protect our benchmark plan, but just to give you an example of what has to be covered under the essential health benefits. Ambulatory services, emergency services, hospitalization, maternity and newborn care, mental health and substance abuse and behavioral health treatment, prescription drugs, rehabilitative services and devices, laboratory services, preventative wellness, chronic disease management, pediatric services including oral and vision care, and the way we would do that is through a benchmark plan using one of the largest plans in the state, which would probably be the state plan that the state employees have which covers everything. And again, I wish we didn't have to go with that plan. I wish we could offer a plan that had less, but

we're offering everything because we have to by federal law. Thank you, Mr. Speaker.

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

Representative **BOLAND**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to this also and just because I was really startled at the majority's leader from Newcastle and his remarks, and I would just like to ask you to look around you to who's working for you, working hard, seriously, joyfully to serve you in bringing messages around to you, and to think that you would want to follow a message that says our goal is to do as little as possible for you to them is amazing to me.

The SPEAKER: The Chair recognizes the Representative from Warren, Representative Richardson.

Representative **RICHARDSON**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. It seems like this has gone a little bit beyond and I would just like to read the amendment that is going into this bill. Notwithstanding any other provision of this Title or Title 24, a carrier offering or renewing a health plan in this State on or after January 1, 2014 may not be required to provide benefits or coverage that exceeds the health care benefits included in the minimum essential benefits package determined by the Secretary of the United States Department of Health and Human Services pursuant to the federal Act. So all we're saying is that going forward, if there is in fact mandates that the Legislature wants to do, some insurance companies can offer them and some do not have to, and they may be able to offer again the choices and that's all we're trying to do. It's really a very simple bill. Thank you.

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

Representative **MARTIN**: Thank you, Mr. Speaker. Mr. Speaker, Members of the House. The Representative from Warren, Representative Richardson, has just illustrated my point and I thank him for doing that.

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

Representative **RUSSELL**: Thank you, Mr. Speaker. If it's possible, may I pose a question through the Chair?

The SPEAKER: The Representative may pose her question through the Chair.

Representative **RUSSELL**: Thank you, Mr. Speaker. As a woman I'm a little concerned. The good Representative from Farmington got me wondering, would this repeal things like pap smears, because a good 50 percent of the population in Maine are women, so I'd very much like to know whether that's true or not because the good Representative from Farmington was so kind to bring it to our attention.

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

Representative **McKANE**: No, it would not.

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. 237

YEA - Ayotte, Beaulieu, Bennett, Bickford, Black, Burns DC, Cebra, Chase, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dow, Dunphy, Edgecomb, Espling, Fitts, Fitzpatrick, Flood, Fossel, Foster, Fredette, Gifford, Gillway, Guerin, Hamper, Harmon, Harvell, Johnson D, Johnson P, Keschl, Knapp, Knight, Libby, Long, Maker, Malaby, McClellan,

McFadden, McKane, Morissette, Moulton, Nass, Newendyke, O'Connor, Olsen, Parker, Parry, Picchiotti, Plummer, Prescott, Richardson D, Richardson W, Rosen, Sanderson, Sarty, Sirocki, Tilton, Timberlake, Turner, Volk, Wallace, Waterhouse, Weaver, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

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

ABSENT - Celli, Hanley, Herbig, Rioux, Rochelo, Sanborn.

Yes, 74; No, 70; Absent, 6; Vacant, 1; Excused, 0.

74 having voted in the affirmative and 70 voted in the negative, 1 vacancy with 6 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-723) was READ** by the Clerk and **ADOPTED.**

Representative MARTIN of Eagle Lake **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** Monday, March 12, 2012.

HOUSE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (6) **Ought to Pass as Amended by Committee Amendment "A" (H-725)** - Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Require Advance Review and Approval of Certain Small Group Health Insurance Rate Increases and To Implement the Requirements of the Federal Patient Protection and Affordable Care Act"

(H.P. 877) (L.D. 1179)

TABLED - February 29, 2012 (Till Later Today) by Representative RICHARDSON of Warren.

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

Representative RICHARDSON of Warren **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 Bangor, Representative Goode.

Representative **GOODE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in opposition to the current motion. I want to speak briefly to this bill. The amended version of this bill restores the statutory process for advanced review and prior approval for individual insurance rates, and repeals changes to that rate review process that this Legislature passed last year.

Prior to the 2010 election, in 2010 and since, there have been a number of news stories and court proceedings and rate filing proceedings with our state's Bureau of Insurance and a large insurer in the state that has consistently asked for double digit increases. Double digit rate increases by for-profit insurance companies are bad. We are in a recession. Working families are sacrificing and to have insurance companies that are doing very well increase their rates is not good. When I ran for my second

term in this body, a number of people who had shared their thoughts around rate increase proposals through the Bureau of Insurance's rate review process, who were glad that they had had that process, glad that they had had that opportunity, and it seemed to be a process that went well so I submitted legislation to try and expand that process.

This bill before us today simply reinstates the process that has been very effective in ensuring that rate increases that hurt Mainers' ability to get good health care are not excessively inadequate or unfair. Last January, Anthem requested a 9.7% rate increase for individual health insurance policies. Anthem later reduced their request to 9.2%, which included a 3% profit margin in 2011. In a recession, they asked for a 3% profit margin. Through this process, the Superintendent of Insurance in Maine denied Anthem's request approving a 5.2% rate hike. That gave them a built-in profit of 1%, keeping with state law that the rates not be inadequate or unfair or discriminatory. I do not support insurance companies getting a free pass on a 3% profit margin in a recession while they raise rates on people in Maine, and I think that this process was effective in reducing that rate increase. I think we should have that same type of process. I support transparency and accountability in insurance rate reviews. I don't understand why we would not have the Bureau of Insurance continue to do this important work and why we would not expect a for-profit insurance company to approve a rate increase is not excessive, inadequate or unfairly discriminatory. I am voting against the current motion and urge you to follow my light. Thank you.

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

Representative **TREAT**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Last week, the Maine Supreme Judicial Court unanimously upheld the decision of the Superintendent of Insurance to reject a 9.2% Anthem health insurance premium rate hike. The Superintendent, as you have heard, determined that that rate hike was excessive and unfairly discriminatory, and they allowed only the lesser increase of 5.2% which is still quite a substantial hike in people's insurance rates. The court found last week that in a unanimous decision...sorry, it's a little noisy.

The SPEAKER: The House is in order. The Representative may proceed.

Representative **TREAT**: Thank you so much, Mr. Speaker. The court found that the 5.2% increase was fairly and adequately compensating the insurance company. This happened to be the third time that Anthem went to the court and asked the court to overturn a superintendent's decision rolling back an insurance rate increase. Apparently, they are not happy with those results, so last year they came to the Legislature and just asked us to repeal the authority of the Superintendent. Today we have an opportunity to change that.

In the most recent decision, the Superintendent's decision saved Maine policyholders over \$3 million. Those are constituents of you and of me. The court decision relied in part on the record developed in the hearings on the rate increase, where nearly 40 Anthem policyholders gave sworn testimony on the financial impact of the proposed rate increase and the threat that that rate increase posed to their ability to stay insured, to have health insurance, to go to the doctor.

The Superintendent's decision, and the court decision upholding it, were based on prior law, law that this Legislature repealed last year. I don't actually know whether everyone voting on LD 1333 was fully aware of every provision. It was a very complex bill and I don't know that we debated this particular aspect of it at much length. But in any event, we now have an

opportunity to reverse something that I think was not the best decision.

Now I've seen a handout. I'm sure, I'm not sure but perhaps a member of the majority will stand up to tell you what it means. This handout says that the Federal Government has found that our rate review process meets their standards. Well, yeah. What is that standard? I looked it up. If the rate is over 10%, then you can go review it and make changes and roll it back. What this bill does is it says let's go back to the 4, wherever it was, 9.9% every single year you would have an opportunity to review it. You have an opportunity today to reinstate the Superintendent's authority to review individual market rate insurance increases before they go into effect, and if they are found to be excessive, to reduce those rates. LD 1179 helps your constituents and it also ensures a fair playing field for the insurance companies. I urge you to vote for this bill. It's truly good for your constituents, whether they be individuals or small businesses. They need your help in this tough economy and this bill will provide it. Please vote Ought Not to Pass on the pending motion.

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

Representative **MORRISON**: Thank you, Mr. Speaker, and good morning again Ladies and Gentlemen of the House. This is about checks and balances, and I want to establish checks and balances. I want to have the Bureau of Insurance have the ability to monitor rate increases. It's the right thing to do for our consumers and that's the reason why I am voting against the pending motion today. I'm voting for the consumers, and over and over again, when we were not in session, I heard the stories from people who were praising the former Superintendent Mila Kofman for fighting the rate increases before and sticking up for Maine people, and that's what I'm doing today, folks. Let's stick up for Maine people and not insurance companies. Let's vote this bill down and give the Bureau of Insurance the ability to continue to monitor rate increases. It's the right thing to do. Thank you, Mr. Speaker.

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

Representative **McKANE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Under existing law, all rates will still be reviewed. All of the same standards will still apply. The Superintendent may still take action if he feels the rate request is excessive or unfairly discriminatory. LD 1179 takes us back to where we were as being one of the most overregulated states as far as health insurance is concerned in the country. It makes us much stricter than the ACA, the Affordable Care Act, which is a very, very strict regulatory new law. It makes us much stricter than that. It's a burden on insurers and it's a cumbersome process that we have had and has had a very poor track record, frankly, and hasn't done anything to prevent rate increases of double digits. Over the past 10 years, we've had double digit increases in both the small group and the individual market. Small group, 19% average; individual, 14% average increases over 10 years. This rate filing process, if anything, has done the opposite.

I handed out some letters. They are on canary yellow. I want to read a little bit from them. They are from the Department of Health and Human Services. Based on the information we've determined that Maine has an effective rate review program in all markets. That is the one that most states have. We applaud your efforts to provide an effective rate review program for the state's insurance consumers that meet the criteria outlined in the Affordable Care Act. We applaud your efforts to provide state's insurance consumers...same thing...both two letters, two different plans. I think that's important.

The letter, there are essentially four questions that need to be asked to be in compliance with federal regulations for a rate review. One, do you comply in the individual market? Two, do you comply in the small group market? Three, do you comply for association plans in the individual market? Four, do you comply for association plans in the small group market? Because of PL 90, Maine is one of 31 states that can answer yes to all of those questions. Instead of attacking the procedures set up in PL 90, the Maine Legislature and the Bureau of Insurance should be congratulated for being among the states that are in compliance in all four issues, and again, it should be noted that the ACA is fairly extreme law. It demonstrates the fact that it's not required, this system that's proposed in LD 1179, which we used to have, is not required in the ACA. It shows pretty much how extreme the bill, the proposal is. And again, proposed rates will still get reviewed. The same standards will apply. The Superintendent can still take action. The difference is that we've changed the required loss ratio up to 80% in the individual market and 85% in the small group, and those are the ObamaCare loss ratios...Affordable Care Act, excuse me. If you do not meet those loss ratios, then you have to go back to file and approve. The benefits of an insurer being able to use the "file and use" – it's what the system is that we have now – is that they don't have to predict what the market conditions are going to be months, or even a year, in the future, which they had to do all during the past or the previous, the way we had the system set up before, which meant that they would go for a much higher rate. They had no idea what the market conditions for the insurance market were going to be a year from the date they put that forward, so they went for a real high rate and they usually got it cut in half. Plus, it delayed what could have been a much smaller increase. It does nothing; this does nothing to keep rates lower. In fact, it might do quite the opposite and I just hope that we don't go back to being one of the most highly regulated states in the country as far as health insurance laws. Please support the Majority Report. 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. 238

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

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

ABSENT - Celli, Herbig, Pilon, Rioux, Rochelo, Sanborn.

Yes, 75; No, 69; Absent, 6; Vacant, 1; Excused, 0.

75 having voted in the affirmative and 69 voted in the negative, 1 vacancy with 6 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (H-735)** - Minority (5) **Ought Not to Pass** - Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act Regarding Insurance Adjusters and Reporting Requirements for Insurance Companies" (H.P. 1305) (L.D. 1773)

TABLED - March 7, 2012 (Till Later Today) by Representative RICHARDSON of Warren.

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 Hallowell, Representative Treat.

Representative **TREAT**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. We're getting a flavor for the Insurance and Financial Services Committee. I'm sure you all wish to join us as we debate these bills coming up. So I am asking that you vote against the pending motion and vote this bill down. Now there are two reasons where I think that you should oppose this bill. First of all, it will increase the likelihood of consumer problems in this industry. What's the industry? Insurance for mobile devices. If you were to take your computer, and I encourage you to do so, and Google "cell phone insurance" with quotations around it, you will see that this is an industry beset by Better Business Bureau complaints, class action lawsuits and Attorney General settlements for problems ranging from misleading insurance policies to failure to promptly replace replacement handsets.

At a time when tablet sales are exploding – I know you all were keeping track of the big new announcement with the Apple iPad whatever that just was announced – it means that there are millions more potential customers who may seek to insure their expensive devices. So this industry has come to Maine to ask us to get rid of the requirement that the people who adjust your insurance claims have to be insurance adjusters. Let me repeat that statement: This bill changes the fact that the people that adjust your insurance claim must be insurance adjusters. Instead, now only the supervisor of 25 people doing the adjusting – processing your insurance claim – needs to meet current Maine professional requirements.

I'm convinced that this bill will lead to more, not fewer, consumer rip-offs. I would find the claims of over-regulation far more persuasive if this industry had a squeaky-clean reputation under the current rules – but it does not.

My second concern is loss of jobs. By dumbing down the job qualifications and eliminating the need to get a Maine license, this bill makes it more, not less, likely that these insurance adjuster jobs will be off-shored. There is already a lot of this going on, and ongoing trade talks are aimed at making sure that more financial services and insurance jobs are covered by trade rules which in this case are designed to lower regulatory and licensing requirements and to promote "self-regulation." Again, why would we encourage the further loss of jobs?

LD 1773 is a completely unnecessary piece of legislation that

will further neither consumer protections nor improve Maine's jobs picture. I urge you to vote no on the pending motion.

The SPEAKER: The Chair recognizes the Representative from Warren, Representative Richardson.

Representative **RICHARDSON**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. In today's world people do buy this insurance and the thing is that it has to work quickly. Claims are submitted to call centers all around the country and claims take two to three minutes if it's done by computer. All this bill does is it clarifies that people who input the data do not have to be licensed adjusters but to be overseen on a 21 to 1 ratio by licensed adjusters. Without this, claims would process on a slow basis. I must say that I know it was a split vote in our committee, but I think that this is something that is needed and I hope that you will support me on this vote. Thank you.

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

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

The SPEAKER: 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. 239

YEA - Ayotte, Beaulieu, Beavers, Beck, Beliveau, Bennett, Bickford, Black, Burns DC, Carey, Cebra, Chase, Clark H, Clark T, Clarke, Cornell du Houx, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dill J, Dion, Dow, Driscoll, Dunphy, Eberle, Edgcomb, Espling, Fitts, Fitzpatrick, Flood, Fossil, Foster, Fredette, Gifford, Gillway, Graham, Guerin, Hamper, Hanley, Harmon, Harvell, Hayes, Hogan, Johnson D, Johnson P, Kaenrath, Keschl, Knapp, Knight, Kruger, Kumiega, Libby, Long, Longstaff, Luchini, Maker, Malaby, Maloney, Martin, McClellan, McFadden, McKane, Morissette, Moulton, Nass, Nelson, Newendyke, O'Connor, Olsen, Parker, Parry, Peoples, Peterson, Picchiotti, Pilon, Plummer, Prescott, Rankin, Richardson D, Richardson W, Rosen, Sanderson, Sarty, Shaw, Sirocki, Strang Burgess, Theriault, Tilton, Timberlake, Turner, Tuttle, Valentino, Volk, Wallace, Waterhouse, Weaver, Welsh, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

NAY - Beaudoin, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Casavant, Chapman, Chipman, Duchesne, Eves, Flemings, Gilbert, Goode, Harlow, Hinck, Hunt, Innes Walsh, Kent, Lajoie, Lovejoy, MacDonald, Mazurek, McCabe, Monaghan-Derrig, Morrison, O'Brien, Priest, Rotundo, Russell, Stevens, Stuckey, Treat, Wagner R, Webster.

ABSENT - Celli, Haskell, Herbig, Rioux, Rochelo, Sanborn.

Yes, 107; No, 37; Absent, 6; Vacant, 1; Excused, 0.

107 having voted in the affirmative and 37 voted in the negative, 1 vacancy with 6 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-735)** 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-735)** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass** - Minority (5) **Ought to Pass as Amended by Committee Amendment "A" (H-741)** - Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, Regarding Legislative Review of Portions of Chapter 64: Maine School Facilities

Program and School Revolving Renovation Fund, a Major Substantive Rule of the Department of Education and the Maine Municipal Bond Bank (EMERGENCY)

(H.P. 1313) (L.D. 1788)

TABLED - March 7, 2012 (Till Later Today) by Representative **RICHARDSON** of Carmel.

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

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

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

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

ROLL CALL NO. 240

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

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

ABSENT - Celli, Herbig, Rioux, Rochelo, Sanborn.

Yes, 75; No, 70; Absent, 5; Vacant, 1; Excused, 0.

75 having voted in the affirmative and 70 voted in the negative, 1 vacancy with 5 being absent, and accordingly the Majority **Ought to Pass** Report was **ACCEPTED**.

The Resolve was **READ ONCE**.

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

Under further suspension of the rules the Resolve was **PASSED TO BE ENGROSSED** and sent for concurrence.

SENATE PAPERS

The following Joint Order: (S.P. 646)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Monday, March 12, 2012, at 10:00 in the morning.

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

READ and **PASSED** in 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. 1289) (L.D. 1748) Bill "An Act To Conform the Maine Tax Laws for 2011 to the United States Internal Revenue Code" (EMERGENCY) Committee on **TAXATION** reporting **Ought to Pass**

(H.P. 1240) (L.D. 1688) Bill "An Act To Clarify the Status of Patients Held under Involuntary Commitment Applications" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-747)**

(H.P. 1292) (L.D. 1751) Resolve, Authorizing the State Tax Assessor To Convey the Interest of the State in Certain Real Estate in the Unorganized Territory Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-748)**

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

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

SENATE PAPERS

Bill "An Act To Require Notification of Health Care Facilities That May Be Negatively Affected by a Certificate of Need Application"

(S.P. 642) (L.D. 1848)

Came from the Senate, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.

REFERRED to the Committee on **HEALTH AND HUMAN SERVICES** in concurrence.

Bill "An Act To Protect Native Landlocked Salmon Fisheries in Schoodic and Seboeis Lakes from Invasive Fish Species"

(S.P. 643) (L.D. 1849)

Came from the Senate, **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE** and ordered printed.

REFERRED to the Committee on **INLAND FISHERIES AND WILDLIFE** in concurrence.

Bill "An Act To Assist Maine's Returning Veterans"

(S.P. 645) (L.D. 1850)

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

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

The following Joint Order: (S.P. 644)

ORDERED, the House concurring, that the Joint Standing Committee on Education and Cultural Affairs shall report out, to the Senate, a bill regarding management of head injuries in school activities and athletics.

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

READ and **PASSED** in concurrence.

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

(S.P. 566) (L.D. 1667) Bill "An Act To Clarify Authorization for a Court Facilities Bond" Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-417)**

(S.P. 616) (L.D. 1779) Bill "An Act To Update the Career and Technical Education Laws" (EMERGENCY) Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-416)**

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

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

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

On motion of Representative WEAVER of York, the House adjourned at 12:18 p.m., until 10:00 a.m., Monday, March 12, 2012 pursuant to the Joint Order (S.P. 646).

CONSENT CALENDAR

First Day