

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
FIRST REGULAR SESSION
62nd Legislative Day
Wednesday, June 15, 2011

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

Prayer by the Honorable Jeffery Allen Gifford, Lincoln.

Pledge of Allegiance.

Doctor of the day, Anne Jones-Leeson, D.O., Hallowell.

The Journal of yesterday was read and approved.

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

ORDERS

On motion of Representative O'CONNOR of Berwick, the following Joint Resolution: (H.P. 1179) (Cosponsored by President RAYE of Washington, Senator SCHNEIDER of Penobscot and Representatives: AYOTTE of Caswell, BEAUDOIN of Biddeford, BEAVERS of South Berwick, BENNETT of Kennebunk, BICKFORD of Auburn, BURNS of Whiting, BURNS of Alfred, CAREY of Lewiston, CEBRA of Naples, CHASE of Wells, CLARK of Millinocket, COTTA of China, CRAFTS of Lisbon, CRAY of Palmyra, CROCKETT of Bethel, CUSHING of Hampden, DAVIS of Sangerville, DUCHESNE of Hudson, EDGECOMB of Caribou, ESPLING of New Gloucester, FITZPATRICK of Houlton, FOSSEL of Alna, GIFFORD of Lincoln, GILBERT of Jay, GUERIN of Glenburn, HAMPER of Oxford, HARVELL of Farmington, KENT of Woolwich, KESCHL of Belgrade, KNAPP of Gorham, LIBBY of Waterboro, MALABY of Hancock, MALONEY of Augusta, MAZUREK of Rockland, MCKANE of Newcastle, MORRISON of South Portland, NEWENDYKE of Litchfield, OLSEN of Phippsburg, PARRY of Arundel, PEOPLES of Westbrook, PICCHIOTTI of Fairfield, PLUMMER of Windham, PRESCOTT of Topsham, ROSEN of Bucksport, SANDERSON of Chelsea, SARTY of Denmark, SHAW of Standish, SIROCKI of Scarborough, SOCTOMAH of the Passamaquoddy Tribe, STRANG BURGESS of Cumberland, TIMBERLAKE of Turner, TURNER of Burlington, TUTTLE of Sanford, VOLK of Scarborough, WATERHOUSE of Bridgton, WEAVER of York, WILLETTE of Mapleton, WINSOR of Norway, Senators: COLLINS of York, COURTNEY of York, HASTINGS of Oxford, MASON of Androscoggin, PLOWMAN of Penobscot, RECTOR of Knox, SNOWE-MELLO of Androscoggin, THOMAS of Somerset) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214)

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO EXPRESS DISAPPROVAL OF CORN ETHANOL AS A FUEL ADDITIVE AND TO URGE THE ALLOWANCE OF ALTERNATIVES TO CORN ETHANOL AS A FUEL ADDITIVE

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

WHEREAS, federal laws and regulations, including the Clean Air Act, the Energy Policy Act of 2005 and the national renewable fuel standard program created in 2006, have contributed to changes in fuel standards, such as the removal of methyl tertiary

butyl ether, or MTBE, as an oxygenate in fuel, leading to the use of ethanol as a replacement for MTBE; and

WHEREAS, only reformulated gasoline is now available for purchase at public fuel pumps and typically contains a 10% corn ethanol blend, known as E10, and there are many gasoline engines, particularly those in boats, aircraft and older engines, in a variety of uses that are fueled by gasoline designed for motor vehicles, such as E10, and that will not function properly on E10; and

WHEREAS, there are many gasoline engines in Maine that are used seasonally and are at great risk of damage from this corn ethanol fuel if, as is common practice, the unused fuel is left in the tank for extended periods, since corn ethanol is a solvent and damages rubber fuel lines and gaskets as well as fiberglass fuel tanks and has a definite shorter shelf life unless treated properly, going bad after a few months and leaving a gas tank full of hazardous wastes; and

WHEREAS, these engines, and in particular boat engines using the corn ethanol fuel, are affected by significant amounts of water becoming trapped in the fuel tank, which separates the ethanol from the reformulated gasoline and causes the engine to stall or fail, sometimes severely damaging the engine and requiring costly repairs or replacement and also leading to potentially life-threatening situations; and

WHEREAS, aircraft are unable to use corn ethanol as it does not function as a motor fuel at high altitudes and, due to this and the previously mentioned federal laws and programs, the only lead-free motor fuel widely available to the general public for smaller engines is E10; and

WHEREAS, the production of corn ethanol is wasteful of fossil fuel resources and does not increase energy security and with this production, which uses 10% of the totally arable land in the United States, we see increased degradation of vital land and water resources; and

WHEREAS, corn ethanol's impact on food prices is huge and corn is now trading at an all-time high and this affects food manufacturing and other industries such as animal feed businesses; and

WHEREAS, the burning of corn ethanol increases the emissions of nonmethane gases and hazardous air pollutants that are probable carcinogens and are the causes of numerous health issues such as asthma, chronic bronchitis and other respiratory problems; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request that the President of the United States and members of the United States Congress realize the major problems of corn ethanol as a fuel additive and the numerous negative effects it has on not only Maine citizens, but all Americans, and we urge and request that the United States Congress consider exempting some grades of motor fuel from provisions in the Clean Air Act requiring that fuel contain a blend of 10% ethanol in order to make a safe motor fuel available to those who should not use fuel containing ethanol; and be it further

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

READ.

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

Representative **O'CONNOR**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just really want to thank you for all your support...

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

Representative **O'CONNOR**: Thank you. I want to thank everyone for your support in bringing this Resolution to the floor and I'm going to continue this fight and hopefully they'll continue it on the federal level as well. Thank you.

Subsequently, the Joint Resolution was **ADOPTED**.
Sent for concurrence.

On motion of Representative **BEAULIEU** of Auburn, the following Joint Order: (H.P. 1180)

ORDERED, the Senate concurring, that Bill, "An Act To Fully Enfranchise Voters," H.P. 1087, L.D. 1478, and all its accompanying papers, be recalled from the Governor's desk to the House.

READ and **PASSED**.
Sent for concurrence.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Gretchen Kimball, of Hartford, a teacher at Buckfield Junior Senior High School, who is a recipient of the Excellence in Teaching About Agriculture Award from the United States Department of Agriculture and the National Agriculture in the Classroom Consortium. She has also been named as one of the 2011 Maine Agriculture in the Classroom Teachers of the Year. Ms. Kimball, along with fellow teacher Annette Caldwell, directed the establishment of a 1.2-acre garden managed by students throughout the year. We congratulate Ms. Kimball on her receiving these distinguished awards and send her our best wishes;

(HLS 565)

Presented by Representative **HAYES** of Buckfield.
Cosponsored by Senator **PATRICK** of Oxford, Senator **MASON** of Androscoggin, Representative **TIMBERLAKE** of Turner.

On **OBJECTION** of Representative **HAYES** of Buckfield, was **REMOVED** from the Special Sentiment Calendar.

READ.

Recognizing:

Annette Caldwell, of Turner, a teacher at Buckfield Junior Senior High School, who is a recipient of the Excellence in Teaching About Agriculture Award from the United States Department of Agriculture and the National Agriculture in the Classroom Consortium. She has also been named as one of the 2011 Maine Agriculture in the Classroom Teachers of the Year. Ms. Caldwell, along with fellow teacher Gretchen Kimball, directed the establishment of a 1.2-acre garden managed by students throughout the year. We congratulate Ms. Caldwell on her receiving these distinguished awards and send her our best wishes;

(HLS 566)

Presented by Representative **HAYES** of Buckfield.
Cosponsored by Senator **MASON** of Androscoggin, Representative **TIMBERLAKE** of Turner, Senator **PATRICK** of Oxford.

On **OBJECTION** of Representative **HAYES** of Buckfield, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Buckfield, Representative **HAYES**.

Representative **HAYES**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. There is a bit of irony this morning and at my pleasure I think. These two ladies are here with us today, Ms. Kimball and Ms. Caldwell, and it is the same day that we are likely to take up some charter school legislation, but they are public school teachers and they are doing some really good stuff in a rural public school in Maine and they've been recognized for that here in the State of Maine as well as nationally. The stuff that they're doing is primarily with middle school students, you know the kids we just sort of hope that they'll make it through without doing too much damage. These guys are actually learning things. They've taken a 1.2 acre parcel directly next to the high school and middle school and they've created a garden that the students planned from the get go. They budget for it. When they first began this project they ran into some problems and the physics students helped them solve the watering issues. The entire project goes throughout the summer. Now you might remember that most of our teachers are not working during the summer. Well, these teachers are, and they're doing this of their own accord because they are committed to our students and to our community. The project culminates every fall with a harvest dinner where the students actually prepare a meal with the produce that they have in fact grown. It's amazing how many different ways you can cook squash. I've enjoyed some of the recipes that they've shared at that event. It is truly my pleasure to have both Gretchen and Annette here today and to have all of you join me in welcoming them. There is a statement in Buckfield that I'm going to quote Mike Miclon and the ladies in the gallery will get it. Basically Mike generally finishes bragging on something about Buckfield and says "Buckfield, who knew?" Well, now we know, and we need to celebrate these two ladies who are amazing in their commitment to our students and their capacity for our community, and I thank you all for giving me the opportunity and the indulgence to do this. Thank you, Mr. Speaker.

Subsequently, the Sentiments were **PASSED** and sent for concurrence.

Recognizing:

Mikhaila Rose Fogel, of Portland, who has earned the distinction of being named Salutatorian of the 2011 graduating class of Portland High School. We congratulate Mikhaila on her accomplishments and send her our best wishes;

(HLS 568)

Presented by Representative **HASKELL** of Portland.
Cosponsored by Senator **ALFOND** of Cumberland, Senator **BRANNIGAN** of Cumberland, Representative **RUSSELL** of Portland, Representative **CHIPMAN** of Portland, Representative **HINCK** of Portland, Representative **HARLOW** of Portland, Representative **LOVEJOY** of Portland, Representative **STUCKEY** of Portland, Representative **DION** of Portland.

On **OBJECTION** of Representative **HASKELL** of Portland, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Recognizing:

Marco Solomon Korobkin, of Portland, who has earned the distinction of being named the Valedictorian of the 2011 graduating class of Portland High School. We congratulate him on his accomplishments and send him our best wishes;

(HLS 570)

Presented by Representative HASKELL of Portland.

Cosponsored by Senator ALFOND of Cumberland, Senator BRANNIGAN of Cumberland, Representative RUSSELL of Portland, Representative CHIPMAN of Portland, Representative HINCK of Portland, Representative HARLOW of Portland, Representative LOVEJOY of Portland, Representative STUCKEY of Portland, Representative DION of Portland.

On **OBJECTION** of Representative HASKELL of Portland, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Recognizing:

Mila Kofman, of Augusta, for her dedication in serving Maine people as the Superintendent of Insurance for the past 4 years. A former Associate Research Professor and Project Director at the Georgetown University Health Policy Institute, Ms. Kofman worked during her tenure at the Maine Bureau of Insurance as a steadfast advocate for Maine consumers and small businesses. She instituted a formal claim enforcement process and reorganized consumer services to make assistance more accessible. Ms. Kofman earned national recognition for her consumer protection efforts and her work to ensure the solvency and health of the insurance marketplace. We send our appreciation to Ms. Kofman for her commitment to the people of Maine and we send her our best wishes;

(HLS 606)

Presented by Representative TREAT of Hallowell.

Cosponsored by Senator KATZ of Kennebec, Representative MALONEY of Augusta, Representative BLODGETT of Augusta, Representative FOSTER of Augusta, Senator HOBBS of York, Senator ALFOND of Cumberland, Representative CAIN of Orono, Representative HAYES of Buckfield, Representative BEAUDOIN of Biddeford, Representative BECK of Waterville, Senator BRANNIGAN of Cumberland, Representative GOODE of Bangor, Representative MORRISON of South Portland.

On **OBJECTION** of Representative TREAT of Hallowell, was **REMOVED** from the Special Sentiment Calendar.

READ.

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 say a few words to recognize the good work of Mila Kofman who served for four years as our Superintendent of Insurance. You have heard of some of her accomplishments, but I think that it's actually, well, let me put it this way. I went home last night and in my mail, which we get lots of reports, and there was this envelope from the Heartland Institute, a very conservative organization that does rankings and policy information on a variety of issues. So I opened it up and it was the 2010 report on property and casualty insurance and it was a report card on all of the states in the country. So I quickly looked to see where Maine stood and we got an A rating for the clarity of our rules, for the sensible nature of those rules, and for the health of our marketplace. We were right up there just behind the three very, very top leaders in the country. It reminded me that every time

we had a piece of legislation that related to auto and homeowner insurance, that the Superintendent Mila Kofman came in and talked to us about the health of our market and how we needed to maintain that and that we had to consider that health and make sure that what we were doing from a consumer perspective was also respectful and appropriate from the industry side. That was how she conducted herself in four years here in the State of Maine. She's keeping her house in Augusta because she loves it here and it's also on a lake and you don't want to give those up very easily. But she ran that Bureau of Insurance in an extremely fair and evidence based way and I think one of the things that amazed me at a time when you can get stationery for many state offices that doesn't even have a phone number on it, she gave out her personal cell phone number to anybody. I mean on the air, over the microphone at the committee, and she would answer those calls right up until 9 pm I think it was. Maybe it was 8:30. But anyone, you know whether you were from the industry, whether you were a legislator with a constituent issue you could call that number and she would personally answer it. I think that's what public service is all about. I wish she could be here today to be honored in person, but I am pleased that we are able to do this for her and at least send it down to her in Washington, D.C., and wish her the best on the rest of what I'm sure will be a stellar career.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Rotundo.

Representative **ROTUNDO**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I just wanted to add my personal thanks and express my gratitude for the work that Mila Kofman did here in the state on behalf of the people of Maine. When she chose to come here as our Superintendent of Insurance it was just such a coup for all of us to have somebody nationally recognized to be here to do the work that she did. She was a fierce protector of consumer rights and we will miss her very much and I wish her the very best. Thank you.

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

In Memory of:

Elaine Helen Choate, of Augusta, former committee clerk for the Maine State Legislature. Mrs. Choate was born in New York and received a degree from the Katharine Gibbs School. She was a devoted wife, mother and grandmother. In addition to being a homemaker, she worked in a number of interesting jobs, such as a secretary for *Mademoiselle* magazine in New York City and an activities aide at a nursing and rehabilitation center. Mrs. Choate will be greatly missed and long remembered by her loving family and her friends;

(HLS 599)

Presented by Representative BLODGETT of Augusta.

Cosponsored by Senator KATZ of Kennebec, Representative FOSTER of Augusta, Representative MALONEY of Augusta.

On **OBJECTION** of Representative BLODGETT of Augusta, was **REMOVED** from the Special Sentiment Calendar.

READ and **ADOPTED** and sent for concurrence.

REPORTS OF COMMITTEE

Divided Reports

Majority Report of the Committee on **ENVIRONMENT AND NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-282)** on Resolve, To Authorize the State To Purchase a Landfill in the Town of East Millinocket

(S.P. 500) (L.D. 1567)

Signed:

Senators:

SAVIELLO of Franklin
SHERMAN of Aroostook

Representatives:

HAMPER of Oxford
AYOTTE of Caswell
DUCHESNE of Hudson
HARLOW of Portland
KNAPP of Gorham
LONG of Sherman
NASS of Acton
PARKER of Veazie
WELSH of Rockport

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

Signed:

Representative:

INNES of Yarmouth

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-282) AS AMENDED BY SENATE AMENDMENT "A" (S-292)** thereto.

READ.

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

The Resolve was **READ ONCE**. **Committee Amendment "A" (S-282)** was **READ** by the Clerk.

Senate Amendment "A" (S-292) to **Committee Amendment "A" (S-282)** was **READ** by the Clerk.

Representative HAMPER of Oxford moved that **Senate Amendment "A" (S-292)** to **Committee Amendment "A" (S-282)** be **INDEFINITELY POSTPONED**.

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

Representative **HAMPER**: Thank you, Mr. Speaker. LD 1567, having to do with authorization to purchase Dolby Landfill in Millinocket, this Senate Amendment that's come to us is pretty good but I think it can be made better. Therefore, I'd like to indefinitely postpone it so that I can add some antacids to the process. Thank you, Mr. Speaker.

Subsequently, **Senate Amendment "A" (S-292)** to **Committee Amendment "A" (S-282)** was **INDEFINITELY POSTPONED**.

Representative HAMPER of Oxford **PRESENTED** **House Amendment "A" (H-635)** to **Committee Amendment "A" (S-282)**, which was **READ** by the Clerk.

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

Representative **HAMPER**: Thank you, Mr. Speaker. I alluded to antacids with this amendment that I'm offering. (H-635) is everything that the other body passed down to us and then some. I have the three antacids that are in that. The condition of sale or taking the donation of the landfill, that there has to be a purchase and sale agreement for the mills in Millinocket. Secondly, that they are going to be identifying the costs of closure of the landfills, granted those costs will occur if needed to be over the course of about eight years and we do have a funding mechanism that may be coming out of work this summer. And thirdly, if the purchaser of the mills has different

plans other than making paper, one of the contingencies on taking over the landfill would be that there is an acceptable business plan. Thank you, Mr. Speaker.

Subsequently, **House Amendment "A" (H-635)** to **Committee Amendment "A" (S-282)** was **ADOPTED**.

Committee Amendment "A" (S-282) as Amended by **House Amendment "A" (H-635)** thereto was **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-282) as Amended by House Amendment "A" (H-635)** thereto in **NON-CONCURRENCE** and sent for concurrence.

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-254)** on Bill "An Act Regarding Labor Contracts for Public Works Projects"

(S.P. 378) (L.D. 1257)

Signed:

Senators:

THOMAS of Somerset
COLLINS of York

Representatives:

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

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

Signed:

Senator:

SULLIVAN of York

Representatives:

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

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-254) AS AMENDED BY SENATE AMENDMENT "B" (S-281)** thereto.

READ.

Representative COTTA of China moved that the House **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 North Yarmouth, Representative Graham.

Representative **GRAHAM**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I am opposed to the motion on the floor. There are times when you just wonder why

we are talking about certain bills. This is one of those cases. We are proposing to ban Project Labor Agreements on public works construction projects in Maine. There are three reasons why I want to ask you to oppose this bill.

First, this is a solution in search of a problem. We hear this often here. It is a solution in search of a problem. In the last 15 years, there have been at least five Project Labor Agreements on private construction projects in Maine. There has never been a Project Labor Agreement on a public works construction project in the State of Maine. Never. Not once. Yet, LD 1257 proposes to ban Project Labor Agreements, also known as PLAs, on public works construction projects. Can someone help me out here? I'm confused. Why do we need to ban something that has never occurred? This bill is a solution in search of a problem – it is more about a national, out of state anti-worker/anti-union agenda than it is about real issues of importance to Maine people.

So secondly, Project Labor Agreements are effective. They are frequently used by companies in the private sector as a business model to ensure timely, cost-effective delivery of large construction projects. Toyota has built every single one of its 10 North American automobile plants using PLAs. Wal-Mart has increasingly started building its stores using Project Labor Agreements. There is only one reason why companies like these are using PLAs: it helps their bottom line.

We often argue that government should be more efficient and businesslike. We hold up the private sector as a model to follow. So if private companies see it as a wise choice to utilize PLAs on certain projects, why would the State of Maine not afford itself the similar option? Why would we take that off the table and forbid ourselves from using this business model on public projects if it makes financial sense on a particular project.

Then lastly, this bill has significant legal issues. The Attorney General admitted that the original version of this bill was clearly in violation of federal law and the U.S. Constitution. The full committee asked the Attorney General for a legal opinion and instead the office worked to redraft the bill to try to work around those legal issues. But the final bill still conflicts with federal law and in a meeting with myself and Representative Boland with the Attorney General, he fully acknowledged, the Attorney General fully acknowledged that this kind of bill would likely be challenged and challenged on solid legal grounds. He said this version is more defensible than the original but still very open to legal challenge.

The Ohio Supreme Court unanimously struck down legislation almost identical to this. I don't think this is the road we should be going down – passing laws that we know to be in clear conflict with federal law. For all of these reasons, I would ask you to follow my light and vote against LD 1257. Thank you, Mr. Speaker.

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

Representative **TUTTLE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I would agree with the good Representative from North Yarmouth, Representative Graham, on this issue. Historically this bill had gone to the Labor Committee and apparently this session it did not. We would ask, what is a Public Labor Agreement? A Public Labor Agreement or a PLA is a business model that increases the efficiency and quality of construction projects for the private and the public sector. It is the type of contract used in the construction industry to set terms and conditions of employment. PLAs are used frequently by companies in the private sector as a business model to ensure timely, cost-effective delivery of large, complex projects.

As Representative Graham has said, this is sort of a solution in search of a problem. PLAs are used frequently in the private sector for sound business reasons. They are a policy tool and a business model that makes sense on certain projects. The State of Maine should be free to decide on a project by project basis if PLAs would further the government's interest in securing quality and cost-effective construction services. So I'd ask that you would do the taxpayers a favor and vote against this pending motion.

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

Representative **GILBERT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I think Project Labor Agreements are a useful tool to be considered on certain construction projects. They are not perfect for every project, but certain projects, PLAs make a lot of sense. They are an effective tool for ensuring timely and cost-effective delivery of large and complex projects.

I have firsthand experience on this. The Androscoggin Cogeneration Center in Jay in my district was built using a PLA in 1998. It was a very successful project that was done on time and on budget. A similar project at the power plant in Rumford in 1998 also used the PLA and was also successful.

PLAs don't happen all the time but they are a useful tool to have in the toolbox. So I am puzzled why we are looking to ban them in the public sector, when private companies in my region have used them successfully. I've also heard that in fact there's never been a Project Labor Agreement on public works projects in Maine. So why are we doing this?

I would like someone to explain to me why if this business model and policy tool is helpful and utilized in the private sector, why we feel the need to forbid Maine State Government from considering it. I would also like someone to explain to me why we are banning something that has never occurred. That doesn't seem like constructive legislation.

Men and Women of the House, let's focus on real issues. Let's focus on real problems. Please oppose this bill.

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 just wanted to review with you about the legal issue on this. The National Labor Relations Act is the primary federal law governing private sector labor relations in the United States. The NLRA explicitly permits the usage of pre-hire agreements, like Project Labor Agreements, in the construction industry. Federal preemption rules prohibit states and municipalities from regulating activities that are permitted or prohibited by the NLRA, or that the NLRA intentionally left to be controlled by the markets.

The intent of this bill is clearly to set regulatory policy by banning the use of PLAs. A similar ban was struck down because it conflicted with and was preempted by the NLRA Act and violated the United States Constitution. It is our position that, for the same reasons, LD 1257 is also unlawful, unconstitutional.

Some key court cases. The National Labor Relations Act was enacted by Congress in 1935 and establishes the process through which workers can form a union, and the activities that employers and workers are permitted and prohibited from engaging in during collective bargaining and other concerted activities. Recognizing the unique nature of the construction industry, Congress amended the Act in 1959 to explicitly permit the use of pre-hire agreements in the construction industry, which Maine thinks it can somehow undo.

There is a Garmon preemption. This doctrine prohibits state and local governments from regulating activities that are permitted or prohibited or arguably permitted or prohibited by the NLRA.

The Machinists preemption. This doctrine prohibits state and local regulation of labor-management activities that the NLRA intentionally left "to be controlled by the free play of economic forces."

In Boston Harbor, the United States Supreme Court unanimously upheld the usage of Project Labor Agreements on public projects in this case, noting that private and public owners can decide when a construction project should use a PLA. The court distinguished between the state setting regulatory policy, which implicates preemption policies, and the state acting as a market participant making decisions about how to conduct specific projects, stating, "To the extent that a private purchaser may choose a contractor based upon that contractor's willingness to enter into a pre-hire agreement, a public entity as purchaser, should be allowed to do the same."

Finally, the Ohio Supreme Court case. In the only court decision dealing with an outright state ban on Project Labor Agreements, the Ohio Supreme Court unanimously held that an Ohio law prohibiting the use of Project Labor Agreements on public works projects within the state was in conflict with, and preempted by, the NLRA.

I really don't think we want to go down this road. Really a PLA just reflects the priorities of the project owner and the community. It does not necessarily involve unions. It can be any kind of agreement made ahead of time for the best result on a project. Thank you.

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

ROLL CALL NO. 179

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

ABSENT - Hanley, Wintle.

Yes, 76; No, 72; Absent, 2; Vacant, 1; Excused, 0.

76 having voted in the affirmative and 72 voted in the negative, 1 vacancy with 2 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (S-254) was READ** by the Clerk.

Senate Amendment "B" (S-281) to Committee Amendment "A" (S-254) was READ by the Clerk and **ADOPTED.**

Committee Amendment "A" (S-254) as Amended by Senate Amendment "B" (S-281) thereto was ADOPTED.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-254) as Amended by Senate Amendment "B" (S-281) thereto in concurrence.**

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

Eight Members of the Committee on **EDUCATION AND CULTURAL AFFAIRS** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (S-301)** on Bill "An Act To Create a Public Charter School Program in Maine" (S.P. 496) (L.D. 1553)

Signed:

Senators:

LANGLEY of Hancock
MASON of Androscoggin

Representatives:

RICHARDSON of Carmel
JOHNSON of Greenville
MAKER of Calais
McCLELLAN of Raymond
NELSON of Falmouth
WAGNER of Lewiston

Two Members of the same Committee report in Report "B" **Ought to Pass as Amended by Committee Amendment "B" (S-302)** on same Bill.

Signed:

Representatives:

EDGEComb of Caribou
McFADDEN of Dennysville

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

Signed:

Senator:

ALFOND of Cumberland

Representatives:

LOVEJOY of Portland
RANKIN of Hiram

Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports Report "A" **Ought to Pass as Amended by Committee Amendment "A" (S-301).**

Came from the Senate with Report "A" **OUGHT TO PASS AS AMENDED READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-301).**

READ.

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

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

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-608)** on Bill "An Act To Restore Market-based Competition for Pharmacy Benefits Management Services"

(H.P. 828) (L.D. 1116)

Signed:

Senators:

McCORMICK of Kennebec

FARNHAM of Penobscot

Representatives:

STRANG BURGESS of Cumberland

FOSEL of Alna

MALABY of Hancock

O'CONNOR of Berwick

SANDERSON of Chelsea

SIROCKI of Scarborough

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-609)** on same Bill.

Signed:

Senator:

CRAVEN of Androscoggin

Representatives:

EVES of North Berwick

PETERSON of Rumford

SANBORN of Gorham

STUCKEY of Portland

READ.

Representative STRANG BURGESS of Cumberland moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

The SPEAKER: The Chair recognizes the Representative from North Berwick, Representative Eves.

Representative **EVES**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise to oppose the pending motion. My objection to the pending motion relates to the diluting of our transparency laws that relate to pharmacy benefit managers. We have this law for a reason. There is a body of evidence that points to the PBMs misbehavior through kickbacks, drug switching and conflicts of interest. The Majority Report is bad for independent pharmacists, bad for patient safety, bad for Maine taxpayers and bad for insurance policyholders. Between 2004 and 2008, PBMs have been the subject of six major federal and multidistrict cases over allegations of fraud, misrepresentation to plan sponsors, patients and providers, unjust enrichment through kickback schemes and failure to meet ethical and safety standards. These cases resulted in more than \$370 million in damages. In my line of work of studying human behavior we have a saying. The best predictor of future behavior is past behavior.

My second objection is related to the unleveling of the playing field. The inequity of the Majority Report hurts pharmacies. This truly is a David versus Goliath. In committee we heard strong testimony from our independent pharmacies that this will be just

one more nail in the coffin for small independent pharmacies. The Majority Report removes protections for independent pharmacies in current law and replaces it with weak language that also eliminates current enforcement provisions. It repeals protections for pharmacies for unfair practices of mail-order PBMs by deleting mail service pharmacies from the definition of PBMs. It removes the enforcement authority of the Attorney General and leaves only the Superintendent of Insurance who does not have the authority to regulate PBMs. It removes the ability of parties to the PBM contracts to bring independent lawsuits to enforce violations of the PBM law and removes penalty provisions.

I ask that you please consider your local independent pharmacist, the transparency laws that are currently on the books when weighing your decision, and please join me in defeating the pending motion. Thank you, Mr. Speaker.

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

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

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

Representative **SANBORN**: Thank you, Mr. Speaker. Mr. Speaker, Friends and Colleagues. Voting Ought to Pass on LD 1116 begs the question, for whom are you working? I would like to think we are all working for the constituents we represent.

This bill, however, by getting rid of the Maine Unfair Prescription Drug Practices, is 100 percent a bill to end transparency in Prescription Benefits Manager Law; it is a bill to allow these multimillion or billion dollar industries to cheat our constituents out of the best price possible for their medications. It hurts our patients and it hurts our small independent pharmacies, Mr. Speaker.

Who is not aware of the high cost of meds? Who is not aware that the very same medications are far cheaper in other developed countries? Who is not aware of the elderly living on fixed incomes having to make tough choices about where they spend their limited incomes – as we are aware of the increasing cost of paying for food and heat, how can we not want to minimize the cost of medications? And how does it conceivably help the people of the State of Maine to support these large out-of-state corporations?

There is no question about whether fraud will again occur in regards to the PBMs – it is only a question of when. That will be sooner, rather than later, in Maine, under LD 1116.

Damages to the tune of \$184 million, \$137 million, \$41 million, and \$9.5 million have already been awarded for government fraud, secret rebates, drug switching, failure to meet quality of care standards, kickbacks, submission of false claims, repackaging, illegally retaining rebates and deceptive trade practices from the largest PBMs – Merck, Caremark, and Express Scripts, among others.

We are not the only state to recognize this – a recent headline in *Inside Pharmacy* from Texas read: "Texas House Overwhelmingly Supports Tight Scrutiny For PBMs /Managed Care."

It went on to say: In an amendment designed to filter out PBMs and Managed Care Organizations with questionable business practices from participating in the state Medicaid pharmacy program, the Texas House has overwhelmingly endorsed an amendment by Rep. Fred Brown, a Republican, known as the "bad actor" amendment. "We are not going to do business with players who rob the State of Texas," said Brown.

If this bill passes, our state will not have cause of action under

the Unfair Trade Practices Act, and our AG will have limited authority to pursue these crimes. No doubt, the lobbyists for the PBMs and Big Pharma love this bill. They have everything to gain.

This bill was presented as a bill to increase competition. Competition is great when it works in favor of consumers. That is not the case with LD 1116. Instead it will help the rich get richer and the poor get poorer. Is that what the people of Maine want from this Legislature? My vote will be strongly in favor of the people of Maine and against LD 1116. Thank you.

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

Representative **STUCKEY**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise today in opposition to the Majority Report on LD 1116, "An Act To Restore Market-based Competition for Pharmacy Benefits Management Services." I think a better title would be "An Act to Put the Fox in Charge of the Hen House."

Let me see if I can set the stage. A health plan hires a Pharmacy Benefits Management service (a PBM) to navigate the world of prescription drugs. Their contract calls on the PBM to deliver the correct drug to a health plan patient at the best possible price. This inserts the PBM's right into the middle of our society's pharmaceutical food chain and that's a very complicated and ever-changing landscape. The PBM is paid to be there to represent health plans and their patients, but they're also offered incentives and rebates by the pharmaceutical companies for promoting the use of certain drugs, many of which can be switched with those originally prescribed...and they're often more expensive. Most incentives are currently illegal in Maine. Rebates, on the other hand, currently are legal, but must be passed through to the contracting health plan. PBMs must work with their network of pharmacies to earn these rebates. If the PBMs are deregulated as proposed in this report, they could accept incentives and would not be required to return rebates to their employer. Nor would they be required to reveal to the payer how much they get paid for providing these services.

They would also be able to exert extreme pressures on the marketplace, particularly on our local pharmacies and pharmacists. If they can accept rebates and other incentives without disclosing them or sharing them with those who are paying them to be there, what marketplace forces would hold them accountable, and how?

When I connect the dots, Mr. Speaker, I don't like what I see. LD 1116 seeks to repeal protections in Maine statute for small businesses, patients, health plans and taxpayers. Pharmacy Benefit Managers would be allowed to keep their relationships with the large pharmaceutical companies private, and remove all third party oversight and rights to independent appeal.

PBMs would be free to: accept kickbacks, not disclose conflicts of interest, discontinue price transparency reporting, and no longer pass rebates from drug manufacturers through to the health plans they represent.

Patients, looking for the most effective and affordable drugs, could be hurt by: being switched to more expensive drugs, and being required to make full co-payments even when they exceed the retail cost.

Pharmacies – many of them small businesses – trying to survive in a marketplace increasingly dominated by large corporate influences, would lose: protections from unfair practices of mail order PBMs, by removing "mail service pharmacies" from regulation, and they would lose access to independent audits and lawsuits.

Health plans (the folks who contract with the PBMs), including our own state plans, working to lower costs and improve

services, would lose: routine State Auditor review of PBM/State contracts that insure proper transparency and audit provisions and they would lose required pass-through from PBMs of Big Pharma/industry rebates.

The bone this version of the bill throws to pharmacies, Mr. Speaker, is an appeals process about PBM audits and non-payments that is designed and run by the PBMs. That doesn't pass the straight face test.

In short, Mr. Speaker, the Majority Report on this bill takes what is currently a fairly level playing field and tilts it away from patients, pharmacies, and employer health plans, including the State of Maine's, and tilts it dramatically toward the Pharmacy Benefit Management services and the big pharmaceutical industry. It won't improve services or lower costs. It would simply strengthen and secure Big Pharma's monopoly position in the marketplace.

Since 2004, the three biggest national PBMs have paid out over \$372 million in damages for violating the very rules that LD 1116 looks to repeal. With the statutory controls designed to protect all parties removed, the fox, Mr. Speaker, would truly enjoy the run of the hen house. Finally, Mr. Speaker, go Bruins. Thank you very much.

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

Representative **PARKER**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise just to make a couple of comments. The way that, and I want to disclose to you my son is a practicing pharmacist, but the way the PBMs currently are working, it's my understanding that his pharmacy has to go through a couple of major outlet pharmacies in order to actually be approved for their prices. It would be sort of like telling me that my engineering firm has to go through another engineering firm to have my rates approved. It just doesn't seem right so I wanted to raise that point to the floor. 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 urge you to vote against the pending motion and I ask the question which perhaps at some point in this debate we'll get an answer to, which is why we would want to repeal a law enacted in 2003 at the urging of our Attorney General that prevents fraud. Why would we want to repeal a law that helps this state audit whether the correct prices are being charged to the state? Why would we want to repeal a law that protects consumers from overpaying for generics? Why would we want to repeal a law that protects independent pharmacies from predatory pricing from mail-order companies? Why would we want to repeal a law that requires companies managing your prescription drug benefit to perform their duties with care, skill, prudence and diligence?

At least 25 states regulate PBMs in some way. It is true Maine's law is among the most comprehensive, but several have provisions that are very similar to ours including fair dealing and due care in Iowa, Vermont, South Dakota, Maryland, Connecticut. Just this year Mississippi enacted comprehensive additions to their existing PBM law that put PBMs under the pharmacy board. Texas is right now debating whether or not to strengthen their state contracts, PBM law, so that it covers all managed care contracts and includes the language referenced by the Representative from Gorham, Representative Sanborn, which ensures that companies that have been involved in settlements and have been found or agreed to settlements that say that they violated fraud laws would not get state contracts to manage your prescription drug benefits.

The Majority Report does not protect pharmacists and let me

give you a perfect example. It amends the definition of what a PBM is to take out the language that includes mail-order pharmacies, and if you know anything about this issue and most people do not, but if you are an independent pharmacist you would; mail-order is sort of the *bête noire* of the pharmacy industry and there are a great number of sort of gaming of the system done by mail-order operations which end up hurting independent pharmacies, and also basically take money from those who have the contracts with them and don't send it back to them. So let's just look at a couple of things that are being repealed. I've just mentioned due care. I've just mentioned the mail-order pharmacy. We're repealing language that says a PBM needs to notify the people that hire the PBM in writing of any activity, policy, practice of the PBM that directly or indirectly presents any conflict of interest. Why wouldn't companies, small businesses, big businesses, insurance companies want to know about conflicts of interest and a specific conflict of interest that gave rise to this legislation was part of an investigation and a settlement into kickbacks that were entered into between a big PBM, at that time Merck-Medco, which was getting paid in side agreements for changing drugs that were already prescribed to a more expensive drug that they got a side payment on. Why would we want to remove that language? Why would we want to remove language that is in current law that says when a PBM substitutes a drug that costs more, they have to disclose that fact? Why would we want to remove language that says that the value of these benefits are passed through? Why would we want to remove language that says when the elderly lady called me the other day who is a retired teacher, who lives on less than \$1,000 a month, why would we want to remove language that says when she goes to a drug store and the drug that she has been prescribed cost less than the co-pay, she gets charged the lower cost? Why would we want to remove that language? Why would we want to remove language that says that the State Auditor has the responsibility of advising state contracts about whether their language adequately provides for auditing and disclosure of the prices?

I want to read from what the State Auditor said two years ago when that language was added to the law. "State agency personnel are not pharmacy or prescription drug specialists and do not have the understanding necessary to be able to secure the best prices. State agency requirements do not facilitate a one-size-fits-all contract." Interesting, one-size-fits-all. We've heard that before. We recommend that the state employ a specialist to negotiate these agreements and they agreed to participate in that.

Finally, I just want to read this law has been part of litigation. The industry has tried to get rid of it before by going to the courts. They have been unsuccessful. The law was upheld back in 2005 by the federal courts and the U.S. Supreme Court declined to review that decision. I want to just read from the press release that our then Attorney General put out at the time and they defended it vigorously and in part because it carried out the very standards that the Attorney General was trying to have, the standards across the State of Maine. They said this law requires PBMs to disclose to health plans any conflicts of interest, side payments from drug companies and details about drug switching programs. These requirements are described generally as promoting transparency in the PBM industry. That is they allow health plan clients of PBMs to see through the otherwise secret arrangements that PBMs had with other market players.

The magistrate in the District Court summarized the PBM industry in these words: "Although PBMs afford a valuable bundle of service to benefits providers, they also introduce a layer of fog to the market that prevents benefit managers from fully

understanding how best to minimize their net prescription drug costs." This is good law that we have now. It's appropriate law. The Majority Report repeals it in its entirety and adds minimal protections for pharmacists without any enforcement mechanism. It's a bad deal for Maine, for Maine consumers, for Maine taxpayers and for Maine small businesses, and I urge that you vote no.

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

Representative **STRANG BURGESS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of the pending motion and ask for your indulgence to just hear a few more facts about what this law does in fact do.

This law does repeal an existing law that has actually been hurting and costing our state over a million dollars annually. It's really important for people to understand what a pharmacy benefit manager does. First of all, they are hired by a Maine employer. They work just like managed care works for your health plan and that is a decision that is made by your employer, how they are going to structure the health plan benefits to you as an employee. This is not anything more than a benefit program that an employer hires to manage the drug side of the house, if you will. You might have part of your health plan, you may have, you know a managed care portion. Managed care saves money. Managed care saves time. Managed care helps people navigate the very complicated medical system that we have. So essentially what PBMs do is exactly what managed care does for your body part and now this is the part that's your pharmacy part of things. So it's a very logical thing. This is between employers and a company that comes in to help manage that piece of the house.

At the testimony at the public hearing for this bill we heard from not one single Maine employer saying, oh my gosh, I need protection. PBMs have worked very effectively around this country and in fact I believe they cover a huge percentage of the drug marketplace, so it would stand to reason that at some point there have been some issues. But there have been no issues here in the State of Maine. Then the reason PBMs work is they work on competition and that's been the general theme that we've tried to bring into this session, is just basically getting the State of Maine out of the business of our business and to let that go.

So what this bill is, it is a law that you've heard that was put on the books in 2003. At that time there was a negotiation underway with the Maine Employees Health and Benefits and as soon as this law came into being that PBM, the pharmacy benefit manager company, chose to not continue with the competitive bid process and to leave the state. So there was a specific example of a company when this law went in, that it actually broke that deal and that was a million dollars that would have been saved.

So how does competition work, folks? Well, gosh, competition works by somebody providing better service, better pricing, better package to an employer. Well, guess how employers make their decisions? Sure they're going to look at the dollars and cents, but then if their employees aren't happy with their health plan, with their drug plan, then they're going to put that back up through the process and say "I'm not happy. I'm going to go out to bid. I'm going to see, invite some other PBMs to come and bid my employee drug benefits." That, folks, is how you save money. We've proven time and time again that no competition does not save us money. What this bill will not do is it's not changing anything for the independent or small pharmacies in Maine and this bill is all about the relationship between a Maine employer and a PBM. It also does not repeal the separate statute in Maine's insurance code that requires

PBMs to register. They still have to do that, so if they are still subject to conduct examinations by the Bureau. Also you'd be interested to know that part of the Majority Report includes several provisions to in fact put some safe things in there for the pharmacies to give a little bit more comfort level for them. We actually took things, Representative Beck actually had another bill that had a lot of pharmacy protections and we actually lifted a large chunk of those and put them into this bill, and that was championed by the local pharmacies.

The other thing that you all need to know is that Maine is the only state in the union that has this law. If it was so incredibly fantastic, but I have to tell you that it would have shown up all across the nation. After all, it has been here since 2003 and in fact 30 states have talked about it, thought about it and decided not to do it. So we know that it has been tested. Court cases go both ways on this thing. The Texas argument. Texas does not have this law and it is hard to compare the Texas situation to here. Also the Attorney General of Maine has absolutely said that, the Attorney General already has enforcement authority over PBMs and has conducted oversight of the industry without use of this law. Therefore, the AG does not need the state's PBM law in order to conduct prudent oversight. So you've heard that the elimination of yet another law that we have that makes us this outlier, the fact that we have all of the protections already in our laws. The Attorney General is completely comfortable that they have enough oversight for conduct. We also know that this is going to be competitive bidding for an employer's piece of their health plan. This is managed care for the drug side of the house. The State Auditor already has the authority to ensure proper use of taxpayer dollars in a manner deemed appropriate by the state. We have a prompt pay to pharmacies, that's in there. Patient co-pays, across the country virtually all of drug benefit plans require a patient co-pay and the pharmacy list price is given. State law in Maine is not having much impact to change all of that.

So basically, in closing, remember that this is a private company that's all working in a competitive environment. If you take away the competition, the pricing facts are going to go nowhere but up. It allows the employers in this state to define the relationship with their particular pharmacy benefit manager. The relationship is exactly that. The fiduciary relationship is between the employer and the PBM. It's the only one of its kind in the country. We've done a lot of really good positive work around health care this session. This bill is another step towards getting Maine back into the mainstream, and why we're so afraid of competition it's just been hard to understand. It's something obviously we've talked about and in health care insurance as well. So if you believe in the free market model and if you believe that a company has the right to do business and the end result of a company being successful is that they retain their clients, if Maine employees of an employer are not happy, then that Maine employer, I can promise you, is going to look for a better company to deliver the product and safeguards for their employees. That's where the decision should be. It's not the state's business to do that. The pharmacies have indicated to me that they have comfort level around this. We know that the Maine Merchants Association and a number of other organizations who are working with local pharmacies are comfortable and urging your support. So I urge you please to speak up for Maine business, Maine employers and ultimately the Maine people. I urge your support and I encourage you to support the pending motion and thank you very much.

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

Representative **SANBORN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rarely rise twice.

I don't think I've ever risen twice on anything, but I heard some untruths from the good Representative from Cumberland and I need to call her on that. We did have testimony from local pharmacies. We've had strong testimony from local pharmacies and I'm holding in my hand testimony from Unity Pharmacy. This was written by Shane Savage who is a pharmacist there and he says such things as many of the larger PBMs like CVS, Caremark, Medco and Express Scripts have been allowed to purchase their own mail-order and retail pharmacies. This conflict has allowed PBMs operating in Maine and in other parts of the country to engage in deceptive and anticompetitive conduct, and he goes on with examples about rebates and kickbacks. He says more importantly these same PBMs negotiate my pharmacy's contracts. PBMs determine how much my pharmacy will be reimbursed for dispensing medications. Without transparency laws we have no idea if our pharmacies are being paid the same rates as their pharmacies. It is an unfair advantage to the independent pharmacy when the contracting PBM owns their own retail and mail-order outlet. They have the ability to set our reimbursement rates at levels just above and many times below our cost. He closes with they want all transparency laws off the books so that they can continue to force patients to pharmacies they own. So that is from a pharmacy owner that has Unity Pharmacy, Fairfield Pharmacy, Oakland Pharmacy and Winslow Pharmacy.

And then we have second testimony from Robert Morrisette, a pharmacist and consultant, who says that he has been a pharmacist in Maine for 35 years and he is strongly opposing LD 1116. So I won't go into all of the detail, but it is just not true that independent pharmacies are not protesting this and are happy with it. They did quietly accept from a lawyer representing them an agreement to change some language. I had a chance to speak to them outside the halls and I would say that they agreed with me that it is only a matter of time until we have another lawsuit. So I would strongly encourage you to oppose the motion on the floor. Thank you.

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

Representative **STRANG BURGESS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Just briefly, point of clarification. I believe what I said was that we heard from no Maine employers because, remember, PBMs work for and are hired by a Maine employer to help manage the drug benefits for their employees. That's what these folks do. I did not say that we hadn't heard testimony from pharmacies, in fact we did, and the good Representative from Gorham is correct. However, I would also continue to tell you that after the public hearing where we heard this bill and we also heard Representative Beck's bill, we actually took some of the pharmacy parts out of Representative Beck's bill and put it into the Majority Report. So it is really unfair to say that pharmacies were strongly, strongly against this because in its original format they were, however, my understanding is that that has been greatly softened and given some level of comfort. This bill is being supported by the Maine Merchants Association, the Maine Underwriters Association, and a number of others out there. I don't believe you all as individuals have received comments from pharmacies. I certainly have no letters or anything that I've received here with a current complaint about that. So just to note that that's how this report was arrived at and it's first in the nation and only in the nation law and it needs to be repealed. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from North Berwick, Representative Eves.

Representative **EVES**: Thank you, Mr. Speaker. I rise to address a comment that was made about there is no problem in Maine. The reason we have this law is because there was a problem in Maine and I think that the fact that there hasn't been continued problems in Maine is in large part due to the current law. A lawsuit that resulted in a settlement agreement, which was spearheaded by many states, and I will read the list of states: Pennsylvania, Massachusetts, Maine, Florida, Arizona, California, Connecticut, Delaware, Illinois, Iowa, Louisiana, Maryland, Nevada, New York, North Carolina, Oregon, Texas, Vermont, Virginia, and Washington were all part of that and resulted in a settlement agreement. Again I will just reiterate I believe the reason why there haven't been additional problems and lawsuits identified since the law went into effect is because of the law. If we repeal this, I would agree with the good Representative from Gorham that we will see others. I urge you to please oppose the pending motion. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Beck.

Representative **BECK**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I oppose the pending motion. I appreciate sincerely that the Representative from Cumberland included some provisions of legislation I've brought before the HHS Committee in an attempt to soften our position, I suppose, from the pharmacy community. I'm not sure what their official position is but as far as the pending motion and the text of the Majority Report, the greatest concern I have, and again I say this with respect to the Representative from Cumberland and the intent, the greatest concern I have is that the Majority Report essentially repeals protections when it comes to mail-order pharmacies. Mr. Speaker, you know and members of the House know mail-order pharmacies in their practices, their pricing, their ownership, that's often the greatest concern to the independent community pharmacies who are Maine businesses and who we should support. Thank you very much. Please oppose the pending motion.

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. 180

YEA - Ayotte, Beaulieu, Bennett, Bickford, Black, Burns DC, Burns DR, Casavant, Cebra, Celli, 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, Rioux, Rosen, Sanderson, Sarty, Shaw, Sirocki, Strang Burgess, Tilton, Timberlake, Turner, Volk, Waterhouse, Weaver, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

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

ABSENT - Hanley, Wintle.

Yes, 79; No, 69; Absent, 2; Vacant, 1; Excused, 0.

79 having voted in the affirmative and 69 voted in the negative, 1 vacancy with 2 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-608)** 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-608)** and sent for concurrence.

Majority Report of the Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought Not to Pass** on Resolve, To Direct the Department of Inland Fisheries and Wildlife To Add One or More Moose Hunting Seasons in Wildlife Management District No. 8 (EMERGENCY)

(H.P. 134) (L.D. 151)

Signed:

Senators:

MARTIN of Kennebec
PATRICK of Oxford
TRAHAN of Lincoln

Representatives:

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

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

Signed:

Representative:

CLARK of Millinocket

READ.

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

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-619)** on Bill "An Act To Assist Persons Who May Be Eligible for Social Security Disability Assistance"

(H.P. 737) (L.D. 1001)

Signed:

Senators:

McCORMICK of Kennebec
CRAVEN of Androscoggin
FARNHAM of Penobscot

Representatives:

STRANG BURGESS of Cumberland
EVES of North Berwick
FOSSEL of Alna

MALABY of Hancock
PETERSON of Rumford
SANBORN of Gorham
SANDERSON of Chelsea
STUCKEY of Portland

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

Signed:

Representatives:

O'CONNOR of Berwick
SIROCKI of Scarborough

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-619)** 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-619)** and sent for concurrence.

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-617)** on Bill "An Act To Impose a Lifetime Maximum on the Receipt of Welfare Benefits"

(H.P. 1114) (L.D. 1511)

Signed:

Senators:

McCORMICK of Kennebec
FARNHAM of Penobscot

Representatives:

STRANG BURGESS of Cumberland
FOSSEL of Alna
MALABY of Hancock
O'CONNOR of Berwick
SANDERSON of Chelsea
SIROCKI of Scarborough

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

Signed:

Senator:

CRAVEN of Androscoggin

Representatives:

EVES of North Berwick
PETERSON of Rumford
SANBORN of Gorham
STUCKEY of Portland

READ.

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

Majority Report of the Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A"**

(H-629) on Bill "An Act To Promote Fair and Efficient Resolutions in Tax Disputes"

(H.P. 1010) (L.D. 1371)

Signed:

Senators:

TRAHAN of Lincoln
HASTINGS of Oxford
WOODBURY of Cumberland

Representatives:

KNIGHT of Livermore Falls
BENNETT of Kennebunk
BICKFORD of Auburn
BURNS of Alfred
HARMON of Palermo
WATERHOUSE of Bridgton

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

Signed:

Representatives:

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

READ.

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

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

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-625)** on Bill "An Act To Repeal the Maine Certificate of Need Act of 2002"

(H.P. 286) (L.D. 360)

Signed:

Senator:

CRAVEN of Androscoggin

Representatives:

STRANG BURGESS of Cumberland
EVES of North Berwick
FOSSEL of Alna
PETERSON of Rumford
SANBORN of Gorham
STUCKEY of Portland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-626)** on same Bill.

Signed:

Senators:

McCORMICK of Kennebec
FARNHAM of Penobscot

Representatives:

MALABY of Hancock
O'CONNOR of Berwick
SANDERSON of Chelsea
SIROCKI of Scarborough

READ.

Representative STRANG BURGESS of Cumberland moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

Representative **STRANG BURGESS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to draw your attention to item 6-9, if you are looking at your *House Calendar*. I would like to explain that we have a clerical error in the printing of this page. There were several revotes of this bill and unfortunately this captures one of those votes that was done earlier in the session and so I would just like to verbally correct it for you. So on the Majority Report, Senators: Senator McCormick, Senator Farnham. Representatives that are on the Majority Report: Representative Malaby, Representative O'Connor, Representative Sanderson, Representative Sirocki and Representative Strang Burgess. The folks that are sitting in the Minority Report position are Senator Craven. The Representatives are Representative Eves, Representative Peterson, Representative Sanborn and Representative Stuckey, and Representative Fossel is actually on the Majority Report. So if you followed that then you are doing better than I am at this time. Thank you very much.

On motion of Representative CURTIS of Madison, **TABLED** pending the motion of Representative STRANG BURGESS of Cumberland to **ACCEPT** the Majority **Ought to Pass as Amended** Report and later today assigned.

ENACTORS**Constitutional Amendment**

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

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

(S. "C" S-284 to C. "A" S-154)

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

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

Representative **BERRY**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. We've debated this measure already so I'll be brief. The cause that would benefit from the \$10 million or so dollars per year through this measure as amended in the other body is compelling. It is an excellent cause. And if anyone in this chamber has a district that would benefit, it is me. Thousands of acres managed by Inland Fisheries and Wildlife are in my own district and yet I do have reservations about the fiscal policy that we would be enacting if LD 563 is enacted here today.

So I spent the weekend talking with constituents. I discussed with my constituents that this really was a tradeoff between the narrow interests of my own district or the broader interests of our constitutional integrity and good democratic fiscal policy for our state as a whole. You know already, Mr. Speaker, that this measure would be the very first constitutional earmark enacted by the State of Maine. The first time Maine or in fact any state dedicates existing General Fund revenue to fisheries and wildlife outside of our budget process and in perpetuity, unless in some future date our Constitution were to be changed. The bill helps Inland Fisheries and Wildlife, to a lesser extent the Department of Marine Resources, but it permanently hurts General Fund revenue, revenue sharing to towns – that's aid to local taxpayers towards the marketing and promotion, and transit, aviation and

rail. My constituents were unanimous: Do what is right for our state and for our Constitution first. If you lose, at least our district will win, but please put the state and the Constitution first.

Mr. Speaker, I would refer you to the pink sheet which details what this measure would do to our aid to towns and property tax reduction to tourism, marketing and promotion, to transit, aviation and rail. I would refer you to the orange sheet which discusses the unprecedented constitutional action that we would be taking here today if we do go forward. And I would again say that this is a great cause. I think we all agree on that. I would love to support it. My constituents would be perfectly pleased if it passes. But for the sake of the state as a whole, Mr. Speaker, I cannot. Thank you.

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

Representative **DUCHESNE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. In 1975, I graduated from Colby College with a classmate who went on to become Maine's first female game warden. She retired three years ago and I heard from her just a couple of weeks before she was ready to leave the service and she was explaining to me just how broken the IF and W budget was. During that period she was on such a restricted mileage limit that if she attended a meeting in Augusta, she could not patrol her district for a week. That's how bad it was back then and it has not gotten any better.

I feel honestly like such a hypocrite. Like everyone else I listen to the debate about when ATVs can be stopped and I know our wardens can't even go. Like everyone else I supported engrossment last week of LD 1569, "An Act To Restore the White-tailed Deer Population and Improve Maine's Wildlife Economy and Heritage." There is some good stuff in that bill, but there is no General Fund support. Section 6 of that bill that we're going to pass during this session says "The Department of Inland Fisheries and Wildlife shall report to the Joint Standing Committee on Inland Fisheries and Wildlife no later than February 1, 2012 on the department's efforts to secure revenue to enhance the department's efforts in protecting and expanding the State's deer population." What, a bake sale? Once again, I've given the Department a turnip but asked them to give blood from it. There comes a time when you have to stop pretending that a job we said has to be done is actually getting done. We have met the enemy, he is us. I recommend that we support the yes vote on this. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Glenburn, Representative Guerin.

Representative **GUERIN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I urge you to support LD 563. The license fees of the State of Maine can no longer afford to supply the money needed for the search and rescue and the endangered species. We need to have the support of the General Fund to help fund this important part of Maine's heritage.

I would also like to read into the record an open letter to the members of the House of Representatives and to the people of Maine by Senator David Trahan:

"A few constituents have asked why I sponsored LD 563, "RESOLUTION, Proposing an Amendment to the Constitution of Maine To Use a Portion of the Sales and Use Tax for the Protection of Maine's Fish and Wildlife." In our deliberations, it is easy to focus on the issues that divide us. One issue, love of our environment and all the creatures that call our woods, waters and skies home, is not one of them. Without question, Maine's clean water, undeveloped areas, wildlife and scenic beauty are important parts of our history, culture and hopefully, our future.

"The Maine Department of Inland Fisheries and Wildlife

touches almost all natural resources that Maine people hold dear. Recognizing the value of this tiny department, legislative stewards proposed and Maine citizens ratified a Constitutional Amendment that placed special protections on the revenue raised by sportsmen to ensure that all money raised by license fees would be spent on programs within the department and benefited sportsmen.

"Unfortunately, these visionary thinkers could not foresee the destructive budget process that would evolve from their well-intentioned work. As predictable as the change of seasons, the small portion of unprotected General Fund money the department receives annually is slashed and sportsmen face two choices; cut programs or increase fees to maintain programs such as endangered species protection and search and rescue. We know these vital programs will never be eliminated or cut - they are too important. Past administrations have figured this it out and each budget cycle, more and more General Fund spending responsibility is shifted to license fees paid by sportsmen.

"This clever sidestep around the intent of the Constitutional Amendment has become the department's and Mainers' Achilles heel. Inland Fisheries and Wildlife spends 75,000 hours on programs serving the general public for which they receive virtually no general fund support.

"A statute passed during Governor King's administration stated it was the intent of the Legislature and the Governor to cover the 18.5 percent General Fund spending within the IF&W budget unrelated to sportsmen; the ink on this new law wasn't even dry when the Legislature ignored it. Further, budget cutting measures have riddled this department. Sportsmen are conservationists, but expecting their license fees to indefinitely fund programs of the General Fund is unsustainable and in time will lead to license fees only affordable to the affluent. Activities like hunting and fishing that were once important elements of this state's heritage and culture will be for many, financially, out of reach.

"This is where only the Constitution can resolve this issue. Decades have passed with legislators ignoring this funding problem and wildlife management has suffered. It is no coincidence that Maine's deer herd has collapsed.

"Unlike England when this nation was founded, it was established in Constitutional law that wild natural resources belong to all of us. Deer in our woods are not reserved for the King. Unfortunately, for our state's poorest citizens, unaffordable license fees are as much an obstacle to participation in consumptive activities like hunting and fishing, as the King's law. If this issue remains unresolved, there will soon be a day when only the well-to-do can afford the department's licenses.

"There is another sinister way in which Maine people lose their rights. In the absence of proper funding or the will to cut essential programs, legislators and committees of IF&W and DMR continue to propose ways to raise money. To be honest, I am embarrassed that we have to create and rationalize new schemes to generate money. Proposals like outdoor access cards, new registrations, expanded lotteries, registering canoes and kayaks, saltwater fishing licenses and the list goes on. These proposals were widely opposed by the public but many were passed and the result - one less right to freely use Maine resources.

"LD 563 will end this destructive yearly process and commit a small portion of the sales and use tax, about \$10 million per year, to pay for General Fund programs of this department and DMR's Sea Run Fisheries program. Some might argue this money should remain in the General Fund; I would argue this money is simply the money sportsmen pay in license fees to subsidize programs for all Maine people. Arkansas, Missouri and

Minnesota have adopted Constitutional Amendments to dedicate a portion of their sales and use tax for their inland fisheries and wildlife agencies. These states have recognized that investment in natural resource management is an important piece of their future economy and prized rural lifestyle.

"As president of a fish and game club, I have helped organize many youth fishing events and other outdoor activities that teach children how to share our natural resources in a sustainable way. Many of the children who participate are poor and without means. It is for them and future generations that I introduced this bill."

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. Let me begin by saying that this will be the first time this session this year that I will be voting for a constitutional amendment for the Department of Inland Fisheries and Wildlife, and I do so because for the last 20 years some of us have made an effort to fund the amount of money to the department that where we use and we require the department to do various things over and over again, and we simply have been unable to get people to agree to a funding mechanism. So year after year, we put more burdens on the department, whether it be search and rescue or other things, and we simply refuse to fund it. I understand what happens in the Appropriations Committee because I have been there a few terms. The priorities are determined to be set and then the next things that happen at the very end, it's a question of whether or not we're going to do something for Human Services or are we going to do tax cuts, and then the Department of Inland Fisheries and Wildlife falls on the wayside. I think it's unfortunate, but this is the only way in which we can accomplish that goal. So I am going to urge you to support the constitutional amendment this morning and urge you in the long run that this may be the only way in which we will be able to fund the things that the Legislature tells the department to do. There is no other way. It has been 20 years of trying to accomplish that goal. We know the requirements we've imposed on the department and collectively we have been unable to move it. Unfortunately, this is the only way we have and I urge you to vote for passage of the constitutional amendment.

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

Representative **McCABE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise today to support the pending motion and as many of you I realize that our natural resources are the base of our economy here in the State of Maine. That includes our fish and wildlife, our Maine brand and our quality of life. One thing that's really clear to me is that people come to the State of Maine because of not only our consumptive uses of our natural resources but our non-consumptive uses of our natural resources. I look at this as an investment, an investment in our economy, locally and statewide. I think that we can't pass up this opportunity today to rebuild our fishery, to rebuild our deer herd, to look at programs in DMR that will actually return fish to our rivers, lakes and streams, but will build the Maine economy and the Maine brand and grow our sporting resources. Thank you very much.

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

Representative **HASKELL**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I oppose this motion. This is bad fiscal policy. This is not the way we fund departments. It would be interesting to see when we get on to our budget debate if anyone stands up and finds a million dollars of shift that you would take. Where would you take that from in

order to put that back into the Department of Inland Fisheries and Wildlife if this is such a priority? I'm guessing there is nobody here who is willing to sit down with the Appropriations Committee and try to hammer out another compromise that finds another million dollars and put it over in Inland Fisheries and Wildlife, because should this constitutional amendment pass, that's just exactly what the committee is going to be faced with because they will not have a choice. My opinion is that it is very likely that that money will end up being substituted for any money that we are currently putting into Inland Fisheries and Wildlife and may not actually mean any increase in the amount of money that is allocated to the Department of Inland Fisheries and Wildlife. This will supplant. There is the potential that this will supplant as opposed to add to the amount of money going into the department.

Secondly, while this department is important, there are other departments that are important as well that we have not created a constitutional amendment for, and because my committee is Criminal Justice and Public Safety I'm going to talk about the State Police for a moment, who have exactly the same number of troopers on the road as they did in 1976. Have we asked that department to do some additional things? There are things here that folks would very much like to have done. The Computer Crimes Task Force, the sex offender registry. The amount of paperwork that is required from officers now that was not required in 1976. How about the DNA kits that sit unprocessed because we don't have the resources to do it? There are other departments for whom the amount of money that they have received has not been adequate for the jobs that we've asked them to do. That's what we have an Appropriations Committee for, is to make that balance between them, and I think again this is poor fiscal policy. Thank you.

The SPEAKER: The Chair recognizes the Representative from Brooksville, Representative Chapman.

Representative **CHAPMAN**: Thank you, Mr. Speaker. Mr. Speaker, Colleagues and Friends of the House. I agree with every point that's been made so far. As a member of the Marine Resources Committee I am well aware of the desperate need in that department for some additional funds. I know that some of our fishing industry's ability to ship product out of state hangs by a very narrow thread. I am well aware that the Marine Patrol staffing levels are strained beyond reason. I am also aware that this is bad fiscal policy and yet I hear the pleas for finding some funding mechanism for these desperately needed programs. But the thing that stops me from support of this bill has to do with the fundamental question that the money has to come out of something else if we use this mechanism. If this were a proposal to change the sales tax to provide the additional funds that would be different, but since we have to take the money from something else in order to put it here, my question is where is that money going to be taken from and will that be a reasonable thing to take it from, and my guess is that it won't be. So I will be voting against this. Thank you.

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

Representative **SARTY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. There has been some great comments made in regard to the problem of financing our state's Fish and Wildlife Department. The same comments have been made for 40 years or more. When I joined the Warden Service in 1974 there were 118 game wardens in the state. I believe right now there is 87 to 92, somewhere in there, and yet they are asked to do more tasks, additional duties than ever and most of those things have been heaped upon them by this body.

The problem with the State of Maine is we never recognized how valuable our natural resources are to the economy of our state, as far as I'm concerned, in the State Legislature. It is like owning a restaurant. If you have a restaurant in a great location and it can feed 35 to 40 people and you have a line out the door, is it practical to make the investment to put an addition on the restaurant so you can take 55 people or 60 people? That's the situation with Fish and Wildlife in this state and our natural resources. We've never prioritized it. We've never invested in it. We've let dedicated revenue, which makes it very different from the State Police, be the only source of revenue that funds the department. The time has come to make a decision.

These people are asked to maintain our hatcheries, maintain the lands that are owned by this agency, maintain our natural resources in the form of fish and wildlife, enforce the boating laws, the snow machine laws, the ATV laws, supervise and oversee all search and rescue in the State of Maine. We sat in Room 206 in the Cross Building three years ago when game wardens were limited to 65 miles a day on their motor vehicles. You couldn't even get to a gas station and go back home for many wardens with the restriction of 65 miles of driving. We had 14 snow machine fatalities in this state in a matter of six weeks. The Chief Executive authorized overtime and even called on the Secretary of State for his four or five enforcement people to work as wardens to go out and concentrate on snow machine enforcement because of the out of control fatalities that were occurring in Maine.

The point is dedicated revenue is no longer enough money to run this agency if they are going to continue to offer the people of Maine the level of services that this State Legislature has expected of them. If there is no increased revenue, if the promise of the additional funding from the General Fund which is always made but never happens continues, the only recourse the department will have is to look at what services they can cut. There is no more and it's a shame it's come to this, where we have to ask for a constitutional amendment because this body has been incapable for 35 to 40 years of recognizing the need in some General Fund revenues to help this department meet the services that we are asking them to meet. I think it's a bill that's here. It's here, the time is now to do it and make the commitment.

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

Representative **SHAW**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I stand in strong support of the pending motion. I'd like to make a couple of corrections to some of the remarks that were made today. First, from the Representative from Bowdoinham, Representative Berry, first there is a constitutional amendment that directs money. It directs it to the unfunded actuarial liability in the state retirement system, so this wouldn't be a first for our state.

There was remarks about money coming in supplanting other money that IF and W has. That would not be the case because IF and W gets no General Fund money. That's right, folks. We got nothing. So I'd like to take a look at tourism and the effects that IF and W have for our state. Fourteen and a half billion dollars in economic activity can be attributed to tourism and IF and W. I also look at this as an investment in our economy.

Some folks may be wondering why I distributed an enlarged copy of the state seal. If you take a look at it you'll notice front and center there is a moose laying down under the pine tree. I'll have to tell you folks that right now the State of Maine does not have one single moose biologist. I find that to be a shame. We have tourists coming to Maine constantly looking for moose, whether they are hunting or money would be attributed to people

viewing moose, and we don't have a biologist that can tell us even how many moose are in the state right now. So I strongly urge you to vote in favor of the pending motion. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Celli.

Representative **CELLI**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will once again oppose this motion. There is no doubt that they need the money. There is no doubt that they can do wonderful things with the money. But this is not a slippery slope we're on, this is the fastest waterslide in any water park. This is not the way we fund things. If there is that much support for it, because I would even support this, let us make an amendment to the budget and do it the right way. Or better yet, if we really want to fund them, hopefully we're going to be opening up these casinos. Let's take 1.24 percent of the casino revenue and give it to them, so that now instead of \$6 million or \$12 million, they're going to get \$500 million so they can really do their job. Let's dedicate it to that, but let's not start this. My only hope is if it does pass and it goes to the voters and they pass it that the state will fund it the same way that the state funded education when the voters passed that back five years ago. Thank you.

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

Representative **BRIGGS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'll keep my remarks brief, but I do echo all of the positive stuff that everybody has said about the department. It is very vital and crucial in supporting the department I believe.

Currently the majority of the department programs are funded by sports men and women, including access to Maine's waters, habitat, conservation, programs for youth as well as many others. All of the work of the department benefits all citizens of the state. Without the work of this department, revenues generated because of Maine's healthy natural resources would strongly decrease. I've always said in committee since I've been serving on that committee, that the Inland Fisheries and Wildlife Department is a very unique department and that they provide services to the citizens of the State of Maine, and it's always, always such a battle to do just that because of the lack of funding and the cuts to the department year after year. By funding this, also this will generate revenue, absolutely generate revenue for the department and the State of Maine. So you know it's a win/win situation. So I just wanted to share those comments. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Kruger.

Representative **KRUGER**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. As a skier will tell you, every slope is slippery. This is a great cause and as a member of the Joint Standing Committee on Marine Resources, I am very much in desire of having a million bucks go to DMR, also a chronically unfunded department, also losing revenue because we're not funding it. We're losing business in the State of Maine.

Some of you actually may know some of the people who will serve in the 126th and 127th and 128th Legislatures and I can hear them now. Let's listen. I can hear them. They are cursing us right now. Putting one department above all others in the Constitution, tempting but it's bad governing. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Rotundo.

Representative **ROTUNDO**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I'm speaking today not to argue against the need for IF and W funding. I know how

important their need is. I am speaking against the proposed method for funding IF and W. This year we're talking about part of the sales tax being dedicated to IF and W. Next year we could be talking about part of the sales tax being dedicated to general purpose aid to education. It could be the State Police the year after, the year after that higher education. The list goes on and on until the point where all of our sales tax and use tax is dedicated. Eventually there will be no revenue left for other things in the budget that are important. This is not sound fiscal policy and I would urge you to vote against this. Thank you.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Dow.

Representative **DOW**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The list does go on and on and we need to ask ourselves a question. Is the money that we're investing coming back to us as a return? I say yes.

Over the years the money that this department has received has become lower and lower, but there is one area in the state that this state is known for other than its rocky coast, other than the beautiful hills of Aroostook County, the blueberry fields of Washington, the small towns of Whitneyville or Stacyville, but the fish and game in this state are vital to the economic interests of this state. And I've watched our deer herd decline, not so much from neglect but they need help. The deer herds have problems from coyotes, from turkeys. The biggest problem with the deer herd has been the closing of all of our farms in Maine. I've watched the increase of the lynx in Maine. Most of us know that that lynx population grew because of the clear cutting that took place in the '70s and now that is changing, but they need help also. We've had occasional talks about wolves, bringing wolves back. I've got news for you: There are some up there. They are not very seldom seen, but you can't mistake the noise they make at night. They are not like anything else you've ever heard and they could use our help. Fishing could use our help. All of these things are economic and they'd help make and identify the State of Maine in brand and make quality of life here a reality. So I would urge you to support this. Of course I do so for other selfish reasons. I have a heritage that goes back to fish and game also. I had a great uncle, Uncle Levi, Levi Dow, who was appointed head game warden of Aroostook County by the great fish and game commissioner George Stobie. When he was appointed somebody said to George Stobie "You can't appoint Levi Dow head warden. He's one of the biggest poachers in northern Maine." George Stobie said "When I took the oath of office I took an oath to uphold Fish and Game to the best of my ability and to get Levi Dow on our side is the best move I can think of." And so I do have some heritage in that department and I would urge you to support this. This is an economic move. This is a research and development that may be the only one we get this year. This will have a return on investment. It surely is adding on or improving any business and I would urge you to support this constitutional amendment. Thank you.

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

Representative **BERRY**: Thank you, Mr. Speaker. I agree with those who have said that this will be a win/win measure and I will sleep well regardless of the outcome here today knowing that I voted not in the easy manner but in the most responsible one.

It is true that our Constitution requires us to pay our debts. Nowhere in our Constitution do we earmark General Fund monies for new spending. We do that through our budget. Many of us like to complain about earmarking at the federal level. Federal earmarking accounts for less than 1 percent of the

federal budget. This measure alone would dedicate 1.2 percent of our sales tax revenue, which is a substantial portion of overall General Fund revenue to one specific department and a small amount to another.

I sponsored legislation two years ago which helped to establish the great return on investment that our fisheries represent. I will wholeheartedly support further investments in all of the causes that this measure would support through the budget process and will do so to the best of my abilities in the future if this measure fails to pass.

Mr. Speaker, there have been a dozen or so lobbyists and department members in the halls working in the halls to encourage us to take the easy vote today. There are no lobbyists in the halls for fiscal responsibility. There are no lobbyists in the halls defending our Constitution against earmarking. Mr. Speaker, if you'd like to help my district, I hope you'll vote green on the pending motion. I encourage all who are interested in helping my district, where over a quarter of the acreage is managed by Inland Fisheries and Wildlife, to take the easy vote. This is a win/win bill. I know, Mr. Speaker, that my constituents do not want me to vote the easy way, they want me to vote for fiscal responsibility and for the Constitution. Thank you.

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

Representative **CLARK**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I'm not as old as the good Representative from Hudson, Representative Duchesne, but I served on the Committee of Fishes and Wildlife since 1980. Every year after, year after year, year after year we're struggling to keep that department surviving. Is this the right thing to do? I don't know. I can listen to the former members who are going to serve in this body down the road and I can hear them say "What has taken you so long to do what you did back in the 125th?" I can tell you right now there are groups out there looking to pay their fair share, looking to find a way to help the department knowing that they are using the resources but not paying.

At one time we used to get around \$10,000 to cover search and rescue, even if the bill was \$100,000 we'd get \$10,000, and the bulk of search and rescue came from people, individuals that had no ties to hunting and fishing, bird watching, canoeing, whatever it may be. They want to pay their fair share. I hope when you vote today you do the right thing to help the department because they bring in a lot of revenue to the State of Maine. I want to be fiscally responsible also. Yes, we're not out in the hall, we're sitting in this chamber. Nobody that's out in the hall is telling me how to vote. I'm sitting in this chamber. So when you make your vote today, make the right conscience vote for the people of the State of Maine, where we can fund this department properly that we should have done the last 50 years. Thank you very much, Mr. Speaker.

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

Representative **CEBRA**: Thank you, Mr. Speaker. I rise in support of the Final Passage of this and I had the good fortune of serving in the 122nd Legislature on the IF and W Committee. I came to realize at how difficult a job it is with limited funding to preserve our most important resources. We need to do this. It's not the best thing in the world, but we've been – you know, I sit here and I listen to some people say how we shouldn't put one department ahead of other departments. Well, having spent that time in IF and W, having now spent the last five years on Transportation, having spent an inordinate amount of time in the Criminal Justice Committee and seeing that the State Police are doing more with less, that the Warden Service is called to do more with less, that the Department of Transportation is called to

do more with less. We've already put one department ahead of these other departments and it's time for us to do this so that the department gets the funding that it needs because to be able to do the basic functions of the department, they need the resources and it's just time to do that. So the people in the 126th and 127th, they're going to look back and say thank goodness they did this in the 125th, because at the end of the day when we neglect our infrastructure, when we neglect these basic functions and we fund them less and less, it's time to stand up and say this is where we draw the line in the sand. So I just certainly hope that you support the passage of this Resolution.

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

Representative **BURNS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I, like many of you here in the chamber, am concerned about fiddling with the Constitution, but I think we've come to the place where we have to realistically look at how we're going to maintain the resources that everyone in this chamber here says that they love and they want to preserve and they want to take care of. I think this is a considered decision that we come to. Times are tight in this state and I think that our conservation efforts have been laudable, but I think they have failed in a lot of areas because of lack of funding or lack of consistent funding.

I live in the Washington County area which used to be the deer herd capital of the Northeast, and as I've said several times before, you'd do well to find a deer in that county now. Many of us came here the beginning of this session and put in bills to help restore the deer population in this state, which is not only a good thing to do for conservation, but it's also a big economic driver. But you can't do that without financial support. It's one more responsibility on the department without funding, unless we come up with a funding mechanism. This is one way to make sure that that happens along with all the other cherished wildlife that we talked about this morning.

As I think about this vote that we're about to take, I do support it and I think it's a responsible vote. I've heard the suggestion that maybe we need to do the responsible thing and that means different things to different people, but I think making this considered decision is a responsible decision we make, and it won't be very long after we've made this decision before the State of Maine will tell us whether or not it was a responsible thing by verifying it. So I don't feel that we're out on a limb whatsoever. I think we're here to make the decisions and today we're being asked to make a decision to support wildlife and our heritage in this state the way we all say that we love and cherish it. So I would urge you, Mr. Speaker, and the House, to support the amendment on the floor. Thank you very much.

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

Representative **SOCTOMAH**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise to ask that you support this constitutional amendment and vote to pass LD 563 and allow the Department of IF and W to carry out the requirements imposed upon them to protect the natural resources of Maine. Because of man's connectedness to the natural resources throughout this world, it is everyone's responsibility to take care of the resources that affect our quality of life and wellbeing. Please support the natural environment that sustains us as people. Thank you, Mr. Speaker.

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

Representative **DRISCOLL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I've never served on IF and W. I did spend my childhood growing up in

Washington County. I do remember days when yellow foam and sewage and effluent flowed freely down the river. That's no longer the case. I remember, you know, getting lost and following a stream up through the woods going fishing. I think those are all important aspects that we need to have a heightened sense of responsibility for. I now live in Westbrook, represent half of Westbrook. My seatmate here represents the other half. We've been doing much to create a cleaner, better habitat in the Presumpscot River and I think we're slowly getting there. So I think there are efforts throughout the state to improve the quality of life for everyone through the use of our natural resources and to enhance those where we can. However, I agree with some in the chamber that I just feel that this is an irresponsible way of governing fiscal policy in the state.

This whole process reminds me of an email I got from my committee and legal analyst a few days ago and there was an email that we had a number of bills on the table in the Appropriations Committee. That email requested me to prioritize those bills as I saw them fit to be possibly funded through the Appropriations process. You know, I think the way we're going about this through IF and W is outside of the process that we normally use in this Legislature. I think this is our job, to make the tough decisions. I think if this did need to be funded, that it needed to be looked at maybe in a more responsible manner through the committee process and on the Appropriations Table or within Appropriations. I think we're bypassing the process that we've had in place for a long period of time for essentially, you know, a special interest. I mean we have many special interests and needs within the state right now, not just in IF and W. I've had folks from the blind and visually impaired community in this state, in the last three Legislatures, before my committee to try to find funding, a half a million dollars to support blind and visually impaired kids in this state, in Aroostook County, in Washington County, in Cumberland County, throughout the whole state. Do you think we could cobble up enough funds to support these people? Well, not the funds that they need. Do we feel that they bring a good investment and a return on our investment like the funding that we're looking at giving to IF and W? Well, you know, I think they do. I think they'll be able to educate kids, especially with special needs like blindness, to be able to get in there and help them at an early age certainly helps them hopefully be part of the work force in Maine, be meaningfully engaged with a job and not be on the rolls of those with special needs, to be out there engaged like the rest of us in our communities and to be able to provide for themselves. That's what it's all about and I think that's what these types of programs do and they do provide a need and that need, if it is met, there is a return there, just like Representative Dow talked about, a return on the investment. There are many issues in this state that provide a return on investment, however, you know you might not look at it from a fiscal nature but maybe a human nature. I think there are a lot of needs in this state and I think we have to balance and weigh those, and I'm not sure the way we're following this proposal is the appropriate way to be balancing those needs. That's all I have to say, Mr. Speaker. Thanks very much.

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

Representative **MARTIN**: Thank you, Mr. Speaker. Mr. Speaker, Members of the House. Very quickly, I want to remind people that the Constitution does in fact, over the years, have put limitations on what the Legislature can do. That is whether it's unfunded liabilities, retirement benefits, limitations on expenditures of motor vehicle and motor vehicle revenue, the Mining Excise Tax Fund of which I played a part, and of course the impact of control over state park lands and public lands, and

we've done so primarily because a majority of the Legislature was doing away with things that they shouldn't have been doing and now there are requirements for two-thirds. That's the reason why those things were put in there and that's the reason why the constitutional amendment will work. Let me point out that when you're talking about this budget, this budget is \$6.1 billion. We're talking about \$10 million a year. That is not an excessive amount.

One last point I want to make. There is a provision in the Constitution that we put in a number of years ago to restrict that the monies that came from licenses, fees, etcetera, from the Department of Inland Fish and Wildlife would stay there. Little did we realize, when we did that, that at the time it was assumed that 18 percent in addition to that would come from public funds, from the General Fund, to support non fish and game issues. That's never happened and that's what we're trying to accomplish here today. So I urge you to support the pending motion.

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

Representative **DUNPHY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I don't know how we can support this. I've heard comments like we need to restore wildlife, it should have been funded for the past 50 years, need to do more with less. This appears to me to be a way of avoiding the things that we should be doing and that is funding something that needs to be funded, not making a constitutional amendment and circumventing our responsibilities here. If it needs to be funded, let's fund it. We made a commitment to fund education, we don't do it. Listening to the Representative from Eagle Lake, we made commitments to allocate funds for this in the past and we didn't do it. If we're not going to do it, let's not dance around it, and if it needs to be done, let's step up to the plate and do it from general funding. Thank you.

Representative **CURTIS** of Madison **REQUESTED** a roll call on **FINAL PASSAGE**.

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

On further motion of the same Representative, **TABLED** pending **FINAL PASSAGE** and later today assigned. (Roll Call Ordered)

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

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

Representative **BRIGGS**: Thank you, Mr. Speaker. Had I been present for Roll Call No. 178, I would have voted in the nay.

The House recessed until 2:30 p.m.

(After Recess)

The House was called to order by the Speaker.

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

UNFINISHED BUSINESS

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

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2012 and June 30, 2013" (EMERGENCY)

(H.P. 778) (L.D. 1043)

TABLED - June 14, 2011 (Till Later Today) by Representative CURTIS of Madison.

PENDING - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-620).**

Representative FLOOD of Winthrop **PRESENTED House Amendment "A" (H-636) to Committee Amendment "A" (H-620)**, which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Flood.

Representative **FLOOD**: Thank you very much, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. With a large and complicated document like this, often there is some drafting and data entry errors are inevitable. It has been tradition that the first amendment offered to a biennial budget would be that of the House chair dealing with technical amendments and I have four. It lies before you as (H-636) and I'm just going to briefly read the items that are all encapsulated within that one amendment of technical change.

This technical amendment does the following: It adds language to correct an unintentional reduction in allocations for the lottery operations. Secondly it corrects Part V language to conform to the intent to permit state employees to work through December 30, 2011 and teachers to work through June 30, 2012 to avoid the provision that would require them to contribute 100 percent of their health insurance costs until reaching normal retirement age. This was a very, very small, I think four letter error, but it had a very serious impact. So we were glad that that was caught and has been changed. The third item is a correction to Part S to add the committee having jurisdiction over Legal and Veterans Affairs to the Appropriations Committee as having the opportunity to review a contract prior to final execution. It also clarifies the initial payment process in Part S. The fourth item corrects language in two Part A initiatives in the Department of Education to conform to what was proposed in the Chief Executive change package and voted on by the committee. The initiatives related to reallocation of position costs between programs or funds and the numbers are correct but the initiative descriptions did not get updated. That is the extent of the technical changes.

But I did want to mention something else brought to my attention by the Representative from Eagle Lake, Representative Martin. It is not part, but it is an omission from this that we will correct in January. I wanted to just publicly inform you that typically in our biennial budgets we've tried to take care of the funding of our share of retirement for one or two military retirees who served during a time of conflict, generally speaking the Grenada conflict, and it's not a huge amount of money but we've been trying to catch up on those over time. We paid for two such military retirees a couple of years ago. We just simply forgot to do it this time. It's our oversight. We will address it in January in the next supplemental budget, but the four items I initially listed

are the ones in the technical amendment. Thank you, Mr. Speaker.

Subsequently, **House Amendment "A" (H-636) to Committee Amendment "A" (H-620)** was **ADOPTED**.

Representative HASKELL of Portland **PRESENTED House Amendment "B" (H-638) to Committee Amendment "A" (H-620)**, which was **READ** by the Clerk.

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

Representative **HASKELL**: Thank you very much, Mr. Speaker. Mr. Speaker, Men and Women of the House. I urge you to take a look at this amendment. I want, before we pass this budget, to have it be very clear whether we affirm or reject the recommendations of the Appropriations Committee regarding security in this building. I would first say that no one asked me to put this bill in. No member of the Judiciary approached me nor did they provide me with any encouragement or discouragement regarding this amendment. This is purely my own device today that I'm bringing to you.

In this budget there is \$546,123, just over a half a million dollars, included to provide 100 percent security screening at the State House for us. During this period, and frankly since 2001, and I have all of the State of the Judiciary speeches since 2001 here which I will not read to you, but you can all be sure if anytime you're here you'd been listening to our Judiciary talk about security at our courts. Currently security at our courts is only provided just over 20 percent of the time and this is a place where we know there are criminals going in because it's a court. We know there are people who are anxious, frightened, scared, angry, all going into our court houses, and this budget for which we are responsible for the other branch of government, we have not been able to find the funds in order to fully provide them with security at the 39 courthouses and buildings.

I think before we decide that we are more important, that we ought to be thinking about whether or not we ought to move toward a more full security screening at our courthouses. I find it both astonishing that we would do it first here. This was a recommendation not of my committee, not of Criminal Justice and Public Safety, but a recommendation of Legislative Council. I find it both astonishing that we would consider ourselves so important in our fishbowl that we needed fulltime security and not have the consideration for those people who are going to the courthouse to pick up a protection from abuse order to fill out the paperwork. That might be a dangerous situation and I think until we have fully supported security in our courthouses, we ought not be providing it for ourselves. So I offer this amendment which simply shifts that money from the state budget over into the Judiciary. It does not unbalance the budget and I think it's a more appropriate use of that amount of money. Thank you, Mr. Speaker.

Representative FLOOD of Winthrop moved that **House Amendment "B" (H-638) to Committee Amendment "A" (H-620)** be **INDEFINITELY POSTPONED**.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Flood.

Representative **FLOOD**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I respect very much the Representative from Portland, Representative Haskell, and particularly her leadership in public safety. The area of concern in this particular amendment that she is proposing, the State House security, was very important to our Legislative Council and it was an objective of the Legislative Council in the budget to provide additional security for this building and for the people that come into it. The council also provided to us a total

of \$8 million in savings to the budget and it was a priority of theirs to improve safety and I believe that we met public safety needs throughout our budget as we listen to the different commissioners come before us and express their needs. I personally and I think the committee wants to honor their legislative leadership's safety priorities at the State House and we also want to firmly maintain the integrity of the bill before you and not pull out pieces or shift pieces around. I do hope that you will support the Indefinite Postponement motion. Thank you, Mr. Speaker.

Representative CAIN of Orono **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "B" (H-638) to Committee Amendment "A" (H-620)**.

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

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "B" (H-638) to Committee Amendment "A" (H-620). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 181

YEA - Ayotte, Beaulieu, Beliveau, Bennett, Bickford, Black, Burns DR, Cain, Cebra, Celli, Chase, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dow, Dunphy, Edgecomb, Espling, Fitts, Fitzpatrick, Flood, Fossel, Foster, Gifford, Gillway, Guerin, Hamper, Harmon, Harvell, Hayes, Johnson D, Johnson P, Keschl, Knapp, Knight, Libby, Long, Maker, Malaby, Maloney, Martin, McClellan, McFadden, McKane, Morissette, Moulton, Nass, Newendyke, O'Connor, Olsen, Parker, Parry, Picchiotti, Pilon, Plummer, Prescott, Richardson D, Richardson W, Rioux, Rosen, Rotundo, Sanderson, Sarty, Shaw, Sirocki, Stevens, Tilton, Timberlake, Turner, Waterhouse, Weaver, Webster, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

NAY - Beaudoin, Beavers, Beck, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Burns DC, Carey, Casavant, Chapman, Chipman, Clark H, Clarke, Cornell du Houx, Dill J, Dion, Driscoll, Duchesne, Eberle, Eves, Flemings, Gilbert, Goode, Graham, Hanley, Harlow, Haskell, Herbig, Hinck, Hogan, Hunt, Innes Walsh, Kaenrath, Kent, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Mazurek, McCabe, Morrison, Nelson, O'Brien, Peoples, Peterson, Priest, Rankin, Rochelo, Russell, Sanborn, Strang Burgess, Stuckey, Theriault, Treat, Tuttle, Valentino, Volk, Wagner R, Welsh.

ABSENT - Fredette, Wintle.

Yes, 83; No, 65; Absent, 2; Vacant, 1; Excused, 0.

83 having voted in the affirmative and 65 voted in the negative, 1 vacancy with 2 being absent, and accordingly **House Amendment "B" (H-638) to Committee Amendment "A" (H-620) was INDEFINITELY POSTPONED**.

Representative BURNS of Whiting **PRESENTED House Amendment "C" (H-639) to Committee Amendment "A" (H-620)**, which was **READ** by the Clerk.

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

Representative **BURNS**: Thank you, Mr. Speaker. I realize that most of you folks in this chamber are in the posture to reject the amendments as they come through. I understand what the procedure is and I know you are as tired as I am and you want to get out of here as soon as possible. I would just ask your indulgence for a moment and please listen to what I have to say. I will try to be very brief.

As most of you know our Chief Executive has petitioned the Federal Government with a formal request for a waiver of maintenance of effort requirements. Essentially this went to the Honorable Kathleen Sebelius at the U.S. Department of Health and Human Services and we are anticipating, I think the state, a

favorable answer to that request. My understanding is there has already been a verbal agreement to give us that request for a waiver. Maine's situation with Medicaid program is extremely generous and in several instances it has exceeded the minimum guidelines for eligibility set by federal laws. I want to give you a couple of examples so that you'll know what I'm talking about. I think most everyone here understands this.

Childless adult waivers programs, in regards to that Maine is one of just six states that covers childless adults through a waiver. Our waiver program ensures approximately 17,500 adults with an annual budget of over \$80.3 million. Medicaid/Medicare buy-in programs. Under that, Maine, Connecticut, and the District of Columbia are the only states and districts that exceed the federal minimums and requirements for eligibility for this buy in program, where the federal requirement for a qualified Medicaid beneficiary is 100 percent of federal poverty level. Maine's eligibility is 150 percent. Where the federal requirements for specified low income Medicare benefits is 120 percent, Maine's eligibility rate is 170 percent. For qualified individuals the federal requirement is 135 percent. Maine's eligibility rate is 185 percent.

The Katie Beckett program, for instance. Maine covers 1,000 children in this program at an annual cost of \$20 million, state and federal money. Maine is now charging a 2 percent premium and the present program cannot continue. That would be one of the things we're asking for a waiver on. Unfortunately, Maine is unable to sustain this program because of dwindling resources. Maine faces an \$800 million deficit in fiscal year 2012 and 2013. Today one in five Maine residents, approximately 300,000 individuals, are covered under MaineCare, Maine's Medicaid program. The proposed 2011 and 2012 budget includes more than \$460 million in state funding just to support this loss. The reason for this is because of the dwindling effects of the American Recovery and Reinvestment Act. Passages of the Affordable Care Act require the state to maintain their existing Medicaid eligibility standards, even though those eligibility standards were higher than those in the ACA, and Maine is disproportionately affected by maintenance of effort requirements because it has significantly expanded Medicaid services to optional populations over the last decade.

Today Maine is second in the nation in the percentage of the population that receives benefits, roughly 30 percent. Some of the extended benefits include the childless adult waiver, over \$80 million in state and federal funds. The Medicaid buy in program and the coverage for parents which far exceeds federal eligibility requirements. Medicaid represents 21 percent of the proposed state budget for this year, roughly two-thirds of DHHS's overall budget. From 1996 to 2010, state funding grew 83 percent, while enrollment grew \$100,000. This amendment that I proposed here, if enacted, if attached to the budget, will not increase the budget. It will not slow the budget up. What it will do, if and when we receive the waiver from Secretary Sebelius, when we receive that the state and our commissioner of Health and Human Services will be allowed to adjust our rate of eligibility from the 200 percent that we are paying right now, that we are allowing right now, down to the federal minimum amount of 133 percent.

If I just might quickly read the amendment in case you don't have it up, "This amendment allows the Commissioner of Health and Human Services, upon receipt of a waiver from the Federal Government, to decrease the income eligibility levels for the delivery of federally approved Medicaid services. The commissioner is required to submit a report and suggested legislation changing the income eligibility levels to the joint standing committee of the Legislature having jurisdiction over

health and human services matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs." So consequently what you would facilitate happening here today if you allow this amendment to stand and be attached to the budget, you would give this state the opportunity to decrease the eligibility rate to what the federal standard is, 133 percent. The commissioner of Health and Human Services will then have to report back to these two committees so we would get the final say on it before any changes were actually made, and consequently we would save this state millions and million of dollars, the millions of dollars that are going to be needed in my estimation before we get back here next winter. We're going to be back here with a supplemental budget, there's no question in my mind, because of dwindling resources. This is an opportunity to fill those voids with money that we would be allowed to redirect to services that we all care about without having to deal with it in a supplemental budget. I would ask you to strongly consider this amendment and accept it and attach it to the budget. Thank you very much, Mr. Speaker.

Representative FLOOD of Winthrop moved that **House Amendment "C" (H-639) to Committee Amendment "A" (H-620) be INDEFINITELY POSTPONED.**

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "C" (H-639) to Committee Amendment "A" (H-620).**

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 Winthrop, Representative Flood.

Representative **FLOOD:** Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I sincerely do appreciate the Representative from Whiting's perspective and views. He is a gentleman. The income eligibility levels will continue to be reviewed by the commissioner and her staff as a matter of course without specific direction here. We have worked with the commissioner on both the HHS and the Appropriations and Financial Affairs Committees on these matters and we will continue to do so. It is our view that the commissioner has been very responsive and active, as has the Executive, in efforts to move appropriately regarding eligibility. Many such changes are governed, however, by federal statutes and additional guidance does not seem to be really warranted here. I believe that the commissioner has demonstrated appropriate change efforts in this arena and I support her. I believe she will continue to provide guidance and leadership to all aspects of DHHS and work closely with the respective joint standing committees. It is also important to again keep the integrity of this document in tact. It is an agreed upon document in its entirety and it is vital to keep it as negotiated. Again I respect very much the views of the Representative from Whiting, Representative Burns. I request that you support the motion to Indefinitely Postpone and I request a roll call.

The **SPEAKER:** A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "C" (H-639) to Committee Amendment "A" (H-620). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 182

YEA - Ayotte, Beaudoin, Beaulieu, Beavers, Beck, Beliveau, Bennett, Berry, Bickford, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Carey, Casavant, Cebra, Chapman, Chase, Chipman, Clark T, Clarke, Cornell du Hou, Cray, Curtis, Cushing, Dill J, Dion, Dow, Driscoll, Duchesne, Eberle, Edgecomb, Espling, Eves, Fitts, Fitzpatrick, Flemings, Flood, Fossel, Gifford, Gilbert, Gillway, Goode, Graham, Harlow, Harvell, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt,

Innes Walsh, Johnson D, Johnson P, Kent, Keschl, Knight, Kruger, Kumiega, Lajoie, Libby, Longstaff, Lovejoy, Luchini, MacDonald, Maker, Maloney, Martin, Mazurek, McCabe, Morissette, Morrison, Moulton, Nass, Nelson, Newendyke, O'Brien, O'Connor, Olsen, Parry, Peoples, Peterson, Picchiotti, Pilon, Plummer, Priest, Rankin, Richardson D, Rioux, Rochelo, Rosen, Rotundo, Russell, Sanborn, Shaw, Sirocki, Stevens, Strang Burgess, Stuckey, Theriault, Tilton, Treat, Tuttle, Valentino, Volk, Wagner R, Waterhouse, Weaver, Webster, Welsh, Willette M, Winsor, Wood, Mr. Speaker.

NAY - Black, Burns DC, Burns DR, Cotta, Crafts, Crockett, Damon, Davis, Dunphy, Foster, Guerin, Hamper, Hanley, Harmon, Kaenrath, Knapp, Long, Malaby, McClellan, McFadden, McKane, Parker, Prescott, Richardson W, Sanderson, Sarty, Timberlake, Turner, Willette A.

ABSENT - Celli, Clark H, Fredette, Wintle.

Yes, 117; No, 29; Absent, 4; Vacant, 1; Excused, 0.

117 having voted in the affirmative and 29 voted in the negative, 1 vacancy with 4 being absent, and accordingly **House Amendment "C" (H-639) to Committee Amendment "A" (H-620) was INDEFINITELY POSTPONED.**

Representative MALONEY of Augusta **PRESENTED House Amendment "D" (H-640) to Committee Amendment "A" (H-620),** which was **READ** by the Clerk.

The **SPEAKER:** The Chair recognizes the Representative from Augusta, Representative Maloney.

Representative **MALONEY:** Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I have a simple amendment. When we calculate COLAs, instead of capping the amount of a pension eligible for a COLA at \$20,000, we would raise that cap to \$25,000. This will cost \$26 million. Where do I find \$26 million, from the liquor contract renewals. Instead of using \$20 million from the future liquor contract money this year, we would take \$46 million. That's the full amendment.

Why is this important? It is important because when someone has worked their whole life as a teacher or for the state or as a law enforcement officer and that person receives a pension, the pension should increase as the cost of living increases or how is the person going to survive? Thirty-eight percent of teachers and 55 percent of state workers have a pension at \$20,000 or below. If the cap is raised to \$25,000 it would cover the pension of 55 percent of teachers and 70 percent of state workers and retired law enforcement.

So let me explain a little more of how I find \$26 million. We are currently taking \$20 million from the future liquor contracts. All we have to do is increase that number to \$46 million. We have done this in the past. In 2005, we took \$120 million as a down payment from the liquor contract. Yes, doing this now means that 10 years from now we won't have access to money from the liquor contracts, but if we do not raise the cap now we will never be able to do it in the future. Now this change will give us a onetime cost of \$26 million. Later this same change will cost over \$125 million. So we have to do it now.

I bet all of you have heard from a retired teacher or public employee in the last week. One of them published an editorial in the *Kennebec Journal* today and I'd like us all to consider her words. She wrote: "The state is trying to take away the benefits that were promised to workers when we started at our jobs, some of us decades ago. If the Governor and legislators are all about getting down to business and pro worker, why are they cutting us down like this?" Let's tell them that we're listening. Let's pass this amendment. Thank you.

Representative FLOOD of Winthrop moved that **House Amendment "D" (H-640) to Committee Amendment "A" (H-620) be INDEFINITELY POSTPONED.**

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Flood.

Representative **FLOOD**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I want to thank the Representative from Augusta for her very thoughtful presentation. There were a lot of accurate comments in her presentation. The advance payment on the liquor contract is currently scheduled at \$20 million. This was an idea that I developed over the fall and then when we got the actual budget document I became more and more convinced that we would need some other source of revenue to help us through the waning hours of our budget, and tried to develop a funding vehicle that would be both beneficial to biennial budget closure and to also help us in the long term with infrastructure needs, reserves and liquidity. We try very hard in this process to be sure that we did not establish a very large onetime fund in the down payment of this. We wanted to keep this as low as possible so as to avoid structural gap issues down the road and it seems as though \$20 million was the sweet spot that we could agree to. If we raise this too much higher to the level that the Representative from Augusta suggests, that could very well take some potential bidders or lessors out of the picture and that really was not our intention. We wanted to make this a competitive process in 2013 and the lower we kept that down payment the better off we would be.

What this contract will do is it will establish a down payment, as has been said, and also annual payments over a 10-year period. Our objective was to keep those payments as high as possible. That way we'd be again putting money to our General Fund, to our Stabilization Fund, to our Highway Fund, and to our Clean Water and Safe Drinking Water Funds to help with long-term infrastructure and again reserves. It would be inappropriate to use a very large sum of money for retirement issues in a onetime fund for a long lasting program, so what the Appropriations Committee did was, having discussed this for several months and working on it in as bipartisan way as possible, we agreed to set up a three-year structure upcoming to take the first \$15 million available from our cascade and put it into a special retirement reserve fund to help. In the event that additional monies were available, that money would be turned back into the retirement program and help people with that COLA. It was a very tricky and difficult amendment to craft, but various Representatives on the committee developed that and I think it's a very sound procedure that we developed.

The \$20,000 cap that was established in the COLA was an agreed upon number as all things were in our budget. There was a lot of difficulty in coming up to what was a fair, equitable, empathetic type of a retirement plan that did not take away anything from retirees, and by putting a cap at \$20,000 on the COLAs down the road, we felt that we were covering all people with some kind of a cost of living. Many retirement plans don't have a cost of living at all. This way we are able to maintain one and we felt that \$20,000 was a reasonable cap, and again, that was agreed upon by all the members of the committee.

We deliberated for three months on all the aspects of the pension program and many of us deliberated seven months more than that to get an understanding of how all the moving parts come together is a very complex vehicle called a retirement plan. We reached unanimous conclusions on our deliberations two weeks ago and much needed long overdue changes in our biennial costs and unfunded actuarial liability will come from that. Again, we're not taking away anything from retirees and we're not requiring employees to pay more, yet we're still able to achieve these savings in the most empathetic and humane way, again as described unanimously by the committee. What we're really

doing here is we're limiting the upside potential and if you look across the country and at what other states are having to do now, I believe that our solution is extremely fair, not only to the state employees but to the 1.2 million people who are the primary funders of our State Retirement System. I think that the plan we came up with was fair and respectful, helps us meet our responsibilities to all the people of Maine, and also to be very fair to our employees. To do something to change the \$20 million to \$46 million as the Representative from Augusta has suggested would be taking away from the future infrastructure needs that are chronically underfunded and I mentioned those before: the highway and bridge programs, the sewer and water programs, and also we'd be contributing here to the Stabilization Fund. I believe we accomplished a very reasonable pension plan and in accomplishing it we also established a reserve fund to take care of things in the next couple of years. I respect the wishes of the Representative from Augusta, but I believe the Appropriations Committee did a fine job of coming together on a very, very complex thing and developing, I think, a very fair solution. So I hope that you'll support the Indefinite Postponement and Mr. Speaker, I request a roll call.

Representative FLOOD of Winthrop **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "D" (H-640) to Committee Amendment "A" (H-620)**.

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

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

Representative **BLODGETT**: Thank you, Mr. Speaker. Mr. Speaker, Members of the House. I rise in support of Representative Maloney's House Amendment D to the budget. I appreciate all the hard work that was done on both sides of the aisle to come to this budget. However, I don't believe that we should be doing this at the expense of our retired teachers or retired state employees who planned this after working many years for the state, for public safety. And teachers, I've heard from hundreds of them. I believe that we should be able to increase this to the money that they deserve over the many years that they have dedicated their career to the State of Maine. Thank you. I ask for a roll call.

The SPEAKER: The Chair would inform the member the roll call is already in order. The Chair recognizes the Representative from Whiting, Representative Burns.

Representative **BURNS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm sorry to keep rising about these issues, but they are extremely important issues and I think they need to be discussed a little bit further. I have great respect for the entire Appropriations Committee, including the good Representative chair from Winthrop, but I disagree with some things that have come out of that. No decision is ever perfect. I can't imagine what it's been like throughout the winter considering all of the emails and calls and letters that I got, and probably most you in the House got, from public employees, retirees, and everybody else who anticipated, I guess, the worst of what the final budget would be, and they had a real difficult job in Appropriations trying to make a fair decision on how this was going to be split up. But I, like many of you, come in here with the goal of not only improving the economy but also tackling the pension reform and also welfare reform. As I got those complaints and those letters from my friends and constituents back at home, I was chastised over and over again about the possibility of them having to sacrifice. My consistent answer was to everybody, everybody is going to have to tighten their belt here, myself and every one of my constituents that falls into this

category, because that was the message that I heard and that was the message that I accepted before we were done with this budget, everyone would be treated fairly and everybody would have to have equal sacrifice. Whether it was welfare reform or it was public employees or retirees, everybody was going to receive the same. I'm not sure that that's happened.

When I was a public employee, my first hitch, I poured 40 years of my life into 25 years like many others did. My retirement contribution went from zero to 7.5 percent while I was in. I lived with it, I got by just fine. I came out of there, I went into retirement and then ended up down here along with other jobs. I didn't see that fairness carried over into all of those realms. What I did see was a group of retirees who are kind of in a position where they really can't pull together and have the impact on this body that other groups can, bearing the brunt, I think, of a lot of our reforms. When we say that we're not taking anything away, we ignore the fact that the economy is so bad, whether it's our doing or it's somebody else's doing, and things have been going downhill here for the last several years. That's been taking away from our retirees and I'm not talking about retired state troopers, I'm talking about teachers, DOT workers, other people that have retired with a package. Their earning ability has gone down constantly, consistently, and now after the last two years of no COLAs we're telling them it's going to be another three years. We're also capping the amount of \$20,000 which is the subject of this amendment. I'm not sure that we have consistently applied the harm, I guess, or the effort to make this a fair reduction, a fair implementation. I think that we have missed this mark just a little bit here. I think that the retirees are bearing the brunt of this right now. I haven't seen the overall welfare reform that I thought was going to happen. Maybe that's in the future, we can work towards that. I haven't seen the adjustments in current employees. I know that's a touchy subject, but I think that is part of the package. But I am seeing the impact on retirees, people whose buying ability has diminished every year and it's going to continue to diminish these three years that we're putting caps on their cost of living increases. Some of them are not able to go back to work, as I've been able to and some you have been able to, some of whom are where they are and they have what they have to live on. I think this is a reasonable compromise. I think the good Representative from Augusta has a reasonable amendment and I would ask that you support it and reject the pending motion and support that amendment. Thank you very much for listening.

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

Representative **GILBERT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of the amendment brought forth by the good Representative from Augusta.

But I would first like to thank the Appropriations Committee for all their hard work that has produced a bipartisan unanimous budget. They have spent many hours working late into the night tackling the many challenges that this budget contained and I thank them for their work.

In the interest of full disclosure, I am a retired state worker. I support this amendment because it increases the cap on the cost of living adjustment on the retirement benefits for retired state workers, retired teachers, retired ed techs, retired school bus drivers, retired school janitors and retired school secretaries receiving \$20,000 to \$25,000 from the Maine Public Employees Retirement System. Remember, this cap is new to the pensioners and it is permanent.

I understand that these are tough times and that all of us

need to share in the sacrifices that must be made. However, it is not asking too much to increase the COLA to apply to the first \$25,000 of a retired worker's pension. If \$25,000 seems like an overly high bar, consider that the cost of living, including food and fuel prices, has been rising with no end in sight. This is a permanent fix that we're putting on.

I believe that this increase is the right thing to do and I ask that you follow my light in support of this amendment and also against the motion to table indefinitely.

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

Representative **LOVEJOY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the current motion and in support of Representative Maloney's amendment. One of the things that I was reminded of by one of my constituents was that in fact when we changed from state employees and teachers being under Social Security to being under the state pension, that they were assured that they would get cost of living raises equal to what Social Security provides. The employees are not the reason that we have such an unfunded liability. If you look at what we contribute now from the state side into the pension, it's less than half what we would be if those folks were still under Social Security. We've saved a lot of money by having them under this plan versus under Social Security, and we continue to. Now the state has been saving money on this all along. Are we now going to take and save more money by refusing to provide cost of living raises? I would hope not. We have to consider we want a lot of things. I listened to the debate on IF and W and the number of people that support it but didn't vote to fund it, and I know that has been an ongoing issue. Somewhere along the way we've got to say what's right and what promises do we keep. I believe this is one that we should keep. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Mazurek.

Representative **MAZUREK**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just want to make a remark that I am a retired teacher and one of the things of being a retired teacher is that you have to work if you're going to survive because the retirement is not very good. To deny a three percent cost of living raise to retired teachers or state employees, I think, is criminal in nature. It really is. When you get the oil bill or you go to the store or you go anywhere and prices go up and you live on a meager retirement, it's very difficult. Fortunately I was able to do other things in my retirement, but I know many retired teachers who are not as fortunate as I am to be able to do other things and they are suffering economic woes because of the fact they just can't keep up with the cost of living. So this little amendment, I think, should be supported and I would urge you to do that.

You know, we talk about the value of education; we talk about how important it is. If we want to have young people go into the field of education in Maine, we've got to do something to make it attractive instead of driving people out of it. I know that if I had a choice today, if I know today what I knew back when I came here, I probably would have never taken the job, and I've urged my kids not to become teachers. I said to them don't make the same mistake that your old man made. Get a job where you can make some money and when you retire you can at least live halfway decent. I guarantee you those three kids of mine or four kids of mine, they'd be fine teachers. I know they are. They are fine coaches. So please vote for this amendment. Thank you.

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

Representative **DAVIS**: Thank you, Mr. Speaker. I request permission to ask a question of the Chair.

The SPEAKER: The Representative may ask his question.

Representative **DAVIS**: Mr. Speaker, I just received a communication that this possibly might be a conflict of interest for me. I am a retired state employee. If it is a conflict I would like to be excused from voting. At any rate, I would like to have an opinion from the Chair. Thank you.

Representative **DAVIS** of Sangerville asked leave of the House to be excused from voting on L.D. 1480 pursuant to House Rule 401.12.

The SPEAKER: The Chair would rule that you don't have a specific identifiable interest that no other retired state trooper or state employee has. In the Chair's opinion you are eligible to vote on this issue. Did you want to speak on this issue or no?

The Chair advised Representative **DAVIS** of Sangerville that he was eligible to vote on the pending question.

Representative **DAVIS**: You have spoken quite eloquently, Mr. Speaker. Thank you.

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

Representative **MacDONALD**: Thank you, Mr. Speaker. I rise only to make a point that the average teacher retirement income in Maine is \$19,000 and if I look at the federal poverty level numbers I see that for a family of two, \$19,500 is 133 percent of the poverty level. A lot of our programs, MaineCare and other kinds of programs to help lower income families, kick in at that kind of level. So I just want to remind us that as we're talking – I'm speaking, by the way, in support of Representative Maloney's amendment and making the point that the people we're talking about are close to the poverty level if you've got a family of two living on that \$19,000 retirement. So as you push your button on whether or not you're going to Indefinitely Postpone this amendment or not, I ask you to think about those people and to think about the fact that the money that we put into their hands will move out into the general economy and will be of economic benefit to small shops and owners and car shops and all the rest in our economy. I think it is an economic development vote as well, Mr. Speaker. Thank you.

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

Representative **STUCKEY**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. In the interest of shared sacrifice, if I've done the math correctly and read the chart correctly, the three percent COLA on raising the cap by \$5,000 is the equivalent of \$150, give or take, a year. According to this chart I'm looking at about the tax proposal, there are 6,759 families with incomes in excess of \$356,000 who will see an average tax decrease of \$3,015 a year. One hundred and fifty dollars versus \$3,015. I'm looking for where the shared nature is there. Thank you, Mr. Speaker.

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

Representative **SHAW**: Thank you very much, Mr. Speaker. I hate to rise and delay the vote on this amendment, but what the Representative from Rockland said struck a chord with me. I've always believed in the recent history that we're losing our teachers to other states such as Massachusetts. The pay down there is about double and so is the retirement. Our kids that are graduating from college, like the University of Maine at Farmington, generally are leaving in droves for other states. This is the outflow of people, teachers.

Also, I'd like to point out that state employees, we have quite a turnaround on state employees, and where do they end up? They work for the towns, the municipalities, because the towns

pay a lot better than the state does. So you know I don't know if it's the right funding mechanism or not, but eventually Maine is going to have a hard time filling teacher positions and state employee positions. Thank you, Mr. Speaker.

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

Representative **CHASE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In the last few months we've debated all of these issues. I respect everyone's opinion who has spoken today. They are right. There is a problem here and there is problem throughout Maine beyond these walls, beyond the state workers and the teachers who are in this issue right now, in retirement. In Maine, area contractors are out of business now. There has been no business. This is the summer going on. There is a lot of people that had their retirement in funds in the stock market and got a lot of that wiped out a few years ago. There are big issues here. We're losing more than just teachers out of Maine. We're losing young people because we don't have work here for them to go to when they graduate from college or from the technical college or even from high school.

One of the things that we looked at was our choking unfunded liability that was looming in the future. It was going to be so large in the next few years very quickly that it was going to be one quarter of our entire budget, one quarter. That would push one heck of a lot more out than what we were managed to do this year out of our budget. We'd lose programs. We probably definitely would lose people actually working. We had to find solutions that were fair. The \$20,000 retirement piece that we chose wasn't just out of the air. We looked at that and as one of the Representatives mentioned earlier, the average retirement pay for state workers and teachers is \$20,000, \$19,000 and something. We looked at that. By picking \$20,000 we were able to deal with the average pension and the people that have been in there the longest, because long ago when they retired they had smaller retirements, so they would have, that would be the category of the funding, their pensions would be around \$20,000 and we picked that.

Now people that have more than \$20,000 for retirement can probably afford a little bit more than those people in the \$20,000 and under. They will still get \$20,000 COLA. They will get that and it will be compounded. It's not just a one shot deal every year. Once it goes into effect it will be three percent on the first \$20,000 and that amount will be compounded. Not one pension will actually go down as a result of what we did. The future will go up a heck of a lot slower, I agree, and we're all in that boat. All of our futures are going to go up a heck of a lot slower, but we will be, in this process, removing one of the biggest shadows that we had over our budget and that was the unfunded liability. We didn't include the two percent contribution so that was a benefit. That would have cut it down and that would have reduced what people were getting, but we didn't go that route. We tried to be fair, we tried to be practical. Those that are currently having salaries that are active in our system, they are sacrificing. Their merit pay is frozen. Their longevity going forward is frozen. There is a shared sacrifice there. The businesses out there and the people that are beyond these walls and beyond our state workers, they are going to see a benefit because all of them, including the state workers, will actually get tax reductions and the focus of the tax reductions, if you looked at it closely, are going to mostly be on the middle income people. So the middle income people will look to benefit, even the ones that are teachers or the ones that are retired from state work.

On the tax piece, also I want to point out that there are 70,000 people, 70,000 additional people that will actually be taken off the

Maine Income Tax tax rolls this time. So we looked at that. We didn't just pick numbers out of the air. We all worked together in a bipartisan manner. We chose the safest, best plan going forward that people would still be improving in the future, wouldn't be cut today and all of Mainers, 1.3 million people, will actually benefit from this. Understand that it's a sacrifice. We understand. My sister is a retired teacher. I hear it all the time. So it does happen, but we all are in this together and we are all trying to make it as comfortable and as fair going forward as we could, and I really want to thank the committee. I think that everyone on that committee did an excellent job at looking at all the issues, listening to all the problems, and working together to find the fairest solution that we could. Thank you.

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

Representative **MALONEY**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I do want to thank the Appropriations Committee. They have worked long hard hours and I respect enormously the work that they have done. I have put in this amendment because it does affect people who are living on a fixed income, people in all of our districts. This is the teachers, the law enforcement officers and the state workers.

I just wanted to correct one thing that we just heard from the good Representative from Wells. I have an email from Sandy Matheson, who is Maine Retirement. The number of teachers who have their pension at \$20,000 or below is 38 percent. If we raise the amount of the pension cap to \$25,000 then the number of teachers is at 55 percent. For state workers, the number of state workers who have a pension at \$20,000 or below, that number is 55 percent. If we raise it to \$25,000, then that number becomes 70 percent. So simply by going to \$25,000 we can cover the pension of 55 percent of teachers and 70 percent of state workers. We can do it from the liquor contract money so we're not impacting any other programs and I think this is something that we can do for people who are in all of our districts that will really make a huge difference to them. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "D" (H-640) to Committee Amendment "A" (H-620). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 183

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

NAY - Beaudoin, Beavers, Beck, Beliveau, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Burns DC, Carey, Casavant, Chapman, Chipman, Clark H, Clarke, Cornell du Houx, Davis, Dill J, Dion, Driscoll, Duchesne, Eberle, Edgecomb, Eves, Flemings, Gilbert, Goode, Graham, Hanley, Harlow, Haskell, Herbig, Hinck, Hogan, Hunt, Innes Walsh, Kaenrath, Kent, Knapp, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maloney, Mazurek, McCabe, Morrison, Nelson, O'Brien, Peoples, Peterson, Pilon, Plummer, Prescott, Priest, Rankin, Rochelo, Russell, Sanborn, Shaw, Stuckey, Theriault, Treat, Tuttle, Valentino, Wagner R, Welsh.

ABSENT - Celli, Fredette, Wintle.

Yes, 75; No, 72; Absent, 3; Vacant, 1; Excused, 0.

75 having voted in the affirmative and 72 voted in the negative, 1 vacancy with 3 being absent, and accordingly **House Amendment "D" (H-640) to Committee Amendment "A" (H-620) was INDEFINITELY POSTPONED.**

Representative BERRY of Bowdoinham **PRESENTED House Amendment "F" (H-645) to Committee Amendment "A" (H-620)**, which was **READ** by the Clerk.

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

Representative **BERRY**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Before I explain my amendment I want to echo some of the sentiments here that have been expressed of respect and appreciation for the work of our Appropriations Committee and our entire leadership team. I can think of few times in my experience here in this body that a process has been conducted in the Appropriations Committee around a budget that is fairer, more thoughtful and more honest, and I credit especially the House chair with much of that good and honest work. So thank you.

The amendment that I present today is the Minority Report from the Taxation Committee to the tax portion of this budget. It is founded on some fundamental principles that benefits that we choose to extend should go to the many and not just to the few, and that jobs are best created in our state by ensuring that there is money in the pockets of working Maine families, whether those are senior citizens who have worked or folks who are currently working and struggling to raise their children and put food on the table. Jobs are best created by ensuring that there is money in the pockets of those who will spend locally and not be more likely to invest that money overseas.

The amendment reflects values of equity, of minimizing shift to property taxpayers and of paying as we go. Let me speak to the concern in the current budget that is before us that we seek to correct. This budget creates winners and losers. Those making over \$356,000, on average, receive a benefit of \$2,905, specifically the 6,759 families who do receive a benefit, less than half of one percent of Maine families receive over \$3,000, \$3,015. That doesn't account for the estate tax changes. Those are the winners.

The losers in this budget include minimum wage earners who already have a tax burden that is 40 percent higher than any other decile, 40 percent higher than those of moderate income, 40 percent than those of the highest income. The losers include property taxpayers, all property taxpayers because there is a shift both in the reduction to aid to our towns and cities of over \$90 million and a reduction in the property tax and rent refund program, which to those who currently receive that benefit at the maximum level is a \$400 cut. The losers also include all future taxpayers because, Men and Women of the House, Mr. Speaker, there is just under half a billion in future costs that is incurred in the tax portion of this budget. Not in this biennium but later. Essentially we're running up the credit card. So again, the losers include minimum wage earners, all property taxpayers and all future taxpayers. Very few actually benefit.

So the fix is easy. The amendment that I offer, the Minority Report of the Taxation Committee, would benefit in the income tax proposals that it offers 16,000 more families. We're heard today about families being dropped from the tax rolls. That means nothing to those who don't pay income tax already, who are paying because of high property taxes and high sales taxes, the highest burden. We can benefit 16,000 more Maine families with the income tax provisions that are in this proposal before you.

In addition the amendment restores aid to our towns and

cities and therefore to our property taxpayers, \$50 million, more than half of the cuts to revenue sharing that are in the budget before us. And more, it restores the cuts to circuit breaker, the property tax and rent relief program entirely, so that those who are struggling to hang on to the family farm or to keep working the waterfront are able to do so and grandma can stay in her house.

In addition the amendment is fiscally responsible because it removes the provisions that incur close to half a billion dollars in future costs, running up the state credit card by removing the changes made to the estate tax, benefiting only 550 of Maine's wealthiest families – some of them don't live here year round – and by removing the benefits for nonresidents.

What's this saying? If we were to adopt this amendment we would retain all of the business provisions that are in the budget before us. These are largely items agreed upon by the majority and the minority on the Taxation Committee. Section 179, expensing, is retained. The Maine Capital Investment Credit, retained. The New Market Credit, retained. The Income Tax Credit for investment in fishery infrastructure, exempting meals for retirement facilities, commercial fishing, bags for redemption centers, aircraft and parts, and full restoration of the Business Equipment Tax Reimbursement program. All of the business benefits are in the minority amendment and a little money, less than a million but it's something, is left on the table for our appropriators to fund the great bills that this body has passed and which will otherwise die on the special Appropriations Table very soon.

Men and Women of the House, we can create a budget, a tax budget where everyone wins, where the many benefits and not just the few, and where more jobs are created by keeping money locally where it will be spent locally. We can move forward with those measures that we agree on that will create jobs and we can ensure that future taxpayers or property taxpayers will not pay more, that we will not simply shift the burden onto those that can least afford it and those who work, I might argue, the hardest. There is a better way where all Maine families win, where more jobs are created. And so, Mr. Speaker, I urge the body to vote in favor of this amendment. Thank you.

Representative FLOOD of Winthrop moved that **House Amendment "F" (H-645) to Committee Amendment "A" (H-620) be INDEFINITELY POSTPONED.**

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Flood.

Representative FLOOD: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I want to say that the Representative from Bowdoinham, Representative Berry, is a gentleman with tireless energy and I respect very much his efforts on behalf of the State of Maine, particularly dealing with his expertise in tax policy. The proposal that he presents to us here is very different from the tax reform plan that was agreed upon unanimously to place in the budget. The entire budget negotiation is an honorable, trusting and delicate balance. It is negotiated very carefully and we are committed to sticking with our agreements with the Democrat caucus, and I know the Democrat caucus has demonstrated that they will honor their agreements with our caucus as regards to tax reform proposals, as regards to other proposals in this bill. This is a budget bill built upon unanimous trust and agreement and we cannot remove any of its building blocks. It remains intact because all the building blocks of this budget are important. We honor our agreements throughout the three and a half months of difficult yet earnest and unanimous negotiation. I request that you support the Indefinite Postponement motion and I request a roll call.

Representative FLOOD of Winthrop **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "F" (H-645) to Committee Amendment "A" (H-620).**

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

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "F" (H-645) to Committee Amendment "A" (H-620). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 184

YEA - Ayotte, Beaulieu, Beck, Bennett, Bickford, Black, Burns DC, Burns DR, Cain, Cebra, Chase, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dow, Dunphy, Edgcomb, Espling, Fitts, Fitzpatrick, Flood, Fossel, Foster, Gifford, Gillway, Graham, Guerin, Hamper, Harmon, Harvell, Hayes, Johnson D, Johnson P, Kaenrath, Kent, Keschl, Knapp, Knight, Libby, Long, Lovejoy, Maker, Malaby, Maloney, Martin, McClellan, McFadden, McKane, Morissette, Moulton, Nass, Nelson, Newendyke, O'Connor, Olsen, Parker, Parry, Picchiotti, Pilon, Plummer, Prescott, Rankin, Richardson D, Richardson W, Rioux, Rosen, Rotundo, Sanderson, Sarty, Shaw, Sirocki, Stevens, Strang Burgess, Tilton, Timberlake, Turner, Tuttle, Valentino, Volk, Waterhouse, Weaver, Webster, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

NAY - Beaudoin, Beavers, Beliveau, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Carey, Casavant, Chapman, Chipman, Clark H, Clarke, Cornell du Houx, Dill J, Dion, Driscoll, Duchesne, Eberle, Eves, Flemings, Gilbert, Goode, Hanley, Harlow, Haskell, Herbig, Hinck, Hogan, Hunt, Innes Walsh, Kruger, Kumiega, Lajoie, Longstaff, Luchini, MacDonald, Mazurek, McCabe, Morrison, O'Brien, Peoples, Peterson, Priest, Rochelo, Russell, Sanborn, Stuckey, Theriault, Treat, Wagner R, Welsh.

ABSENT - Celli, Fredette, Wintle.

Yes, 93; No, 54; Absent, 3; Vacant, 1; Excused, 0.

93 having voted in the affirmative and 54 voted in the negative, 1 vacancy with 3 being absent, and accordingly **House Amendment "F" (H-645) to Committee Amendment "A" (H-620) was INDEFINITELY POSTPONED.**

Subsequently, **Committee Amendment "A" (H-620) as Amended by House Amendment "A" (H-636) thereto was ADOPTED.**

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

Representative CAIN of Orono **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended by Committee Amendment "A" (H-620) as Amended by House Amendment "A" (H-636) thereto.**

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 Engrossed as Amended by Committee Amendment "A" (H-620) as Amended by House Amendment "A" (H-636) thereto. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 185

YEA - Ayotte, Beaulieu, Beavers, Beck, Beliveau, Bennett, Berry, Bickford, Black, Boland, Bolduc, Burns DR, Cain, Carey, Cebra, Chapman, Chase, Clark T, Clarke, Cornell du Houx, Cotta, Cray, Crockett, Curtis, Cushing, Damon, Dill J, Dion, Dow, Driscoll, Duchesne, Dunphy, Eberle, Edgcomb, Espling, Eves, Fitts, Fitzpatrick, Flemings, Flood, Fossel, Foster, Gifford, Gillway, Graham, Guerin, Hamper, Hanley, Harmon, Harvell, Haskell, Hayes, Herbig, Hogan, Innes Walsh, Johnson D,

Johnson P, Kaenrath, Keschl, Knapp, Knight, Kruger, Kumiega, Lajoie, Libby, Long, Longstaff, Luchini, Maker, Malaby, Martin, Mazurek, McCabe, McClellan, McFadden, McKane, Morissette, Morrison, Moulton, Nass, Nelson, Newendyke, O'Connor, Olsen, Parker, Parry, Peoples, Picchiotti, Pilon, Plummer, Prescott, Priest, Rankin, Richardson D, Richardson W, Rioux, Rochelo, Rosen, Rotundo, Sanborn, Sanderson, Sarty, Shaw, Sirocki, Stevens, Strang Burgess, Tilton, Turner, Tuttle, Valentino, Volk, Wagner R, Waterhouse, Weaver, Webster, Welsh, Willette A, Willette M, Winsor, Wood.

NAY - Beaudoin, Blodgett, Briggs, Bryant, Burns DC, Casavant, Chipman, Clark H, Crafts, Davis, Gilbert, Goode, Harlow, Hinck, Hunt, Kent, Lovejoy, MacDonald, Maloney, O'Brien, Peterson, Russell, Stuckey, Theriault, Timberlake, Treat.

ABSENT - Celli, Fredette, Wintle, Mr. Speaker.

Yes, 120; No, 26; Absent, 4; Vacant, 1; Excused, 0.

120 having voted in the affirmative and 26 voted in the negative, 1 vacancy with 4 being absent, and accordingly under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-620) as Amended by House Amendment "A" (H-636)** thereto and sent for concurrence.

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

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

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

(S.P. 155) (L.D. 563)
(S. "C" S-284 to C. "A" S-154)

Which was **TABLED** by Representative CURTIS of Madison pending **FINAL PASSAGE.** (Roll Call Ordered)

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

Representative **DAVIS:** Thank you, Mr. Speaker. I have no desire to belabor this, no desire to postpone it. It has certainly been pounded to death. I would just like to answer a couple of questions. I was asked many at noontime. The bottom line to all of this, if this does not pass the department will get no extra money. It will not happen. It has been 40 years, the money has not come. It will not be a priority and it will not happen if we don't have a mechanism such as is before us to do it. Thank you, Mr. Speaker.

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

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

ROLL CALL NO. 186

YEA - Ayotte, Beck, Bennett, Bickford, Black, Bolduc, Briggs, Bryant, Burns DC, Burns DR, Cain, Cebra, Clark H, Clark T, Clarke, Cornell du Houx, Cotta, Crafts, Cray, Crockett, Cushing, Damon, Davis, Dill J, Dion, Dow, Duchesne, Dunphy, Eberle, Edgecomb, Espling, Fitts, Flemings, Flood, Fossel, Foster, Gifford, Gilbert, Gillway, Graham, Guerin, Hamper, Hanley, Harmon, Harvell, Herbig, Hunt, Johnson D, Johnson P, Kaenrath, Kent, Keschl, Knapp, Knight, Lajoie, Long, Longstaff, Lovejoy, Luchini, Maker, Malaby, Maloney, Martin, McCabe, McFadden, Morissette, Morrison, Moulton, Newendyke, O'Brien, O'Connor, Olsen, Parker, Parry, Peoples, Peterson, Picchiotti, Pilon,

Plummer, Prescott, Rioux, Sarty, Shaw, Sirocki, Stevens, Strang Burgess, Theriault, Timberlake, Turner, Tuttle, Valentino, Volk, Waterhouse, Weaver, Welsh, Willette A, Willette M, Wood, Mr. Speaker.

NAY - Beaudoin, Beaulieu, Beavers, Beliveau, Berry, Blodgett, Boland, Carey, Casavant, Chapman, Chase, Chipman, Curtis, Driscoll, Eves, Fitzpatrick, Goode, Harlow, Haskell, Hayes, Hinck, Innes Walsh, Kruger, Kumiega, Libby, MacDonald, Mazurek, McClellan, McKane, Nass, Nelson, Priest, Rankin, Richardson D, Richardson W, Rochelo, Rosen, Rotundo, Russell, Sanborn, Sanderson, Stuckey, Tilton, Treat, Wagner R, Webster, Winsor.

ABSENT - Celli, Fredette, Hogan, Wintle.

Yes, 99; No, 47; Absent, 4; Vacant, 1; Excused, 0.

99 having voted in the affirmative and 47 voted in the negative, 1 vacancy with 4 being absent, and accordingly the Resolution was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

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

Acts

An Act To More Closely Coordinate the Classification of Forested Farmland under the Farm and Open Space Tax Laws with the Maine Tree Growth Tax Law

(H.P. 400) (L.D. 507)
(C. "A" H-573)

An Act To Amend the Laws Pertaining to High-stakes Beano

(H.P. 418) (L.D. 535)
(H. "B" H-606 to C. "B" H-402)

An Act To Establish the Maine New Markets Capital Investment Program

(S.P. 311) (L.D. 991)
(C. "A" S-299)

An Act To Amend the Child and Family Services and Child Protection Act

(S.P. 352) (L.D. 1152)
(C. "A" S-294)

An Act To Clarify the Workers' Compensation Insurance Notification Process for Public Construction Projects

(S.P. 477) (L.D. 1515)

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

Resolves

Resolve, To Study the Feasibility of Consolidating Health Plan Coverage for State Employees with Other Public Employees

(S.P. 261) (L.D. 857)
(C. "A" S-258)

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

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

**CONSENT CALENDAR
First Day**

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

(S.P. 436) (L.D. 1407) Bill "An Act To Establish the Maine Wild Mushroom Harvesting Certification Program" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "B" (S-306)**

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

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

(S.P. 515) (L.D. 1580) Bill "An Act To Further Improve Maine's Health Insurance Law" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-305)**

On motion of Representative CURTIS of Madison, was **REMOVED** from the First Day Consent Calendar.

The Unanimous Committee Report was **READ**.

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

SENATE PAPERS
Non-Concurrent Matter

Bill "An Act To Increase the Penalty for Sexual Abuse by Certain Offenders"

(S.P. 432) (L.D. 1392)

Majority (10) **OUGHT NOT TO PASS** Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** **READ** and **ACCEPTED** in the House on June 14, 2011.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Minority (3) **OUGHT TO PASS AS AMENDED** Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-283)** in **NON-CONCURRENCE**.

The House voted to **INSIST**.

Non-Concurrent Matter

Bill "An Act To Allow Table Games at a Facility Licensed To Operate Slot Machines on January 1, 2011"

(H.P. 1044) (L.D. 1418)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-522) AS AMENDED BY HOUSE AMENDMENT "A" (H-564) thereto in the House on June 8, 2011.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-522)** in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act Regarding the Membership of the Midcoast Regional Redevelopment Authority Board of Trustees"

(S.P. 54) (L.D. 204)

Reports **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED** in the House on June 14, 2011.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Majority (7) **OUGHT TO PASS AS AMENDED** Report of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS**

AMENDED BY COMMITTEE AMENDMENT "A" (S-19) and ASKED for a Committee of Conference in **NON-CONCURRENCE**.

The House voted to **INSIST** and **JOIN** in a **COMMITTEE OF CONFERENCE**.

Reference was made to Bill "An Act Regarding the Membership of the Midcoast Regional Redevelopment Authority Board of Trustees"

(S.P. 54) (L.D. 204)

In reference to the action of the House on June 15, 2011 whereby it Insisted and Joined in a Committee of Conference, the Chair appointed the following members on the part of the House as Conferees:

Representative PRESCOTT of Topsham

Representative HARVELL of Farmington

Representative VALENTINO of Saco

SENATE PAPERS
Non-Concurrent Matter

An Act To Change the Campaign Contribution Limits

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

(S. "A" S-220)

PASSED TO BE ENACTED in the House on June 14, 2011.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENTS "A" (S-220) AND "B" (S-297)** in **NON-CONCURRENCE**.

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

COMMUNICATIONS

The Following Communication: (S.C. 435)

MAINE SENATE
125TH LEGISLATURE
OFFICE OF THE SECRETARY

June 15, 2011

The Honorable Heather J.R. Priest

Clerk of the House

2 State House Station

Augusta, Maine 04333

Dear Clerk Priest:

Please be advised the Senate today insisted to its previous action whereby it accepted the Majority Ought Not to Pass Report from the Committee on Veterans and Legal Affairs on Bill "An Act Regarding Establishing a Slot Machine Facility" (I.B. 1) (L.D. 985)

Sincerely,

S/Joseph G. Carleton, Jr.

Secretary of the Senate

READ and **ORDERED PLACED ON FILE**.

SENATE PAPERS

The following Joint Resolution: (S.P. 519)

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES, THE UNITED STATES SECRETARY OF THE INTERIOR AND THE UNITED STATES CONGRESS TO OPPOSE THE CREATION OF A NATIONAL PARK IN MAINE'S NORTH WOODS

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

WHEREAS, Maine residents and visitors enjoy the privilege of using large tracts of private land in the north woods for recreational uses such as snowmobiling, hunting, hiking, fishing, bird watching and other activities; and

WHEREAS, the future of that private land is of great importance to the people of Maine and their outdoor heritage; and

WHEREAS, the Maine Department of Inland Fisheries and Wildlife and many of the large landowners have entered or are entering into cooperative wildlife management agreements that ensure the future of deer yards and other critical wildlife habitat in the north woods; and

WHEREAS, state agencies, private landowners and nonprofit organizations are cooperating in an unprecedented effort to secure permanent rights of access to the north woods and keep valuable recreational property and natural habitat undeveloped through conservation easements; and

WHEREAS, federal ownership or control of the north woods would create many problems including limitations on timber supply to the forest products industry, reduced recreational access and loss of local and state control of these areas; now, therefore, be it

RESOLVED: That We, your Memorialists, oppose the creation of a national park in Maine's north woods and request that the President of the United States and Secretary of the Interior Kenneth Salazar deny requests to conduct a feasibility study concerning establishing a national park in Maine's north woods; and be it further

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

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

REPORTS OF COMMITTEE

Ought to Pass

Report of the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Improve the Administration of the Legislative Ethics Laws"

(S.P. 350) (L.D. 1150)

Reporting Ought to Pass.

Came from the Senate with the Report **READ** and the Bill and accompanying papers **COMMITTED** to the Committee on **VETERANS AND LEGAL AFFAIRS**.

Report was **READ** and **ACCEPTED** and the Bill and accompanying papers were **COMMITTED** to the Committee on **VETERANS AND LEGAL AFFAIRS** in concurrence.

CONSENT CALENDAR

First Day

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

(H.P. 1030) (L.D. 1402) Bill "An Act To Extend Employment Reference Immunity to School Administrative Units" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass**

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

There being no objection, the House Paper was **PASSED TO BE ENGROSSED** and sent for concurrence.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act To Protect Young Children from Sex Offenses"

(S.P. 357) (L.D. 1182)

Majority (9) **OUGHT NOT TO PASS** Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY READ** and **ACCEPTED** in the House on June 14, 2011.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Minority (4) **OUGHT TO PASS AS AMENDED** Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-295)** in **NON-CONCURRENCE**.

The House voted to **INSIST**.

Non-Concurrent Matter

Bill "An Act To Allow a Student Attending Private School Access to Public School Cocurricular, Interscholastic and Extracurricular Activities"

(H.P. 662) (L.D. 903)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490) in the House on June 6, 2011.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490) AS AMENDED BY SENATE AMENDMENTS "A" (S-293) AND "B" (S-307)** thereto in **NON-CONCURRENCE**.

The House voted to **INSIST**.

Non-Concurrent Matter

An Act To Reduce Energy Prices for Maine Consumers

(S.P. 501) (L.D. 1570)

(C. "A" S-272)

- In House, **PASSED TO BE ENACTED** on June 8, 2011.

- In Senate, **PASSED TO BE ENACTED** on June 9, 2011, in concurrence.

- **RECALLED** from the Governor's Desk pursuant to Joint Order, S.P. 518.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-272) AS AMENDED BY SENATE AMENDMENT "A" (S-310)** thereto in **NON-CONCURRENCE**.

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

BILLS RECALLED FROM GOVERNOR

(Pursuant to Joint Order - House Paper 1180)

An Act To Fully Enfranchise Voters

(H.P. 1087) (L.D. 1478)

(H. "A" H-566 to C. "A" H-508)

- In House, **PASSED TO BE ENACTED** on June 10, 2011.

- In Senate, **PASSED TO BE ENACTED** on June 10, 2011.

On motion of Representative BEAULIEU of Auburn, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENACTED**.

On motion of Representative TURNER of Burlington, the rules were **SUSPENDED** for the purpose of **FURTHER RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED**.

On further motion of the same Representative, the rules were **SUSPENDED** for the purpose of **FURTHER RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-508)** was **ADOPTED**.

On further motion of the same Representative, the rules were **SUSPENDED** for the purpose of **FURTHER RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **House Amendment "A" (H-566)** to **Committee Amendment "A" (H-508)** was **ADOPTED**.

On further motion of the same Representative, **House Amendment "A" (H-566)** to **Committee Amendment "A" (H-508)** was **INDEFINITELY POSTPONED**.

The same Representative **PRESENTED House Amendment "B" (H-654)** to **Committee Amendment "A" (H-508)** which was **READ** by the Clerk.

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

Representative **TURNER**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I will be brief. I promise I won't read all of my towns this time. What this amendment does is it changes the amount of days from 30 days to 15 days. Thank you.

Subsequently, **House Amendment "B" (H-654)** to **Committee Amendment "A" (H-508)** was **ADOPTED**.

Committee Amendment "A" (H-508) as Amended by **House Amendment "B" (H-654)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (H-508)** as Amended by **House Amendment "B" (H-654)** thereto in **NON-CONCURRENCE** and sent for concurrence.

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

ENACTORS

Emergency Measure

An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Highway Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2011, June 30, 2012 and June 30, 2013

(H.P. 989) (L.D. 1348)

(C. "A" H-622)

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

On motion of Representative CURTIS of Madison, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

Emergency Measure

Resolve, Regarding Legislative Review of Portions of Chapter 11: Rules Governing the Controlled Substances Prescription Monitoring Program, a Major Substantive Rule of the Department of Health and Human Services

(H.P. 265) (L.D. 332)

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 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Portions of Chapter 101, MaineCare Benefits Manual, Chapter III, Section 50: Principles of Reimbursement for Intermediate Care Facilities for the Mentally Retarded, a Major Substantive Rule of the DHHS

(H.P. 1164) (L.D. 1581)

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. 121 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, To Allow the State To Continue Efforts To Sell or Lease Certain Real Property in the City of Hallowell

(H.P. 1172) (L.D. 1584)

(C. "A" H-627)

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 1 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Portions of Chapter 101, MaineCare Benefits Manual, Chapter III, Section 97, Private Non-Medical Institution Services, Appendix D: Principles of Reimbursement for Child Care Facilities, a Major Substantive Rule of the Department of Health and Human Services

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

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. 121 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Portions of Chapter 101, MaineCare Benefits Manual, Section 40, Chapters II and III: Home Health Services, a Major Substantive Rule of the Department of Health and Human Services

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

(C. "A" H-628)

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. 121 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Acts

An Act To Establish Multidistrict Online Classes in Maine
(S.P. 206) (L.D. 675)
(C. "A" S-304)

An Act To Repeal the Requirement That Electrical
Companies Be Licensed
(H.P. 688) (L.D. 928)

An Act To Protect the Privacy of Persons Involved in
Reportable Motor Vehicle Accidents
(H.P. 865) (L.D. 1167)
(C. "B" H-406)

An Act To Require Use of the Electronic Death Registration
System
(S.P. 392) (L.D. 1271)
(H. "A" H-621 to C. "A" S-157)

An Act To Implement the Recommendations of the Criminal
Law Advisory Commission Relative to the Maine Criminal Code
and Related Statutes
(H.P. 1028) (L.D. 1399)
(C. "A" H-618)

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

Resolves

Resolve, To Ensure Cost-effective Services for Persons
Needing Neuropsychological Testing
(H.P. 940) (L.D. 1281)
(C. "A" H-624)

Resolve, To Clarify the Expectation for the 2012 Assessment
of Progress on Meeting Wind Energy Development Goals
(H.P. 1005) (L.D. 1366)
(C. "A" H-610)

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

An Act Regarding Labor Contracts for Public Works Projects
(S.P. 378) (L.D. 1257)
(S. "B" S-281 to C. "A" S-254)

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

On motion of Representative GRAHAM of North Yarmouth,
was **SET ASIDE**.

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

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

The SPEAKER: 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. 187

YEA - Ayotte, Beaulieu, Bennett, Black, Burns DC, Burns DR,
Cebra, Chase, Clark T, Cotta, Crafts, Cray, Crockett, Curtis,
Cushing, Damon, Davis, Dow, Dunphy, Edgecomb, Espling, Fitts,
Fitzpatrick, Flood, Fossel, Foster, 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 W, Rioux, Rosen, Sanderson, Sarty, Sirocki,
Strang Burgess, Tilton, Timberlake, Turner, Volk, Waterhouse,
Weaver, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

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

ABSENT - Bickford, Carey, Celli, Fredette, Hogan, McCabe,
Pilon, Wintle.

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

73 having voted in the affirmative and 69 voted in the
negative, 1 vacancy with 8 being absent, and accordingly the Bill
was **PASSED TO BE ENACTED**, signed by the Speaker and
sent to the Senate.

An Act To Allow School Administrative Units To Seek Less
Expensive Health Insurance Alternatives
(H.P. 972) (L.D. 1326)
(C. "A" H-429)

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

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

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

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

The SPEAKER: The Chair recognizes the Representative
from Waterville, Representative Beck.

Representative **BECK**: Thank you, Mr. Speaker. Mr.
Speaker, Ladies and Gentlemen of the House. I will be very brief
given the hour. I wanted to point out this is the last opportunity,
the last chance for members of this House to do something for
retired public education employees, not just retired employees
but a few, less than an hour ago, there was an effort to do what
was right for retired educators, retired school bus drivers and
janitors. If this bill is enacted, and it probably will be, imagine a
retiree who makes \$21,000 a year, despite the efforts of this
House there will be no COLA on the retiree's pension, and
because the insurance pool, not just for current teachers but for
retirees, because if we pass this bill the insurance pool will
become smaller and higher risk. Either rates will go up or
benefits will be reduced. I wanted to point that out, Mr. Speaker,
and ask that members today, at least once, do something for
educators and oppose the pending motion.

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

Representative **SARTY**: Thank you, Mr. Speaker. Mr.
Speaker, Ladies and Gentlemen of the House. We debated this
quite a while the other day and I really suggest that the first two
words in this bill mean a great deal. It said "may." This isn't
forcing anything on anyone. It is offering a choice, a second
option beyond what they've traditionally had. If a bargaining unit
or school teacher unit doesn't like the data, the bidding process
and the level of benefits that are offered under it, all they have to
simply do is say no. The bill has no mandate and it offers a
choice. It offers a second option. It has been in the Maine law
for years and many school districts in the state feel they'd like to
exercise that right and pursue a second option for health care
benefits, but it does not impede the collective bargaining process

at all and this is no threat to anyone who doesn't choose to join a different program.

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

Representative **SHAW**: Thank you very much, Mr. Speaker. I would just like to remind everybody that school units already have a choice. They can go to any insurance group that they want to. They do not have to join the Benefits Trust. Thank you.

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. Since the last time we discussed this bill I made a few phone calls, sent a few emails out to some businesses in this state. One is a retail chain, the other is a small manufacturing firm. The cost of labor, the percentage of health insurance out of the cost of labor is only 8 percent at the retail chain and it is 5.5 percent at the manufacturing. The percentage of the total cost of operations would be even smaller than that. It would be less than the 5.5 percent for the manufacturing and less than the 8 percent in the retail. We're spending 14 percent of the cost of education in health insurance. It's just too high. It's way too high. It's way above what the private sector is spending for a percentage of compensation. Thank you, Mr. Speaker.

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. 188

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

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

ABSENT - Carey, Celli, Fredette, Hogan, McCabe, Pilon, Wintle.

Yes, 83; No, 60; Absent, 7; Vacant, 1; Excused, 0.

83 having voted in the affirmative and 60 voted in the negative, 1 vacancy with 7 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

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

(C. "A" H-407; S. "A" S-296)

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

On motion of Representative CROCKETT of Bethel, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **FINAL PASSAGE**.

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 Final Passage. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 189

YEA - Beaudoin, Beaulieu, Beavers, Beck, Beliveau, Berry, Boland, Bryant, Cain, Casavant, Chapman, Chipman, Clarke, Cornell du Houx, Curtis, Cushing, Dill J, Dion, Driscoll, Duchesne, Eberle, Eves, Fitts, Fitzpatrick, Flemings, Flood, Fossel, Gilbert, Goode, Graham, Guerin, Harlow, Haskell, Hayes, Herbig, Hinck, Hunt, Innes Walsh, Kent, Keschl, Knapp, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maker, Malaby, Maloney, Martin, Mazurek, McFadden, Morissette, Morrison, Moulton, Nelson, O'Brien, O'Connor, Olsen, Peoples, Priest, Rankin, Richardson D, Rochelo, Rosen, Rotundo, Russell, Sanborn, Shaw, Sirocki, Stevens, Strang Burgess, Stuckey, Tilton, Treat, Volk, Weaver, Webster, Welsh, Mr. Speaker.

NAY - Ayotte, Bennett, Bickford, Black, Blodgett, Bolduc, Briggs, Burns DC, Burns DR, Cebra, Chase, Clark H, Clark T, Cotta, Crafts, Cray, Crockett, Damon, Davis, Dow, Dunphy, Edgecomb, Espling, Foster, Gifford, Gillway, Hamper, Hanley, Harmon, Harvell, Johnson D, Johnson P, Kaenrath, Knight, Libby, Long, McClellan, McKane, Nass, Newendyke, Parker, Parry, Peterson, Picchiotti, Plummer, Prescott, Richardson W, Rioux, Sanderson, Sarty, Theriault, Timberlake, Turner, Tuttle, Valentino, Wagner R, Waterhouse, Willette A, Willette M, Winsor, Wood.

ABSENT - Carey, Celli, Fredette, Hogan, McCabe, Pilon, Wintle.

Yes, 82; No, 61; Absent, 7; Vacant, 1; Excused, 0.

82 having voted in the affirmative and 61 voted in the negative, 1 vacancy with 7 being absent, and accordingly the Bill was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

ORDERS

On motion of Representative PRESCOTT of Topsham, the following Joint Order: (H.P. 1181)

ORDERED, the Senate concurring, that Bill, "An Act To Allow Retired Dentists To Obtain a License To Practice in Nonprofit Clinics," H.P. 1155, L.D. 1573, and all its accompanying papers, be recalled from the Governor's desk to the House.

READ and PASSED.

Sent for concurrence.

CONSENT CALENDAR

First Day

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

(H.P. 752) (L.D. 1016) Bill "An Act To Restore the Health Care Provider Tax for Nursing Homes to 6 Percent" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-649)**

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

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

ORDERS

On motion of Representative STRANG BURGESS of Cumberland, the following Joint Order: (H.P. 1182)

ORDERED, the Senate concurring, that Bill, "An Act To Cut the Cost of Behavioral Health Care in Hospital Emergency Rooms and To Enhance Access to Peer Support and Community-based Services," H.P. 711, L.D. 967, and all its accompanying papers, be recalled from the Governor's desk to the House.

READ and PASSED.

Sent for concurrence.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Bill "An Act To Amend the Maine Certificate of Need Act of 2002 for Nursing Facility Projects To Provide Alternative Means To Satisfy MaineCare Neutrality"

(H.P. 621) (L.D. 825)

Signed:

Senators:

McCORMICK of Kennebec

FARNHAM of Penobscot

Representatives:

STRANG BURGESS of Cumberland

EVES of North Berwick

FOSSEL of Alna

MALABY of Hancock

O'CONNOR of Berwick

PETERSON of Rumford

SANBORN of Gorham

SANDERSON of Chelsea

SIROCKI of Scarborough

STUCKEY of Portland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-646)** on same Bill.

Signed:

Senator:

CRAVEN of Androscoggin

READ.

Representative STRANG BURGESS of Cumberland moved the Bill and all accompanying papers be **INDEFINITELY POSTPONED.**

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

Representative **STRANG BURGESS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This bill, which is actually a really great bill, was rolled into another really great bill that you will be hearing about shortly. We were doing a little housekeeping in committee and one person didn't get the note. So I do this with the sponsor's approval. Thank you.

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

Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Encourage Transparency in the Department of Education"

(S.P. 158) (L.D. 566)

Reporting **Ought to Pass as Amended by Committee Amendment "A" (S-300).**

Came from the Senate with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-300) AS AMENDED BY SENATE AMENDMENT "A" (S-315)** thereto.

Report was **READ** and **ACCEPTED.**

The Bill **READ ONCE. Committee Amendment "A" (S-300)** was **READ** by the Clerk.

Senate Amendment "A" (S-315) to **Committee Amendment "A" (S-300)** was **READ** by the Clerk and **ADOPTED.**

Committee Amendment "A" (S-300) as Amended by Senate Amendment "A" (S-315) thereto was **ADOPTED.**

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-300) as Amended by Senate Amendment "A" (S-315)** thereto in concurrence.

CONSENT CALENDAR

First Day

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

(S.P. 415) (L.D. 1338) Bill "An Act To Amend the Maine Consumer Credit Code To Conform with Federal Law" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-311)**

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

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

ORDERS

On motion of Representative STRANG BURGESS of Cumberland, the following Joint Order: (H.P. 1183)

ORDERED, the Senate concurring, that Bill, "An Act To Ensure the Safety of Children in the MaineCare Program Who Are Prescribed Antipsychotic Medications," H.P. 476, L.D. 646, and all its accompanying papers, be recalled from the Governor's desk to the House.

READ and PASSED.

Sent for concurrence.

On motion of Representative STRANG BURGESS of Cumberland, the following Joint Order: (H.P. 1184)

ORDERED, the Senate concurring, that Bill, "An Act To Improve Preventive Dental Health Care and Reduce Future Avoidable Costs," H.P. 826, L.D. 1114, and all its accompanying papers, be recalled from the Governor's desk to the House.

READ and PASSED.

Sent for concurrence.

Ought to Pass as Amended

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

The House recessed until 7:30 p.m.

(After Recess)

The House was called to order by the Speaker.

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

SENATE DIVIDED REPORT - Report "A" (8) **Ought to Pass as Amended by Committee Amendment "A" (S-301)** - Report "B" (2) **Ought to Pass as Amended by Committee Amendment "B" (S-302)** - Report "C" (3) **Ought Not to Pass** - Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Create a Public Charter School Program in Maine" (S.P. 496) (L.D. 1553)

Which was **TABLED** by Representative CURTIS of Madison pending the motion of Representative RICHARDSON of Carmel to **ACCEPT** Report "A" **Ought to Pass as Amended**.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Wagner.

Representative **WAGNER**: Mr. Speaker, I would like to defer to the Representative from Carmel please.

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

Representative **RICHARDSON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In the 124th Legislature, charter school legislation came before the Maine Legislature as LD 1438, passing in this body but being narrowly defeated in the other body. Over the past two years that legislation has been carefully reviewed in an attempt to address the issues and concerns raised during that debate. In fact a side by side comparison clearly illustrates how the legislation before us has been strengthened and refined. In addition the Education Committee has been working with the Department of Education and amended it further based upon recommendations from numerous stakeholders.

As an example of the changes, this legislation directs the Department of Education to establish standards for authorizers of charter schools and authorizes the department to investigate and sanction an authorizer of charter schools that is found to be deficient or in noncompliance with those standards. It provides that the rules adopted by the Department of Education to implement the charter school program are major substantive rules subject to the review by the Legislature. It also establishes a 10-year transition period during which only 10 charter schools may be authorized by the state charter commission. Furthermore it provides that a charter school may not begin operations prior to July 1, 2012. It also clarifies that the funding following the student enrolled in a charter school is EPS per pupil rate and not the actual amount of per pupil funding raised by local school units. It directs the Department of Education to present a report to the Joint Standing Committee on Education and Cultural Affairs by November 1, 2011, including the status of rules proposed to implement this act, the proposed guidelines and procedures necessary to implement the charter school program including the applicability of state laws and rules that shall apply to charter schools, the status of suggested legislation to be submitted to the Second Regular Session of the 125th

Legislature to further implement the charter school program established by this Act.

So Mr. Speaker, Ladies and Gentlemen of the House, if we accept the pending motion, this legislation will be coming back to us next session for further review and further revision. Mr. Speaker, Ladies and Gentlemen of the House, charter schools are not the answer for everyone, but after 20 years of experience in 40 other states it has been shown that they can be the answer for many. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Wagner.

Representative **WAGNER**: Thank you, Mr. Speaker. I really want to reinforce some of the things that the Representative from Carmel has said. This bill is not perfect, you all know that. I certainly know it. It is not the answer, but this is a very complex process trying to set up a charter school system that is right for Maine and that we can live with. There are still things to be worked out. As a result, as the Representative from Carmel has said, there are major substantive rules that will be worked on over the summer and in the fall and which will be presented to the Education Committee sometime after November 1st and which will then come back again next in the Second Session for our consideration.

Because this bill is not perfect, because this is such a complex issue, there are safeguards that are already built in that I think are helpful. One of those, essentially this is an experimental process. We are trying this out. We don't know for sure that charter schools are the right thing for Maine, but they may be. So we do have this maximum of 10 charter schools in 10 years as a part of the bill. I think that's very important. Performance data will be gathered, performance data that will be worked out and presented to the Education Committee again to make sure that, from our perspective, that these are the right performance criteria to evaluate whether or not a charter school is living up to what it has promised. We can revoke the charter of a charter school if it isn't living up to its promise. Charter schools are set up essentially to fill specific needs and that is also a part of this bill, that they must fill a need. This is not just competition with public schools. This is to fill a specific need wherever.

The authorizer process, there are two ways in which authorization can take place. One is through local school systems, school administrative units, one or more getting together and establishing a charter school themselves, and there is no limit on the number of those. The other 10, which we presume there will be 10 over those 10 years established, will be vetted by a charter authorizing commission, which as you know, I assume you know, will consist of seven people, three of them from the State Board of Education and four others appointed by those three members of the State Board of Education and passed by the Education Committee. You can't be sure that the authorizers are going to be perfectly sane in this whole process, but I think they are likely to be because this is an experimental process. They want it to work, and if it's going to work, it's got to be one that's going to be for Maine. So I urge you to give us the opportunity, give the state the opportunity to figure out, find out whether or not charter schools are good for Maine. Thank you, Mr. Speaker.

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

Representative **LOVEJOY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition and there are a number of reasons why. I'm sure you've heard me on this issue before and seen the handout, but I agree with charter schools in concept. Where I have a problem is in the funding of them. Let me just give you a couple of points on that.

First of all, the funding, all of the money by the EPS calculation per student will follow the student. That includes transportation money, that includes administrative money, etcetera. The numbers have been thrown out that perhaps statewide that number might be \$8,000. So the City of South Portland, let's say the City of Portland opened a charter school. The City of South Portland has 10 of their kids go to the charter school. What happens? Well, South Portland gets less than \$800 per student from the state. They would have to pay \$7,200 out of their local tax base and they don't get a vote. They don't get a vote. They have to send the money out. Now what happens? Do their costs drop? No, they still have to heat it, they have to have lights, they have to do transportation. It isn't enough students that you're going to lay off a few teachers. So they are stuck with all of the costs of running their district, but they have to send that money to another community without a single vote. First, I think it raises a problem in terms of having your voters approve your school budget.

Another issue with this and I went down to OFPR and talked with them and I said, with some of the clauses in this, why isn't this a mandate? They said they had to discuss it because they weren't sure, but they said in fact they thought it might be. Now, in my opinion, if your expenses in your community go up and you don't have a vote on it, chances are it could be a mandate. What this does, one of the reasons that I say that, is it provides for things like preschool charter schools and pre-K, and if you don't have a pre-K program in your community and a charter school opens and picks up 50 kids, you've got to send them \$400,000 out of your school budget. Yes, you'll get to count them, you'll get whatever the state funding is. But again, if I look at South Portland, that's 10 students, 50 students, and they are going to have to pay out the bulk of that money out of local taxpayer funds without a vote. That's one of the issues I have is the fact that you may have to pay this money out without even being able to vote on it. I don't think your taxpayers are going to be really happy about that. As Representative Wagner said, there can be 10 schools authorized by the state, but there are a couple of other details that you have to think about. First of all, one of those schools can be a virtual charter school that could operate statewide. That may be a little different than thinking there are only 10 locations that are going to happen. In addition one charter can be granted for more than one school.

Now the other thing I wanted to talk about, there are three other things really. The Stanford study that was done is the most comprehensive study done on charter schools so far in this country. They found that 17 percent of charter schools outperform their peer groups in the public schools, 17 percent, but 37 percent underperform when compared to public schools. So twice as many underperform as overperform. I think that's a red flag. That means that overall charter schools perform less highly than the public schools.

The issue is about need, but need isn't defined. As we know under No Child Left Behind, with the ratcheting standards, the majority of schools in this country and in this state will fail to meet AYP. Does that constitute a need? It seems to me it would be a justification. Also keep in mind, as this bill sits anyone can form a charter school and then hire for-profit entities to run it. I personally have a problem with for-profit entities in our education system. So I guess I'll leave you with the fact, how are your voters going to feel if they have to send money out of town and they don't get to vote on it? Are they going to call it a mandate, because I do. Thank you.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Beliveau.

Representative **BELIVEAU**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I've worked and taught at two public charter schools – one in Boston and one in San Jose, California. Public charter schools can produce amazing results for students if they are done right.

So how do we make sure public charters are done right? In my experience, public charter schools are most effective when they are designed to address a proven local educational problem. For a charter to work, it must be attempting to fix a local educational problem that everyone in that community can agree is of dire concern. The educational problem should be so big that the regular local public schools, for whatever reason, has been unable to fix this problem over a long period of time.

When a community or a region has general consensus that an additional public school, a charter school, could be a good new strategy to take on their major educational challenge, they should have that tool at their disposal. Although charters are better suited to urban environments, they should still at least be legal in our rural state.

There must be a very high bar to start a public charter school...and my personal belief is that there will be (or at least there should be) very few Maine charters, but they should still at least be legal. Thank you, Mr. Speaker.

Representative HAYES of Buckfield **REQUESTED** a roll call on the motion to **ACCEPT** Report "A" **Ought to Pass as Amended**.

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

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

Representative **CASAVANT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I appreciate all of the comments of the speakers before me and they all offered some wonderful points of view and insight. I come from a different perspective. As many of you know, last week I retired from 35 years of teaching because of deafness in my left ear. During those 35 years, I had a chance or an opportunity to meet many students. I think I taught over 3,500 kids. Those of you who have seen me on Facebook see that many of them have caught back up with me and I've been able to manage a good relationship with most of them for all these years. But I'm haunted by one thing and that is during that sequence of time, there were always those kids that I could never reach and many other teachers couldn't reach. In fact, sometimes I'm haunted by that. It's really weird but last night I actually had a dream about one of the hockey players that I coached that had so much potential but fell by the wayside. I don't look at charter schools as a magic potion, but I look at it as an alternative. For the past two years while I served on the Education Committee, I argued and fought for charter schools because I saw them as a chance for some of those kids, like the kids that I might have lost along the way, to find their niche.

Now I have to be frank. A year or so ago I went to a school called The New School which is a private school in Kennebunk and I was amazed by the environment, stunned. It was seven thirty at night, there were kids there doing homework. Now when I was an active teacher getting a kid to do anything was always amazing, but here are these kids who were doing things and there was energy in the air and I was so impressed, and so many parents came up to me and said "Do you know I would have lost my kid except for this place?" Charter schools, I think, as an experiment allow us to maybe reach out and capture some of that magic. It is an experiment. We really don't know how it's going to work. Some will succeed, some will fail, but I think our

students deserve that chance. We don't want them to fall into the cracks that happen in schools. I don't know how many of you have been in public schools, but a lot of the public schools in the State of Maine have problems and testing is not going to fix those because a lot of the problems are socioeconomic, they are cultural. There are things that burden so many kids today that when all of you went to school none of it really existed. So I urge you to consider the possibility of charter schools.

One last point. I had a bill before the Education Committee this year that was very similar to this and I had an individual by the name Joe Gauld that founded the Hyde School appear before the committee to talk about his philosophy of education. Some members of the committee talked to me about that after, about their experience, because he talks about individual responsibility, he talks about vision, he talks about involvement, he talks about things that we don't see in an ordinary classroom because there is so much clutter and so many issues that are going on outside. Homelessness, I've had kids sleeping in their cars because they don't have a place to stay. Drug abuse, alcohol abuse, it's a nightmare at times. Please consider the possibility of charter schools. Give them a chance to work and save all those kids that we've been losing over the last generation. Thank you.

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

Representative **MacDONALD**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in opposition to the bill that is on the floor at the moment and I would start out by saying this is such a big topic that one might be tempted to make a big speech, but as the ancient Greek philosopher Callimachus said, a big speech would be a big mistake, so I'll be short. This is a huge topic though.

I couldn't but agree more with Representative Casavant and others who said that there may be problems in public schools that could be fixed by alternatives that might be proposed under this bill. But you do have to remember that Maine currently has 710 public schools in operation with over 200,000 students in it, all comers. You can't tell me that a system with that many schools taking all kids in is not going to have problems of one kind or another. I suggest to you that those problems are not, if they exist and I know they do in some cases, are not going to be solved by a small number of charter schools. I think our emphasis should really be on fixing the problems that we might find in those 710 schools with those 200,000 students. The objective evidence about whether or not our Maine schools are failing and whether people really need a choice or not, it's pretty clear. There is one test that is given nationwide, the national measurement of educational achievement, the NEA test. It's given in 50 states at the fourth grade and the eighth grade in both mathematics and reading. Maine comes in, when you look at Maine's scores on that test, Maine comes in 13th out of 50 states at a time when our teachers are paid around the 44th in this country. I think that's a good achievement and a marker that our public schools are doing a good job in general with the students that they have.

On the other hand, charter schools have not been shown to be an effective alternative. The Stanford study that the good Representative Lovejoy alluded to was a national study. It's really the only study that's looked at as definitive for all charter schools. It's hard to measure them because there are many different kinds, many different situations. But the Stanford study did a good job of making an apples to apples comparison, and, as Representative Lovejoy said, 37 percent of students in those schools in that study underperformed what they would have performed if they had gone to or stayed in their public schools. Seventeen percent outperformed what they would have done in

their regular public schools and the remainder, something like 54 percent, it was neither better nor worse. I suggest to you that's maybe a C at best report card for charter schools and yet here we are saying that we're going to propose them as an alternative to the public school system that we have that takes all comers and educates them, I think, according to the objective evidence, educates them to a very high level, 13th in the United States.

The question that I have though, the real question that I have is not about whether we ought to have some kind of experimental other system out there. I don't have a problem with us having an experimental other system out there. But this bill specifically has two problems that I think we all ought to be concerned about. One is the way these schools would be governed in many cases and the other is the way in which they would be financed. The government issue is this or the governing issue is this: The bill establishes a charter school commission of three members of the State Board of Education who are not elected, they are appointed, and then they elect four more people who become members or they appoint with approval from the Education Committee I understand, but it's not a public election. It's not like us going to the polls and electing our school committee members. It's a distance process from the people. It takes the governance of these public schools away from the people and gives it to this unelected charter commission.

I realize that the bill calls for both the charter commission and local school committees can also be authorizers, but I am willing to bet that most of the authorization for these charter schools is going to come not from local school committees but from this charter commission, this unelected charter commission. I say that that's a poor model for governance of something. They want to call themselves public charter schools. Where is the public in these charter schools? I'll give you one answer to where the public is. The public is in public money that these charter schools, which are really more like a set of private schools, want to take the public's money so that they can run these experimental schools. Men and Women of the House, if that's not taxation without representation, then I don't know what is. So my major concern is not whether we could have some nice experimental schools off to the side. I was a part of that as a teacher myself working in all kinds of schools. I worked for the Children's Museum for a long time in Boston, helped teachers start up innovative classrooms in public schools in the suburbs and in the City of Boston. It can happen in the public schools. That's where our energy should be put. Innovation can happen there. There are laws that allow for innovation to happen there.

The one final thing I'd like to say about the public money that is in these public charter schools that worries me more than any other piece of this is the provision that this unelected charter school commission is the sole authorizer of something called virtual public schools. Virtual public schools are online schools that are run by, in this case, I expect a company like K-12 which is in the business to provide online education to home schooled children. I have no problem with them doing that, but what I believe this bill authorizes is there is about 4,900 or so home schooled children in the State of Maine right now. What I think can happen is that those home schooled children and their parents can start an online virtual school, home schooling their children with companies like this K-12, and then pulling money from the local school committees to pay for that education. So the money gets siphoned from the public schools through the parents to this company K-12. The same kind of thing can happen with bricks and mortar charter schools, but the virtual charter schools, it seems to me, represent a real problem with home schooling parents being able to pull money out of your local school committee's budget in order for them to be able to

home school their children at taxpayer expense. I'm a taxpayer. I don't have kids in school anymore as you can probably tell. I want to pay taxes and I want to keep a strong public education system going in the State of Maine, but I don't want an unrepresentative board, probably employing for-profit companies, to have the ability to take my taxpayer money or your taxpayer money or the taxpayer money of my fellow citizens out of the system into this experiment that is not governed by democratic means and that does not have the kind of fiscal responsibility that comes with true representation in the operation. For these reasons, Mr. Speaker, I am opposed to this bill and I hope you will vote with me to vote down this Majority Report. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Hiram, Representative Rankin.

Representative **RANKIN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise tonight in opposition to charter schools. The majority of children in Maine attend public schools. There is competition from magnet schools, private schools, religious schools. What are we thinking of? Kids in public schools have been the sacrificial lambs long enough. Let's get real. Due to lack of funding public schools are closing, teachers are being let go, in fact disrespected. What has been inflicted on them are programs being cut such as art, music, field trips and sports, and yet more is expected of those teachers who are left and so much they have to provide with less help.

In addition public schools are required to provide for the needs of special ed children. Will charter schools do that? They could in fact contract with public schools. Who will be in charge of charter schools? We are told authorizers. Will they be from Maine or out of state? How much latitude will they have? They will be run much like private schools with little or no parental say, no oversight from the public. Will teachers be certified? Not necessarily, and charter schools, they will allow three years to become certified. Who's to say that after two years they wouldn't decide to leave that school and go to another charter school and will they have another three years, who knows? How will students be selected? What if there is room for only 25 students and 35 want to go? Well, they will be selected by a lottery and 10 percent of the authorizers of these children selected, 10 percent can be children of the authorizers or their staff. Where will the school be? What kind of a building? Will they purchase it or rent it? Will the building meet state standards? What will they do for transportation?

What can charter schools provide that public schools cannot? Public schools have become innovative and they continue to improve. There is a great deal more intervention in the lower grades, hopefully so that children will be better prepared for high school and college. High schools are connected with community college programs. They have arrangements with businesses, cooperative arrangements. Some businesses pay for scholarships for students to learn more about technology because they can't find enough adults who have the education to do the technological work that is needed.

In my own school district they have had virtual high school for five years. Other schools are already involved in that project. So you see there can be a lot done in public schools and there could be a lot more done with the teachers if you let them be there, stay there instead of having to let them go. So to me, if we have any extra money, the funding should definitely go to public schools who have sacrificed so much over the years for the many new programs that they have had to put in and special ed being one especially because special ed children are mainstreamed into the classroom and that makes it very difficult. I mean these poor kids have to have special help, but it's the classroom teacher that has

to take upon this additional burden.

Lastly, the public has not had an opportunity to decide whether or not they want charter schools. It has not become available for the public to vote on this very, very serious issue. Is there something wrong with this picture? I hope you're going to really think very carefully about this before you make a decision, but we are sliding down a very slippery slope. I urge you to think very carefully before you vote. Protect our public schools and the kids that they teach. Thank you, Mr. Speaker.

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

Representative **BURNS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today to support this motion for charter schools in this state, and as I understand the bill, it will establish a process to authorize the establishment of public charter schools and at the end of the year that process will be brought back here to this Legislature for approval, either up or down. It's awful easy to predict all the problems that may result from us going into this venture with charter schools, but it seems that it's been the solution in about 40 other states in order to meet unmet needs that are in those states.

The good Representative from Kittery spoke about the fact that these types of schools should be used to meet big problems. Well, I submit to you some of our small schools have big problems. I don't know about your districts, but I know about my district. One of my towns, a town had to close down their school recently because they couldn't keep it open. They couldn't afford to keep it open. I don't know whether this is a solution, ladies and gentlemen, but I know it's an option. Imagine what it's like to live in a community and have your school shut down because you can no longer keep it open. You'll have special circumstances, you're off by yourself, you'd have to transport all of your children 30 or 40 miles to the nearest other school, and you're also facing the possibility of maybe your grammar school shutting down. I submit to you, folks, not every school is on sound footing. Some schools have difficult situations. Some communities are facing problems that many of us don't have to face in our community. We need to give them an option. I think this is a very reasonable option and I am so gratified the amount of time that has been taken by our Education Committee to vet this situation out, this proposal out. I had an opportunity to sit in on a couple of the hearings and I wished I had heard more, but it was incredible to me the amount of effort that you all put into it to go through this, to vet this possibility out, and then to see the bipartisan support, 11 of you out of that Education Committee supporting some aspect of charter schools.

Ladies and gentlemen, I'm comfortable with going forward with this, with this bipartisan support after very careful vetting, especially considering that it will come back to us once again to make the final decision. To walk away from this process now is going to mean one thing for some communities. They have no other options. I just ask you to think about that. If it was your community and you had no other options and we turned our back on you, where would you go? Again, I don't know if this is going to be the solution for one of my towns, but at least it will be an option for them to take a look at to meet the needs of their students.

I had the opportunity this past weekend to attend another special school, which most of us wouldn't even think about and we wouldn't even come to our minds unless you happen to know somebody who had to go to one of these schools. I attended a graduation for 13 kids who just graduated from the Passages program. Each one of those young moms or fathers had to drop out of school because they had a child prematurely and they

chose to raise the child. It was so gratifying to see that these kids had another option. To watch them go through their graduation with their child because they had completed a program that had been made to fit their particular circumstances, it's not something I would want every child to go through, but this was there, this option was available for them. Had it not been for that, I can imagine what the circumstances would have resulted in and you all can imagine with me what the alternatives would have been. But because there was an option available, these kids met that challenge with special circumstances; they got their high school diploma. They're going to move on in life. I ask you to give some other kids that same opportunity, approve this, allow it to go through the refining process, come back to us and then let's give some of these communities the option. This is not competition for your public schools. This is another option that's only going to meet the needs of a small few, but it is going to meet the needs of important people, our children. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Nelson.

Representative **NELSON**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I'm a strong believer and great supporter of public education. My husband and I both attended public schools. Our three sons all graduated from Falmouth public High School. I believe public education is the great equalizer in our country. It has created an open society in which anyone who wants to work hard has the opportunity to realize his or her dreams. It is one of the great parts of our democracy, I believe, that we provide a free public education to every person in this country. As has been said many times, charter schools are not a silver bullet which will solve all of the problems and challenges facing public education in Maine, but they do provide, I believe, a tool, another tool to invigorate Maine's public school system and to meet the needs of some students.

Maine is one of just 10 states that do not have charter enabling legislation. For many years there have been people working and hoping to change that situation, believing that public charter schools are an option and an education model that we should permit in this state. We have some very fine schools in Maine, we have some wonderfully innovative schools in Maine, and we also have some schools that are struggling. Maine's graduation rate hovers around 80 percent, which means that our high schools are not meeting the needs of 1 of every 5 students. If we can design an educational setting that will provide a successful educational home for these at risk students or students who learn differently, I think we should try that.

LD 1553 provides a controlled way to see if there might be alternative ways to meet the needs of some students. This legislation controls the number of permitted charter schools and ensures that they will only be given charters if it is demonstrated that they are meeting an identified and stated need. The number of students charter schools can draw from any one school or any one class of students is strictly limited. Charter schools are open to all students. Funding will follow the students. Charter schools will be established only when desired, planned, and legally authorized by a local school district or a state charter school commission. We talk a good deal in education about multiple pathways for our students. Students learn differently, not every student learns the same way. Some are visual learners who learn through seeing. Some are auditory learners who learn through listening. Some are tactile, callisthenic learners who learn through doing and moving and touching. Some students withdraw and struggle in large classrooms. They need smaller classrooms. As good as our public schools are they still have a

huge challenge of educating all students and they cannot tailor the programs to each individual student. Charter schools, I believe, provide opportunities to develop content-based or theme-based schools, perhaps focusing on the arts, music, business, school partnerships, world cultures, agriculture to name a few, which address multiple and varied learning styles. We want all children to thrive in our schools. Change is difficult, but in these times when many of our students are at risk of not completing their education at the worst or not thriving and meeting their potential in school at the least, I think that it is time for Maine to explore every possible educational avenue to help them find success and become capable and competent citizens. Only half of Maine's eighth graders ultimately enroll in college, and of those who do, more than a quarter require at least one remedial course. Just over one-third of Maine's citizens hold a higher education degree, an associate's, bachelor's or advanced degree. This puts Maine below the national average and significantly below the New England average. I think that we all want our education system in Maine to be the best, most creative and innovative, the strongest that it can be. Perhaps it is time finally to try a new model carefully with significant control, oversight and evaluation, and see if we can build an innovative quality system that complements and meets all students' needs. This legislation will also require that the department come back to the Education Committee and ultimately to this Legislature with major and substantive rules, which will help us to craft and design the legislation for charter schools in the State of Maine. I am on the Majority Report because I think it is time that we try this opportunity for Maine. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Greenville, Representative Johnson.

Representative **JOHNSON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to congratulate the Representative from Falmouth. She has covered everything that I was going to cover and probably much more eloquently than I would have. You know, Falmouth has won an award for being a learning community, a great place to learn, and she certainly has demonstrated that today.

I would like to just reinforce a couple of points. Charter schools equal choice. Choice is good. What does it take for a kid to learn? Every kid learns a little bit differently and our schools, I know we are blessed with having some very fine schools, but we still have a dropout rate that's hovering around 20 percent. What about those 20 percent? Are we just going to throw those kids away? I think not. We have a very good proposal in front of this Legislature at Good Will-Hinckley sponsored by former Speaker Cummings. I think that school will meet the needs of some of our students that are falling through the cracks. I think that is a good example of how communities would be willing to invest some of their money in those children.

I think one of the points one of the speakers brought up was that this was an undemocratic sort of arrangement on how charter schools would be run. Well, my community back in the 124th days was looking seriously at converting our school into a charter school and we may still want to pursue that should this legislation pass. But I learned a lot about governance and I learned a lot about what the parents in those communities, what their expectations were for their children, and they were really enthused about it. One thing I do know is when you have a high performing organization you have enthused teachers and students and parents in a community, and you put those things all together and every kid can learn.

So another thing, I would remind that individual that we have town academies now and some of those town academies are pretty good, not as good as my school but pretty good, and they

are pretty undemocratic too. The parents don't get to choose much, they hire uncertified teachers, but they seem to make it work. We have an exhaustive approach and approval of charter schools and the standards that those schools would have to meet and the mechanism to check on them to make sure they meet those standards. So I think one of my observations in looking at public schools and I've really just been involved in it for about 10 years is that change comes hard to our public school system. It comes very hard. People get complacent in their environment and they resist change. I think for those 20 percent of children that we're not serving and some of the people that we are serving well but could serve better, I think this is the right time to do this. I think the controls are there. I think this is a slow methodical approach. This is something that should come to the State of Maine at this time. So I hope many of you will support this bill so we can start working on it. Thank you.

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

Representative **McCLELLAN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I also am supporting this LD 1553. I just wanted to say a few quick things because many people have spoken so well about this issue tonight. I would point out that funding for a student moving to a charter school is going to just come from the student's funding of EPS only, and even in that case, it's only 97 percent of their funding. Three percent will stay with the sending school. The charter school is not going to have access to money for buildings, for buses, for softball fields or anything else. It's not going to have access if a local community adds more money into the mix.

We did have a long process, a lot of good discussion, a lot of good discussion. Professional groups were advocating for their alliances and they were primarily against this bill and it's understandable because, as I think the Representative just said, change is difficult for all of us. However, I will say I got a lot of emails, maybe you did as well, but my emails were pretty 50/50. I got emails from superintendents for and against, I got emails from principals for and against, and I got emails from teachers for and against.

Mr. Speaker, recently I saw in a local paper, I think it was the Lewiston *Sun Journal*, there was a study that was done by Pan American Marketing Group and it was actually done in May 2011, so just recently, and it was on this topic of what does the public think about charter schools in Maine and it was broken down by your political party. Republican voters were ranked at 69 percent in favor, Democrats were ranked at 63 percent in favor, and Independents were 65 percent in favor. So that suggests to me that our constituents as a whole want this. Now I agree with what's been said earlier, Mr. Speaker. Charter schools are a tool, they are an option. They are certainly not the silver bullet, but I think as a tool they will have the opportunity to significantly enhance the education experience for some children, some adults too, and for some others it will be of no interest. I sat in on the other body's discussion yesterday and at one point someone suggested, why don't we just put more money towards the public schools? I think you can look around the country and you can see places where they've spent significantly on their public schools, places like New York City, Washington, D.C., and Detroit, and you can clearly see that just throwing money at something, schools or whatever, is not going to just solve your problem. I think the key here is the way charter schools are structured and operate. They have freedom from rules that burden our public schools and they burden our public schools in many cases because we've done that. This body has mandated things to our public schools that tie their hands and I've talked often when I've stood about how we've made public schools rec

centers and daycares and doctors and all kinds of things. We've done that to these folks and then we wonder why the education system doesn't work. So the key to charter schools is they have freedom from some of those burdens and mandates and they also have accountability to success. As you heard earlier, Mr. Speaker, that there is an accountability part to this bill.

Now starting charter schools in Maine would also open Maine up to many federal grants for education and not starting charter schools will bar us from applying for some of this funding. There are many large grants federally that when they ask you questions, they ask you about your charter school system and we know we would be barred if we do not go to this system. To start up a charter school in Maine, Mr. Speaker, is extremely difficult, and if you look at the bill, I believe there is 10 pages of rules and things, hoops you have to accomplish to get there. I personally, in looking at it, thought it was too hard, but that's where we came as a committee. But also charter schools would be regularly evaluated, as I said earlier, and if they do not demonstrate success, then they will lose their charter.

I mentioned the Maine survey earlier that just was out in May. Looking around the country as other people have mentioned, I saw recently in the State of New York, where I mentioned earlier I'm from and I kind of keep track of what's going on down there. Mr. Speaker, many social groups are trying to stop successful charter schools and I don't know why that would be other than if it's a control issue of some kind. This is really angering their constituents as people in, say, Harlem see charter schools as a way out of poverty for their children. In fact a recent rally in Harlem, New York; there were two rallies. There was one in support of charter schools and over 3,000 families showed up. The anti charter rally had 14 people. Now in Maine we don't have the situation, I think, as I'm suggesting in New York, but I have to question why we would want to block a possibly good option. You've heard and you'll probably hear some more about in Maine the different learning styles that our children have. So again, I think this is a good, good option for us to explore. This bill, LD 1553, I think, is an exciting opportunity for Maine, for Maine families, I think for Maine youth, and I think, yes, even for Maine educators. So I do hope you'll join me in supporting Senator Mason's bill. Thank you, Mr. Speaker.

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

Representative **MAKER**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. You've heard me in the last few weeks here tell about why I vote for certain things and when we were dealing with this subject I took it to heart because it's a real serious issue when you're dealing with something that is different and you're working with public schools and you may lose funding for those schools. But what it really comes down to is our children. Representative Casavant said it exactly how I felt. I've met so many children that just did not fit in our public schools. They couldn't help them. It was not the public school's fault, but they needed another alternative and it is great to see these kids change and really turn on to education. I think this was a great opportunity. I came down that morning. It was a Friday morning we took that vote and I thought, what am I going to do? I realized I'm going to vote for the children, that's what I'm going to vote for. I'm not going to vote for teachers, unions, whatever. I'm going to vote for those kids. I always have done that as a school board member and I will continue to do that as a legislator.

The next morning when I went down for breakfast that morning, I read an article in the *Kennebec Journal* which really kind of pointed some of the things that I felt. I am going to read you a little bit of that. They said "...critics typically make two

arguments. They point to studies that show that charters do not produce higher test scores. And they warn that diverting large numbers of students to charters, along with the public money that follows those students, will weaken traditional schools at a time when they are already struggling with a lack of funding. What the opponents can't explain, however, is why parents would take the trouble to send their children to schools that were not as good as the ones to which they've been assigned...even the biggest boosters have to acknowledge that the public school system, as it currently operates, doesn't work for everyone, and too many students fail to graduate or finish unprepared for higher education or job training. A school does not have to be a "failing school" to fail to reach some of its students. To say that the current system should...stay intact while families wait for reforms that might help them means that the people who are falling through the cracks will have to just keep falling." Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Brooksville, Representative Chapman.

Representative **CHAPMAN**: Thank you, Mr. Speaker. Mr. Speaker, Colleagues and Friends of the House. I have been working in education the last 10 years and I would like to speak to a couple of aspects of this bill that have not been emphasized. One is the process. It became available to me Monday, a few days ago. I've spent many hours looking at it. We've heard a variety of the good points and a variety of the problem areas associated with this bill. I can assure you that I've got a list of about another half dozen to dozen problems that I recognize that represent problems that need to be fixed. My clear preference would be that we have more time to work on it. That would be my clear preference. At the same time one could work this and never get anywhere. So I'd like to point out one other aspect of the proposal before us, which is that although the charter schools in the bill are limited to 10 charter schools that would be state chartered, will not be able to serve a very large number of students statewide, they will be able to provide an experiment and a model for those that work well from which we might be able to learn to utilize some of what we learned from that in other schools. That is to say, the benefit to this school system statewide can come from the experience that we gain from this experiment.

Then finally, there is plenty of reason to see the opportunities for a charter school in Maine and there are plenty of problems in which one could easily rationalize a vote against this. I summarize that in my own mind as either looking at the charter school proposal before us is a reasonable framework that reasonable people will try to implement in a reasonable way for the good of the state, or one could look at it as a framework with clear deficiencies and provide an opportunity for an implementation that creates a series of very serious problems. In essence, I think that we could look at it either with the hope that we can work together and do something very beneficial or we could look at it with the fear that horrible things will come from it. So it is with that thinking that I have decided that I will be supportive of this bill. I think it's a worthwhile experiment. I think it's got a variety of needed controls. As I say I will be happy to help work on the refinements of the dozen or so additional problems that I see, but I think we have to move forward. Thank you, Mr. Speaker.

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

Representative **MALONEY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I think we have to stop comparing ourselves to other states. We need to compare ourselves to other countries. On December 7, 2010, we all heard the sobering news that 15-year-olds in the United States ranked

25th among their peers from 34 countries on a math test and scored in the middle in science and reading. Well, China's Shanghai topped the charts raising concerns that the U.S. isn't prepared to succeed in the global economy. This week Gardiner High School graduated 135 students, but 205 students began as freshmen. This tells me we need to do something. The number one objection I'm hearing to charter schools is that it will take money from other public schools, but as the good Representative from Raymond pointed out, the Federal Government in the past has given more money to states that allow charter schools. With passage of this bill, we would have a better chance of getting a piece of that funding in the future. Change can be frightening, but it is the only way to move forward. Creativity in the hands of people can lead to amazing changes. I will just give one quick example.

In 1993, I had the opportunity to conduct research in the country of New Zealand. The country had decided to make a pool of money available for their citizens to apply for to start preschools. The native people of New Zealand applied for and received some of this money. As a result the native people began preschools where their native language was spoken. More and more New Zealanders, both natives and non-natives, began sending their children to these preschools. As a result the native language which was on the verge of extinction is now taught all the way through the college level in New Zealand. I think similar amazing things can happen here in the State of Maine if we give the ability to the creativity of Mainers to make schools that will reach different populations of students in Maine and that can educate students in a new and exciting way. When you give people that ability to be creative, I think great things can occur, so I will be voting in support of this. Thank you.

The SPEAKER: The Chair recognizes the Representative from Glenburn, Representative Guerin.

Representative **GUERIN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise tonight in support of LD 1553. I speak to you tonight as a former public school teacher and currently Maine certified teacher. Charter schools are not an adversary of our public schools. They are an optional extension of our classic model of public schools. I, like Representative Casavant, grieved for the students in my public school who were not reached by the classic model. With our unacceptably high dropout rate, we need to act tonight to offer an option for these students to be reached with an alternative approach. Please join me in voting in favor of this innovative option for Maine students.

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

Representative **VOLK**: Thank you, Mr. Speaker. Mr. Speaker, Honorable Members of the House. A lot of other people have spoken in favor of this bill so I am going to try to make this brief and just kind of run through a couple of things I did want to highlight, that I don't think too many other people have talked about at least.

Not only does Maine qualify for federal grants if we pass charter school legislation, but we also will qualify for potentially over a million dollars in private grants through the Gates Foundation. The Gates Foundation told Maine, don't come back to us unless you have charter schools. So I see this as not only as an educational tool but also as an economic development tool with money flowing into the state that we could certainly make sure of for our kids and you know of course there is always other people who benefit from that as well.

Another point I want to make is that we ask a lot of traditional public schools. They don't have the luxury of declining difficult students who have a nontraditional learning style and often these

students are very expensive to educate in a large traditional public school environment. I personally watched an excellent school district spend 13 years and thousands and thousands of dollars trying to fit a square peg into a round hole. In fact my son that I'm sure all of you are familiar with by now was given an out of district placement and my understanding is this probably cost my district as much as \$60,000. That's a lot of money for 18 months of education. It seems to me that in a smaller environment, which we were able to do eventually for him on our own, he probably would have done just fine, particularly if it was an environment that was tailored to his needs and those of other kids with similar learning styles. So like all public schools, public charters are not permitted to decline difficult students but they are able to offer a flexible learning environment and they provide great hope to parents of students who struggle in a traditional classroom. This bill has taken us years to hone. It is good legislation, building on bills from the past that were originated by the Honorable Democrats, Senator Mary Cathcart and Representative Judy Powers, as well as Republic Senator Carol Weston. The Education Committee worked very hard on crafting the charter school bill this session, holding not one but two work sessions, and this is our chance to get it right tonight as the good Representative from Glenburn just said.

Additionally LD 1553 benefits from some of the hard lessons learned by charter school failures and shortcomings in other states. So we're benefiting from the lessons that were learned in other places. Are charter school bills a silver bullet? No, but they are part of an educational silver buckshot. There are many, many strict limitations on Maine charters in this bill. All the checks and balances needed to ensure success and fairness are in this bill in its present form. We heard from the good Representative from Raymond that 65 percent of Maine people support charter schools. This is something our constituents want. This is a tool that our educational system needs.

A couple of additional points. With the potential for public districts to convert a school to a charter school, this could potentially save a small rural school that is trying to stay open. It would give them a five-year lifeline in fact. We heard about lotteries. Lotteries have been on a regular basis in public schools. Lewiston held one last month for kindergarten programs. Lastly, transportation is something that has to be addressed in the very, very lengthy application process. So I ask that you join me in supporting this motion. Thank you.

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 wanted to add to the conversation. I don't know if it's really necessary at this point, but having had some experience in dealing with issues in schools, as I'm sure a lot of people here have, it can be very frustrating when you see a child who has a great capability and the needs aren't able to be met, and that's just because the resources are limited for the public schools and sometimes they really can't address some needs.

I'd like to give the example of my son when he was just in pre first grade, T1, and didn't appear to be able to be learning to read the way that he was being taught and I got a consultant to see about the testing that was done on his reading style. Well, the public school had wanted him to go into a special resource room for reading and anticipated he would be there for the full 12 years of his schooling there. I visited, I wasn't buying it. For him I thought it would kill off his interest actually. So this consultant just said what was needed. The school had that program, but they just didn't use it and their answer was we don't use it, we use this program or that program and that's all we can do, even

though they had everything available to them. It was basically a lot of phonics. So because that another basic kind of a program that did phonics a lot was not used, their answer was for him to have to go into this resource room. The consultant told me that she could show me how to teach him myself and I could order the material, so I did, and as it turns out it worked very well and when he went to first grade he tested into the highest reading group in this little private Catholic school and for the rest of his career he was in advanced English all the way.

That opportunity, it was fortunate it could happen for him. It was happenstance. A lot of kids don't get that opportunity because the public schools can't really meet all the needs that are out there and that's what I think parents are looking for when they go to something that might be a charter school. They want to be able to have those options that would work for their children to be successful. I also think that governance is not something that we should worry about because governance is also something that parents are looking for, a different way of governance where they do in fact have more say and they are able to have more influence. If it doesn't work for them, they can leave. That's the ultimate, but having left the public school it may have taken somewhat of a burden off the public school as well if they're trying to make kids fit into these certain round pegs fitting into square holes.

I'd also like to comment that I know teachers who also feel rather frustrated and restricted by the parameters of public school education where they would like to actually be doing more creative and demanding class work and programs, but they are not able to do that and it can be hard on them too. So it's a great opportunity for teachers to try their wings in places where they can get some support to do that. I guess really it boils down to whether we want to focus on education or schools and I think if we have opportunities for more education in more ways, then it should really meet the needs of public schools, children, teachers and parents. It provides that opportunity. So I just wanted to share that much. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lincolnville, Representative O'Brien.

Representative **O'BRIEN**: Thank you, Mr. Speaker. Very quickly, I just wanted to respond to some comments I've heard about comparing U.S. test scores to test scores in China and some of you may know I spent a number of years teaching in a traditional Chinese education model and I think that is a false comparison. I just want to point that out on the record. I was talking to a friend of mine who is a 27-year-old in the U.S. from that part of the world trying to get his high school degree. It is a very different education system, and in parts of China where you have 40 percent dropout rates, your test scores are going to go up. So I just wanted to point that out. Thank you.

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

Representative **LOVEJOY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I apologize for rising a second time, but there were a number of things said and I wanted to clarify some of the reasoning behind what I mentioned earlier.

First of all, we've heard several teachers and former teachers testify. I taught in the university system. I can tell you it's frustrating, incredibly frustrating to have high school graduates who can't write competently, and there are a lot of them. I heard Representative Johnson talk about change being hard and Representative Casavant talking about innovation. Portland has two very innovative schools, Casco Bay High School which is an experiential learning model, and the Many Rivers program which is a grade school. Both of those are perfectly allowable under

our existing laws and we're expanding that with the innovative schools bill. So I am incredibly pro education and I want to see kids get out of high school able to do college level work. I have to tell you from what I've seen, an awful lot of them can't. Change is hard and I know that. I honestly believe that we need more ways to educate kids. My fear in on the funding issue. I don't know a single school right now that would tell you they've got excess money. If any of your districts say that they do, I'd love to know about that. Education is so important and I fear for public education, that's all. We have some great schools and sometimes when we look at test scores we look at ours compared to other states, which is false comparison if you're using the SAT, because in fact the SAT in Maine is taken by virtually everyone. Vermont, less than 50 percent take it and we're still competitive on scores. I think that's a real credit to Maine public education. So I won't prolong this longer and I'm not going to ask anyone to follow my light, I'm just going to ask you to vote your conscience, that's all. Thank you.

The SPEAKER: The Chair recognizes the Representative from Hiram, Representative Rankin.

Representative **RANKIN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Obviously I'm very nervous tonight. It's the first time I've spoken this year, or this session I should say, in the House. This subject is so very important to me I feel badly that I really didn't do as well as I wanted to, but nevertheless I did want to tell you that I worked in the education system for almost 50 years in all grades, from kindergarten through high school. I was the school nutrition director so I got to know a lot of the children very well, as well as the teachers and the administrators. Over these years, let me tell you they tried many, many new ways of education, many new programs. Some of them were good and some of them were not good. It's sort of like a circle. We're kind of coming back to know that we need to learn some of the basics again. That's why children, I think, are having so much difficulty with reading and writing, one of the reasons anyway.

I would like to say and make clear that I'm not dead set against charter schools. I think there is room and a place for charter schools in the future, but we have too many questions and not enough answers. This is a huge, huge decision to make and I hope that when and if this occurs that we will be well prepared. I have to mention too, the many amendments we've had, we were still getting amendments. In fact, 29 pages just yesterday and I was glad to hear tonight, I hadn't heard it before, that they are going to be working on this all summer long. So I'm glad to hear that too. So whatever happens, I certainly hope it will be whatever is best for the children, but I'd like to think it was for the majority of children and of course I have a special love for public school children, all kinds of kids, some with worse problems with others. But we've accomplished some wonderful things and many of our children have gone on to colleges and I'm very, very proud of what the public schools have accomplished under very difficult circumstances. They pretty much have proven themselves. So I would think the best thing would be if we took the time to make sure we know what we're doing. Thank you very much, Mr. Speaker.

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

Representative **BERRY**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. This vote today will sum up over half of my life, better than two decades spent in teaching graduate studies and training of other teachers. I spent 10 years working in urban public charter schools. Two years ago, I voted for charter schools in this body and for the innovative schools that we already allow here in Maine. I've supported the

magnet school that we have in Limestone. I hope the Good Will-Hinckley project goes forward. If there is anyone here who has been preparing professionally and politically for decades to vote for this bill it's me, but I'm not prepared to vote for the pending report. Before I go on to say why, let me tell you this. We are all, every one of us, here for the children. Our colleagues on both sides on the Education Committee who voted on all three sides, in fact who voted on the two Minority Reports as well, believe in what is doing best for the children. We are all here also with the goal of increasing the quality of our educational system and our international competitiveness. Let's have no doubt about that. Where we disagree is how, whether accepting this Majority Report as written is the way to help Maine children. Mr. Speaker, if I've learned anything during my years in education, it is that magic bullets do not exist. Things come and go down the pike as Representative Rankin said. And you can work miracles, and we do here in Maine in our schools. But there are no magic shortcuts to quality.

I worked in education reform for over two decades. I spent the first decade, all of the '90s and then some, at the heart of the public school charter movement in New York City, the second half teaching and parenting in Maine schools as well as training other teachers. My college professor and mentor for four years in the late '80s, even before that, was Ted Sizer, one of the leaders of national school reform at the time. Ted was brought here by the Maine Association for Charter Schools as their keynote speaker a few years ago. He was my mentor. His work united hundreds of schools internationally from here to New Zealand, including many of the first, the very first public school charters. Working for Ted as an undergrad in the late '80s I was able to travel the country and visit many schools, to organize international forums where educators came together and shared best practices. And then I went on to Harlem.

Mr. Speaker, award winning charter schools in Harlem have been mentioned here today as a model for Maine. I know those schools because I helped to start them. My first teaching job was at an internationally famous public charter school in East Harlem called Central Park East Secondary School. It was led by Deborah Meier, explored in the movie "High School II." While there, I also traveled around the country because as a teacher at that school I was paid to give workshops, from St. Louis to South Carolina, on what we were doing at Central Park East Secondary. People visited from around the world every day at that school to find out what we were up to. I know those schools in East Harlem and in the rest of Harlem.

After that I went further north in Harlem and helped to start another progressive school within a school, which became rated despite its location in another of the worst inner-city neighborhoods as one of New York City's best middle schools. I served on the board of a charter organization in New York. Ironically much of what the best urban charters are doing, it turns out, is to create a rural small school feel where every child is well known and respected for who they are. It turns out that kids learn better when you begin to treat them as humans. That is what we were doing in Harlem, in Washington Heights, in South Carolina, in St. Louis. We were taking what Maine teachers do best already, especially in small rural schools, and we were bringing that old knowledge, that ancient knowledge to giant dysfunctional urban schools. That is the 17 percent of charter schools that have outperformed regular schools. If we go forward with this Majority Report, Mr. Speaker, I fear that we're heading towards the 37 percent that underperform because they are in suburban and rural areas.

Mr. Speaker, I love New York City and the public schools. I taught in there. I hope that comes forward in these remarks.

I almost stayed there and raised my kids, but Maine was home and so I came here and I taught for 10 more years, even though the pay is about 30 percent lower. And what I learned again here was that public schools and teachers in Maine are every bit as resourceful and dynamic as the very best urban charters. They know, our teachers know what others are just now discovering. They know that kids need choices. They know that kids need personal attention and that there are multiple pathways to success and multiple intelligences. But our more rural nature creates a far less friendly atmosphere for public school choice, even as it has already offered a more friendly atmosphere for children. So even though I voted for a different, more limited charter schools bill two years ago, I do not feel I can vote for this hastily written bill. It is not the right approach to charter schools for Maine, which is a state where in part one thing we expect is a local control of our tax dollars. This Majority Report would relinquish that control. It also risks the successes that we already have. On the most recent ACT our high schoolers do 5th best in the nation overall. That's an apples to apples comparison, Mr. Speaker. On the most recent NAEP our younger students are also among the best. Teacher pay here, though, is between 44th and 47th in the nation. So I think those results are impressive and we should be careful about experimenting too much too fast with these successes.

The poor track record that is demonstrated in the Stanford study where 17 percent of charters do better, 37 percent do worse, the rest are a wash, is startling. It was very startling to someone like me who had worked so much in charter schools because charters should do better. They typically attract the lion's share of federal and foundation dollars. Sometimes they double their budgets. They should do twice as well with that money. They can typically expel problem students far more easily and it is unclear in this Majority Report whether that will not be the case if we go forward today with 10 charter schools here in Maine. Charters do and will siphon talented and motivated teachers, families and students from the regular schools, those in the know. Kids whose families just don't care or just don't know are left behind by charter schools.

If we're going to set up charters in a rural state like Maine, let's slow down and hold a proper hearing on a bill where more than two members of the committee of jurisdiction can be present and can hear from the public. Let's go forward with a report that does not appoint an unelected unaccountable commission to set up 10 new schools that drain significant money from our local schools with no local approval. Choice is good and choice should be made locally, not by an unelected and unaccountable commission. That goes for education; it goes for our tax dollars too. Maine schools could lose close to 30 percent of their funding in the next three years, in the first three years if this goes forward, and an unlimited amount of their funding afterwards. Overhead costs, many of them would remain the same, even after the students have gone. This is a problem we already have as student population declines. Those schools would have no say-so in the matter. The school board would have no say-so in the matter and the local taxpayers would have no say-so in the matter either.

Mr. Speaker, as the Representative from Whiting mentioned, schools in Maine are already shutting down. This Majority Report threatens to accelerate the loss of our smaller community schools. Innovation does not need to come at such a cost. We have the magnet school in Limestone. We can open another one in Fairfield. We can already go forward with innovative schools that are approved by local taxpayers. So Mr. Speaker, I hope that we will vote down the pending motion and make way for a Minority Report from the other side of the aisle that would allow

everything good in this bill to go forward, because there are good things and we do all care about our children and about innovation, but would do so, Mr. Speaker, without sacrificing local control over tax dollars and without rushing to a future that we do not understand the risks of. Thank you, Mr. Speaker.

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

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

The SPEAKER: The Representative may pose her question.

Representative **BOLAND**: On the comparison that says that the charter schools, 37 percent is effective, I'm curious about what the comparison factors actually are because it seems to me that for students and families who opt for charter schools or charter-like schools, that perhaps the option is to not be in school at all. But I don't know, I'm just wondering how that comparison is made if anyone can answer.

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

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

ROLL CALL NO. 190

YEA - Ayotte, Beliveau, Bennett, Bickford, Black, Boland, Burns DC, Burns DR, Casavant, Cebra, Chapman, Chase, Cornell du Houx, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dion, Dow, Dunphy, Espling, Fitts, Fitzpatrick, Flood, Fossel, Foster, Gifford, Gillway, Graham, Guerin, Hamper, Hanley, Harmon, Harvell, Haskell, Hunt, Johnson D, Johnson P, Keschl, Knapp, Knight, Kruger, Libby, Long, Maker, Malaby, Maloney, McCabe, McClellan, McKane, Morissette, Moulton, Nass, Nelson, Newendyke, O'Connor, Olsen, Parker, Parry, Peterson, Picchiotti, Pilon, Plummer, Prescott, Richardson D, Richardson W, Rioux, Rosen, Sanderson, Sarty, Sirocki, Strang Burgess, Tilton, Timberlake, Turner, Tuttle, Valentino, Volk, Wagner R, Waterhouse, Weaver, Welsh, Winsor, Wood, Mr. Speaker.

NAY - Beaudoin, Beaulieu, Beavers, Beck, Berry, Blodgett, Bolduc, Briggs, Bryant, Cain, Carey, Chipman, Clark H, Clark T, Clarke, Dill J, Duchesne, Eberle, Edgecomb, Eves, Flemings, Gilbert, Goode, Harlow, Hayes, Herbig, Hinck, Innes Walsh, Kaenrath, Kent, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Martin, Mazurek, Morrison, O'Brien, Peoples, Priest, Rankin, Rochelo, Rotundo, Russell, Sanborn, Shaw, Stevens, Stuckey, Theriault, Treat, Webster, Willette A, Willette M.

ABSENT - Celli, Driscoll, Fredette, Hogan, McFadden, Wintle.

Yes, 89; No, 55; Absent, 6; Vacant, 1; Excused, 0.

89 having voted in the affirmative and 55 voted in the negative, 1 vacancy with 6 being absent, and accordingly Report "A" **Ought to Pass as Amended** was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-301)** was **READ** by the Clerk.

Representative BELIVEAU of Kittery **PRESENTED House Amendment "E" (H-637) to Committee Amendment "A" (S-301)**, which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Beliveau.

Representative **BELIVEAU**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Maine public charter schools should be independent schools, they should not be run by charter management organizations. Independent charter schools are charter schools that have full control over their own destinies. They have local control. Charter management organizations or CMOs are entities that

simultaneously manage several charter schools and do so from a central office in a location different from the school. I am submitting an amendment that would prohibit CMOs from managing Maine charter schools. Seventeen other states run their charter schools without CMOs and this amendment would make Maine the 18th. I will briefly explain four major advantages that independent charter schools enjoy over their counterparts that are run by charter management organizations or CMOs and you will see why we should keep Maine charter schools independent.

The first reason, while independent charter schools understand a local educational context of their community, CMO managed charters are out of touch. Independent charters enjoy local control. CMO charters are managed from afar. Leaders of independent charters who live there, who work there, who actually see and know the challenges students face there, those leaders are much better prepared to tackle the local educational problem than CMO managers who will probably work in an entirely different state. CMOs are simply out of touch with their charters.

The second reason to choose independent charters over CMO charters, CMOs are highly prescriptive which of course discourages innovation. They have a prescribed predetermined plan for all of their charters to follow. In a study by the Center on Reinventing Public Education at the University of Washington a pro-charter-school think-tank, they reported that "nearly all CMOs are moderately to highly prescriptive, trying to ensure all affiliated schools follow a set design for curriculum and instructional techniques." Independent charters, however, adapt to the talents and preferences of local teachers and administrators. Ask any teacher you know which of those approaches are better for students. One-size-fits-all or the ability to adapt? CMO charters are franchises. They are chains. Do we want CMO McCharters or do we want independent Maine charters? The prescriptive nature of CMO charters is not the best approach for Maine students.

The third reason independent charters are far superior to CMO charters, CMO charters bring with them unnecessary bureaucracy. This extra bureaucracy comes in the form of needing to manage the CMO central office far from the charter and from the CMO's need to continually replicate schools and expand. On average, 41 percent of the average CMO's expenditures goes towards CMO facilities, the CMO home office, and CMO personnel, with only 59 percent committed to actual student instruction. Independent charters, of course, spend all of their money on the success of their one individual school. Let's keep the unnecessary CMO bureaucracy out of the picture and keep all the resources inside the independent Maine charter school.

Now here is the kicker, listening closely because the irony is pretty funny. The fourth and final reason that independent charters are more effective than CMO managed charters, the unintended consequence of using charter management organizations is that CMOs actually recreate the school district model. CMOs have a central office, they have prescribed regulations, they have top down directives, and they have multiple schools they must manage. The whole point of starting a charter school is to be free of school district regulation and bureaucracy so the school can innovate to address the local educational challenges. Under the management of a CMO, otherwise independent charter schools end up falling right back into the bureaucratic school district style system they were hoping to escape. Maine charters should be independent and free, not just another school under the management of a CMO central office.

I have worked and taught at two wildly successful public charter schools. They serve different populations of students in different cities and different states and different parts of the country, but I believe that the one important thing that they had in common, one thing that definitely helped each school to succeed beyond all expectations was that they were both started and led by local teachers. These teachers were leaders who knew what was wrong in their own backyards and also know what it would take to fix it. They started independent public charter schools, the schools thrived, and even though these charters were in competition for students with their local school districts, these charters were embraced and even celebrated by their local districts because of the unbelievable success of these charter students. Let's ensure that Maine public charter schools stay independent so they are managed by leaders who understand the local context, so they are actually free from bureaucratic school district style management, and so that they are actually free to create innovative educational solutions for Maine students. I urge all of you to support this important amendment. Thank you, Mr. Speaker.

Subsequently, **House Amendment "E" (H-637) to Committee Amendment "A" (S-301) was ADOPTED.**

Representative O'BRIEN of Lincolnville **PRESENTED House Amendment "I" (H-651) to Committee Amendment "A" (S-301)**, which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Lincolnville, Representative O'Brien.

Representative **O'BRIEN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. One issue that was not addressed in the amendment that was just presented by the good Representative from Kittery is the issue of virtual schools, which is a real concern for me because virtual schools can be for-profit and they are allowed under the current law that was just passed. The most accepted definition of a virtual school is an entity approved by a state or governing body that offers courses through distance delivery. Distance delivery, distance learning has existed since the 1800s in the form of the old correspondence courses and later through radio in the 1930s, followed by video education instruction and finally virtual ed which started in the early '90s. I strongly believe that the provision to allow taxpayer funding for virtual charter schools is an unvetted proposal made hastily and this is why I will vote for this amendment and I am presenting it today.

I feel that I am very well equipped to make this argument because as some of you may know, I have just recently completed my master's degree which consisted mostly of online courses. My experience has been mixed. On the one hand, online learning is convenient. It allowed me to enroll in a program that was not available in the rural area of the state where I live. On the other hand, I found that there is often very little teaching involved in online learning. Online learning generally consists of two different mediums. There are the asynchronous courses, which usually involve a lot of reading and writing posts for an online bulletin board. Read six chapters, watch a video, view a PowerPoint, take notes and post a response. Respond to other posts, repeat. This is very similar to the old correspondence courses actually.

Other classes implemented synchronous pieces which allow the student to interact over audio/video casts or text messaging in live time. I've done this as well. In my experiences these courses are fine for exchanging information, but I have not really seen much teaching unless you count lecturing on a video cast or answering specific questions from students via email teaching. In teacher training, which my master's was actually in education, in teacher training we learned that a good teacher of young children

does not lecture at the board, they take an interactive approach and they encourage collaborative learning among the students and astutely assesses each student to learn what their individual needs are. I don't believe that this is possible given the virtual school's model and I know this from experience.

Some of you may have seen me in the back retiring room working on my online courses and recently I've been struggling mightily with a geology course. Every week the instructor posts a set of PowerPoint slides, has the students fill out a worksheet and apply formulas. Then we have to draw a roadcut of a geologic formation from written instructions. I was consistently getting it wrong because I could not visualize what the instructor wanted from the written instructions. Geology is 3d and I am trying to learn it in a 2d medium. Fortunately, I found a friend down in the law library who majored in geology and she was able to actually teach me using visuals and after considerable face to face social interaction, I got it. Now there's a novel idea, actually teaching.

I don't know what my instructor looks like or who my classmates are and the only way to get feedback or ask a question is through email. Sure it's convenient, but it requires me to be a very self-directed, self-disciplined, highly motivated, independent learner. But I can live with that because I am an adult and I paid for these classes out of my own pocket and this did not come from state subsidies, which would be allowed under this bill.

Now I'd like to get into very briefly education theory. Very briefly, I will try to make it simple. Every researcher and theorist that I've read agrees that there are fundamental differences in the orientation that adults have to learning compared to the way in which children and adolescents learn. Unlike the education of adult learners, Lev Vygotsky, a well known psychologist and education theorist which some of you may have read if you were trained as a teacher, observed that learning for a child was a social process that focused upon interaction within a "zone of proximal development." The ZPD as we always talk about it in our classes. He explained that the zone of proximal development "is the distance between the actual developmental level as determined by independent problem solving and the level of potential development as determined through problem solving under adult guidance or in collaboration with more capable peers." Peer learning. Hence the emphasis in teacher training classes on "peer learning."

"Since adults have progressed through these stages of cognitive development, delivery of web-based education at the adult level need not concentrate on methods that help the learner develop these cognitive skills." The methods designed to help the child learner develop cognitive skills are intended as guidance provided to these learners to ensure that they remain in the zone of proximal development.

Due to these differences, Charles Wedemeyer, who was a pioneer in distance education throughout the 20th century, he lived a long time, "came to a conclusion that the major problem for K-12 students, who are engaged in any form of distance education (including virtual schooling), will be that: the person who learns through technology is not only physically distant from the teacher...he is also as a learner required to be more responsible and more autonomous. The traditional learner dependency sets believed and practiced by teacher, and required by learners in schools, come apart when the teacher and learner are physically distant from each other." This is what I have been going through so it makes a lot of sense.

Now we are not talking about the occasional online AP class for motivated high school students, we are debating the implementation of K-12 "virtual schools." I know that some home

schoolers often supplement their curriculum with online education programs and that's great, but I don't think that we can afford to mandate that districts allocate this money for scarce funds to these individuals. I would also go so far as to say that the virtual school model discriminates against lower income, rural students who may not have access to a home computer or a high speed internet connection.

I understand the need for support for alternative ed and I know that the charter school movement began in Maine because of this need. I grew up with a number of kids who found that the public education model was not a good fit for them and they did excel in alternative ed programs, eventually becoming pretty successful people. I get that.

But using the scarce taxpayer money to create a whole new system that isolates kids and puts them in front of a TV or a computer screen away from other students from which they can learn valuable social skills is not the answer. Technology can be a wonderful education tool, but it is not a replacement for live teacher and peer interaction. In the beginning of the year, I actually tried to help a very motivated English language learner through an online class and that's my field, teaching English language learners, and it was just too overwhelming. There was too much reading, there was too much writing, there was not much teaching and we couldn't do it. I could do it. I also recently spoke with a school board member who described the implementation of online classes for their eighth graders as "a disaster." I don't think we can afford this experiment during these economic times. As I said, they are for-profit ventures that are not covered by the previous amendment and I encourage you to support this amendment.

Representative RICHARDSON of Carmel moved that **House Amendment "I" (H-651) to Committee Amendment "A" (S-301) be INDEFINITELY POSTPONED.**

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "I" (H-651) to Committee Amendment "A" (S-301).**

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

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "I" (H-651) to Committee Amendment "A" (S-301). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 191

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

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

ABSENT - Celli, Driscoll, Fredette, Hogan, Mazurek, McFadden, Wintle, Mr. Speaker.

Yes, 76; No, 66; Absent, 8; Vacant, 1; Excused, 0.

76 having voted in the affirmative and 66 voted in the negative, 1 vacancy with 8 being absent, and accordingly **House Amendment "I" (H-651) to Committee Amendment "A" (S-301)** was **INDEFINITELY POSTPONED**.

Representative MacDONALD of Boothbay **PRESENTED House Amendment "F" (H-642) to Committee Amendment "A" (S-301)**, which was **READ** by the Clerk.

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

Representative **MacDONALD**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. This is a fairly straightforward and simple amendment that takes recognition of the fact that one of the ways in which public charter schools can be created in this state is solely through the action of the State Charter Commission without any involvement of the local school system. What this amendment does is recognize that fact by saying if that is the way that a charter gets created, then only the state portion of the funds of the per pupil allocation would go with the student to the charter school. So in this instance it redresses the lack of local participation in the decision-making by limiting the funding only to the state portion. So I urge you to consider this seriously and hope that you would adopt this amendment as part of the bill going forward. Thank you, Mr. Speaker.

Representative RICHARDSON of Carmel moved that **House Amendment "F" (H-642) to Committee Amendment "A" (S-301)** be **INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "F" (H-642) to Committee Amendment "A" (S-301)**.

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 Lovejoy.

Representative **LOVEJOY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I wanted to stand and speak on this. My concern as I voiced earlier was the fact that your local community tax dollars would have to go without your vote, which is one of my major problems with the original bill. I also had done up an amendment to address that issue. Representative MacDONALD has given us an option here and one of the things I would say in support of this is that is what can be required of your community. Your community could still choose to vote to move those funds if they choose. But this would eliminate the state mandate of saying you must, without a vote, transfer this money. Therefore, I would support this. It's much cleaner and shorter than the amendment I have prepared and I would appreciate if you would consider this. I think it is a way to avoid some real hard feelings in some of the communities. So I thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "F" (H-642) to Committee Amendment "A" (S-301). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 192

YEA - Ayotte, Beaulieu, Bennett, Bickford, Black, Burns DC, Burns DR, Casavant, Cebra, Chase, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dow, Dunphy, Edgcomb, Espling, Fitts, Fitzpatrick, Flood, Fossil, Foster, 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, Rioux, Rosen, Sanderson, Sarty, Sirocki, Strang Burgess, Tilton, Timberlake, Turner, Volk, Waterhouse, Weaver, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

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

ABSENT - Celli, Driscoll, Fredette, Hogan, Mazurek, Wintle.

Yes, 77; No, 67; Absent, 6; Vacant, 1; Excused, 0.

77 having voted in the affirmative and 67 voted in the negative, 1 vacancy with 6 being absent, and accordingly **House Amendment "F" (H-642) to Committee Amendment "A" (S-301)** was **INDEFINITELY POSTPONED**.

Representative MacDONALD of Boothbay **PRESENTED House Amendment "G" (H-643) to Committee Amendment "A" (S-301)**, which was **READ** by the Clerk.

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

Representative **MacDONALD**: Thank you, Mr. Speaker. This amendment, which I hope you will consider, would simply require that a public charter school that is authorized by the State Charter Commission, that the commission get the permission of the local school district's school board in which that charter school is going to operate, get the affirmative vote of the local school board to go along with the charter school in that district. So again, this amendment is an attempt to bring local involvement and local approval to the process so that it isn't just a state decision that a local community has to absorb without any approval process. Thank you, Mr. Speaker.

Representative RICHARDSON of Carmel moved that **House Amendment "G" (H-643) to Committee Amendment "A" (S-301)** be **INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "G" (H-643) to Committee Amendment "A" (S-301)**.

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 Lewiston, Representative Carey.

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

The SPEAKER: The Representative may pose his question.

Representative **CAREY**: This is a question to the members of the Education Committee who were opposed to this in committee. I was just wondering what the basis for the concern about going to local approval process, which we've seen on so many other issues before this Legislature this year.

The SPEAKER: The Representative from Lewiston, Representative Carey, has posed a question through the Chair to anyone who may care to respond.

A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "G" (H-643) to Committee Amendment "A" (S-301). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 193

YEA - Ayotte, Beaulieu, Bennett, Bickford, Black, Burns DC, Burns DR, Casavant, Cebra, Chapman, Chase, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dow,

Dunphy, Edgecomb, Espling, Fitts, Fitzpatrick, Flood, Fossel, Foster, 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, Rioux, Rosen, Sanderson, Sarty, Sirocki, Strang Burgess, Tilton, Timberlake, Turner, Volk, Waterhouse, Weaver, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

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

ABSENT - Celli, Driscoll, Fredette, Hogan, Mazurek, Wintle.

Yes, 77; No, 67; Absent, 6; Vacant, 1; Excused, 0.

77 having voted in the affirmative and 67 voted in the negative, 1 vacancy with 6 being absent, and accordingly **House Amendment "G" (H-643) to Committee Amendment "A" (S-301) was INDEFINITELY POSTPONED.**

Representative MacDONALD of Boothbay **PRESENTED House Amendment "H" (H-644) to Committee Amendment "A" (S-301)**, which was **READ** by the Clerk.

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

Representative **MacDONALD**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. You can tell by my last name that I'm of Scottish ancestry and they always say you can tell a Scotsman by the fact that he never knows a lost cause when he sees one. But I am up here with a final amendment for your consideration and I think it's actually a good amendment that is worthy of your consideration. What it does merely is require that in local board elections where local voters have the chance to approve their local school budgets, that a line item in those cost centers that are required by our current law, a line item be added simply saying "charter schools." So that if there are any local expenses associated with the adoption of charter schools to their local districts, and there may be none, but this would simply give the voters a chance, if there are costs associated with charter schools in their local districts, it would give local voters a chance to approve them along with all of the other cost center items that they have to approve when they approve their local school budgets. I offer this for your consideration and hope that you will give it a thumbs up this late in the evening. Thank you, Mr. Speaker.

Representative RICHARDSON of Carmel moved that **House Amendment "H" (H-644) to Committee Amendment "A" (S-301) be INDEFINITELY POSTPONED.**

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "H" (H-644) to Committee Amendment "A" (S-301).**

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

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "H" (H-644) to Committee Amendment "A" (S-301). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 194

YEA - Ayotte, Beaulieu, Bennett, Bickford, Black, Burns DC, Burns DR, Casavant, Chase, Clark T, Cotta, Crafts, Cray,

Crockett, Curtis, Cushing, Damon, Davis, Dow, Dunphy, Edgecomb, Espling, Fitts, Fitzpatrick, Flood, Fossel, Foster, 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, Pilon, Plummer, Prescott, Richardson D, Richardson W, Rioux, Rosen, Sanderson, Sarty, Sirocki, Strang Burgess, Tilton, Timberlake, Turner, Volk, Waterhouse, Weaver, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

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

ABSENT - Cebra, Celli, Driscoll, Fredette, Hanley, Hogan, Mazurek, Wintle.

Yes, 76; No, 66; Absent, 8; Vacant, 1; Excused, 0.

76 having voted in the affirmative and 66 voted in the negative, 1 vacancy with 8 being absent, and accordingly **House Amendment "H" (H-644) to Committee Amendment "A" (S-301) was INDEFINITELY POSTPONED.**

Representative BERRY of Bowdoinham **PRESENTED House Amendment "C" (H-633) to Committee Amendment "A" (S-301)**, which was **READ** by the Clerk.

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

Representative **BERRY**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. This amendment which I hope will be the last that we hear tonight simply seeks quality rather than quantity. A number of concerns that have been raised tonight – dealing with an unaccountable commission, issues of local control, the impact on rural schools, the need to get it right and prove what works here in Maine – can be addressed if we simply go slow and make sure that the best, the very best proposals are the ones that are chosen.

We heard research, the most comprehensive study done nationally on charter schools that says 17 percent of charter schools do better. I submit that those are primarily in urban areas. However, some proposals and we have heard of some tonight that are on the table here in Maine could benefit our state. I think, for example, of the excellent proposal from Good Will-Hinckley. Let's choose the best proposals. Let's allow the commission to go forward with three proposals, three schools over the next six years. Let's make sure we get it right. If we like what we see we can then double or triple the number later. But the success of this experiment, the credibility of this experiment depends on those initial forays yielding the results we hope for. I have not heard of three concrete proposals yet that sound like something all of us will support, so I think three in six years is reasonable.

The amendment also does one other thing. It limits the impact on each school to 2 percent of the student body in each grade for schools under 500 and to 3 percent for schools over 500. That limit is not hard and fast because school districts can choose already in fact to send their children to other schools and to send the money along with them through superintendent agreements. So again, the amendment simply does two things: Limit the number to three schools over six years, at least to start with – quality not quantity; and limit the impact so that our local

community, rural schools, in particular, are protected from the pirating of students and resources. Mr. Speaker, let's get it right. Let's go slow and let's put quality over quantity. Let's select the three best proposals. If those are good, if those are proven, if we approve of them, then let's approve more schools later on. Thank you, Mr. Speaker.

Representative RICHARDSON of Carmel moved that **House Amendment "C" (H-633) to Committee Amendment "A" (S-301) be INDEFINITELY POSTPONED.**

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "C" (H-633) to Committee Amendment "A" (S-301).**

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

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "C" (H-633) to Committee Amendment "A" (S-301). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 195

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

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

ABSENT - Celli, Driscoll, Fredette, Hanley, Hogan, Mazurek, Wintle, Mr. Speaker.

Yes, 79; No, 63; Absent, 8; Vacant, 1; Excused, 0.

79 having voted in the affirmative and 63 voted in the negative, 1 vacancy with 8 being absent, and accordingly **House Amendment "C" (H-633) to Committee Amendment "A" (S-301) was INDEFINITELY POSTPONED.**

Subsequently, **Committee Amendment "A" (S-301) as Amended by House Amendment "E" (H-637) thereto was ADOPTED.**

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-301) as Amended by House Amendment "E" (H-637) thereto in NON-CONCURRENCE** and sent for concurrence.

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

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment 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 - Report "A" (8) **Ought to Pass as Amended by Committee Amendment "A" (H-582)** - Report "B" (4) **Ought Not to Pass** - Report "C" (1) **Ought to Pass as Amended by Committee Amendment "B" (H-583)** - Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Legalize the Sale, Possession and Use of Fireworks" (EMERGENCY)

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

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

PENDING - Motion of Representative PLUMMER of Windham to **ACCEPT** Report "A" **OUGHT TO PASS AS AMENDED.**

Subsequently, Report "A" **Ought to Pass as Amended was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-582) was READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Plummer.

Representative **PLUMMER**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Generally fireworks start at dusk, but we seem to be a little delayed this evening. I will not be doing a repeat performance of yesterday since I agreed with the majority whip not to use the words "sparkling," "bright idea," "illuminating," "light up my life," "explosion," or "having a blast." So therefore, we'll get right to the bill.

The bill came to us to allow nearly all consumer fireworks. Some questioned why the state fire marshal did not participate in the public hearing. At the end of the public hearing, at the urging of committee members, the chairs invited the state fire marshal to join us for our work session so that he could be there to ask questions. At the work session, we had a great discussion. Questions were asked and answered. But at the end of our first work session, the chairs sensed that there was still concerns on the part of committee members. The chair asked that a committee be formed. The committee would and did include the State Fire Marshal's office, the Governor's office, representatives of the fireworks industry and the sponsor of the bill, Representative Damon. They spent several hours over a period of a few weeks reviewing the bill that was submitted and what would be acceptable for a bill. The resulting amendment came back to our committee.

I will not try to steal Representative Damon's thunder, but I will just briefly say that this bill goes over when and where fireworks could be used. It allows only access to people over 21 years of age. It has a local opt-out provision where a community that does not want fireworks sold or used could opt-out. It includes the products that could be sold, who could sell fireworks and where they could be sold. Fireworks are already a part of Maine, we all know that. The question is, do we want to legalize limited fireworks? I'm sure Representative Damon will provide our grand finale for that. Thank you, Mr. Speaker.

Representative BLODGETT of Augusta **PRESENTED House Amendment "B" (H-653) to Committee Amendment "A" (H-582), which was READ** by the Clerk.

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

Representative **BLODGETT**: Thank you, Mr. Speaker. Mr. Speaker, Members of the House. This amendment is the same as the bill Ought to Pass, except with these few changes, which I think are good common sense with fireworks. I used to be in charge of fireworks for the City of Augusta for many years and I

know the seriousness of these, even though they are a lot of fun.

A person may consume fireworks only on the person's property if the use of these fireworks on that property are at least a quarter of a mile from a residence. Also, this is for a person who gives the consent for someone to use their property for the use of fireworks within a quarter of a mile of where they are fired from another building structure, or they can be fired on the lake or other large body of water with no restrictions, or under the direct supervision of the local fire department. I think these few changes make a huge difference in the fireworks for the safety of people, especially in urban areas. It's not going to affect rural areas so that's not a problem. But in the urban areas, it is a serious problem if you are living right next to somebody else and you are firing off fireworks at night under somebody else's window, for children, pets and people, whatever, and also the heat from these in dry weather. I hope you will support this simple change to the proposal and I thank you.

Representative CURTIS of Madison moved that **House Amendment "B" (H-653) to Committee Amendment "A" (H-582) be INDEFINITELY POSTPONED.**

Representative CAIN of Orono **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "B" (H-653) to Committee Amendment "A" (H-582).**

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

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "B" (H-653) to Committee Amendment "A" (H-582). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 196

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

ABSENT - Celli, Driscoll, Fredette, Hanley, Hogan, Hunt, Mazurek, McCabe, Wintle.

Yes, 86; No, 55; Absent, 9; Vacant, 1; Excused, 0.

86 having voted in the affirmative and 55 voted in the negative, 1 vacancy with 9 being absent, and accordingly **House Amendment "B" (H-653) to Committee Amendment "A" (H-582) was INDEFINITELY POSTPONED.**

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

Representative **DAMON**: Thank you, Mr. Speaker. I will be brief because of the lateness of the hour and that wonderful count there, but I just want to talk about this very briefly. This bill will provide three very important things for our state. It will provide an environment where Maine people can enjoy fireworks

safely. It will provide an opportunity for entrepreneurs to create jobs and to generate revenue for Maine. It will provide an environment where we will teach fireworks safety to our most important assets, our children and our citizens. We have crafted a bill to satisfy these objectives. You will see that we have placed restrictions where appropriate on when they can be set off in an effort to minimize the impacts on others. We put restrictions on where items can be sold to further help control the safety environment. We've called for a reporting system to be established by the fire marshal that would allow the committee to track how the changes are going. This is a good plan and there are fireworks here in Maine already. We can now control that environment. As a former member of the military for many years, which I have spoken of, I learned one very important lesson: When you give something focus, it gets fixed and it works. This will give focus to fireworks in Maine. I hope you all vote for it. Thank you, Mr. Speaker.

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

Representative **SANBORN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The safest way to prevent fireworks-related injuries is to leave fireworks displays to trained professionals, so says the Centers for Disease Control and Prevention. According to the Consumer Product Safety Commission's 2009 annual report, two people died and 8,800 injuries were treated in hospital emergency rooms. Again, that's 8,800 injuries severe enough to need emergency medical care, so the more minor injuries are not even included here. Many of the injuries, especially from explosive types of fireworks, were to the eyes, fingers and hands, face and inner ears. No wonder it is the ophthalmologists who have some of the strongest feelings against liberalizing the laws for fireworks. I have an uncle who has a glass eye, has had a glass eye since childhood as a result of a fireworks injury. It was entertaining at family gatherings, but certainly not an easy way to go through life.

Although this bill would limit the use and sale to those 21 and older, and that is the case in other states as well, in the month June 19 through July 19, 2009, there were 5,900 fireworks-related injuries, 39 percent of which were in children under 15 and 58 percent in ages under 20. I haven't touched on the significant fire risks associated with fireworks and we'll leave that to the firefighters in the House to address that serious risk.

I will mention that there exists a high noncompliance rate of regulations related to the manufacturer of fireworks. Not surprisingly, 98 percent are produced in China and 38 percent of fireworks imported were found to contain fireworks that were noncompliant with the Federal Hazardous Substances Act. I am being told we are going to be taking these risks to increase a relatively small number of seasonal jobs and that the predicted increased revenue to the state is minimal. It sounds like a very high risk-benefit ratio and a very high cost-benefit ratio to me. Please protect the lives, eyes, fingers and hearing of the people of Maine and vote Ought Not to Pass. For the health and welfare of us all, leave the fireworks displays to the professionals and have a happy, healthy Fourth of July. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Peterson.

Representative **PETERSON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'd like to add my voice in support of the current motion this evening. While this may not be the most important matter that we've considered this session, especially now that we have the great whoopie pie/blueberry debate behind us, I think our vote here sends a message. Do we really need to continue to maintain laws that criminalize the use of fireworks? Our efforts at criminalization

have not stopped fireworks from coming into this state and being used. All we have done is make this illegal and force the use of fireworks into more furtive settings.

In my corner of the state, western Maine, fireworks have a rich tradition. Our community display in Rumford was known statewide at one time before budget constraints forced its discontinuation. When the town stopped formally putting on a display, folks individually began a holiday tradition, like in many other parts of the state, of driving into New Hampshire to pick up fireworks for private celebrations with family and friends. A few weeks from now these informal fireworks displays will light up the sky in the River Valley and elsewhere in this state, so why do we make this illegal?

By passing this bill we accomplish two things: First, we send a message to our citizens that we think they can be responsible in acquiring and using fireworks and we can be very specific about the kinds of fireworks that we deem safer for use. We allow people to acquire and use things that are much more dangerous than fireworks, things like snowmobiling and ATVing, for instance, so why can't we trust our citizens to use fireworks responsibly? In fact, data from other states indicates that legalizing and regulating fireworks actually ends up being safer for citizens. According to the Indiana Department of Health, over the four years since fireworks were legalized there in 2006, fireworks-related injuries have actually decreased every year. Nationally, according to the American Pyrotechnics Association, while consumption of consumer fireworks has gone up, injuries are down. This data shows that with legalization comes education, awareness and more responsible use the second we create opportunities for new businesses or new profitable lines of trade at existing businesses, when fireworks can be legally sold by licensed vendors.

We spend a lot of time in this body talking about New Hampshire's competitive advantage on certain taxes. We are at an even greater disadvantage when it comes to fireworks. Mainers cross the border every day to New Hampshire to buy fireworks and tourists heading to Maine stop off and buy fireworks in New Hampshire when they should be buying them here. I urge all of my colleagues to support this common sense legislation and I will be happy to have all of you come to Roxbury Pond to see fireworks after we have made it a legal activity here in Maine. Thank you, Mr. Speaker.

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

Representative **HASKELL**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I oppose this legislation. That comes as no surprise to many of you. You've heard me speak about it before and I'm going to talk about it again tonight. Mr. Speaker, when the vote is taken I request the yeas and nays.

Representative **HASKELL** of Portland **REQUESTED** a roll call on the motion to **ADOPT Committee Amendment "A" (H-582)**.

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

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

Representative **HASKELL**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I oppose this for a couple of reasons. One are the safety issues that the good Representative from Gorham, Representative Sanborn, so carefully outlined. You also have a sheet on your desks which talks about what the risks are to fireworks. I also want to read you a list of organizations who oppose fireworks and you will find there is a great deal of common with these in this list. These are the people who take care of folks who are hurt by fireworks. The

American Academy of Family Physicians, the Academy of Ophthalmology, Pediatrics, Hand Surgery, the American Association of Public Health Physicians, the American Burn Association, the American College of Emergency Physicians, the American Society of Plastic Surgeons, the Emergency Nurses Association, the Fire Department Safety Officers Association, Arson Investigators, the International Association of Fire Chiefs, the International Association of Firefighters, the International Fire Marshals Association, the National Association of Pediatric Nurse Practitioners, the National Associations of School Nurses, State Fire Marshals, the National Fire Protection Association, the Prevent Blindness America, the American Society for Reconstructive Microsurgery, and the Center for Injury Research and Policy. That gives you just a sense of some of the folks who continue to ask us not to have fireworks become legal here in the State of Maine.

The second reason that I rise in opposition is the sense of peace and tranquility that disappears on these small lakes and ponds, which have a lot of summer visitors who come up and during their one week and two week stays believe that at any hour of the day and night – and frankly while I realize this bill has a 10 pm deadline, I'm very interested in who it is that is going to enforce that 10 pm deadline – but at all hours of the day and night they decide that this is a great way to celebrate their being here in Maine. For those of us who at this hour of the night are usually turned in or at least listening quietly to the last of the news, it can be quite a disruption. It's a pretty noisy event when folks begin shooting this off all around the lake and frankly this is not going to be restricted to lakes. It's going to be throughout your communities. I think it's too much noise and I would ask you to vote against the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Chelsea, Representative Sanderson.

Representative **SANDERSON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I stand today in support of LD 83, "An Act To Legalize the Sale, Possession and Use of Fireworks." Every year many Maine people take a drive and legally purchase fireworks in our neighboring state, New Hampshire. Then they transfer them home, leaving law enforcement officers to try to enforce Maine's law restricting the use of consumer fireworks products. This is a difficult job at best given the number of law enforcement officers we have on the road at any given time and the large expanse that they have to cover. We can't possibly keep them out of the state for we have no cross border inspections to ensure that they don't come into Maine. In fact, by restricting the use and sale, we've even created a black market for them in our state, leaving neighboring New Hampshire the recipient of the majority of the revenue of sales. In short, people are already using fireworks here. By passing this legislation Maine can regulate the use, educate the public in proper use, and at the same time generate revenue from Maine.

Now as we've heard opponents of this measure often discuss the dangers regarding fireworks, and yes, they are legitimate discussions. However, there is an inherent danger in everything we do every day. There is no possible way to legislate personal safety. I have a few examples of common everyday activities that we all enjoy and participate with our children without a second thought. Each year in the United States emergency departments treat more than 200,000 children, ages 14 and younger, for playground-related injuries. Forty-five percent of these playground related injuries are severe fractures, internal injuries, concussions, dislocations and amputations. About 75 percent of the nonfatal injuries related to playground equipment occur on public playgrounds. Between 1990 and 2000, 147

children, ages 14 and younger, died from playground related injuries. We have ATV accidents. In 2003, there were 125,500. In 2006, there were 146,000. In 2007, there was 150,900. Between the years of 2001 and 2007, there was an increase in 37 percent. Water-related accidents, every day approximately 10 people die in unintentional drownings. Of the 10, two will be children under the age of 14.

Let's talk about Fido, the family pet. There are approximately 800,000 dog bites a year, about half are children. Of those injured, about 386,000 need emergency medical treatment and 16 will result in death. Approximately 3.5 million children under the ages of 14 will get hurt annually playing sports or participating in recreational activities.

Now it's clear that we live with the potential for injury every day. However, I highly doubt that in spite of the surprisingly high numbers, parents will stop frequenting playgrounds with their children, they won't take away their bicycles, they won't spend a glorious day on ski slopes snowboarding and they won't allow them to participate in sports programs anymore. We aren't going to ban ATVs and we're certainly not going to drain our lakes, ponds and oceans. Now these numbers are much higher than I expected when researching injury rates and what's interesting is the numbers don't go down, they stay consistent, and in some cases actually go up. For example, injuries from trampolines increased from 37,000 plus in 1991 to over 98,000 in 2005. But by comparison, the rate of injuries from the use of commercial fireworks has dramatically dropped, even with the consumption rate that has increased significantly. Fireworks statistics provided by the Consumer Safety Products Commission show that from 1976 to 2008, the use of consumer fireworks in the U.S. increased by 73.5 percent, from 29 million pounds to 213 million pounds. During that same time period, fireworks related injuries per thousand pounds of fireworks dropped by over 91 percent, from 38.3 to 3.3. Now this decrease in injuries is attributed to the American Fireworks Standards Laboratory. AFSL is an independent international testing laboratory facility that physically tests fireworks at the factory level for compliance with U.S. manufacturing and performance standards. Since AFSL began testing in 1994, the number of products meeting and/or exceeding these standards has increased each year. When you couple increased safety standards of consumer fireworks with educating the public in their use and the responsible use of these products, the result is a much safer and enjoyable way for people to celebrate.

I would also like to point out that as indicated in the handout that was presented to us on our desks recently by Representative Hanley and Representative Burns, the amended version of LD 83 being presented today was a joint effort between the State Fire Marshal's office, the Governor's office and the fireworks industry to ensure that this legislation had input from several levels. LD 83 acknowledges municipalities by allowing local regulatory control, restricts the sale to minors under the age of 21, is specific on what products can be sold, where they can sold and the building specs they must be stored in. It requires sellers to first obtain a federal ATF permit and undergo a rigorous background check. As I stated previously, we already have people using commercial fireworks in Maine. Passage of LD 83 will allow the state to not only collect the revenue for these products being spent out of state, but more importantly it will enable us to better regulate them while providing important safety education on the responsible use as well. I hope you will join me in supporting this legislation. Thank you.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Pilon.

Representative **PILON**: Thank you, Mr. Speaker. Mr.

Speaker, Ladies and Gentlemen of the House. I rise in opposition to LD 83. Sometimes, Mr. Speaker, it's not about the money. Five years ago I was at a beach party in Biddeford and this area is very popular in the summer for rentals. This area historically attracts out of staters that come up during the week, they rent weekly or two-week rentals, and they stop in New Hampshire as they are coming up from Massachusetts, New York, Connecticut, Rhode Island, stop in New Hampshire and buy their liquor and buy their fireworks for that one or two-week period and then they come up and rent these houses.

This beachfront area is a gorgeous beachfront area and on this Fourth of July weekend we were all gathered on the beach and my little group, we had a little gathering on the beach, we had a little fire on the beach, and all these people from out of state had huge bonfires and had all their fireworks out there and they were shooting skyrockets, they had huge fireworks displays. From where we're located, we could see the fireworks in Kennebunkport and frankly some of the exhibitions on the beach where we're located, they were bigger than the fireworks display in Kennebunkport. So when I read some of these amendments to this bill, it's interesting to see these restrictions that we hope to put on the people that are going to be using the fireworks, but quite frankly it's just not going to work. How do you regulate the people from out of state that come to Maine, that buy their fireworks, and frankly, if they buy their fireworks, if this passes, how are you going to regulate them and their behavior? People from away, they come up here, they shoot off their fireworks. They are unfamiliar with Maine's laws, and quite frankly, the police are not going to enforce this. The police have enough to do in these towns to take care of traffic violations and they have enough work as it is.

But getting back to my story, as we were gathered on the beach and we were watching the night and these huge fireworks displays, one gentleman shot a huge skyrocket up into the air. We had an onshore breeze. The skyrocket drifted over into very dry sea grass, landed in the sea grass, set the sea grass on fire. Now the sea grass runs all along this beach area and the sea grass, as you know, protects the homes along this area. We had a huge fire down at the beach. The flames were roaring, the fire department from Biddeford came and it was a couple of hours before they were able to control the sea grass and it put the homes in the area in jeopardy. It took five to seven years for the sea grass to grow back and put those homes in jeopardy during the winter storms. That sea grass is the only fortress between the winter storms and their homes. How do you regulate that kind of behavior, Mr. Speaker? That's what I'm afraid is going to happen. People from away, whether they buy their fireworks in Maine or they buy their fireworks as they are now in New Hampshire, they come up here, they have a great time, they drink a lot of beer, they party hardy, they set our sea grass on fire, they don't care about our environment, they go home, they've had a great time. That's what I'm concerned about. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Lajoie.

Representative **LAJOIE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Quite a bit has been said this evening and please don't take it personally for those who tried to find reasons to bring fireworks here. In my book, they don't work at all. They are not even germane to the situation. Fireworks are dangerous, that's all there is to it. They will injure and they will kill, they will cause fires and so on. However, a lot of that has been mentioned so far.

I'd just like to let you know that our forefathers apparently felt that firecrackers were a problem. Maine became a state in 1820.

In 1821, volume 1, item 26, "An Act to prevent damage from firing Crackers, Squibs, Serpents and Rockets, within this State" and they enacted a law that prevented that from happening. They also assessed a fine and part of that fine went to the poor of that particular town that the altercation happened or where the individual got caught and the rest went to the prosecutor and the rest of the town. So it just goes to show that this problem didn't arise just lately, 1821 was a little while back. While I was doing that and while I did my research, which I did a lot of it, I started, I think, in 2003 and I went all the way back to 1821. During that time and when another bill came out – I'm going to skip a number of years. I don't want to take too long on this. Everybody is tired, everybody wants to go home. But anyways, I went into a bill from 1944 where they banned the fireworks to a greater extent. I have some of the testimony here and I just want to touch on one of them, which will probably give you an idea of which direction I'm going into. The section that I want to talk about is testimony that was given from one of the individuals, actually it was Mr. Dunbar from Washington County, and it says "I hope that we may do something with this measure. I think that the mothers and fathers of Maine will welcome it. I feel too that the shell shocked veterans of this war who will be returning to us will thank God if we pass it. You have seen shell shocked veterans of the other war and if this war continues for the length of time and it seems to me that it will, you have seen nothing yet when these boys come home, back to us sick in mind and sick in body and asking for peace."

With that thought I felt I should investigate a little bit further and what I did was I went on the internet and I looked at how fireworks would affect veterans. I found numerous sites, including the Veterans Administration site, and it says "Many of us are unaware of the harmful effects fireworks can have on our veterans. Fireworks bring back memories of combat and can trigger flashbacks for soldiers. It is estimated that 60-80% of our nation's veterans suffer from post traumatic stress disorder, otherwise known as PTSD. The sounds of explosions from fireworks can bring back memories of combat which in turn can bring on PTSD symptoms. Although the banning of fireworks will probably never happen, there are other ways we can show our compassion for those that have defended our nation."

I just want to give you one of the items that I read about on one of the soldiers. It is Army Specialist Chase Brown. He talks about PTSD flashbacks on the Fourth of July. "I didn't really understand what was going on around me because in my mind I wasn't here. In my mind I was in Iraq. My wife and I and a couple of our neighbors were standing outside, just talking. Some of those artillery rounds started being fired from down the road. The flash from the RPG's, all that was coming back. Death, destruction, the smells, sights, everything. I remember coming in and grabbing my keys and that was it. I don't remember anything else until my wife was actually able to get me inside." It goes on to read the rest of the story. That's just one item that I want to bring out in a different fashion than what was given before. However, when I went to that site on the tabs above there was also how fireworks affect pets, wild animals, and maybe I can just read a little bit of that. "Today many people consider their pets to be part of the family. Every year thousands of these beloved animals are lost or hurt due to the result of fireworks. The thunderous bangs and crashes frighten and traumatize them to the point where their lives and safety are at risk. Often on holidays, like Independence Day, pets get so terrified that they run away from home resulting in them either getting injured or killed by a car, or ending in a shelter where they may or may not be reunited with their family. Events such as that come at a cost of both emotional and monetary distress for all

those involved."

It goes on to how to protect the pets and leave them in the house and so on. So I decided to go a little bit further and I did the wildlife. The wildlife had the same concerns. It even showed that the Fish and Wildlife Service has documented effects of loud fireworks causing ground nesting birds to abandon their nests and flightless chicks to be permanently separated from their parents during confusion, resulting in death. They even have farms animals like horses and stuff jumping fences, running into the woods and getting injured.

Now I will hit the last one which is fireworks and the environment, which is pretty cool I guess. The rockets red glare during the fireworks show can fill onlookers with patriotism and awe. Unfortunately, it can also fill them with particulates and aluminum. Fireworks get their flamboyance from a variety of chemicals, many of which are toxic to humans, from the gunpowder that fuels their flight to the metallic compounds that color their explosions. I will just read you a few of the compounds that they have, and specifically I think what I'll do is I'll go to one that's closer to home, and why don't we use fireworks in New Hampshire's lakes? Concerns of health and environmental effects. There are growing concerns about the use of fireworks around New Hampshire's lakes. As fun and enjoyable as fireworks can be, they may be causing more damage than you know. Aside from the obvious danger of operating controlled explosives, what you may not realize is the effects fireworks have environmentally, economically and health wise. Just some of the items that are in there, there is barium, which is a glittering green, extremely poisonous, radioactive. Lithium? Blazing red, slightly toxic. How about copper compounds? Dioxin pollution. Aluminum, which is brilliant white colors, can contact dermatitis. Ammonium perchlorate? It's a propellant that can contaminate ground and surface water and can disrupt thyroid functions. Cadmium? Fireworks colors, extremely toxic, carcinogenic, can bioaccumulate. Potassium nitrate? Black powder, toxic dust, carcinogen, sulfur-coal compounds. Sulfur dioxide? Gaseous byproduct of sulfur combustion. So as you can see there is a lot of items within the fireworks that will cause havoc with our environment. These items, after they blast in the air, fall to the water and on to the ground. Some of these items stay and do not leave or dissipate for days, up to 8 to 10 days, and therefore it causes an impact.

The final impact, altogether the damaging effects fireworks have is overwhelming. They impact water quality by affecting the odor and taste of drinking water. On the economic side, excess algae growth due to phosphorous or contamination due to firework fallout increases water treatment costs, degrades fishing and boating activities, impacts tourism and property values. The cost of damage done to property, the litter, and the effect upon both wildlife and human life is incalculable. The Department of Environmental Services urges you to consider the effects of fireworks and perhaps find an alternative to a problem that is only growing with time.

So folks, that's right across the border. That's New Hampshire. I think for your information you should know that Connecticut and Massachusetts also frequent New Hampshire to buy most of their fireworks, so it's not just Maine. But going through this information, especially the environmental impact, is that what we want for our lakes in Maine? Is that what we want in regards to our animals? The increase in fireworks is just going to increase that ability and I really cannot see where it's worthwhile for us to go on a venture as such. It is quite worthwhile for the industry in fireworks to go on a venture as such. Last year, in 2008, they sold 213.2 million pounds of fireworks. Consumer fireworks out of that were 186.4 million

pounds – 186.4 million pounds of fireworks with all those contaminants in there. Do we want that in the State of Maine? Come on, guys. We're doing fairly well the way we are. If we can't police what we have now, there are a couple of reasons. One of them is we're not doing our job. Number two is the cities and towns don't have the funds to support it. Imagine bringing extra fireworks and allowing them in here. If we can't do it now, how the heck are we going to do it after, where it's not going to cost anymore money than it is now?

So in my opinion, folks, I would hope that you would follow my light. Actually I would hope that you would follow your thoughts and your conscience as to which way you want this bill to go. I know there is a lot of movement behind this bill. I could see it at the very beginning when it came to committee. I could see it when the Chief Executive's spokesperson talked not against or for the bill, however the first words out of his mouth was that the Chief Executive was for this bill. So right then and there I had a very good direction as to where this bill was going to be going. So if I'm fighting or pushing against the wind, so be it, but I just wanted to bring these facts to you because I think they are very, very important and I hope you make the right decision. I know I'm going to feel correct when I make my decision and that's going to be against this bill. Thank you.

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

Representative **EBERLE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I stand in opposition to the current motion. I won't reiterate the great points that have been made, but I just want to highlight a couple of things for your consideration for those of you who are left and still awake.

The environmental impact is huge aside from the inherent danger of the use of this kind of product and it's absolutely right, after they've been shot off, in the lake the next day there is floating pieces of wood, paper, charred remains, chunks of wood that have been charred as they were used as launching bases. It's a horrible mess. People shoot them off and just assume that they disappear, and they don't. They are still in the environment.

The other problem with the use of a product like this is that it impacts everybody up and down, your neighbors. You can't just use this yourself and not have it impact your neighbors. You can't. In many cases where there are residencies close together, you cannot, in many cases, direct where they are going to go. If you are sitting on your dock and you have a neighbor who is shooting off fireworks, you never know if one of them is going to go the wrong direction, and it's a very threatening situation to have them going on all around you without the security of knowing that everybody is using them properly. So please.

My last point is that when I see this. Excuse me, Mr. Speaker. I'm having a hard time even hearing myself.

The SPEAKER: The House will be in order. The Representative may continue.

Representative **EBERLE**: Thank you. I see bit by bit a cheapening of our culture and our heritage in this state that I find absolutely disastrous and this is just one more thing that's going to make this state like any other honky-tonk beachfront in this country and will remove many of the things that people come to Maine for. Thank you, Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Adoption of Committee Amendment "A" (H-582). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 197

YEA - Ayotte, Beaulieu, Bennett, Bickford, Black, Burns DC, Burns DR, Cebra, Chase, Clark H, Clark T, Cornell du Houx,

Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dow, Dunphy, Edgecomb, Fitts, Fitzpatrick, Fossil, Foster, Gifford, Guerin, Hamper, Harmon, Harvell, Herbig, Hinck, Johnson D, Johnson P, Keschl, Knight, Libby, Long, Maker, Malaby, McClellan, McFadden, McKane, Morissette, Moulton, Nass, Newendyke, O'Brien, O'Connor, Olsen, Parker, Parry, Peterson, Picchiotti, Plummer, Prescott, Richardson D, Richardson W, Rioux, Rosen, Russell, Sanderson, Sarty, Shaw, Sirocki, Strang Burgess, Tilton, Timberlake, Turner, Tuttle, Volk, 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, Clarke, Cotta, Dill J, Dion, Duchesne, Eberle, Espling, Eves, Flemings, Flood, Gilbert, Gillway, Goode, Graham, Harlow, Haskell, Hayes, Hunt, Innes Walsh, Kaenrath, Kent, Knapp, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, Maloney, Martin, McCabe, Morrison, Nelson, Peoples, Pilon, Priest, Rankin, Rochelo, Rotundo, Sanborn, Stevens, Stuckey, Theriault, Treat, Valentino, Wagner R, Webster, Welsh.

ABSENT - Celli, Driscoll, Fredette, Hanley, Hogan, MacDonald, Mazurek, Wintle.

Yes, 79; No, 63; Absent, 8; Vacant, 1; Excused, 0.

79 having voted in the affirmative and 63 voted in the negative, 1 vacancy with 8 being absent, and accordingly **Committee Amendment "A" (H-582) was ADOPTED.**

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-582)** and sent for concurrence.

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

SENATE PAPERS Non-Concurrent Matter

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2012 and June 30, 2013" (EMERGENCY)

(H.P. 778) (L.D. 1043)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-620) AS AMENDED BY HOUSE AMENDMENT "A" (H-636) thereto in the House on June 15, 2011.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-620) AS AMENDED BY HOUSE AMENDMENT "A" (H-636) AND SENATE AMENDMENT "H" (S-324)** thereto in **NON-CONCURRENCE.**

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

The following Joint Order: (S.P. 520)

ORDERED, the House concurring, that in accordance with emergency authority granted under the Maine Revised Statutes Annotated, Title 3, Section 2, the First Regular Session of the 125th Legislature shall be extended for five legislative days.

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

Representative LIBBY of Waterboro moved that the Joint Order and all accompanying papers be **INDEFINITELY POSTPONED**.

Representative CAIN of Orono **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Joint Order and all accompanying papers.

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

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

ROLL CALL NO. 198

YEA - Black, Bryant, Dunphy, Guerin, Hinck, Kaenrath, Libby, Timberlake.

NAY - Ayotte, Beaudoin, Beaulieu, Beavers, Beck, Beliveau, Bennett, Berry, Bickford, Blodgett, Boland, Briggs, Burns DC, Burns DR, Cain, Carey, Casavant, Cebra, Chapman, Chase, Chipman, Clark H, Clark T, Clarke, Cornell du Houx, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dill J, Dion, Dow, Duchesne, Eberle, Edgecomb, Espling, Eves, Fitts, Fitzpatrick, Flemings, Flood, Fossel, Foster, Gifford, Gilbert, Gillway, Goode, Graham, Hamper, Harlow, Harmon, Harvell, Haskell, Hayes, Herbig, Hunt, Innes Walsh, Johnson D, Johnson P, Kent, Keschl, Knapp, Knight, Kruger, Kumiega, Lajoie, Long, Longstaff, Lovejoy, Luchini, Maker, Malaby, Maloney, Martin, McCabe, McClellan, McFadden, McKane, Morissette, Morrison, Moulton, Nass, Nelson, Newendyke, O'Brien, O'Connor, Olsen, Parker, Parry, Peoples, Peterson, Picchiotti, Pilon, Plummer, Prescott, Priest, Rankin, Richardson D, Richardson W, Rioux, Rochelo, Rosen, Rotundo, Russell, Sanborn, Sanderson, Sarty, Shaw, Sirocki, Stevens, Strang Burgess, Stuckey, Theriault, Tilton, Treat, Turner, Tuttle, Valentino, Volk, Wagner R, Waterhouse, Weaver, Webster, Welsh, Willette A, Willette M, Winsor, Wood.

ABSENT - Bolduc, Celli, Driscoll, Fredette, Hanley, Hogan, MacDonald, Mazurek, Wintle, Mr. Speaker.

Yes, 8; No, 132; Absent, 10; Vacant, 1; Excused, 0.

8 having voted in the affirmative and 132 voted in the negative, 1 vacancy with 10 being absent, and accordingly the motion to **INDEFINITELY POSTPONE** the Joint Order and all accompanying papers **FAILED**.

The Chair ordered a division on **PASSAGE**.

Pursuant to 3 M.R.S.A., Section 2, this Joint Order required the affirmative vote of two-thirds of those present for passage.

A vote of the House was taken. 127 voted in favor of the same and 8 against, and accordingly 127 being more than two-thirds of the membership, the Joint Order was **PASSED** in concurrence.

The **SPEAKER**: The Chair recognizes the Representative from Millinocket, Representative Clark, who wishes to address the House on the record.

Representative **CLARK**: Thank you very much, Mr. Speaker. Mr. Speaker, on LD 1043, Roll Call No. 182, if I was present I would be voting yea.

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

On motion of Representative CURTIS of Madison, the House adjourned at 11:27 p.m., until 9:00 a.m., Thursday, June 16, 2011.