

# MAINE STATE LEGISLATURE

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**Journal and Legislative Record**  
**House of Representatives**  
**One Hundred and Twenty-Eighth Legislature**  
**State of Maine**

**Daily Edition**

**First Regular Session**  
beginning December 7, 2016

pages 1 -

ONE HUNDRED TWENTY-EIGHTH LEGISLATURE  
FIRST REGULAR SESSION  
52nd Legislative Day  
Friday, June 9, 2017

The Speaker resumed the Chair.

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

Prayer by Reverend Caleb Stephens, First United Pentecostal Church of Augusta.

National Anthem by Jewel Clark, Bethel.

Pledge of Allegiance.

Doctor of the day, Minda Gold, M.D., Damariscotta.

The Journal of yesterday was read and approved.

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**SENATE PAPERS**

**Non-Concurrent Matter**

Bill "An Act To Prohibit a Person from Providing False Testimony to a Committee of the Legislature"

(H.P. 599) (L.D. 850)

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-182) AS AMENDED BY HOUSE AMENDMENT "A" (H-415)** thereto in the House on June 6, 2017.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-182)** in **NON-CONCURRENCE**.

The House voted to **INSIST**.

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**Non-Concurrent Matter**

Bill "An Act To Align Time Limits in the Municipal General Assistance Program and Temporary Assistance for Needy Families Program"

(S.P. 66) (L.D. 220)

Majority (7) **OUGHT NOT TO PASS** Report of the Committee on **HEALTH AND HUMAN SERVICES READ** and **ACCEPTED** in the House on June 7, 2017.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Minority (6) **OUGHT TO PASS AS AMENDED** Report of the Committee on **HEALTH AND HUMAN SERVICES** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-61)** in **NON-CONCURRENCE**.

The House voted to **INSIST**.

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**Non-Concurrent Matter**

Bill "An Act To Prioritize Use of Available Resources in General Assistance Programs"

(S.P. 65) (L.D. 219)

Majority (7) **OUGHT NOT TO PASS** Report of the Committee on **HEALTH AND HUMAN SERVICES READ** and **ACCEPTED** in the House on June 7, 2017.

Came from the Senate with that Body having **ADHERED** to its former action whereby the Minority (6) **OUGHT TO PASS AS AMENDED** Report of the Committee on **HEALTH AND HUMAN SERVICES** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-62)** in **NON-CONCURRENCE**.

The House voted to **INSIST**.

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**Non-Concurrent Matter**

Bill "An Act To Promote Efficiency and Accountability to Taxpayers in Personal Services Contracting"

(H.P. 520) (L.D. 740)

Majority (7) **OUGHT TO PASS AS AMENDED** Report of the Committee on **STATE AND LOCAL GOVERNMENT READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-199)** in the House on June 6, 2017.

Came from the Senate with the Minority (6) **OUGHT NOT TO PASS** Report of the Committee on **STATE AND LOCAL GOVERNMENT READ** and **ACCEPTED** in **NON-CONCURRENCE**.

The House voted to **INSIST**.

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**Non-Concurrent Matter**

Bill "An Act To Amend the Law Regarding Road Associations"

(H.P. 731) (L.D. 1042)

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-255)** in the House on May 24, 2017.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-255) AS AMENDED BY SENATE AMENDMENT "A" (S-196)** thereto in **NON-CONCURRENCE**.

The House voted to **INSIST**.

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**COMMUNICATIONS**

The Following Communication: (S.C. 494)

**MAINE SENATE  
128TH LEGISLATURE  
OFFICE OF THE SECRETARY**

June 8, 2017

Honorable Sara Gideon

Speaker of the House

2 State House Station

Augusta, Maine 04333

Dear Speaker Gideon:

In accordance with 3 MRSA §158 and Joint Rule 506 of the 128th Maine Legislature, please be advised that the Senate today confirmed the following nomination:

Upon the recommendation of the Committee on Appropriations and Financial Affairs, the nomination of Michael R. Currie of Falmouth for appointment to the Maine Public Employees Retirement System Board of Trustees.

Best Regards,

S/Heather J.R. Priest

Secretary of the Senate

**READ** and **ORDERED PLACED ON FILE**.

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The Following Communication: (S.C. 495)

**MAINE SENATE  
128TH LEGISLATURE  
OFFICE OF THE SECRETARY**

June 7, 2017

Honorable Robert B. Hunt  
Clerk of the House  
2 State House Station  
Augusta, Maine 04333

Dear Clerk Hunt:

Please be advised the Senate today insisted to its previous action whereby it accepted

- the Majority Ought to Pass as Amended Report from the Committee on Agriculture, Conservation and Forestry and Passage to be Engrossed as Amended by Committee Amendment "A" (H-379) on Bill "An Act Regarding the Confidentiality of Information in the Animal Welfare Laws" (H.P. 998) (L.D. 1446), in non-concurrence;
- the Majority Ought to Pass as Amended Report from the Committee on Labor, Commerce, Research and Economic Development and Passage to be Engrossed as Amended by Committee Amendment "A" (H-345) on Bill "An Act To Preserve the Economic Viability of Maine's Historic Properties" (H.P. 803) (L.D. 1140), in non-concurrence.

Best Regards,

S/Heather J.R. Priest  
Secretary of the Senate

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (S.C. 496)

**MAINE SENATE  
128TH LEGISLATURE  
OFFICE OF THE SECRETARY**

June 7, 2017

Honorable Robert B. Hunt  
Clerk of the House  
2 State House Station  
Augusta, Maine 04333

Dear Clerk Hunt:

Senate Paper 197, Legislative Document 582, "An Act To Provide for Timely Physical Examinations of Children Entering State Custody," having been returned by the Governor, together with objections to the same, pursuant to Article IV, Part Third, Section 2 of the Constitution of the State of Maine, after reconsideration, the Senate proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

21 voted in favor and 14 against, and accordingly it was the vote of the Senate that the Bill not become a law and the veto was sustained.

Best Regards,

S/Heather J.R. Priest  
Secretary of the Senate

**READ and ORDERED PLACED ON FILE.**

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

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**ORDERS**

On motion of Representative LONGSTAFF of Waterville, the following House Order: (H.O. 38)

ORDERED, that Representative Kevin J. Battle of South Portland be excused May 31 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Henry John Bear of the Houlton Band of Maliseet Indians be excused June 5 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Bruce A. Bickford of Auburn be excused May 30 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Heidi E. Brooks of Lewiston be excused May 16, 17, 18, 23, 24, 25, 30 and 31; and June 1 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Richard H. Campbell of Orrington be excused May 30 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Bradlee Thomas Farrin of Norridgewock be excused June 1 and 5 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Chad Wayne Grignon of Athens be excused May 24 and 30 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Lloyd C. Herrick of Paris be excused May 31 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Norman E. Higgins of Dover-Foxcroft be excused May 17 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Chris A. Johansen of Monticello be excused May 30 and 31; and June 1 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Andrew J. McLean of Gorham be excused May 25 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Anne C. Perry of Calais be excused June 5 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Deborah J. Sanderson of Chelsea be excused June 6 for health reasons.

AND BE IT FURTHER ORDERED, that Representative H. Stedman Seavey of Kennebunkport be excused April 6 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Bettyann W. Sheats of Auburn be excused May 18 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Michael A. Sylvester of Portland be excused February 16 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Jeffrey L. Timberlake of Turner be excused May 30 and 31; and June 1 for health reasons.

**READ and PASSED.**

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**SPECIAL SENTIMENT CALENDAR**

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

**Recognizing:**

the Orono High School Girls Track Team, of Orono, which won the Class C State Championship. This is the team's sixth straight state championship. We extend to all the members of the team our congratulations and best wishes;

(HLS 526)

Presented by Representative TIPPING of Orono.

Cosponsored by Senator DILL of Penobscot, Representative FREY of Bangor.

On **OBJECTION** of Representative TIPPING of Orono, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

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

**Recognizing:**

the Orono High School Boys Track Team, of Orono, which won the Class C State Championship. This is the team's third straight state championship. We extend to all the members of the team our congratulations and best wishes;

(HLS 527)

Presented by Representative TIPPING of Orono.

Cosponsored by Senator DILL of Penobscot, Representative FREY of Bangor.

On **OBJECTION** of Representative TIPPING of Orono, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

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

**Recognizing:**

James Montell, of Gardiner, who celebrated his 85th Birthday on February 24, 2017. We extend to Mr. Montell our congratulations and best wishes;

(HLS 528)

Presented by Representative GRANT of Gardiner.

Cosponsored by Senator BELLOWES of Kennebec.

On **OBJECTION** of Representative GRANT of Gardiner, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

The **SPEAKER**: The Chair recognizes the Representative from Gardiner, Representative Grant.

Representative **GRANT**: Thank you, Madam Speaker, Ladies and Gentlemen of the House. We do indeed congratulate James Montell of Gardiner on the occasion of his 85th birthday. Mr. Montell served in the U.S. Army during the Korean conflict. He graduated from Bloomfield High School in New Jersey and earned a B.S. in Education from the University of Miami. He and his wife of 54 years, the late, great Faye Montell, moved to Gardiner, Maine, in 1958. Mr. Montell taught at Gardiner Area High School, where he always tells me that my own mother was one of his star pupils, which I obviously never tire hearing of. He also worked for the State of Maine, primarily with the Department of Public Safety as a program coordinator. He has three children, Susan, Alan, and Karen, who are in the gallery today, seven grandchildren, and one great-grandchild. Mr. Montell is still, at 85 years young, active in the community. Past service includes serving as the chair of the Gardiner Planning Board, he coached, umpired, and refereed youth sports, and was for years the recreation

director in Hallowell during the summer months. He and his family still run regular antique shows at the Augusta State Armory. Mr. Montell is beloved by generations of people, and he has a kind word to say to everyone he meets. You can always count on him to say something that will make you feel good long after you part. I am so glad he was able to be here today with his family so that I could say something wonderful about him that I hope will make him feel good long after this day. Happy 85th, Mr. Montell, and may you have many more to come. Thank you, Madam Speaker.

Subsequently, this Expression of Legislative Sentiment was **PASSED** and sent for concurrence.

**REPORTS OF COMMITTEE**

**Divided Reports**

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-156)** on Bill "An Act To Establish an Independent Citizens Oversight Committee on Maine's Welfare Programs"

(S.P. 486) (L.D. 1408)

Signed:

Senator:

CHIPMAN of Cumberland

Representatives:

HYMANSON of York

DENNO of Cumberland

HAMANN of South Portland

HEAD of Bethel

MADIGAN of Waterville

MALABY of Hancock

PARKER of South Berwick

PERRY of Calais

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

Signed:

Senators:

BRAKEY of Androscoggin

HAMPER of Oxford

Representatives:

CHACE of Durham

SANDERSON of Chelsea

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

**READ.**

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-156)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-156)** in **NON-CONCURRENCE** and sent for concurrence.

Majority Report of the Committee on **VETERANS AND LEGAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-214)** on Bill "An Act To Clarify the Use of Public Money for Bulk Mailing in the Election Process"

(S.P. 395) (L.D. 1174)

Signed:

Senators:

MASON of Androscoggin  
COLLINS of York

Representatives:

CASÁS of Rockport  
DILLINGHAM of Oxford  
FARRIN of Norridgewock  
HANINGTON of Lincoln  
WHITE of Washburn

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

Signed:

Senator:

CARPENTER of Aroostook

Representatives:

LUCHINI of Ellsworth  
HICKMAN of Winthrop  
LONGSTAFF of Waterville  
MONAGHAN of Cape Elizabeth  
SCHNECK of Bangor

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-214)**.

**READ.**

On motion of Representative LUCHINI of Ellsworth, the Minority **Ought Not to Pass** Report was **ACCEPTED**.

On motion of Representative FREDETTE of Newport, the House **RECONSIDERED** its action whereby the Minority **Ought Not to Pass** Report was **ACCEPTED**.

The same Representative **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought Not to Pass** Report.

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

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

**ROLL CALL NO. 283**

**YEA** - Ackley, Austin B, Babbidge, Bailey, Bates, Battle, Beebe-Center, Berry, Blume, Brooks, Bryant, Cardone, Collings, Cooper, Daughtry, DeChant, Denno, Doore, Duchesne, Dunphy, Farnsworth, Fay, Fecteau, Fuller, Gattine, Golden, Grant, Hamann, Handy, Herbig, Hickman, Hogan, Hubbell, Hymanson, Jorgensen, Kornfield, Kumiega, Lawrence, Longstaff, Luchini, Madigan C, Madigan J, Martin J, Martin R, Mastraccio, McCrea, McCreight, McLean, Melaragno, Monaghan, Moonen, Nadeau, O'Neil, Parker, Perry, Pierce T, Reckitt, Riley, Rykerson, Sanborn, Schneck, Sheats, Sherman, Spear, Stanley, Talbot Ross, Tepler, Terry, Tipping, Tucker, Warren, Zeigler, Madam Speaker.

**NAY** - Austin S, Bickford, Bradstreet, Campbell, Casas, Cebra, Chace, Chapman, Corey, Craig, Dillingham, Espling, Farrin, Foley, Fredette, Gerrish, Gillway, Ginzler, Grohman,

Guerin, Haggan, Hanington, Hanley, Harlow, Harrington, Harvell, Hawke, Head, Herrick, Higgins, Hilliard, Kinney J, Lockman, Lyford, Malaby, Marean, Mason, McElwee, O'Connor, Ordway, Parry, Perkins, Picchiotti, Pickett, Pouliot, Prescott, Reed, Sampson, Sanderson, Seavey, Simmons, Sirocki, Skolfield, Stearns, Stetkis, Stewart, Strom, Sutton, Theriault, Timberlake, Tuell, Turner, Vachon, Wadsworth, Wallace, Ward, White, Wood.

**ABSENT** - Alley, Black, Frey, Grignon, Johansen, Kinney M, Pierce J, Sylvester, Winsor.

Yes, 73; No, 68; Absent, 9; Excused, 1.

73 having voted in the affirmative and 68 voted in the negative, with 9 being absent and 1 excused and accordingly the Minority **Ought Not to Pass** Report was **ACCEPTED** in **NON-CONCURRENCE** and sent for concurrence.

Majority Report of the Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought Not to Pass** on Bill "An Act To Require That Health Insurance Policies Cover Medical Marijuana"

(H.P. 747) (L.D. 1064)

Signed:

Senators:

WHITEMORE of Somerset  
CARSON of Cumberland  
DOW of Lincoln

Representatives:

LAWRENCE of South Berwick  
CRAIG of Brewer  
FOLEY of Wells  
MELARAGNO of Auburn  
PICCHIOTTI of Fairfield  
SANBORN of Portland  
WALLACE of Dexter

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-460)** on same Bill.

Signed:

Representatives:

BROOKS of Lewiston  
COLLINGS of Portland  
PRESCOTT of Waterboro

**READ.**

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

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act To Include Tax-exempt, Nonprofit Regional Transportation Providers under the Maine Tort Claims Act" (EMERGENCY)

(H.P. 213) (L.D. 280)

Signed:

Senators:

KEIM of Oxford  
HILL of York

Representatives:

MOONEN of Portland  
BRADSTREET of Vassalboro  
CARDONE of Bangor  
McCREIGHT of Harpswell  
RECKITT of South Portland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-464)** on same Bill.

Signed:

Senator:

WHITTEMORE of Somerset

Representatives:

BABBIDGE of Kennebunk  
BAILEY of Saco  
GUERIN of Glenburn  
JOHANSEN of Monticello  
SHERMAN of Hodgdon

**READ.**

On motion of Representative MOONEN of Portland, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act To Allow a Wrongful Death Cause of Action for the Death of a Viable Fetus"

(H.P. 241) (L.D. 327)

Signed:

Senator:

HILL of York

Representatives:

MOONEN of Portland  
BABBIDGE of Kennebunk  
BAILEY of Saco  
CARDONE of Bangor  
McCREIGHT of Harpswell  
RECKITT of South Portland  
SHERMAN of Hodgdon

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

Signed:

Senators:

KEIM of Oxford  
WHITTEMORE of Somerset

Representatives:

BRADSTREET of Vassalboro  
GUERIN of Glenburn  
JOHANSEN of Monticello

**READ.**

Representative MOONEN of Portland moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative FREDETTE of Newport moved that the Bill be **TABLED** until later in today's session pending the motion of Representative MOONEN of Portland to **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative HERBIG of Belfast **REQUESTED** a roll call on the motion to **TABLE** until later in today's session pending the motion of Representative MOONEN of Portland 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**: A roll call has been ordered. The pending question before the House is to Table until later in today's session pending the motion of Representative Moonen of Portland to Accept the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 284**

**YEA** - Austin S, Bickford, Bradstreet, Campbell, Casas, Cebra, Chace, Corey, Craig, Dillingham, Espling, Farrin, Foley, Fredette, Gerrish, Gillway, Ginzler, Guerin, Haggan, Hanington, Hanley, Harrington, Harvell, Hawke, Head, Herrick, Higgins, Hilliard, Johansen, Kinney J, Lockman, Lyford, Malaby, Marean, Mason, McElwee, O'Connor, Ordway, Parry, Perkins, Picchiotti, Pickett, Pouliot, Prescott, Reed, Sampson, Sanderson, Seavey, Sherman, Simmons, Sirocki, Skolfield, Stearns, Stetkis, Stewart, Strom, Sutton, Theriault, Timberlake, Tuell, Turner, Vachon, Wadsworth, Wallace, Ward, White, Winsor, Wood.

**NAY** - Ackley, Austin B, Babbidge, Bailey, Bates, Battle, Beebe-Center, Berry, Blume, Brooks, Bryant, Cardone, Chapman, Collings, Cooper, Daughtry, DeChant, Denno, Doore, Duchesne, Dunphy, Farnsworth, Fay, Fecteau, Fuller, Gattine, Golden, Grant, Grohman, Hamann, Handy, Harlow, Herbig, Hickman, Hogan, Hubbell, Hymanson, Jorgensen, Kornfield, Kumiega, Lawrence, Longstaff, Luchini, Madigan C, Madigan J, Martin J, Martin R, Mastraccio, McCrea, McCreight, McLean, Melaragno, Monaghan, Moonen, Nadeau, O'Neil, Parker, Perry, Pierce T, Reckitt, Riley, Rykerson, Sanborn, Schneck, Sheats, Spear, Stanley, Talbot Ross, Tepler, Terry, Tipping, Tucker, Warren, Zeigler, Madam Speaker.

**ABSENT** - Alley, Black, Frey, Grignon, Kinney M, Pierce J, Sylvester.

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

68 having voted in the affirmative and 75 voted in the negative, with 7 being absent and 1 excused, and accordingly the motion to **TABLE** until later in today's session pending the motion of Representative MOONEN of Portland to **ACCEPT** the Majority **Ought Not to Pass** Report **FAILED**.

Subsequently, Representative FREDETTE of Newport **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 New Gloucester, Representative Espling.

Representative **ESPLING**: Thank you, Madam Speaker, Ladies and Gentlemen of the House. I stand in opposition to the current motion. I oppose this motion simply because I believe women and families in Maine should be allowed a cause of action for the wrongful death of an unborn viable fetus in probate court. This would only be in situations where the woman has reached 24 weeks pregnant and clearly specifies that the cause of action does not exist against the mother,

against a provider performing an abortion permitted by law, nor against a healthcare provider who did not know of the pregnancy nor had any medical reason to know of the pregnancy. Currently, in Maine, a cause of action may be brought forward only if the injured viable fetus is born alive and then dies. In committee, it is my understanding that there were some concerns raised about some information provided on how many states allow for cause of action in a wrongful death situation. I provided information stating that 40 states, in some form, allow for a wrongful death cause of action. At this point, it may be more than 40 states. In many of these states, the allowance for a cause to be brought forward is a result of judicial action in those states. Judicial precedence, in many of these states, has allowed for a cause of action. In some of these 40 states a cause of action is allowed for a pre-viable fetus. In Maine, court cases have been brought by families seeking this course of action, but each time, the courts have said, since they lack guidance from Maine law, they will not allow for such cases. Some most recent cases include *Milton v. Cary Medical Center*, which was decided by Maine Supreme Judicial Court in around 1988. Then again in 1998, we have a case of *Shaw v. Jendzejec*, which also included York Hospital. In reading the Milton case summary, the justices were keenly aware of the subject being, and I quote from the court decision written by Justice Glassman, this is what they said in the decision, "Extensively litigated in other jurisdictions with the courts and a majority of those states allowing a wrongful death action to be brought on behalf of a fatally injured viable fetus. In Tennessee and South Dakota, the same result has been achieved by statute." I continue with the quote from the summary. "Courts in a lesser number of states, however, have refused to permit such an action. In each case, the essential question has been whether a viable fetus is a person. Although we are aware of these decisions of other jurisdictions, we conclude that rights under §2-804 of the Probate Code are to be defined not by the reasoning of other courts, but from a reading of our own law to derive its meaning and intent." Basically, that's saying that Maine court decided that even though other states allow for a cause of action, they were looking at Maine law and decided that Maine's court should not consider a cause of action in Maine. The summary goes on to explain the history of cases and any such legislative action in regards to minor children, and illustrate the actions in other states. In further study of the summary of that case, and I believe it is in the dissenting opinion, I quote from the summary of the court case again: "Unless the Court is prepared to bar a claim for prenatal injury, we are now left with the result that prenatal injury is actionable, while prenatal death is not. The absurdity of such a result is usually illustrated by the hypothetical of twins suffering simultaneous prenatal injuries, with one dying moments before birth and the other dying moments after birth. Such an extreme case demonstrates the irrationality of the requirement of a live birth." That was the quote from the summary of the court case. Maine allows for a live birth, and then if the baby were to die, they do have a right to cause of action, but not prior to birth. Let me just take a moment to explain viability. In the notes for the Milton case, the term viability, and I quote, again, means, "the state of fetal development when the life of the fetus may be continued indefinitely outside the womb by natural or artificial life supportive systems." So to be clear, we're talking about viable fetuses in this proposed legislation. Let me also take a moment to explain this notion of personhood that the opponents often bring up. In the summary written by Justice Wathen in the Shaw case in 1998, it seems clear that the court

was "engaged in the awkward exercise of trying to harmonize the provisions of the wrongful death statute with other provisions of the probate code." Further into this part of the summary, Wathen explains, "Our determination that permitting a cause of action for the wrongful death of a viable fetus would grant the fetus rights that it does not have in the rest of probate code was also questionable. The wrongful death statute grants no rights to the deceased. The statute provides a cause of action only to the living relatives or heirs of the deceased." A cause of action that is provided by this piece of legislation is about economic justice for the woman or family left behind, and it is not to provide any rights to the fetus, as many are concerned that it would. And also in the court opinion it states, "We concluded that allowing the action following a stillbirth would somehow grant some legal right to the fetus that it did not have otherwise, when such is not the case." I ask folks here in this body today to consider this legislation carefully. I understand the ideological divide in situations like this and the issue that's been brought up. I respect that, but I also feel strongly on this side of the issue, and I hope you respect that as well, and I thank you for listening.

The SPEAKER: The Chair recognizes the Representative from Carmel, Representative Reed.

Representative REED: Thank you, Madam Speaker, Ladies and Gentlemen of the House. I rise in opposition to the pending motion, LD 327. I absolutely support the idea that the unborn child in the womb of its mother has every right to be protected against a death caused by an impaired driver while under the influence of alcohol or drugs. My father said to me many times as I was growing up, "Remember, Roger, if you're going to dance, you've got to pay the fiddler." I especially remembered his admonition when I started dating during my early teenage years. This says to me that you cannot enjoy the pleasures of life without enduring the costs. It also says to me you cannot break the law without facing the consequences. And that brings us to the nuts and bolts of this bill today. Everyone who gets behind the wheel of a car should understand what an awesome responsibility rests in his or her hands, not only for themselves, but for others as well. I have been blessed in my lifetime with two great kids and five wonderful grandchildren. They have brought to my wife and me countless hours of joy. We have watched their growth from infants through every phase and development of their lives. For many of us, this is the way that life should be. We welcomed their entry into this world, read them bedtime stories, prayed with them before tucking them in at night, saw them take their first steps, taught them to ride a bike, worried about every cough, fever, cold, or sickness they contracted along the way, celebrated every birthday, walked with them through nearly 20 years of education, enjoyed every ball game and cheering contest, witnessed the birth of their children, laughed with them during the good times and suffered with them during the bad times. This is my story, and for many of you in this chamber today, it is your story as well. I say all of this to remind all of us as parents in this room who have enjoyed these same memories with your children, how wrong it would be for anyone to be deprived of those pleasures of life because someone decides to disobey the law, and while driving under the influence of alcohol or drugs, takes the life of a mother and her unborn child. I cannot even imagine what it would be like to lose a son, a daughter, or possibly a grandchild in such a manner. I don't even want to think about it. However, I do know that such an act should not go unpunished, and for those who have incurred such a loss, it should not go uncompensated. Passing this law today would



allow for civil action to be brought against a driver who has been negligent while behind the wheel of a car, that results in a mother losing her unborn child. Some of you will say that such a law is not needed, because currently, in Maine, it already works. But the truth is that current Maine law does not allow a cause of action for the wrongful death of a viable fetus. To avoid guaranteeing our families this cause of action protection would be negligence on our part, and a shirking of our duties to protect the Maine people on our highways. I encourage you in the House today to pass this law that exists in more than 40 other states and put this into statute once and for all. Thank you, Madam Speaker, and thank you Ladies and Gentlemen of the House.

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

Representative **HANINGTON**: Thank you, Madam Speaker, Ladies and Gentlemen of the House. Madam Speaker, may I tell you a short story? It's a story that comes from my heart. I've lived it, and this is why I support this bill. In the summer of 1962 mom was carrying, she knew in her heart as a devout Catholic she was carrying twins. At week 15 or 16, it would have been in July, she and dad took her down to the Workman Hospital in Lincoln, and Dr. Butterfield delivered my brother. They sent her home saying it was going to be fine. She knew in her heart that she was still carrying me. On October 6<sup>th</sup>, I was born. I was in an incubator for eight weeks. They sent mom home, she had to heat hot water bottles to keep the crib at constant 72 degrees. This is why I feel deep down that it's not a fetus, it is a human being at conception. I can tell you this because, after eight years of marriage to my wife, Jean, we finally got pregnant with my daughter, Sarah. Since then she had two miscarriages. When I was overseas in February of '04, I had to fly home on emergency leave to bury my little son. Until you carry that fetus in the palm of your hand, he was only 20 weeks old, so don't tell me that a fetus is not a baby. Until you carry that little baby in your hand, about six inches long, and you have to bury him, and there's no doubt in my mind when I reach the other side of this Earth that I'm going to be watching my father, I'm going to be able to hold my brother and hold my son, both sons. So, Madam Speaker, that's my story, and I support this because every life is precious and if someone takes an unborn baby out of this world, they deserve everything that they get. Thank you.

The SPEAKER: The Chair recognizes the Representative from Pittston, Representative Hanley.

Representative **HANLEY**: Thank you, Madam Speaker. Madam Speaker and Ladies and Gentlemen of the House, I find it troubling that we have to discuss the value of a child in this chamber that is only one day away from being born; and to put that into perspective, all this bill is trying to do is to give value to that life. And if I may, I'm sure all of us, at one time or another, have held a newborn infant in our hands, in our arms, a one-day-old child. And imagine if you had a supernatural power where you could turn the clock back, 24 hours at a time. Let's give the baby a name; Agatha. I had an aunt named Agatha. She was beautiful, so I'll use that name. So -- little baby Agatha, turn the clock back one day. She's in her mother's womb. She is still Agatha, she is still a child. Keep turning the clock back one day at a time. At what day does Agatha no longer become Agatha? At what day can you say she doesn't exist? And the question -- the answer is so obvious, I don't need to answer it. I ask you to follow my light, and give value to baby Agatha. Thank you.

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

Representative **SAMPSON**: Thank you, Madam Speaker, Ladies and Gentlemen of the House. For the sake of being consistent, I'd like to offer some food for thought. If one can support the idea of families being allowed to sue for damages should a negligent actor kill their pet dog, then in like manner, one should support allowing Maine families the right to pursue civil action against a negligent actor who kills their unborn child. I oppose this pending motion. Thank you.

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

Representative **VACHON**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House, I oppose this pending motion. Our neighbors in the rest of our New England states have this justice, and Maine should too. Thank you.

The SPEAKER: The Chair recognizes the Representative from Dixfield, Representative Pickett.

Representative **PICKETT**: Thank you, Madam Speaker, Ladies and Gentlemen of the House. There are many arguments that are placed out here in regards to this bill, in regards to wrongful death. One of them is that the law would create another tool in the abuser's toolbox to wreak havoc in his partner's life, controlling her and suing everyone involved in their life. We ought to look at it that any instance of domestic violence is wrong, and that the perpetrator should be punished; but this law is not about justice for families who have lost an unborn -- but this law is about justice for the families who have lost an unborn child. At least 40 other states have recognized the importance of allowing grieving families to seek economic justice. Maine families should not be precluded from seeking a more just remedy for their loss. And to make it more personal, I spent 40 years in law enforcement, and I know I've said that before, and 15 and a half years of that time was in the Homicide Unit, Criminal Unit of the Maine State Police. And one of the things that used to really frustrate me was when I saw domestic violence rearing its ugly head, and I would see a mother, a woman who was pregnant, at various stages, and they would be beaten, and they would be kicked, and they would be throttled, strangled, you name it, anything, not to the cause of -- not to death, but to the point where they lost the child they were carrying. And that was always problematic to me, because I could not charge them for anything to have to do with the infant they were carrying. The only thing I could do was charge the perpetrator for doing and assaulting the mother. And that was always problematic to me. Where does the justice come in that? There is no justice for that. That child -- in some cases, I had one that -- a baby was due to be born that very day when the child was killed inside his mother's womb. Now, if the next day, if that baby would have been born the next day, we would have looked at it as a human being, but because it was in the mother's womb, the day before, it had no rights. That's the issue here. We're asking for families to be able to have compensation when they have a traumatic loss such as the things we've heard here today. My heart goes out to the people that have shared their stories, Representative Hanington, for example. And we need to do the right thing here, folks. We need to come in line with the rest of the states in New England and the other states that make up the 40 that do this already, and we need to give people that go through a loss like this a chance to recover some of that loss. We never can give them the child back, but we can give them the opportunity to recover that loss, and I hope you will follow my light and vote this motion down so we can pass this bill. Thank you.

The SPEAKER: The pending question is acceptance of the Majority Ought Not to Pass Report. A Roll Call is in order. The Chair recognizes the Representative from Vassalboro, Representative Bradstreet.

Representative **BRADSTREET**: Thank you, Madam Speaker, Ladies and Gentlemen of the House. I rise in opposition to this pending motion. As I was reviewing this testimony and the comments I received, there's one thing that I can't get out of my mind, and that's if a woman who was pregnant and was in an accident and her unborn child died in the accident, legally she could sue for the loss of her luggage but not the loss of her child. I can't go back to my constituents, and certainly not my family, and tell them that in the eyes of the law, I place more value on luggage than I do on a child. Thank you.

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

Representative **SIROCKI**: Thank you, Madam Speaker, and thank you, Ladies and Gentlemen of the House. I have heard that if Maine's Legislature passes this law we'd be one of a small handful of legislatures and the only one in New England that has included a fetus in its wrongful death statute. The families in at least 40 states are allowed to seek economic justice for the wrongful death of their unborn child, and families in every New England state except Maine are given this right. I urge passage of this law.

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. 285**

YEA - Ackley, Austin B, Babbidge, Bailey, Bates, Battle, Beebe-Center, Berry, Blume, Brooks, Bryant, Cardone, Casas, Chapman, Collings, Cooper, Daughtry, DeChant, Denno, Doore, Duchesne, Dunphy, Farnsworth, Fay, Fecteau, Fuller, Gattine, Golden, Grant, Grohman, Hamann, Handy, Harlow, Herbig, Hickman, Hogan, Hubbell, Hymanson, Jorgensen, Kornfield, Kumiega, Lawrence, Longstaff, Luchini, Madigan C, Martin R, Mastraccio, McCreight, McLean, Melaragno, Monaghan, Moonen, Nadeau, O'Neil, Parker, Perry, Pierce T, Reckitt, Riley, Rykerson, Sanborn, Schneck, Sheats, Spear, Talbot Ross, Tepler, Terry, Tipping, Tucker, Warren, Zeigler, Madam Speaker.

NAY - Austin S, Bickford, Bradstreet, Campbell, Cebra, Chace, Corey, Craig, Dillingham, Espling, Farrin, Foley, Fredette, Gerrish, Gillway, Ginzler, Guerin, Haggan, Hanington, Hanley, Harrington, Harvell, Hawke, Head, Herrick, Higgins, Hilliard, Johansen, Kinney J, Lockman, Lyford, Madigan J, Malaby, Marean, Martin J, Mason, McCrea, McElwee, O'Connor, Ordway, Parry, Perkins, Picchiotti, Pickett, Pouliot, Prescott, Reed, Sampson, Sanderson, Seavey, Sherman, Simmons, Sirocki, Skolfield, Stanley, Stearns, Stetkis, Stewart, Strom, Sutton, Theriault, Timberlake, Tuell, Turner, Vachon, Wadsworth, Wallace, Ward, White, Winsor, Wood.

ABSENT - Alley, Black, Frey, Grignon, Kinney M, Pierce J, Sylvester.

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

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

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act To Prioritize Family Members as Surrogates for Medical Decisions"

(H.P. 1108) (L.D. 1607)

Signed:  
Senator:  
HILL of York

Representatives:  
MOONEN of Portland  
BABBIDGE of Kennebunk  
BAILEY of Saco  
CARDONE of Bangor  
McCREIGHT of Harpswell  
RECKITT of South Portland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-465)** on same Bill.

Signed:  
Senators:  
KEIM of Oxford  
WHITTEMORE of Somerset

Representatives:  
BRADSTREET of Vassalboro  
GUERIN of Glenburn  
JOHANSEN of Monticello  
SHERMAN of Hodgdon

**READ.**

Representative MOONEN of Portland moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The SPEAKER: The Chair recognizes the Representative from Boothbay Harbor, Representative Hawke.

Representative **HAWKE**: Thank you. Ladies and Gentlemen of the House, this winter I got a phone call from a family that had lost their son to a heroin overdose and wanted to know if I could come over and talk to them. The next day I went over, and since then there's been very few days that this has not been on my mind, and I put myself in their shoes and wonder how I would have handled it. Putting this bill in will never bring back their son or even take back the pain that they went through at the hospital, but this bill could spare a family the nightmare that this family went through. On the night the family showed up at the hospital to find their son on life support, things were moving fast for them. Decisions, phone calls, and family members had to be called. Never in a million years did they expect this tragedy to take an even worse turn. When talking to the social worker, they found out that the homeless person who gave their son the drugs, and put them in the situation that they were in, was now the one making the life decisions. She had informed the hospital that they were emotionally connected, and to hedge a cause from this she also informed the hospital that they were financially connected due to them buying the drugs together. That was all she needed to say. No proof, nothing, and now she was in charge of his life-ending decisions. How did this happen? In 1999, Maine put a law that unwed but committed couples were to be given -- gay/lesbian couples were sometimes not permitted in the hospital room during health care emergencies. Marriage was not a possibility and at that time the law had the spouses first. To go to court could take longer than they had and cost thousands of dollars. Today, all couples can marry, and with the drug problem we're facing, it's time to take a look at the old

law and readjust the pecking order. This bill changes the order as to who can act for a surrogate and make end-of-life decisions. First the spouse, unless legally separated, second the adult child, third the parent, and fourth the adult who shares the emotional and physical financial relationship. Imagine yourself as a parent or a child -- and a child, and this happened to you. The worst day of your life, and someone that no one knows, who maybe has been in a relationship with your child for a week, or in this case the drug dealer, can make life-altering decisions. Would this argument in the hospital over who is in charge take away from your focus of the situation and add so much more stress? Does this person have your child's best interests and wishes at heart, or even know whose wishes are? The questions I ask are what drove me to put this bill in. If changing the law saves another family from going through what the Dow family went through, and they can have a little peace of mind knowing that they have done a little bit for the family, then that's -- that's life will never be the same, then these changes will have accomplished that. Please follow my light to guarantee another family won't have to suffer unnecessary pain, and let them spend what could be their final moments with a loved one with the knowledge that they have done everything they can. Thank you, Madam Speaker.

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

Representative **MOONEN**: Thank you, Madam Speaker, Men and Women of the House. I rise in support in of this motion, obviously. I certainly am sympathetic to the story of the family that was the source of this bill. It was a terrible situation and, across the board in our committee, we felt terrible for that family and what they went through. However, the law is the way it is for a reason. Under the current priority ranking of who makes decisions for an incapacitated adult, the top is the spouse, and next is -- sorry, I can't read this -- an adult who shares an emotional, physical, and financial relationship with the patient similar to that of a spouse. And I've heard over and over again that that was in the law because same-sex couples could not get married, and I'm sure that was a factor, but it is safe to say that there are many, many unmarried couples of all sexual orientations who would take advantage of this protection under the law. So it's really not about gay people, it's about all unmarried couples in relationships. The reason that that comes second in the priority order, above an adult child, a parent or a sibling, brother or sister, is that this adult is incapacitated, and the surrogate decision-maker needs to be someone who is most likely to know what that incapacitated adult would have wanted in that situation. And that's why we have long-term relationships as the top two in the priority order, whether married or unmarried. It is safe to say that many people are estranged from their parents, from their siblings; they could go years or decades without talking to those people, and that is why those people are below a relationship in the priority order. Because, if you haven't talked to your sibling or parent or child in 30 years and you become incapacitated, they're probably not the person you want coming in to make decisions for you when you are unable to make decisions for yourself. So, we have the law the way it is because we want the person who is directly connected to the incapacitated adult, and is most likely to know what they would have wanted, to be the one making the decision, and the law 99.99 percent of the time works, and we should keep it that way. Thank you very much, Madam Speaker.

Representative FREDETTE of Newport **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 Glenburn, Representative Guerin.

Representative **GUERIN**: Thank you, Madam Speaker, Ladies and Gentlemen of the House. As a member of the committee that heard this bill, I wanted to make it clear to the House that a person in that second category of the committed relationship can easily have a form filled out saying that they want that person in their relationship to be their top priority, but the thing that happened in the case of the people from down on the coast, the person had no proof that she was in a committed relationship and, by Maine law, it does not require proof. So the drug dealer came in and said, "I'm in a committed relationship," and because there was no proof required, in an emergency situation, she was able to overrule the adult child and the parents, because there was no proof required. This is something we need to address. It is a dangerous situation for Maine families, and I think the order should certainly be changed.

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

Representative **MOONEN**: Thank you, Madam Speaker. I rise to respond to the comments of my good colleague from Glenburn. I think this is actually the first time we've argued against each other on the floor this year. She is correct that someone could fill out a form. We all know that many, many people fail to do that. They don't plan ahead, they're not aware ahead of time that they're going to end up in an incapacitated state. I haven't filled out that form, I would imagine many of you haven't filled out that form. As far as this particular case, where the woman claiming to be the girlfriend was able to overrule the family, everyone agrees that this was a massive failure in this particular situation, not of the law as it stands now, but of the hospital where they were in question. The law right now provides for dispute resolution when multiple people are claiming that they are the right person to be the medical surrogate decisionmaker, and the hospital and the social workers at the hospital or the attorneys at the hospital, someone in that situation should have helped speed up the dispute resolution and get these people into court to get this settled as quickly as possible; and I have full confidence that if that had happened, our courts, being as good as they are, would have made the right decision. So, again, that was a very tragic situation, but it was not a failure of the law, it was a failure of the folks at that hospital to implement the law the way it should have been. 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. 286**

YEA - Austin B, Babbidge, Bailey, Battle, Beebe-Center, Berry, Blume, Brooks, Bryant, Cardone, Casas, Chapman, Collings, Cooper, Daughtry, DeChant, Denno, Doore, Duchesne, Dunphy, Farnsworth, Fay, Fecteau, Fuller, Gattine, Golden, Grant, Grohman, Hamann, Handy, Harlow, Herbig, Hickman, Hogan, Hubbell, Hymanson, Jorgensen, Kornfield, Kumiega, Lawrence, Longstaff, Luchini, Madigan C, Madigan J, Martin J, Martin R, Mastraccio, McCrea, McCreight, McLean, Melaragno, Monaghan, Moonen, Nadeau, O'Neil, Parker, Perry, Pierce T, Reckitt, Riley, Rykerson, Sanborn,

Schneck, Sheats, Spear, Stanley, Talbot Ross, Tepler, Terry, Tipping, Tucker, Warren, Zeigler, Madam Speaker.

NAY - Austin S, Bickford, Bradstreet, Campbell, Cebra, Chace, Corey, Craig, Dillingham, Espling, Farrin, Foley, Fredette, Gerrish, Gillway, Ginzler, Guerin, Haggan, Hanington, Hanley, Harrington, Harvell, Hawke, Head, Herrick, Higgins, Hilliard, Johansen, Kinney J, Lockman, Lyford, Malaby, Marean, Mason, McElwee, O'Connor, Ordway, Parry, Perkins, Picchiotti, Pickett, Pouliot, Prescott, Reed, Sampson, Sanderson, Seavey, Sherman, Simmons, Sirocki, Skolfield, Stearns, Stetkis, Stewart, Strom, Sutton, Theriault, Timberlake, Tuell, Turner, Vachon, Wadsworth, Wallace, Ward, White, Winsor, Wood.

ABSENT - Ackley, Alley, Bates, Black, Frey, Grignon, Kinney M, Pierce J, Sylvester.

Yes, 74; No, 67; Absent, 9; Excused, 1.

74 having voted in the affirmative and 67 voted in the negative, with 9 being absent and 1 excused, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-461)** on Bill "An Act To Support Employment Opportunity in Maine"

(H.P. 1109) (L.D. 1608)

Signed:

Senators:

DAVIS of Piscataquis  
DESCHAMBAULT of York  
KEIM of Oxford

Representatives:

MARTIN of Sinclair  
BEEBE-CENTER of Rockland  
BRYANT of Windham  
GRIGNON of Athens  
HARRINGTON of Sanford  
HOGAN of Old Orchard Beach  
MADIGAN of Rumford  
PICKETT of Dixfield  
SPEAR of South Thomaston

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

Signed:

Representative:

ORDWAY of Standish

**READ.**

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

Representative FREDETTE of Newport **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: 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. 287**

YEA - Austin B, Babbidge, Bailey, Bates, Battle, Beebe-Center, Berry, Bickford, Brooks, Bryant, Cardone, Casas, Chapman, Collings, Cooper, Corey, Daughtry, DeChant, Denno, Doore, Duchesne, Dunphy, Farnsworth, Fay, Fecteau, Fuller, Gattine, Golden, Grant, Grohman, Hamann, Handy, Hanington, Harlow, Harrington, Herbig, Hickman, Hogan, Hubbell, Hymanson, Jorgensen, Kornfield, Kumiega, Lawrence, Longstaff, Luchini, Madigan C, Madigan J, Martin J, Martin R, Mastraccio, McCrea, McCreight, McLean, Melaragno, Monaghan, Moonen, Nadeau, O'Neil, Parker, Perry, Pickett, Pierce T, Pouliot, Reckitt, Riley, Rykerson, Sanborn, Schneck, Seavey, Sheats, Sherman, Skolfield, Spear, Stanley, Strom, Talbot Ross, Tepler, Terry, Theriault, Tipping, Tucker, Tuell, Ward, Warren, Zeigler, Madam Speaker.

NAY - Austin S, Bradstreet, Campbell, Cebra, Chace, Craig, Dillingham, Espling, Farrin, Foley, Fredette, Gerrish, Gillway, Ginzler, Guerin, Haggan, Hanley, Harvell, Hawke, Head, Herrick, Higgins, Hilliard, Johansen, Kinney J, Lockman, Lyford, Malaby, Marean, Mason, McElwee, O'Connor, Ordway, Parry, Perkins, Picchiotti, Prescott, Reed, Sampson, Sanderson, Simmons, Sirocki, Stearns, Stetkis, Stewart, Sutton, Timberlake, Turner, Vachon, Wadsworth, Wallace, White, Winsor, Wood.

ABSENT - Ackley, Alley, Black, Blume, Frey, Grignon, Kinney M, Pierce J, Sylvester.

Yes, 87; No, 54; Absent, 9; Excused, 1.

87 having voted in the affirmative and 54 voted in the negative, with 9 being absent and 1 excused, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-461)** 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-461)** and sent for concurrence.

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

**CONSENT CALENDAR**

**First Day**

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

(S.P. 575) (L.D. 1622) Bill "An Act To Allow the Androscoggin County Commissioners To Establish Reasonable Office Hours for County Offices" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass**

(S.P. 438) (L.D. 1286) Bill "An Act To Require Background Checks for All School Employees" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-221)**

(S.P. 488) (L.D. 1410) Bill "An Act To Adopt the Nurse Licensure Compact" Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-215)**

(S.P. 497) (L.D. 1442) Bill "An Act To Raise the Debtor's Exemption on Vehicles and To Exempt Amounts Rolled Over from 401(k) or 403(b) Accounts to Individual Retirement Accounts" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-212)**

(S.P. 498) (L.D. 1443) Bill "An Act To Update Professional and Occupational Licensing Laws" Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-216)**

(H.P. 390) (L.D. 548) Bill "An Act To Amend Laws Relating to Agricultural Pulling Events" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-458)**

(H.P. 1069) (L.D. 1551) Bill "An Act To Amend the Maine Tax Laws" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-463)**

(H.P. 1073) (L.D. 1557) Bill "An Act To Protect Maine Consumers from Unexpected Medical Bills" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-459)**

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

There being no objection, 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 as Amended** and sent for concurrence.

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

**UNFINISHED BUSINESS**

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

Expression of Legislative Sentiment Recognizing Audrey Jordan, of Whitefield

(SLS 369)

- In Senate, **READ** and **PASSED**.

**TABLED** - June 5, 2017 (Till Later Today) by Representative VACHON of Scarborough.

**PENDING - PASSAGE.**

Subsequently, this Expression of Legislative Sentiment was **PASSED** in concurrence.

**ENACTORS**

**Emergency Measure**

An Act To Improve the Enforcement of Maine's Lobster Laws

(S.P. 190) (L.D. 575)  
(C. "A" S-200)

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. 119 voted in favor of the same and 9 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

**Emergency Measure**

An Act Relating to the Use and Leasing of Public Reserved Lands

(H.P. 789) (L.D. 1126)  
(C. "A" H-417)

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. 120 voted in favor of the same and 4 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 the Electricians' Examining Board Licensing Laws

(S.P. 556) (L.D. 1583)  
(C. "A" S-211)

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. 123 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 Regarding the Dispensing of Naloxone Hydrochloride by Pharmacists

(H.P. 1098) (L.D. 1594)  
(C. "A" H-355)

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. 109 voted in favor of the same and 10 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**Acts**

An Act To Amend the Percentage of Votes Needed for Condominium Governance

(H.P. 214) (L.D. 281)  
(C. "A" H-430)

An Act To Promote and Encourage the Sustainability of the Elver Fishery

(H.P. 219) (L.D. 286)  
(C. "A" H-426)

An Act To Clarify the Application of the Statute of Limitations under Article 3-A of the Uniform Commercial Code

(H.P. 377) (L.D. 533)  
(C. "A" H-431)

An Act To Amend the Laws Governing the Membership of the Advisory Committee on College Savings

(H.P. 418) (L.D. 602)  
(C. "A" H-419)

An Act To Amend the Law Regarding Nontransmission Alternatives Investigations Required for Proposed Transmission Lines and Projects

(H.P. 535) (L.D. 755)  
(C. "A" H-424)

An Act To Limit the Exclusion of a Patient from Eligibility for an Organ Transplant Based on Medical Marijuana Use  
(H.P. 544) (L.D. 764)  
(H. "A" H-427 to C. "A" H-328)

An Act To Encourage Living Kidney Donation in Maine  
(H.P. 638) (L.D. 910)  
(C. "A" H-420)

An Act To Protect Homeowners from Improper Foreclosure Fees  
(S.P. 350) (L.D. 1047)  
(C. "A" S-198)

An Act To Increase the Penalties for Hunting Deer over Bait  
(H.P. 761) (L.D. 1083)  
(H. "A" H-411 to C. "A" H-148)

An Act To Restore Public Health Nursing Services  
(S.P. 362) (L.D. 1108)  
(C. "A" S-155)

An Act To Increase Transparency in Cooperative Agreements within the Department of Agriculture, Conservation and Forestry  
(H.P. 839) (L.D. 1203)  
(C. "A" H-418)

An Act To Adopt the Interstate Medical Licensure Compact  
(S.P. 467) (L.D. 1359)  
(C. "A" S-208)

An Act Regarding State Hiring and Retention for Persons with Disabilities  
(S.P. 469) (L.D. 1361)

An Act To Remove Barriers to Workforce Development in Alcohol and Drug Counseling  
(H.P. 955) (L.D. 1376)  
(C. "A" H-422)

An Act To Ensure Integrity of For-profit Colleges and Universities  
(S.P. 482) (L.D. 1404)  
(C. "A" S-204)

An Act Regarding MaineCare Coverage for Telehealth Services  
(S.P. 515) (L.D. 1485)  
(C. "A" S-205)

An Act To Authorize the Revocation, Suspension or Denial of a Guide License under Specified Circumstances  
(S.P. 518) (L.D. 1489)  
(C. "A" S-206)

An Act To Amend the Election Laws Relating to Party Qualification  
(H.P. 1082) (L.D. 1571)  
(C. "A" H-439)

An Act To Implement Recommendations of the Government Oversight Committee To Improve the Efficiency and Effectiveness of Legislative Reviews of Tax Expenditures  
(H.P. 1083) (L.D. 1572)

An Act To Clarify and Enhance Maine's Wildlife Laws  
(H.P. 1087) (L.D. 1580)  
(C. "A" H-425)

An Act To Transfer the Authority To Issue Nonconcealed Firearm Permits in Certain Cases from the Department of Public Safety to the Office of the Governor  
(S.P. 559) (L.D. 1585)

An Act To Update the Scheduling Guidelines for Review of Agencies or Independent Agencies under the State Government Evaluation Act  
(H.P. 1127) (L.D. 1634)

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

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**Resolves**

Resolve, To Establish the Working Group To Restore Judicial Discretion

(S.P. 97) (L.D. 309)  
(H. "A" H-449 to C. "A" S-191)

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

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Resolve, To Assess the Need for Mental Health Care Services for Veterans in Maine and To Establish a Pilot Program To Provide Case Management Services to Veterans for Mental Health Care

(H.P. 853) (L.D. 1231)  
(C. "A" H-407)

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

On motion of Representative GOLDEN of Lewiston, was **SET ASIDE**.

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

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The Chair laid before the House the following item which was **TABLED** earlier in today's session:

HOUSE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (6) **Ought to Pass as Amended by Committee Amendment "A" (H-464)** - Committee on **JUDICIARY** on Bill "An Act To Include Tax-exempt, Nonprofit Regional Transportation Providers under the Maine Tort Claims Act" (EMERGENCY)

(H.P. 213) (L.D. 280)

Which was **TABLED** by Representative MOONEN of Portland pending **ACCEPTANCE** of either Report.

Representative MOONEN of Portland moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative FOLEY.

Representative **FOLEY**: Thank you, Madam Speaker, Ladies and Gentlemen of the House. I rise in opposition to the pending motion. Maine has three taxpayer-funded transportation networks that accommodate our senior citizens, our disabled individuals, children with special needs, patients to medical care appointments including cancer care and dialysis, and other economically disadvantaged citizens to work or other social services. There are four regional transportation corporations serving the metropolitan areas of the state: Metro in Portland, Community Connector in Bangor, LATC in Lewiston, and the South Portland Trans. There are two transit districts also serving the metropolitan areas of the state: Casco Bay Island Transit District, and Greater Portland Transit District. The third transportation network is a hybrid created under Maine State Statute 23 M.R.S.A. §4209, and it reads, "In order to administer and distribute state and federal public transportation funds, the Maine DOT is required by this statute to divide the state into geographic regions for the purposes of providing public transit services to the rural areas of the state not currently served by other public transportation organizations." Maine DOT has established eight transit

districts, divided into eight geographic regions. They are not aligned within specific county or municipal boundaries, but are formed geographically as nonprofit, tax-exempt regional transportation agencies. These eight entities include York County Community Action, Aroostook County Community Action, Penquis, which serves Penobscot and Piscataquis counties, KVCAP serving Augusta/Waterville area, Waldo CAP, the RTP, which is rural Cumberland County, and the Western Maine Transport. Rural Maine citizens rely on these hybrid transit networks to provide public transit services. The regional transportation corporations, in the transit districts serving the metropolitan regions of our state, currently are covered under the Maine Tort Claims Act, which limits their liability exposure to \$400,000 per occurrence. The regional transportation networks serving the rural areas of our state are not, and as a result, they must purchase and carry very expensive liability insurance. This directs taxpayer dollars away from the services provided by these entities to fund these policies, making it more difficult to meet their ongoing obligations to the clients they provide services to. Eventually it will become too costly to purchase the insurance, and these agencies will have to fold. It is estimated that with the protection provided under the Maine Tort Claims Act, these networks would save approximately 40 percent on their premium dollars, saving between \$50,000 and \$60,000 per year. LD 280 simply asks that these hybrid transportation districts be provided the same protections under the Maine Tort Claims Act as the other transportation organizations receive. The original version of LD 280 suggested including these organizations within the Maine Tort Claims statute. There were concerns expressed during the public hearing and work sessions that this might set a precedent for further nonprofit organizations to request similar protection. As a result, I offered an amendment that clarified Maine Statute 23 M.R.S.A. §4209 under the Maine DOT statute, which created these hybrid districts, to simply state that a tax-exempt, nonprofit regional transportation agency selected by the Department under this section of the statute is deemed to be a transit district as defined under Title 30-A, §3501, section 1, for the purposes of the Maine Tort Claims Act. This amendment is offered to overcome the objections committee members were concerned with, opening the Maine Tort Claims statute to other nonprofits not specifically designated as transportation entities. There were also concerns raised that allowing the protection on the Maine Tort Claims Act would disadvantage users who might be injured in an accident and not fairly compensated. But if that is a concern for the rural transport providers, why is it not true for the others who are currently protected under the Maine Tort Claims Act? There have been no recorded incidences involving any of the regional transportation agencies that even approach the limits provided under the Maine Tort Claims Act, and if there ever was, whether it was a rural transportation district or the more metropolitan areas, individuals can seek further redress within the Legislature as has been done in the past under certain circumstances. I ask that you oppose the pending motion so that we can provide equity to all transport providers, in all regions of the state, serving the general public using taxpayer transit dollars. Madam Speaker, I request a roll call.

The same Representative **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 Biddeford, Representative Grohman.

Representative **GROHMAN**: Thank you, Madam Speaker. I'm rising to oppose the pending motion as well. I've been working extensively with the York County Community College on transport from the Biddeford area. Right now, the only way to get there is to ride the York County Community Action busses over to Sanford, and then from Sanford over to Biddeford. The hope is that we can build out a direct route. All of the York County Community Action buses are wheelchair accessible. It's an excellent service that is vital to our community, and I think the good Representative from Wells has brought forth a good piece of legislation, and I commend him for doing so. I think this will bring in-line with everything that is -- all the other services that are designated by Maine DOT, this is the only one, as I understand it, that isn't, and so I'll be opposing the pending motion. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from South Berwick, Representative Lawrence.

Representative **LAWRENCE**: Thank you, Madam Speaker. I rise as also a York County legislator encouraging you to vote Ought Not to Pass, and I do so from the perspective of my constituents, particularly a constituent, let's say a mother of two children. If she is out driving, she gets in an automobile accident, she dies, she has a right to get compensated, to have her children be compensated for the loss of their mother, for the loss of those wages, for the impact on those lives. This bill will change it so, if that driver is driving drunk, happens to be driving a private car, a private bus, she would get compensated. But if this person is driving for this agency, she will not get compensated. She will only be compensated up to \$300,000. That is unjust, unfair for those children, for that mother, for that family that has been injured in this accident. You know, we've seen on the news many reports. We saw one recently --

The **SPEAKER**: The member will defer. The House will be in order. The member may proceed.

Representative **LAWRENCE**: Thank you, Madam Speaker. We've seen on the news recently where bus drivers have gotten into accidents and children have died, been injured in those accidents. This bill limits to \$300,000 all the claims of all those children, all the families on that bus. That is unjust and that is unfair, and I ask you to keep the protections for the citizens of Maine that are in the statute now. Thank you.

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

Representative **MOONEN**: Thank you, Madam Speaker, Men and Women of the House. I rise in support of the pending motion and just want to make a couple of comments. I think I remember testimony from the committee that the cap is \$400,000, just to put that out there, but I guess that's neither here nor there. The nonprofits in question are awesome, and they do amazing work all over the state for all of our constituents, and I certainly appreciate that, and I certainly appreciate that they are dealing with insurance premiums that are high, and that is unfortunate because of the good work that they do to serve our constituents. I do think this sets a bad precedent by allowing a nonprofit that is not part of government to take advantage of the limited liability that the sovereign government has. And, you know, in this case it's a nonprofit that is 100 percent funded by taxpayer dollars, but I could easily see another nonprofit coming in and saying, well, we're 95 percent public funded, so we should have this immunity, this limited liability. And then another one coming in and saying, well, we're 90 percent public funded, that's, you could lower the bar, and we would like that same limited liability as

well. So, you know, we hear the phrase "slippery slope" a lot, but I think it really does apply in this situation. As far as the \$400,000 cap goes, that is per incident, so, if one of these nonprofits was to have a bus full of people and have some kind of terrible accident, it's \$400,000 for the incident. So if you've got 20 people who are injured and need compensation for their damages, they have to divide that \$400,000 between 20 people, however many it is, and there's a very strong possibility that that would not actually compensate those individuals adequately for their injuries. The last thing I would say is, you know, I know we're all sympathetic to these nonprofits because of the good work that they do, but it's important to remember who we are giving them limited liability from, and that is our constituents. It is our constituents who use these nonprofit transportation services, and it is them who would be seeking compensation if they get injured in an incident like this. And, you know, so for me I certainly appreciate the intent and appreciate these nonprofits for the good work that they do, but I cannot give them immunity from my constituents, and I ask you to not do that for yours, either, and vote Ought Not to Pass. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Parry.

Representative PARRY: Thank you, Madam Speaker. I'd like to ask a question through the Chair.

The SPEAKER: The Representative may proceed.

Representative PARRY: And this is kind of to my good friend from Portland that just spoke. If the same busload of kids was on the Metro in Portland, what would be the limit on that liability?

The SPEAKER: The Representative from Arundel, Representative Parry, has posed a question through the Chair if anyone -- specifically to the Representative from Portland if he is inclined to answer? The Chair recognizes the Representative from Wells, Representative Foley.

Representative FOLEY: Thank you, Madam Speaker. I will answer that question. The limit would be \$400,000.

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. 288**

YEA - Austin B, Bates, Battle, Beebe-Center, Berry, Brooks, Bryant, Cardone, Collings, Cooper, Daughtry, DeChant, Denno, Doore, Duchesne, Dunphy, Farnsworth, Fay, Fecteau, Frey, Fuller, Gattine, Golden, Grant, Hamann, Handy, Hickman, Hogan, Hubbell, Jorgensen, Kornfield, Kumiega, Lawrence, Longstaff, Luchini, Madigan C, Madigan J, Martin J, Martin R, Mastraccio, McCrea, McCreight, McLean, Melaragno, Monaghan, Moonen, Nadeau, O'Neil, Parker, Perry, Pierce T, Reckitt, Rykerson, Sanborn, Schneck, Sheats, Spear, Talbot Ross, Tepler, Tipping, Tucker, Warren, Zeigler, Madam Speaker.

NAY - Austin S, Babbidge, Bailey, Bickford, Bradstreet, Campbell, Casas, Cebra, Chace, Chapman, Corey, Craig, Dillingham, Espling, Farrin, Foley, Gerrish, Gillway, Ginzler, Grohman, Guerin, Haggan, Hanington, Hanley, Harlow, Harrington, Harvell, Hawke, Head, Herbig, Herrick, Higgins, Hilliard, Hymanson, Johansen, Kinney J, Lockman, Lyford, Malaby, Marean, Mason, O'Connor, Ordway, Parry, Perkins, Picchiotti, Pickett, Pouliot, Prescott, Reed, Riley, Sampson, Sanderson, Seavey, Sherman, Simmons, Sirocki, Skolfield, Stanley, Stearns, Stetkis, Stewart, Strom, Sutton, Terry, Theriault, Timberlake, Tuell, Turner, Vachon, Wadsworth, Wallace, Ward, White, Winsor, Wood.

ABSENT - Ackley, Alley, Black, Blume, Fredette, Grignon, Kinren M, McElwee, Pierce J, Sylvester.

Yes, 64; No, 76; Absent, 10; Excused, 1.

64 having voted in the affirmative and 76 voted in the negative, with 10 being absent and 1 excused, and accordingly the Majority **Ought Not to Pass** Report was **NOT ACCEPTED**.

Subsequently, on motion of Representative MOONEN of Portland, the Minority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-464)** 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-464)** and sent for concurrence.

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

**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 (10) **Ought Not to Pass** - Minority (2) **Ought to Pass as Amended by Committee Amendment "A" (H-450)** - Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Require Responsible Contracting on Public Construction Projects"

(H.P. 961) (L.D. 1382)

TABLED - June 8, 2017 (Till Later Today) by Representative MARTIN of Sinclair.

PENDING - **ACCEPTANCE OF EITHER REPORT**.

Subsequently, Representative MARTIN of Sinclair moved that the House **ACCEPT** the Minority **Ought to Pass as Amended** Report.

Representative ESPLING of New Gloucester **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 Portland, Representative Collings.

Representative COLLINGS: Thank you, Madam Speaker. I rise very briefly just to state the purpose of this bill for responsible contracting. What does it exactly mean? Well, I will just read the summary, because it will be much faster than me giving my own definition. "The purpose of this bill is to ensure that the work on public construction and maintenance contracts is performed by responsible, qualified firms that maintain the capacity, expertise, personnel, and other qualifications and resources necessary to successfully perform public contracts in a timely, reliable, and cost-effective manner. The bill establishes responsible contractor requirements for publicly funded construction projects that receive state funds in excess of \$50,000 or more." So basically, the reason I put this bill in is in the City of Portland, which I represent part of, they are working on this issue to some capacity. It's more broad, it covers the whole city, and it deals a lot with TIFs and basically what they're saying is, if we're going to give taxpayer dollars, we want the fullest amount of accountability and we want to



make sure it's the most value to the community. So they're having that debate right now in Portland about, you know, hiring veterans, hiring people from disadvantaged communities, other issues that would be of value to the community when they give taxpayer dollars, it's an accountability issue. So, I talked about bringing this to the state, this whole issue, and putting it broadly into law. I didn't feel comfortable doing that for all commercial projects in the state, but, however, I did feel very strongly that us being stewards of tax dollars in the State of Maine, to the best we can, we should be fully accountable. So when I brought this issue to the State and Local Government Committee and talked to them, a lot of people that were opposed to this, I did hear from them that there is a very good vetting process that is already in existence, and I learned about that, and I was thankful to the opposition for pointing that out. However, what I would like to say is that, in the bill, specifically, it says that the intent, it's written in there, on other requirements that would be related to it, states that this law that I'm proposing, that we're discussing now, does not intend to replace, it only intends to supplement current law. So for those that feel the vetting process is fine for the state, for state construction and maintenance programs, I agree with you that there is a good vetting program. The issue, however, though, is when the state expends money to some projects, it may lose control of that. For example, it may send money to a certain municipality for a school; once it gets there the state loses some of that vetting process and therefore the same highest standards we'd expect being accountable for taxpayer dollar goes away, and because of that, that's why this bill is placed before you, and I hope you will vote for this. It's an accountability issue for our tax dollars. Thank you, Madam Speaker, Ladies and Gentlemen of the House.

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Parry.

Representative PARRY: Thank you, Madam Speaker. I don't know if it was just a mistake in the book, but can the Clerk read the Committee Report?

The SPEAKER: The Clerk will read the Committee Report.

The same Representative REQUESTED that the Clerk READ the Committee Report.

The Clerk READ the Committee Report in its entirety.

The SPEAKER: The Chair recognizes the Representative from Sinclair, Representative Martin.

Representative MARTIN: Thank you very much, Madam Speaker. Madam Speaker and Ladies and Gentlemen of the House, I did in fact move the Minority Ought to Pass as Amended Report and I would urge you to follow my light. Thank you.

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

**ROLL CALL NO. 289**

YEA - Austin B, Babbidge, Bailey, Bates, Battle, Beebe-Center, Berry, Brooks, Bryant, Cardone, Casas, Chapman, Collings, Cooper, Daughtry, DeChant, Denno, Doore, Duchesne, Dunphy, Farnsworth, Fay, Fecteau, Frey, Fuller, Gattine, Golden, Grant, Hamann, Handy, Harlow, Herbig, Hickman, Hogan, Hubbell, Hymanson, Jorgensen, Kornfield, Kumiega, Lawrence, Longstaff, Luchini, Madigan C, Madigan J, Martin J, Martin R, Mastraccio, McCrea, McCreight, McLean, Melaragno, Monaghan, Moonen, Nadeau, O'Neil, Parker, Perry, Pierce T, Reckitt, Riley, Rykerson, Sanborn,

Schneck, Sheats, Spear, Stanley, Talbot Ross, Tepler, Terry, Tipping, Tucker, Warren, Zeigler, Madam Speaker.

NAY - Austin S, Bickford, Bradstreet, Campbell, Cebra, Chace, Corey, Craig, Dillingham, Espling, Farrin, Foley, Gerrish, Gillway, Ginzler, Guerin, Haggan, Hanington, Hanley, Harrington, Harvell, Head, Herrick, Higgins, Hilliard, Johansen, Kinney J, Lockman, Lyford, Malaby, Marean, Mason, O'Connor, Ordway, Parry, Perkins, Picchiotti, Pickett, Pouliot, Prescott, Reed, Sampson, Sanderson, Seavey, Sherman, Simmons, Sirocki, Skolfield, Stearns, Stetkis, Stewart, Strom, Sutton, Theriault, Timberlake, Tuell, Turner, Vachon, Wadsworth, Wallace, Ward, White, Winsor, Wood.

ABSENT - Ackley, Alley, Black, Blume, Fredette, Grignon, Grohman, Hawke, Kinney M, McElwee, Pierce J, Sylvester.

Yes, 74; No, 64; Absent, 12; Excused, 1.

74 having voted in the affirmative and 64 voted in the negative, with 12 being absent and 1 excused, the Minority Ought to Pass as Amended Report was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (H-450) 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-450) and sent for concurrence.

An Act To Require Schools To Submit Pest Management Activity Logs and Inspection Results to the Board of Pesticides Control for the Purposes of Providing Information to the Public

(H.P. 130) (L.D. 174)

(C. "A" H-374)

TABLED - June 8, 2017 (Till Later Today) by Representative TIMBERLAKE of Turner.

PENDING - PASSAGE TO BE ENACTED.

Representative ESPLING of New Gloucester REQUESTED a roll call on PASSAGE TO BE ENACTED.

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

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

**ROLL CALL NO. 290**

YEA - Austin B, Babbidge, Bailey, Bates, Battle, Beebe-Center, Berry, Brooks, Bryant, Cardone, Chapman, Collings, Cooper, Daughtry, DeChant, Denno, Doore, Duchesne, Dunphy, Farnsworth, Fay, Fecteau, Frey, Fuller, Gattine, Golden, Grant, Grohman, Hamann, Handy, Harlow, Herbig, Hickman, Hogan, Hubbell, Hymanson, Jorgensen, Kornfield, Kumiega, Lawrence, Longstaff, Luchini, Madigan C, Madigan J, Martin J, Martin R, Mastraccio, McCrea, McCreight, McLean, Melaragno, Monaghan, Moonen, Nadeau, O'Neil, Parker, Perry, Pierce T, Reckitt, Riley, Rykerson, Sanborn, Schneck, Sheats, Skolfield, Spear, Stanley, Talbot Ross, Tepler, Terry, Tipping, Tucker, Warren, Zeigler, Madam Speaker.

NAY - Austin S, Bickford, Bradstreet, Campbell, Casas, Cebra, Chace, Corey, Craig, Dillingham, Espling, Farrin, Foley, Gerrish, Gillway, Ginzler, Guerin, Haggan, Hanington, Hanley, Harrington, Harvell, Head, Herrick, Higgins, Hilliard, Johansen, Kinney J, Lockman, Lyford, Marean, Mason, O'Connor, Ordway, Parry, Perkins, Picchiotti, Pickett, Pouliot, Prescott, Reed, Sampson, Sanderson, Seavey, Sherman, Simmons, Sirocki, Stearns, Stetkis, Stewart, Strom, Sutton, Theriault,

Timberlake, Tuell, Turner, Vachon, Wadsworth, Wallace, Ward, White, Winsor, Wood.

ABSENT - Ackley, Alley, Black, Blume, Fredette, Grignon, Hawke, Kinney M, Malaby, McElwee, Pierce J, Sylvester.

Yes, 75; No, 63; Absent, 12; Excused, 1.

75 having voted in the affirmative and 63 voted in the negative, with 12 being absent and 1 excused, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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## REPORTS OF COMMITTEE

### Divided Report

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on Bill "An Act To Minimize Hardship by Prohibiting the State from Reducing the Wages of a State Employee To Recoup Payments the State Made in Error"

(S.P. 420) (L.D. 1257)

Signed:

Senators:

DAVIS of Piscataquis  
DESCHAMBAULT of York  
KEIM of Oxford

Representatives:

MARTIN of Sinclair  
BEEBE-CENTER of Rockland  
HARRINGTON of Sanford  
HOGAN of Old Orchard Beach  
MADIGAN of Rumford  
ORDWAY of Standish  
PICKETT of Dixfield  
SPEAR of South Thomaston

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-222)** on same Bill.

Signed:

Representative:

BRYANT of Windham

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

**READ.**

On motion of Representative MARTIN of Sinclair, the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

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## SENATE PAPERS

Bill "An Act To Promote Major Business Headquarters Expansions in Maine, Promote the Commercialization of Research and Development in Maine and Create Jobs"

(S.P. 591) (L.D. 1639)

Came from the Senate, **REFERRED** to the Committee on **TAXATION** and ordered printed.

**REFERRED** to the Committee on **TAXATION** in concurrence.

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

Representative **PRESCOTT**: Thank you, Madam Speaker. I request unanimous consent to address the House on the record.

The SPEAKER: The Representative from Waterboro has requested unanimous consent to address the House on the record. Hearing no objection, the Representative may proceed on the record.

Representative **PRESCOTT**: Thank you, Madam Speaker. Ladies and Gentlemen of the House, in reference to Roll Call No. 275, on LD 1593, had I been present I would have voted yea. Thank you.

The SPEAKER: The record shall so reflect.

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

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On motion of Representative FARNSWORTH of Portland, the House adjourned at 12:25 p.m., until 9:30 a.m., Monday, June 12, 2017, in honor and lasting tribute to Thomas F. Monaghan, of Portland.