ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
SECOND REGULAR SESSION
36th Legislative Day
Tuesday, March 27, 2012

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

Prayer by Reverend Deril Stubenrod, Fairfield (retired).

Pledge of Allegiance.

Doctor of the day, Dylan McKenney, M.D., Portland.

The Journal of yesterday was read and approved.

SENATE PAPERS
Non-Concurrent Matter

Bill "An Act To Limit Health Care Mandates"
(H.P. 649) (L.D. 882)

Majority (7) **OUGHT TO PASS AS AMENDED** Report of the Committee on **INSURANCE AND FINANCIAL SERVICES READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-723)** in the House on March 12, 2012.

Came from the Senate with the Reports **READ** and the Bill and accompanying papers **COMMITTED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** in **NON-CONCURRENCE**.

The House voted to **INSIST**.

Non-Concurrent Matter

Bill "An Act To Amend the Law Regarding the Sale of Wood Pellets" (EMERGENCY)
(H.P. 1219) (L.D. 1610)

House **INSISTED** on its former action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-727) AS AMENDED BY HOUSE AMENDMENT "A" (H-755)** thereto in the House on March 22, 2012.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-727) AS AMENDED BY HOUSE AMENDMENT "A" (H-755) AND SENATE AMENDMENT "A" (S-450)** thereto 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 To Amend the Law Regarding the Sale of Wood Pellets" (EMERGENCY)
(H.P. 1219) (L.D. 1610)

In reference to the action of the House on March 27, 2012 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 WEAVER of York
Representative HARMON of Palermo
Representative PILON of Saco

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

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

OMNE Nursing Leaders of Maine, which has received the designation on behalf of nurses in Maine of Action Coalition as part of a national initiative, The Future of Nursing: Campaign for Action, a program of AARP, AARP Foundation and the Robert Wood Johnson Foundation. Maine is now one of 48 states with an Action Coalition, which will work with a wide range of health care providers, consumer advocates and policy makers and the business, academic and philanthropic communities to bring innovative improvements to Maine's health care system. We extend our congratulations to OMNE Nursing Leaders of Maine on its receiving this honor;

(HLS 1101)

Presented by Representative GRAHAM of North Yarmouth.
Cosponsored by Senator CRAVEN of Androscoggin, Senator BRANNIGAN of Cumberland, Representative EVES of North Berwick.

On **OBJECTION** of Representative GRAHAM of North Yarmouth, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **GRAHAM**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. OMNE Nursing Leaders of Maine are one of many fine examples of Maine nurses. Nurses from the bedside to the community have led the movement towards quality, affordable health care for many years. Simply stated, nurses get it. We have understood from the beginning that patient-centered health care is the only way to go. We have always treated the whole person as they strive to stay healthy or cope with illness. We know that prevention and health promotion is the key to controlling health care costs. I am proud to say that I have been a registered nurse for over 30 years and a pediatric nurse practitioner for over 25. Nurses have been on the threshold of health care reform and are poised to usher it in. Studies tell us that nurses are one of the most trusted professionals in America. So please join me in honoring these nurse professionals as they receive the Maine Action Coalition Award. Thank you very much, Mr. Speaker.

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

REPORTS OF COMMITTEE
Divided Reports

Majority Report of the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-461)** on Bill "An Act To Expand the Availability of Natural Gas to Maine Residents"
(S.P. 543) (L.D. 1644)

Signed:

Senators:
THIBODEAU of Waldo
BARTLETT of Cumberland
RECTOR of Knox

Representatives:
FITTS of Pittsfield
BEAVERS of South Berwick
CORNELL du HOUX of Brunswick
CRAY of Palmyra
DION of Portland

DUNPHY of Embden
HAMPER of Oxford
LIBBY of Waterboro
LUCHINI of Ellsworth

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-462)** on same Bill.

Signed:
Representative:
HINCK of 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-461)**.

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-461)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-461)** in concurrence.

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-468)** on Bill "An Act To Limit Payment for Care and Treatment of Residents of State Institutions"

(S.P. 538) (L.D. 1628)

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
O'CONNOR of Berwick
PETERSON of Rumford
SANBORN of Gorham
SANDERSON of Chelsea
SIROCKI of Scarborough

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-469)** on same Bill.

Signed:
Representative:
STUCKEY of 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-468)**.

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" (S-468)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-468)** in concurrence.

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-470)** on Bill "An Act To Allow for a Contingency Fee Agreement with a MaineCare Recovery Audit Contractor"

(S.P. 539) (L.D. 1629)

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

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-470)**.

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" (S-470)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-470)** in concurrence.

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Bill "An Act To Improve Preventive Dental Health Care and Reduce Future Avoidable Costs"

(H.P. 826) (L.D. 1114)

Signed:
Senators:
McCORMICK of Kennebec
CRAVEN of Androscoggin
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 to Pass as Amended by Committee Amendment "B" (H-818)** on same Bill.

Signed:
Representatives:
EVES of North Berwick
PETERSON of Rumford
SANBORN of Gorham
STUCKEY of Portland

READ.

On motion of Representative STRANG BURGESS of Cumberland, 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-817)** on Resolve, Directing the Department of Health and Human Services To Amend Its Rules Governing Electronic Benefits Transfer Cards To Require a Person To Show Photographic Identification When Using a Card

(H.P. 1336) (L.D. 1812)

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 Resolve.

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

The Resolve was **READ ONCE**. **Committee Amendment "A" (H-817)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Resolve was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-817)** and sent for concurrence.

CONSENT CALENDAR
First Day

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

(H.P. 933) (L.D. 1242) Bill "An Act To Restore the Deer Herd in Certain Wildlife Management Districts in Maine" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-829)**

(H.P. 1296) (L.D. 1761) Bill "An Act To Improve and Ensure Adequate Funding for E-9-1-1 Services" (EMERGENCY) Committee on **ENERGY, UTILITIES AND TECHNOLOGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-826)**

(H.P. 1354) (L.D. 1834) Bill "An Act To Amend the Boothbay Region Water District Charter" (EMERGENCY) Committee on **ENERGY, UTILITIES AND TECHNOLOGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-828)**

(H.P. 1387) (L.D. 1875) Bill "An Act To Provide Transparency in Electricity Pricing for Maine Ratepayers" Committee on **ENERGY, UTILITIES AND TECHNOLOGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-827)**

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

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

ENACTORS
Emergency Measure

An Act To Change Document Filing Fees for County Registries of Deeds

(H.P. 1137) (L.D. 1550)
(C. "A" H-711)

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

Emergency Measure

An Act To Sustain the Elver Fishery

(H.P. 1298) (L.D. 1765)
(C. "A" H-816)

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 Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Acts

An Act To Amend the Housing Provisions of the Maine Human Rights Act

(S.P. 487) (L.D. 1530)
(C. "A" S-465)

An Act To Strengthen the Relationship between Land Users and Landowners

(H.P. 1222) (L.D. 1613)
(H. "A" H-819 to C. "A" H-793)

An Act To Allow for Timely Access to and Enhanced Administration of All Vaccines

(H.P. 1267) (L.D. 1715)
(C. "A" H-815)

An Act To Change Regulation of Forestry Activities

(S.P. 596) (L.D. 1739)
(C. "A" S-471)

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, Regarding the Laws Governing Electric Industry Restructuring

(S.P. 532) (L.D. 1622)
(C. "A" S-472)

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

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

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

UNFINISHED BUSINESS

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

An Act To Restore Maine's Secondary Roads

(S.P. 421) (L.D. 1367)
(C. "A" S-452)

TABLED - March 22, 2012 (Till Later Today) by Representative CEBRA of Naples.

PENDING - **PASSAGE TO BE ENACTED**. (Roll Call Ordered)

On motion of Representative FITTS of Pittsfield, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

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

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-452)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "A" (H-825)** to **Committee Amendment "A" (S-452)**, which was **READ** by the Clerk.

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

Representative **FITTS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. About three years ago, if my memory is correct, the Legislature formed a corridor commission to examine the potential for there to be a use for our interstate corridors to be used for transmission, distribution, gas pipe lines, energy infrastructure development, and that corridor commission worked through a debate on what the potential revenue that could come from such a development could be. Some of the estimates in the early analysis put the securitized value of those investments at somewhere near $5 billion of potential revenue or a check, essentially, that could be written to the State of Maine for use of those corridors. Within that debate, the corridor commission set up a distribution of funds of 20 percent to go to the Department of Transportation for using the Highway Fund at that time, and then 80 percent to be put into an Energy Infrastructure Fund, because these are energy infrastructure investments.

Now one of the issues facing the state besides our roads and bridges and the issues that go along with that are high energy costs. That's all we hear about. Whether it's for heating, electricity, transportation, energy in general is the central focus of this Legislature in trying to find ways to reduce those costs. The 80/20 split was meant to set up at least some level of acknowledgement that these are highway structures that are being shared, and if the true value were ever achieved of a lease of those infrastructure corridors, $1 billion could be transferred to the Highway Fund. Now LD 1367 changed all of that. LD 1367, as amended, takes 100 percent of the money that would come from any lease for energy infrastructure and puts it all in the Highway Fund. Actually, it even goes further than that. It puts it into this newly formed Secondary Roads Fund. Now I've always supported the idea that we need to fund our roads and bridges, and our secondary roads are certainly a big part of that, and the towns and cities in Maine struggle under how to fund those infrastructures that are, in many ways, crumbling and failing.

Now within LD 1367 is a limit of $400 million. Beyond that, I guess the sky's the limit as to where the rest of the money goes. The problem I have, as drafted, is that there was no discussion within the Transportation Committee of what happens to the money in excess. There was no discussion of the fact that these are energy infrastructure investments and part of the negotiation of a transmission line, say, down our interstate corridors could include a tradeoff for lower electricity rates for Maine. That would be a part of the lease. But you negate all of that potential if you take 100 percent and put it into the Highway Fund or into the Secondary Roads Fund. I think it's shortsighted, so my amendment essentially puts the law as it stands today 80/20; 20 percent going to the Secondary Roads Fund that I think is certainly a valid and necessary issue for this Legislature to face. You've also got to understand that these are hypothetical dollars. There is no money today. So for one to make the claim that we're pulling money out of the roads isn't in fact true, because there's no money there.

The issue for me is we have to acknowledge that these are energy infrastructure investments and part of those energy infrastructure investments will require negotiations on how to lower our energy costs. This amendment allows us to continue to do that. If there are excess dollars left over in that Energy Infrastructure Fund that need to go to roads and bridges, this Legislature or a future Legislature could make that choice.

But we need to acknowledge that none of that has been decided yet and to instantly throw the money into the Highway Fund or into this Secondary Roads Fund is shortsighted, it doesn't acknowledge the true nature of what those investments are, and it ignores that fact that no discussion was made with the Energy Committee. So I ask for your support and thank you, 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. I rise in support of the pending motion and in support of my colleague and former seatmate on what was then the Utilities and Energy Committee, the Representative from Pittsfield who just spoke. I won't repeat his points, I think that they were made well, except to say that I also believe that it makes sense that we ensure that there is a dialogue with the Energy and Utilities Committee before we go forward. There were some sound policy justifications for allocating money as they're currently allotted to the fund. The Energy Infrastructure Benefits Fund would benefit Mainers by reducing energy costs and, at the very least, I would hope that we can preserve current law in order to allow that conversation to happen before we make any changes. Thank you, Mr. Speaker.

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

Representative **BEAVERS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I want to thank Representative Fitts for presenting this amendment. Most of my colleagues on Energy, Utilities and Technology and myself support this amendment to keep current law intact on the use of these revenues until there can be more of a conversation. After all, as he indicated, there are no moneys there yet. Thank you.

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

Representative **CEBRA**: Thank you, Mr. Speaker. I rise in opposition to the current amendment. This was a unanimous Committee Report out of Transportation. We did have a couple of work sessions on this bill. I'd just like to say to this body that in my eight years in this room listening to members of this House, spending some time over in the other body listening to members of the other body, there is an awful lot of lip service that happens in this body about supporting our infrastructure. Oh, we need to support our infrastructure. But when the rubber hits the road, that all sort of goes away in hopes of some way to fix the roads down the future. Maybe at some point we'll figure out a way to fix our roads. But meanwhile our urban roads, which this bill would change the title of the URIP plan to a local road assistance program, because it would increase the assistance from the state, put into place a mechanism that would help those minor collector roads, the roads that are being neglected today because we simply don't have the money, it's going into other places, to fix those minor collector roads, the secondary roads.

We've just been declared the most rural state in the nation for the first time in a long time and our rural roads ought to be a priority in this body, but I know they haven't been in the past. I know we have tried to capture some sales tax on motor vehicle related items in the past. Well, there's always an excuse not to do that. We've tried to look at the gas tax and, again, everybody runs away from doing anything with the gas tax. We've tried to look at, oh, about a half a dozen items where we've tried to increase the money going to our infrastructure because, after all, for some people and I know for every member of the Transportation Committee, our infrastructure is a priority. We see in Transportation what our roads and bridges' funding is looking like. We see what we have to pick and choose between what we can and can't do, and this doesn't touch a single penny of existing revenue. This is hopeful in the future, and let's not pretend, okay? Let's not pretend that somehow when, and if, this energy corridor is going to be built, if it's ever going to be built, that the people sitting in these seats at that later day aren't going to be doing all kinds of things to try and change the funding for this. The important part of this bill is setting up the structure for us to look at our long-term secondary road plan. Without that, we're going to have the same mess that we've had in the past, we're going to have that in the future. So I would suggest that we don't pass this amendment, we go back to the unanimous Committee Report that we had out of Transportation and we go back and pass that. Thank you, Speaker.

The SPEAKER: The Chair recognizes the Representative from Mapleton, Representative Willette.

Representative **WILLETTE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. This bill has taken us pretty much our whole 125th Legislature. Debating it, we started out with some pretty controversial ideas that would have brought revenue including the billboard law. We sat through hours of hearings on why that was a bad idea. But through those hours and hours and days of work, we've come to a solution that will put our rural roads first. The Transportation Committee, we've seen over the years that Maine's roads have continued to get worse and worse, and we haven't had a solution. We've tried to use General Fund money, but we can't get General Fund money into fixing our roads so we've come up with a solution. Now as far as these corridors are concerned, 20 percent to 80 percent seems a little bit ridiculous to me because these corridors only exist because there's a road, because they're next to a highway. To me, that just doesn't make sense to give 80 percent of the funding to something that wouldn't even exist if it wasn't for the highway or some road. These corridors wouldn't even exist. So I just urge this body to vote against this pending amendment and stand up for our rural communities because, right now, the rubber is hitting the road right now, but if we don't start doing something the rubber is going to start hitting the dirt. Mr. Speaker, I ask for a roll call.

The same Representative **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-825)** to **Committee Amendment "A" (S-452)**.

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 Adoption of House Amendment "A" (H-825) to Committee Amendment "A" (S-452). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 270

YEA - Beaulieu, Beavers, Beliveau, Berry, Bickford, Boland, Bolduc, Bryant, Carey, Casavant, Chapman, Cornell du Houx, Dion, Dow, Duchesne, Eves, Fitts, Flemings, Goode, Graham, Harlow, Hayes, Hunt, Innes Walsh, Johnson P, Knapp, Kruger, Kumiega, Lajoie, Lovejoy, Luchini, MacDonald, Maloney, Martin, Morrison, Moulton, Richardson D, Rochelo, Rotundo, Sanborn, Stuckey, Theriault, Tilton, Wagner R, Welsh.

NAY - Ayotte, Beaudoin, Beck, Bennett, Black, Blodgett, Briggs, Burns DC, Cain, Cebra, Chase, Chipman, Clark H, Clark T, Clarke, Cotta, Crafts, Cray, Curtis, Davis, Driscoll, Dunphy, Eberle, Edgecomb, Espling, Fitzpatrick, Flood, Fossel, Foster, Fredette, Gifford, Gilbert, Gillway, Guerin, Hamper, Hanley, Harmon, Harvell, Haskell, Herbig, Hogan, Johnson D, Kaenrath, Keschl, Knight, Libby, Long, Longstaff, Maker, Malaby, Mazurek, McCabe, McClellan, McFadden, McKane, Monaghan-Derrig, Morissette, Nass, Nelson, Newendyke, O'Connor, Olsen, Parker, Parry, Peoples, Peterson, Picchiotti, Pilon, Plummer,

Prescott, Priest, Rankin, Richardson W, Rioux, Rosen, Russell, Sanderson, Sarty, Shaw, Sirocki, Stevens, Strang Burgess, Timberlake, Turner, Tuttle, Valentino, Volk, Wallace, Waterhouse, Weaver, Webster, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

ABSENT - Celli, Crockett, Cushing, Damon, Dill J, Hinck, Kent, O'Brien, Treat.

Yes, 45; No, 96; Absent, 9; Vacant, 1; Excused, 0.

45 having voted in the affirmative and 96 voted in the negative, 1 vacancy with 9 being absent, and accordingly **House Amendment "A" (H-825)** to **Committee Amendment "A" (S-452) FAILED ADOPTION**.

Subsequently, **Committee Amendment "A" (S-452)** was **ADOPTED**.

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-452)**.

The SPEAKER: A roll call having been previously ordered, the pending question before the House is Passage to be Enacted as Amended by Committee Amendment "A" (S-452). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 271

YEA - Ayotte, Beaudoin, Beaulieu, Beck, Beliveau, Bennett, Black, Blodgett, Bolduc, Briggs, Burns DC, Cain, Carey, Cebra, Chase, Clark H, Clark T, Clarke, Cotta, Crafts, Cray, Curtis, Davis, Dow, Driscoll, Dunphy, Eberle, Edgecomb, Espling, Eves, Fitzpatrick, Flood, Fossel, Foster, Fredette, Gifford, Gilbert, Gillway, Graham, Guerin, Hamper, Hanley, Harmon, Harvell, Haskell, Hayes, Herbig, Hogan, Johnson D, Johnson P, Kaenrath, Keschl, Knapp, Knight, Kruger, Lajoie, Libby, Long, Longstaff, Lovejoy, Maker, Malaby, Maloney, Martin, Mazurek, McCabe, McClellan, McFadden, McKane, Monaghan-Derrig, Morissette, Moulton, Nass, Nelson, Newendyke, O'Connor, Olsen, Parker, Parry, Peoples, Peterson, Picchiotti, Pilon, Plummer, Prescott, Priest, Rankin, Richardson W, Rioux, Rosen, Rotundo, Russell, Sanborn, Sanderson, Sarty, Shaw, Sirocki, Stevens, Strang Burgess, Theriault, Tilton, Timberlake, Turner, Tuttle, Valentino, Volk, Wallace, Waterhouse, Weaver, Webster, Welsh, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

NAY - Beavers, Berry, Bickford, Boland, Bryant, Casavant, Chapman, Chipman, Cornell du Houx, Dion, Duchesne, Fitts, Flemings, Goode, Harlow, Hunt, Innes Walsh, Kumiega, Luchini, MacDonald, Morrison, Richardson D, Rochelo, Stuckey, Wagner R.

ABSENT - Celli, Crockett, Cushing, Damon, Dill J, Hinck, Kent, O'Brien, Treat.

Yes, 116; No, 25; Absent, 9; Vacant, 1; Excused, 0.

116 having voted in the affirmative and 25 voted in the negative, 1 vacancy with 9 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

SENATE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (6) **Ought to Pass as Amended by Committee Amendment "A" (S-464)** - Committee on **JUDICIARY** on Bill "An Act To Define 'Person Aggrieved' in Proceedings before the Department of Environmental Protection and the Maine Land Use Regulation Commission"

(S.P. 546) (L.D. 1647)

- In Senate, Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-464)**.

TABLED - March 26, 2012 (Till Later Today) by Representative NASS of Acton.

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

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

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

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative **PRIEST**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I would remind everybody that this is a Minority Report. The effect of this bill, if it were passed, would be to constrict appeals from the Board of Environmental Protection staff to the Board of Environmental Protection. The same thing would be true for LURC. This would make any appeal have to conform to the requirements for going to court in an appeal. Now the BEP is a citizen board. It's made up of citizens, not of lawyers, and it should be able to have a wide variety of viewpoints when it considers appeals. With this bill, unfortunately, you could replace this citizen board with a series of administrative law judges to hear appeals, just like a court would hear an appeal.

Now it's interesting to know who testified for this bill. The testimony was Senator Saviello, the sponsor; Chip Ahrens , an attorney; Dan Billings, the chief counsel for Governor LePage; Avery Day, the Maine Real Estate and Development Association; and Bill Ferdinand. Mostly lawyers. Those who testified against were Ivy Frignoca, the Conservation Law Foundation; Nick Bennett, the Natural Resources Council of Maine; Kathy Johnson from the Natural Resources Council of Maine; Jeff Pedo; Chris O'Neil from the Appalachian Trail Club; the Friends of Maine Mountains; and Jen Gray from the Maine Audubon Society. There was obviously a very great concern on a lot of the environmental organizations that this bill will eliminate their ability to have a hearing before the Board of Environmental Protection or LURC on matters which are of great importance, not only to that specific decision but also the State of Maine.

This bill essentially begins the movement from a citizen board of Environmental Protection and from a citizen board of LURC to a professional board. This is probably not what we want for our environment and I would urge you to follow my light and vote red on this bill.

The SPEAKER: The Chair recognizes the Representative from Acton, Representative Nass.

Representative **NASS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The minority Committee Amendment to LD 1647 changes the bill to a Resolve. It is about appealing staff decisions of the Department of Environmental Protection and Land Use Regulation Commission to their respective citizen boards. This Resolve provides that only people who are affected by this decision will have a right to appeal. Once the staff makes a decision on an application to LURC or DEP, only those aggrieved or those that have skin in the game can appeal. Does this limit who can have a say? Definitely not.

During the permitting process anyone, anyone else including the person from Kansas or New York can have their say before a final decision is made by the staff.

After that, the staff decision is made, determining who has skin the game or who is an aggrieved person according to the same standards that would be used in an appeal in a judicial proceeding. There should be one standard, not a lesser standard, not a tougher standard but one standard.

This Resolve would resolve frivolous appeals and not slow down the permitting process. Please support the Minority Ought to Pass as Amended on 1647. 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. The reason that all the lawyers voted on the side of this bill is because lawyers are the group that will be most benefited by this bill. When you want to appeal a case to the Department of Environmental Protection, right now you can do that alone, you can do that as a citizen. After, if we pass this bill, you're going to need to hire an attorney because the law of standing is complicated. It's not just a statute, it's also all the case law involved in standing and you're going to need an attorney to write a brief to the Board of Environmental Protection on why you qualify, why you should get this appeal. I just don't see that we should have a citizen board involved in something this complicated. I think it makes more sense to keep the law as it is. We didn't hear about any problems as the law currently stands, so I don't see why we're doing this. Thank you, Mr. Speaker.

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

Representative **SARTY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I think we hear about this issue all the time. There are many people affected by land use regulations, especially in northern Maine. They feel too many people who have nothing to do with their area, don't live in that area, seem to have a great deal to say. When you consider that anyone can participate in the public hearings that are going to be held in the future by DEP or LURC and yet if that goes to an appeal to the judiciary, only people who established standing could be considered truly aggrieved persons. If we do otherwise, we're just opening up every issue of land regulations in the State of Maine to be bombarded by special interest groups, somebody looking for the purple spotted lizard and other ridiculous notions that often come up at these hearings to obstruct an issue that certainly people don't believe in. Everyone would have the opportunity to participate in a public hearing, but as far as taking it through to the court system, it only makes sense that the aggrieved persons be people who have established legal standing on the issue.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative **PRIEST**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Just to remind you that neither DEP nor LURC asked for this. Thank you.

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

ROLL CALL NO. 272

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

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

ABSENT - Celli, Crockett, Cushing, Damon, Dill J, Hinck, Kent, O'Brien, Treat.

Yes, 71; No, 70; Absent, 9; Vacant, 1; Excused, 0.

71 having voted in the affirmative and 70 voted in the negative, 1 vacancy with 9 being absent, and accordingly the Minority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-464)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-464)** in concurrence.

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

HOUSE DIVIDED REPORT - Majority (10) **Ought to Pass as Amended by Committee Amendment "A" (H-813)** - Minority (3) **Ought Not to Pass** - Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act Related to Specialty Tiers in Prescription Medication Pricing"

(H.P. 1243) (L.D. 1691)

TABLED - March 26, 2012 (Till Later Today) by Representative RICHARDSON of Warren.

PENDING - Motion of same Representative to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report. (Roll Call Ordered)

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

Representative **FITTS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I introduced this bill because I was made aware of a situation that had the potential to cause great harm to individuals who found themselves, through no cause of their own, in a situation where they realized that they were either facing a life threatening illness or a loved one, like a child, was born with hemophilia, and insurance companies have created another mechanism by which to shed costs from people who otherwise have always had insurance, always paid their insurance but then find out that the standard three tiers that they had traditionally been used to for their prescription drugs, their insurance policies now contained a thing called a specialty tier drug. These are drugs that are kind of isolated in the world of medicine. They are expensive, but they also serve a great purpose for those who need to use them and a specialty tier essentially sets that drug aside in a different class. It creates a situation where a person could be exposed to as much as $100,000 a year of costs. These are people that work for a living.

Some of the folks that testified in favor of this bill, school teachers who find themselves with a child with hemophilia and now if these drugs were set aside in a specialty tier would be unable to pay for them. One of the suggestions from the committee was if you found your child in that situation, I guess

the only alternative would be to turn them over to the state. The person testifying almost fell over at that thought. Never in their wildest dreams could they imagine themselves in a situation where they'd have to give up their child in order to make sure their child would survive. But in the right financial situation, that may be the only alternative if a specialty tier were created.

So when I introduced the bill, it originally banned specialty tiers from Maine. A couple of other states have done similar things. Vermont put a moratorium on specialty tiers. New York has passed a bill similar to the way this one was originally presented. We would be leading the nation if this bill passes, but I think it's for a good reason that we'd be leading the nation.

Now the bill was worked tremendously by the Insurance and Financial Services Committee. I think I counted it up to five work sessions on this and it was a fairly simple concept but the committee wrestled with the issue of cost, how to contain cost, potentially, that would be passed on to others, and where they wound up in their final report is putting a $3,500 out-of-pocket annual limit to somebody that had themselves in the situation of being or finding it necessary that they have to use one of these drugs that's called specialty tier, and so the out-of-pocket limit would be $3,500. That would be in addition to whatever their exposure would be under all the other aspects of their insurance policies. Now the Affordable Care Act has provisions that all of this would be included beginning in 2014, if the Affordable Care Act stands. But as you know, this week that standing for that law is being challenged in the Supreme Court and the arguments are being held this week. There's no telling what the outcome of that will be, so to use the argument that, oh well, that's all right, this problem goes away in 2014, isn't necessarily valid.

I think for those people that find themselves in this situation, this bill protects them going forward. If it turns out that it's not necessary after 2014, that's great. But the reality is these are people who have real situations today and there's no limit to what an insurance company could do. Some make the argument that there aren't any specialty tiers in Maine; they aren't even doing it so why would we have a law to do that? Well, that's not in fact true because, during testimony, Anthem declared that they have in their small group plan a specialty tier that they've created for certain drugs. Now they limit the exposure within that specialty tier, kind of in a similar way to what this bill proposes, though their limit is much less as it stands. But this would allow an insurance company, if they found themselves in the situation, to go as far as requiring somebody to pay $3,500 out-of-pocket. It's a reasonable compromise, I think the bill has a reasonable report and just for the sake of this body, Mr. Speaker, I would ask that the Clerk read the Committee Report. Thank you, Mr. Speaker.

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

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

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

Representative **RICHARDSON**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I'd just like to make a few comments regarding this bill. The Majority Report is well meaning, but I'm really opposed to it for four reasons really. First of all, this report is a mandate. Although the Bureau of Insurance disputes that it's a mandate, the Majority Report requires an insurer to provide specific benefits to its members. That looks like a mandate to me.

Second, and most important, this bill is not needed. The bill tells insurers that they must have an out-of-pocket expense of $3,500 if they use co-insurance in their drug benefit and if the co-insurance does not count toward the plan's overall out-of-pocket maximum. We have heard no evidence at the hearing and in the work session that anyone in Maine under an insurance plan has been charged more than that.

That brings us to the third reason that I oppose this report. For one year, all insurers selling in the insured market will have to establish new policies, procedures, computer programs to implement this report. This clearly adds to the administrative cost of the insurers, which are something that we always complain about. Well, we shouldn't complain if we are forcing them to incur these costs and whatever benefit this mandate offers lasts for only one year.

The last thing that I really want to mention is that through the process we have heard about the fee for our reinsurance pool, $4 a month. With this amendment, this cost added on is going to be at least a $1 a month, maybe more, to our insured folks and probably even more consequential than that is. I predict that companies will in fact be able to increase their prices over this period of time. So again, I ask you to support the Minority Report and thank you, Mr. Speaker.

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

Representative **TREAT**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I urge you to support the strong bipartisan Majority Report and therefore vote against the pending motion which would kill this bill. As it's been pointed out by its sponsor, Representative Fitts, the Insurance and Financial Services Committee worked very, very hard on this bill because we understood that, on the one hand, we had really the life and health of some people in the balance and, on the other hand, we had potential cost increases to everyone's insurance and potential inconveniences to the insurance companies, and that is why our Majority Report does not do exactly what was proposed in the bill, which would have significantly limited the options to insurance companies to be able to control their costs and actually could have increased costs on everyone to a degree that was not acceptable. I believe that what we came up with is a very appropriate compromise which simply limits the out-of-pocket payments for these extremely expensive specialty drugs to an amount that was actually a proposed amendment that came, in the end, as a suggestion from Anthem, as a way of reducing the costs but still having an approach here that would help people. I'm not saying that Anthem supported the bill after we adopted this amendment, but I am saying that the amendment that was adopted by the majority did in fact take into consideration, in a number of ways, the concerns of the industry.

I just want to point out what we are talking about here. There are some drugs that cost upwards of $100,000 a year. If you have co-insurance at a 50 percent cost, you will be paying $50,000 for that one drug. If you take multiple drugs that are specialty drugs, then you will be paying even more than that. You are already paying for any deductible on the other side of your health insurance, so if you went in for other treatments for this underlying condition you'll be paying for those. You're already paying for your co-pay in addition to this co-insurance. It may be that this law is in effect only for a year because, as the good Representative Fitts stated, if the Affordable Care Act does go into effect in 2014, these particular provisions will have the effect of limiting the out-of-pocket costs for everybody who has insurance, including the costs spent on these specialty drugs. But just because something is in effect for a year doesn't mean it's not worth doing. Someone who cannot afford their chemotherapy treatments or their specialty drugs for their MS or someone, a hemophiliac. We had very compelling testimony about some little children that are hemophiliacs and must have very specialized, very expensive drugs. I don't think we would want to be putting someone in the position of potentially limiting

their lifespan or, significantly, their quality of life during this year-long period.

We worked very hard to limit any inconvenience to the insurance companies. We postponed the date at which it will go into effect so that they can change their forms at the same time that they normally change all of their forms, and I would point out that because of the Affordable Care Act, they are going to be and already have been changing their policies and changing their forms in order to comply with that. So changing those forms and putting one additional line in there is not going to be a major inconvenience to those companies, particularly when weighed against the good that will be done.

Again, we heard from many, many people who are concerned about the impact on them, either today or tomorrow, when these policies could be changed for the worse. Some of those folks who came and testified are in your district. Some of them who wrote to me and met with me outside of the committee room are in my district. I think the right thing to do here is to protect the health of people who have already paid, every single month they have paid for their insurance. Let's make sure that they buy insurance that actually covers the condition that they have.

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

Representative **BEAUDOIN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today to speak about the high cost of prescription drugs.

I support this bill because I support helping people who have chronic conditions like hemophilia or multiple sclerosis, be able to afford the prescriptions that they need in order to lead a productive, healthy life.

We are kidding ourselves if we think that these people have it easy. The people that this bill would help are very sick people who often have to make hard choices between buying lifesaving medications or buying oil to heat their house or paying their mortgage. When they can't afford their medication, it means that they are forced to revert to the most expensive form of treatment, a visit to the emergency room.

As a longtime advocate for better and more affordable access to health care, and as someone who has struggled to pay for the cost of prescriptions, and as someone who has watched in dismay as the cost of prescription drugs has risen year after year, I urge you to support this bill which would help to provide good quality health care coverage to Mainers with chronic conditions, enabling them to be able to go to work, to go to school and to care for others, instead of having someone to take care of them.

Prescription drugs need to be affordable and accessible. We all pay the price when they are not, but those with chronic conditions pay a disproportionately high price. I ask that you join me in supporting this bill. Thank you, Mr. Speaker.

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

Representative **MORRISON**: Thank you, Mr. Speaker. Good morning, Mr. Speaker and Ladies and Gentlemen of the House. I'm going to ask you to vote against the pending motion and I want to ask you to help these families who have members who have chronic diseases. We're talking multiple sclerosis, cancer, rheumatoid arthritis, hemophilia, HIV, inflammatory bowel disease, leukemia, lymphoma. These are chronic diseases, folks, and they need help. The cost of prescription drugs has skyrocketed over the years and people are choosing between buying fuel for their home, paying their mortgages, paying for food, clothing, over paying to give these drugs to the people who need it desperately. So I'm asking you, please vote against this pending motion. We're helping people that desperately need it. In my opinion, this isn't about politics. This is about helping people in need. Thank you, Mr. Speaker.

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

Representative **GRAHAM**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As I noted earlier this morning, I've dedicated my entire life to carrying for children and their families and when we debate these issues, we need to put a human face on the discussion and on the debate. So I ask you to indulge me here to read a bit from an editorial from an individual who has a child who has hemophilia. This was distributed by the good Representative from Pittsfield, Representative Fitts. I know this family. This brings it home.

"Our son has severe hemophilia A (Factor VIII deficiency), something he inherited. Hemophilia is a rare, sex-linked chromosomal disorder, based on the X chromosome.

"When our son was born, my husband told me that William's hemophilia is like blue eyes. I mention this because the color of our eyes, the color of our skin, the diseases in our families, such as cancers, arthritis and hemophilia, and lots of other characteristics make…us unique. They can also be challenging and expensive for the people and families affected by them.

"Looking at William, I doubt that you would know that he has hemophilia. He looks and acts like any other kid, with a notable exception. Three days a week, his dad or I give him his factor, what we call his 'Superman Juice' or 'Factor Juice.'

"It's an injectible drug we give in one of his arms to raise his Factor VIII level to a safe zone. His body metabolizes the "juice" every 48 hours, so he needs it every other day.

"This incredible drug -- manufactured in a laboratory and not available as a generic -- permits William to ride his bike, play tennis, ski down mountains, swim -- and strengthen his joints and muscles, which help to keep him healthy and prevent painful bleeding episodes. This drug is expensive, and the cost will increase as he ages because the dosage is based on his weight."

She goes on to say that "If we cannot afford to give our son his medication, he won't take his medication, his health will suffer and he would likely consume more health care resources in the form of inpatient…stays, diagnostic testing, physical therapy and the like.

"He would likely miss school for days (or weeks), have less of an opportunity to socialize with his peers, and ultimately have a tougher time becoming a healthy adult, contributing member of society -- and a future scientist. (At 7, that's his career interest!)"

It's critical that we pass this bill, and again, I plead with my colleagues. Put a human face on this. This is not about shuffling insurance. This is not about an extra line item on an insurance bill. This is about human beings and their lives. Thank you.

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

ROLL CALL NO. 273

YEA - Ayotte, Black, Cebra, Cotta, Crafts, Cray, Curtis, Dunphy, Edgecomb, Fitzpatrick, Flood, Foster, Gifford, Guerin, Libby, Long, Malaby, McClellan, McFadden, McKane, O'Connor, Parker, Plummer, Richardson W, Rioux, Sarty, Sirocki, Tilton, Timberlake, Wallace, Waterhouse, Weaver, Winsor, Mr. Speaker.

NAY - Beaudoin, Beaulieu, Beavers, Beck, Beliveau, Bennett, Berry, Bickford, Blodgett, Boland, Bolduc, Briggs, Bryant, Burns DC, Cain, Carey, Casavant, Chapman, Chase, Chipman, Clark H, Clark T, Clarke, Cornell du Houx, Davis, Dion, Dow, Driscoll, Duchesne, Eberle, Espling, Eves, Fitts, Flemings, Fossel, Fredette, Gilbert, Gillway, Goode, Graham, Hamper,

Hanley, Harlow, Harmon, Harvell, Haskell, Hayes, Herbig, Hogan, Hunt, Innes Walsh, Johnson D, Johnson P, Kaenrath, Keschl, Knapp, Knight, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maker, Maloney, Martin, Mazurek, McCabe, Monaghan-Derrig, Morissette, Morrison, Moulton, Nass, Nelson, Newendyke, Olsen, Parry, Peoples, Peterson, Picchiotti, Pilon, Prescott, Priest, Rankin, Richardson D, Rochelo, Rosen, Rotundo, Russell, Sanborn, Sanderson, Shaw, Stevens, Strang Burgess, Stuckey, Theriault, Treat, Turner, Tuttle, Valentino, Volk, Wagner R, Webster, Welsh, Willette A, Willette M, Wood.

ABSENT - Celli, Crockett, Cushing, Damon, Dill J, Hinck, Kent, O'Brien.

Yes, 34; No, 108; Absent, 8; Vacant, 1; Excused, 0.

34 having voted in the affirmative and 108 voted in the negative, 1 vacancy with 8 being absent, and accordingly the Minority **Ought Not to Pass** was **NOT ACCEPTED**.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-813)** 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-813)** and sent for concurrence.

CONSENT CALENDAR
First Day

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

(S.P. 301) (L.D. 955) Bill "An Act To Establish the Dental Adjudicatory Panel" Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-482)**

(S.P. 439) (L.D. 1422) Bill "An Act To Prepare Maine People for the Future Economy" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-477)**

(S.P. 660) (L.D. 1883) Bill "An Act To Clarify the Regulation of Private Natural Gas Pipelines" Committee on **ENERGY, UTILITIES AND TECHNOLOGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-479)**

(H.P. 1364) (L.D. 1843) Bill "An Act To Implement the Recommendations of the Office of Program Evaluation and Government Accountability and the Government Oversight Committee Regarding Quasi-independent State Entities" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-831)**

(H.P. 1373) (L.D. 1855) Bill "An Act Regarding the Fund for a Healthy Maine's Prevention, Education and Treatment Activities Concerning Unhealthy Weight and Obesity" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-830)**

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

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

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-832)** on Bill "An Act To Standardize the Definition of 'Independent Contractor'"

(H.P. 960) (L.D. 1314)

Signed:
Senators:
RECTOR of Knox
MARTIN of Kennebec

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

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

Signed:
Senator:
JACKSON of Aroostook

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-832)** was **READ** by the Clerk.

On motion of Representative CURTIS of Madison, **TABLED** pending **ADOPTION** of **Committee Amendment "A" (H-832)** and later today assigned.

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

The House recessed until 5:00 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:

SENATE PAPERS
Non-Concurrent Matter

An Act To Protect Gasoline Marketers from Liability for Selling Federally Approved Gasoline

(S.P. 557) (L.D. 1658)
(C. "A" S-413)

- In House, **PASSED TO BE ENACTED** on March 12, 2012.

- In Senate, **PASSED TO BE ENACTED** on March 13, 2012, in concurrence.
- **RECALLED** from the Governor's Desk pursuant to Joint Order, S.P. 673.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-413) AS AMENDED BY SENATE AMENDMENT "A" (S-474)** thereto in **NON-CONCURRENCE**.

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

CONSENT CALENDAR
First Day

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

(H.P. 1329) (L.D. 1803) Bill "An Act To Implement the Recommendations of the Dig Safe Work Group" Committee on **ENERGY, UTILITIES AND TECHNOLOGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-842)**

(H.P. 1341) (L.D. 1819) Resolve, Regarding Legislative Review of Chapter 26: Producer Margins, a Major Substantive Rule of the Maine Milk Commission (EMERGENCY) Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-841)**

(H.P. 1351) (L.D. 1831) Bill "An Act To Allow Forfeiture of Maine Public Employees Retirement System Benefits for Persons Convicted of Certain Crimes" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-838)**

(H.P. 1370) (L.D. 1852) Bill "An Act To Provide a More Comprehensive Ban on the Possession of Synthetic Hallucinogenic Drugs" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-833)**

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

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

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (5) **Ought to Pass as Amended by Committee Amendment "A" (H-698)** - Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Move the Land for Maine's Future Program to the Department of Agriculture, Food and Rural Resources"

(H.P. 832) (L.D. 1120)

TABLED - February 16, 2012 (Till Later Today) by Representative EDGECOMB of Caribou.

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

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

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

The SPEAKER: The Chair recognizes the Representative from York, Representative Moulton.

Representative **MOULTON**: Thank you, Mr. Speaker. Briefly, Ladies and Gentlemen of the House, I originally proposed this bill as a number of related measures to help focus the role of the State Planning Office. Over the years, it had been kind of burdened with a number of programs that, in some respects, distracted the agency from its central or what we've come to view as a central mission, which is land use planning, and one of the elements that seemed appropriate to spin off was the Land for Maine's Future. They needed to be in an agency that would provide suitable support for that particular program. The bill was, I introduced the bill before there was ever a working group with respect to the Governor's office and the so-called FF Report. What the bill has proposed to do and what the Governor's office proposes to do are somewhat different. Again, I thought it was a good bill and would still encourage people to pass it on this measure. Thank you, Mr. Speaker.

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. The measure that's before you, I encourage folks to vote against it so that we can move forward and actually send it, the Land for Maine's Future Program, to the Department of Conservation. I know the title of this bill describes it as heading to the Department of Agriculture, but the amended version of this bill actually sends it to the Department of Conservation and it does so in a manner that is complete and intact. So if you really value the Land for Maine's Future Program, I encourage you to reject the pending motion and vote against this. Thank you, Mr. Speaker.

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

ROLL CALL NO. 274

YEA - Ayotte, Beaulieu, Bennett, Black, Burns DC, Cebra, Chase, Clark H, Clark T, Cotta, Crafts, Cray, 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, Nass, Newendyke, O'Connor, Olsen, Parker, Parry, Picchiotti, Plummer, Prescott, Richardson D, Richardson W, Rioux, Rosen, Sanderson, Sarty, Sirocki, Tilton, Timberlake, Turner, Volk, Wallace, Waterhouse, Weaver, Willette M, Winsor, Wood, Mr. Speaker.

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

ABSENT - Bickford, Bolduc, Briggs, Celli, Crockett, Dill J, Flemings, Goode, Graham, Hanley, Haskell, Hinck, Kent, Stuckey, Willette A.

Yes, 72; No, 63; Absent, 15; Vacant, 1; Excused, 0.

72 having voted in the affirmative and 63 voted in the negative, 1 vacancy with 15 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

HOUSE DIVIDED REPORT - Report "A" (10) **Ought to Pass as Amended by Committee Amendment "B" (H-703)** - Report "B" (1) **Ought to Pass as Amended by Committee Amendment "C" (H-704)** - Report "C" (1) **Ought Not to Pass** - Committee on **TAXATION** on Bill "An Act To Strengthen Maine's Economy through Improvements to the Educational Opportunity Tax Credit"

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

TABLED - February 21, 2012 (Till Later Today) by Representative KNIGHT of Livermore Falls.

PENDING - Motion of same Representative 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 "B" (H-703)** was **READ** by the Clerk.

Representative KESCHL of Belgrade **PRESENTED House Amendment "A" (H-814)** to **Committee Amendment "B" (H-703)**, which was **READ** by the Clerk.

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

Representative **KESCHL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As we are all too painfully aware, we continue to see our children leave the state in search of better opportunities elsewhere. At the same time employers throughout the state have repeatedly told us that they are often forced to go out of state in order to fill jobs that they are offering in Maine because there is a shortage of graduates in the fields of science, technology, engineering, and mathematics or STEM.

This shortage of STEM graduates is also cited as a big factor in restraining economic development and job growth, and I am offering this amendment simply to focus our scarce state resources on efforts that will have the best opportunity to address both the migration of our children to other states and to increase the number of graduates in STEM related fields.

If approved, this amendment would reduce the financial impact of the Majority Report by restricting the proposed "refundable" tax credit to those students with loans who graduate with an associate or bachelor's degree in STEM related fields and who work in Maine. This would provide an incentive for students to truly consider career fields that our employers tell us that they need and it will provide our children with the ability to live and work in Maine. I urge you to support our economy, our taxpayers, and our children by voting for this amendment. Thank you.

Subsequently, **House Amendment "A" (H-814)** to **Committee Amendment "B" (H-703)** was **ADOPTED**.

Representative DAMON of Bangor **PRESENTED House Amendment "B" (H-844)** to **Committee Amendment "B" (H-703)**, which was **READ** by the Clerk.

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

Representative **DAMON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This amendment allows an individual who has domiciled in Maine but who is deployed for military service to be eligible for Educational Opportunity Tax Credit as long as the other qualifications are met. There will be no special qualifications except physical presence.

Subsequently, **House Amendment "B" (H-844)** to **Committee Amendment "B" (H-703)** was **ADOPTED**.

Committee Amendment "B" (H-703) as Amended by House Amendments "A" (H-814) and **"B" (H-844)** 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 "B" (H-703) as Amended by House Amendments "A" (H-814)** and **"B" (H-844)** thereto and sent for concurrence.

SENATE REPORT - **Ought to Pass as Amended by Committee Amendment "B" (S-378)** - Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Promote School Attendance and Increase School Achievement"

(S.P. 473) (L.D. 1503)

- In Senate, Unanimous **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-378)**.

TABLED - February 22, 2012 (Till Later Today) by Representative RICHARDSON of Carmel.

PENDING - **ACCEPTANCE OF COMMITTEE REPORT**.

Representative DOW of Waldoboro moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

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

Representative **DOW**: Thank you, Mr. Speaker. This bill's title is deceiving. It doesn't have much to do with the title at hand. The bill basically steps on a lot of procedures that school boards use already. They are already doing these things. It asks superintendents to do more things by cutting out of the bill things that their assistants could do, but it cuts that out. There are a lot of other reasons that I wish to Indefinitely Postpone. There also appears to be an unfunded mandate in here for counseling and hopefully I don't have to get up and speak on this again, but that's my motion and I'm going to leave it at that for now.

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

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

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Cain.

Representative **CAIN**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Let's make sure we have our facts straight when it comes to LD 1503. This is an act to promote school attendance and to increase school achievement. It does that, particularly in four specific ways. The entire bill is focused on improving Maine's high school graduation rate to 90 percent by June 2016 and making sure that we keep Maine students on track for success in school.

Number two, changes are needed when it comes to expulsion. Maine is in the minority of states when it comes to not providing for any educational services when a child is expelled from school, particularly kids who are identified under the Individuals with Disabilities Education Act. We need, as a state, reentry plans for expulsion. With this bill, school districts still have complete discretion when it comes to decision-making for expulsions and this legislation gives flexibility to those districts by offering them two options. The school board may expel the student for a specific time period, not to exceed the total number of instructional days approved by the board, or they may expel the student and authorize the superintendent to provide that expelled student with a reentry plan that does not specify the length of the expulsion but rather indicates conditions for coming back to school. That's a good thing.

In relation to truancy, this bill updates way outdated statutes when it comes to at-risk students and ensuring that they are identified earlier in schools. The bill offers districts a process for how to work with parents and students in order to get students back on track when it comes to school and class attendance. There is no change in this bill related to mandatory age requirements and nothing, Mr. Speaker, nothing changes for home schooled children. I hope you will join me in defeating the motion to Indefinitely Postpone this bill so we can move on to support it. Thank you, Mr. Speaker.

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

Representative **LOVEJOY**: Thank you, Mr. Speaker. I also rise in opposition to this motion. We heard about students that were expelled and we're one of the few states where, when you expel a student, no other school in the state can accept them. They can't go to the school next door. One young man was out of school for three years, three years out of his education, no educational services and he wasn't allowed to go back to school. Now if you don't think that has something to do with completion rate, I'd ask you to think again. It certainly does have something to do with it and I find it abhorrent that a school would just throw a kid out and never ever give him a chance to go back to school.

As for the truancy, we need to get some of these kids, get them identified, keep them in the schools. If they leave, get them back into the schools. I've heard stories about kids that just left and usually it's a teacher that makes the difference, that goes out and gets that student to come back. But this is trying to make sure that all of our schools work to get these kids back and don't just let them go and say good riddance. So I would ask you to oppose this motion, so we can go ahead and pass this bill. Thank you.

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

Representative **WAGNER**: Thank you, Mr. Speaker. I also rise to oppose the pending motion. It may be that in Waldoboro and in some other school districts that the school boards and the policies are perfect in terms of handling students who have been expelled, but we heard story after story of the opposite, of cases where children, as has been already mentioned, where children were not allowed back, where they lost years of education. These are the children who are going to be a problem, who can be helped and become productive citizens if they get the educational help that they need. We even heard from a superintendent who said "This describes me," but he was helped by a friendly teacher who got him back on the right track. I want you to know that this is a unanimous vote by the Committee on Education and I urge you to defeat this motion. 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. I also want you to know that this bill came out of committee unanimous. It was a unanimous report, it's just, in my opinion, it's not a good report and I'm going to attempt to tell you why. I'm not going to talk against the people on the Education Committee. For me to get up and speak like this, I didn't want to do this but I'm not going to apologize for having to take the time to do it.

There is a letter in the New Testament, Philemon, and in that letter there are just three people. There's Paul, Apostle Paul, Philemon who was a slave owner and Onesimus, the slave owned. So I feel like Paul did when he had to write Philemon about Onesimus, his slave that had run away and stolen money from the owner, and yet Paul is asking the owner to pardon him. I feel the same way just because this bill came out 12 to nothing. But I just served several years on a school board dealing with not so much truancy but expulsion, which a lot of this bill has to do with and so I was very interested in this bill. One of the last things we talked about is what this bill is trying to do, which is improve attendance and graduation rates in the State of Maine and get them above 90 percent. There's many things that are causing those problems, but expulsion isn't one of them.

Now this bill, in my mind, attempts to tell school boards how to do things. It attempts to tell a school board, the one that I served on, for instance, it's already doing all of these things. We're already doing them. As a matter of fact, some of the things in this bill are backwards. One of the parts, I'll find it here somewhere, 8-A, Section 3, asks that if a school board intends to expel a student, that the superintendent will prepare such and such reports. That entire section is backwards. It isn't done that way in reality. When a student writes a bomb threat and leaves it in the bathroom and that student is found out, expulsion proceedings, nobody comes to the school board first and says "We're going to expel this student. Do we have your permission?" It doesn't work that way. This bill makes it backwards and makes the school boards have to sit down and make a preliminary analysis of whether they're going to expel somebody or not. That isn't the way it works in reality. The superintendent, who the school board has hired, and the principals and the vice principal and the school cop, if there is one, the police officer in the school and there is in most high schools, they prepare these reports and then bring it to the school board. Just that little part is off base.

It would cause school boards, which meet regularly every other week, to have to have special sessions just to consider this, and why don't we want to consider it? Why don't we want to consider it? Because the student that's being expelled is precisely that, he is a student under 18. His name remains anonymous. We do everything we can to protect that student's name, everything. We call it student A or student B. We go to great lengths to protect it. We don't come and expound to the school board, maybe just to the director, previously before we attempt to do all these things. When a student is expelled in my school, in my district, the procedures we go through with the student and the parents, I've never done one, I've never even seen one without the parents there, never, are brought into the school almost through the back door so nobody knows they're there. They are put in a separate room somewhere where the rest of the people aren't even going past because nobody wants them to see them, and when we have our special expulsion meeting, then we bring them in through a back way, if possible, so nobody sees them. This part of the bill turns things around.

We don't want the student's name out there, but they're not brought there for willy-nilly reasons. I don't know where we get the idea that schools are just expelling students because it's a good idea and we ought to get rid of a handful and the school will run a lot better. That doesn't happen. The worst thing that a school board hates to do is to expel a student. We don't want to do it. We do it because we have to. There have been fights. There have been knives brought into school. Somebody has been bullied. We can't leave the student in the school, even in a separate room somewhere with a separate program, because he might run into the student that he bullied. It isn't fair for that other student. There are reasons for doing things the way we do and this lists a whole bunch of things that school boards are already doing. They don't need to be told how to do their things. They are professionals. The school boards are professionals. They're not just some willy-nilly group that comes together. They're made up of businesspeople. They're made up of ordinary people in the community. So I object to that part of the bill.

Another part in here wants to turn expulsion into a court scene. They want us to swear in witnesses before they are allowed to testify. It's not done that way. It's not that form or procedure, nor do we want it to be. I mean that's just, in my mind, is a crazy idea, to be sworn in as if we're at an appeals court. There are other parts of this bill that say that if a student has a disability, that we should pay for their counseling if they are expelled. That's an unfunded mandate. How do we decide which ones we're going to fund? Well, if they are on the list of free or reduced lunches, then we'll fund it, and if it points to some federal law, but the federal law has to do with the way we run free and reduced lunches. Federal law doesn't require a school system to pay for counseling. What if the reentry plan for a sophomore who has been expelled and then goes through the reentry process, processes that do exist, and gets back into school. But part of this reentry process says this student needs counseling from now until he graduates. Do you want the school district to pay for that? Is that fair to ask the school districts that are tight on money already to pay for these unfunded mandates? I don't think so.

There is a part in here which scratches out superintendents' designees on some of these intervention plans, it is suggested in here. Are we going to put more to do on the backs of the superintendents by not allowing some of his principals or assistant superintendents to do this? Does the superintendent have to do all of this work? No. We pass school budgets in here. We've told the administrations that they are too big, they are too gawmy. They are eating up too much school money and we take away their money and then we ask them to do more and more. This bill is not about increasing school achievement. It won't help at all. I've been in classrooms that do that. But one of the first things we need to do as an educational process and as education supporters is we've got to stop talking against classroom teachers. The talk is always about – and yes this is related to this bill because the title says increase school achievement. We've got to stop talking as if the teachers in the classrooms are the problems. They're not. We've got to stop talking about how much money that the administration is eating up in a school system. They're not. It's all based on a faulty EPS formula that we came up with or somebody did.

I've been in classrooms that can increase school achievement. I was fortunate enough to go into one before I came up here this year and it was a 7th or an 8th grade, it was in the middle school. I went into the classroom and having been a school teacher, having been a school board member, I went into this classroom waiting for traditional education to take place. I waited for the bell to ring. Guess what? The bell never rang. The students, many of these students who were troubled in school either came from troubled homes; they'd had problems in school. They came into the classroom, looked at the board, sat down at their desks, got the computers out and it was five minutes before I realized I'm not going to hear a bell. Class has begun. Each student as they came in, from time to time, not late. They came in and sat down. This is education. This is what keeps the people, the students, involved in school and we're not going to keep and improve graduation rates by forcing a student to go to school a year longer that doesn't want to be there.

We've got to have an education system that promotes good education, that promotes schools allowing to try things that talented teachers can already do if we just take our hands and gloves off them and give them the tools to do it. This bill doesn't do that. It doesn't do anything to increase school achievement. Those are things we've got to address in different ways. This bill handicaps school administrators and school boards who are already doing many of these things, most of them. When I went through the list I couldn't find any we weren't already doing, because we did readmit students that have been expelled and when they came in it was obvious that they'd already been through a program of counseling. The principal got up because questions were always asked "What about the student's progress?" and many of the times the progress was adequate while he was expelled from school because he was already in some educational program that the school systems have. And I come from a poor district. I come from a poor district and I'm a school teacher and reinforcement is what makes people learn. I come from a poor district, but we had all of this in place. Our students that were readmitted came in with their parents, with a counselor that had taken them through counseling, sometimes for many months because they weren't ready to come back yet. But they had a plan in place. Don't tell me that the school boards in the state are unprofessional. They are not. Don't tell me that schools are somehow kicking students out and not readmitting them for any reason at all. It's not happening. School boards care about the education of people, the teachers care, the administration cares and this bill runs rampant over any professionalism that they possess. Not only are things out of order, out of whack, it looks like it was put together by people who just don't know how a school system really runs, and that's why I ask for Indefinite Postponement of this bill. 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; however, I'm glad to hear that we have at least one school district that's perfect. The fact of the matter is that if Representative Dow's district is perfect, that's wonderful, I'm happy for him. But plain and simple, I don't believe they're all perfect and I've served on school boards and I've been in classrooms and I can tell you not everyone on every school board is perfect, nor am I, but this bill is about making sure kids get another chance. This bill is about trying to get students on the verge of dropping out to take and come back into our schools. It's to head off the truancy before it gets too bad. It's to take and make sure kids do get a chance to come back in. It says that they can take and suspend them for a school year or up to a school year, or they can take and do another time with a reentry plan. Yes, I do believe that some schools are doing all of these things, but I don't think they all are. We're looking for some uniformity. We're looking to try and keep kids in school. We're looking to be able to say to that student "You will have an opportunity to come back. You can't be suspended for three years. You will have the opportunity to come back into the school." This has nothing to do with teachers. This is an administrative function. It doesn't say they're going to publish someone's name out there, so this bill is important for our young people.

I don't know about you. I got into trouble on occasion when I was in school, but they never threw a kid out for more than a year. Usually it was 10 days and then the kid comes back. But it varies from school to school and certainly I'm sure that many of us know someone that was suspended from school, that was expelled and came back. The gentleman that Representative Wagner mentioned who was that kid that was dropping out, you might be interested to know he has a doctorate now. He was ready to drop out. It was a teacher who made the difference. So we take and ignore the fact that all kids have potential? Thank you.

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

Representative **NELSON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have served on the Education Committee for three years, four years now, and this bill and its contents and really what it addresses has been an issue before us all of that time. In each of the last three summers in Orono, there has been a conference which has dealt with dropout prevention. The first year that was the title of the conference and we learned that those students who had dropped out hated to be referred to as dropouts. So after that, the conference was referred to as a relationship conference, because what we learned is that those relationships with students and their schools and their teachers made all the difference.

We have a problem in this state in that one out of every five students do not graduate from high school. Only less than 80 percent of our students graduate from high school. That's not good enough. Because of what we learned at the conferences in Orono and because we believe that we must do better as a state in getting our students through high school, to a high school diploma at the very least, we put together a stakeholder group to look at how we could address some of the issues of children dropping out of school, children at risk and children who were expelled from school. Their stakeholder group had over 20 people on it. They've worked over two years to put together the kind of legislation that you have before you. This bill is the result of that stakeholder group working and coming to the Education Committee with unanimous proposals. There were members of school boards. There were superintendents. There were principals. There were many stakeholders. There were teachers. There were all of those stakeholders involved in the group that put together this legislation.

In my view, it's unacceptable to have a state that allows a child to be expelled from school and have no plan for reentering or no limit on the time that that child can be expelled from school. This bill addresses that. This bill also helps to identify those children who are at risk of dropping out earlier in the process by working with the parents and working with the school to figure out ways in which that child can have an educational program that meets their educational needs, so they can indeed graduate from high school.

I urge you; the Education Committee spent many work sessions and worked very hard on this bill as a result of all of the work done by the stakeholders and what we learned from the conferences in Orono. I think it is a very thoughtful step. Does it solve all of our educational problems? Does it make this a perfect educational system? Obviously not, but every step that we can take to strengthen our educational system, I think, is worth doing, so I urge you to defeat the pending 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 just wanted to add that I have experience, at least in one case, in Sanford where a young woman was expelled permanently, and she had understood that there were certain things that she could do to have that reconsidered and part of that was to do work for different people. She worked for me. She worked well and she was careful and paid attention and all of that. I forget what the other qualifications were, but she satisfied them and still, when she went back, she was turned down. She really, really wanted to return to school. I knew her mother, her grandmother. I knew they had a family that was supportive and all that, and even the superintendent of the school argued on her behalf and the superintendent of the school was formerly the head of special education, which she was known for decades as a pretty stern taskmaster, no frivolous type of person at all, and still this child got turned down. She was not allowed to go to night school or anything. She ended up being welcomed in New Hampshire and that's where she finished her education. So I think we could do better, probably, with this bill.

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'll just speak briefly to this. This bill has bothered me since it was brought forth. I agree that not all school districts and school boards are perfect, just like all students aren't perfect. In fact, I don't know of any of them that are perfect. But in my 25 years of being on school boards, both public and private, one thing that I have noticed and one thing that I have observed is that one of the things that school board members and superintendents and principals take most seriously is the education for students, keeping high-risk students in school, and naturally going after those that have less school for truancy reasons or expelled. Quite the contrary from what I have heard here today from many people. It's probably the thing that I've seen over my tenure as the most passionate issue that they deal with. In fact, many superintendents have to hold people back because they want to go way beyond what the school boards rationally are capable of doing. I think there are already excellent, excellent programs in place.

I see this as more intrusion into the local control, the local school boards. One of the issues that I hear and have heard the most is "Why doesn't Augusta let us run our schools the way we know how to do the best?" That's the local professionals, the local people who are involved and have a stake in it. That's the superintendents that we hire, the principals and the teachers. There is no void of good ideas. People come together, they are there for a reason and that reason primarily is to see that they can reach as many kids as possible. I think we ought to concentrate more on innovative programs and keep these kids in school rather than spending a lot of extra money, and we're talking about serious money here because I see the fiscal note is pretty high on this, to do things that will please us and please a group – and I appreciate the work they put in – a group that came together for nine months or so and came up with their own solutions. These things are already being done. When I look at things like code of conduct, wanting districts to concentrate on code of conduct and some of the other terminology throughout this bill, all of these things are being done already. I've had experience with quite a few different districts and school boards. I'm sure there are exceptions, as I said, but the norm is that they are there for one reason, the primary reason, and that's to see the kids are taken care of and spend as much time as they possibly can, hopefully not to the expense of those kids who want to be, to make sure all kids have a greater equal opportunity to get an education.

The other thing that's concerned me about this bill all along was the extension or the expansion of compulsory student attendance, expanding it from age 7 down to 6, and extending it out from 17 to age 20. Once again, I think that's intrusive. I think that that's the parents and the child's decision as to when they are going to start their education in school. Many kids aren't ready and many parents know that. It's not our decision to make. That is best made at the local level. So with that, I would encourage you to support this motion to Indefinitely Postpone this. Thank you, Mr. Speaker.

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. I rise because of a middle aged boy who was expelled from school, middle aged, for selling marijuana. Maybe he should have been expelled, but the boy received no education for four years, missing most of 7th grade and all of 8th and 9th grades. During these years, the boy was hospitalized on five separate occasions, but he received no tutoring. I rise for the high school aged boy with no prior disciplinary history who was expelled after a single incident of inappropriate behavior toward another student. It was thought that this incident was the result of a psychotic break and was in some way related to drug use. Perhaps he should have been expelled, but he was expelled without his parents having any notice. I rise for the female student we heard about, who was expelled from school for giving her prescription medication to another student. Perhaps she should have been, however, she was expelled with no readmittance criteria, with no plan. She had no place to turn. I rise for the boy who brought a knife to school within the first few months of attending a high school. The boy was expelled but the school board did provide readmission criteria which required that the boy receive counseling. I rise also for the boy who, as a result of an aggressive physical act against another student, a high school aged boy, he was expelled and it lasted for one year. No readmittance criteria. I rise for the boy from my home district who was expelled for a reason I really can't recall right now, but I remember the phone call from his mother asking if I could in some way intercede because they didn't know what they were going to do. The boy was repentant. He wanted to go to school. He had moved in with his grandmother in another community so that he could continue his education. Three weeks had gone by. He wasn't readmitted to the other high school. They were at a loss. I rise because of after 30 years in public school classrooms teaching these children, I have seen and I recall a number of my former students who for whatever reason or for a number of reasons were expelled or they were truant for long periods of time and there was no one there to encourage them, to provide them with hope.

Finally, I rise, ladies and gentlemen and Mr. Speaker, because we know that if we lose this may not be for every student. We're not talking about huge numbers here, but we do know that we're losing a lot of students and I rise for those students because we know if they don't receive high school graduation, they are lost. They are lost members of our society, they are lost children and we owe it to them to at least to provide some hope, and that's what this bill is trying to do. Yes, we do have model exemplary school districts who are already doing many of these things and that's where the idea, that's where many of these provisions came from because we looked to those school districts and said "Which one of these things do we need to replicate to better the educational opportunities for some of these children?" But not all of them do, as you heard in my example of these 10 children.

I also needed to rise to clarify a few misconceptions. First of all, I would argue – well, I don't want to argue – but I would point out that the title of the bill, "An Act To Promote School Attendance and Increase School Achievement," that that is an accurate title because how do we improve school achievement if we don't have attendance? That's what this bill does. It tries to bring the expelled students, offer them an opportunity, a hope, a plan to get back into school, to attend school. It also is a bill that looks at truancy. We cannot educate the children if they are truant. We cannot help the children if we do not identify them as truant and provide a plan for interceding, and we cannot improve their school achievement if they are not attending. I would also like to address, just briefly, the discussion about the demands on the superintendent at the expulsion hearing and, if I may, just from the bill itself, following a proper investigation of a student's behavior – it isn't immediate, after a proper investigation – a school board that intends to consider expulsion shall ensure the proceedings include the following due process provisions. That came about because the committee, the 23-member special stakeholder group, realized in their work, in their nine meetings, that the students' constitutional rights to due process in a school setting have long been established by the Supreme Court of the United States; however, Maine educational statutes and regulations are silent in defining what constitutes due process in the context of a school expulsion. There is no uniform process in Maine and students and their parents or legal guardians are often unaware what their rights are and what an expulsion from school means in terms of removal from educational services for an unspecified period of time. Because expulsion is a severe action, these recommendations were made to clarify the due process in statute.

I would also like to address the free lunch, the special education student that was referred to. But as I read the bill, the only free that it's talked about is free and appropriate public education for students with disabilities. That's where the free comes. That's federal law that any student with a disability is entitled, guaranteed that free and appropriate education, and therefore the educational tutoring would continue under federal law. Ladies and gentlemen, the process, the committee process that this bill underwent is a model of the legislative process in action. Two years a stakeholder group, nine meetings, coming back to the committee two times, the committee meeting and voting on this unanimously two times. That's 26 votes and coming out unanimous. Ladies and gentlemen, I ask you to defeat the pending motion and let's move on the passage of this legislation. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Dow, having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative **DOW**: Thank you, Mr. Speaker. It is true that there was a stakeholder group that was brought together to consider things, but the stakeholder group did not write this bill. If they would have, the superintendents would have never crossed out the superintendents' designee for certain processes. The superintendents would never have opted to pay for counseling; it could get very expensive. And students can reenter school. All they've got to do is go to the superintendent and ask what they have to do, and the parents, "What do we have to do to get back into school?" A student cannot just decide to leave one school district they got kicked out of, for good reason, and go to another school because that school won't take them until they have been readmitted by the school board of the school he was expelled from. These are all serious cases. They have nothing to do with the 20 percent that don't graduate. The 20 percent that don't graduate have to do with changing our educational models and engaging students when they are in the classroom, and so I would say that this bill is a conglomeration of many different things. What does school graduation have to do with changing the age limit from 7 to 6? There are many things in this bill that don't have anything to do with the graduation rates. It's a conglomeration. It needs to be separated and brought back in parts.

For some of the other people that served on this committee, 23, these interested parties, one of them is Maine School Management and in my conversation with them just a couple of days ago, they wanted this bill to go away because it was not a

good bill and they testified against it. But we all know how the committee process works. When a bill keeps coming back and back and back to the committee, eventually we say to the stakeholders "Take this out in the hall and settle your differences and bring it back to us," and so Maine School Management did that because they thought that the bill in its present form was as watered down as they were going to get. They still weren't happy with it. They don't want it because it's a bad bill. It needs to be defeated and it needs to be reconstituted and the different parts separated out and talked about it, the truancy part, the expulsion part, the setting up of committees, the process where superintendents do what and assistant superintendents can do some other things and principals. That's why I'm opposed to this bill. It's a conglomeration and it wasn't put together for the stakeholders. This bill came from somewhere else and they're not all happy with it. Thank you.

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

ROLL CALL NO. 275

YEA - Ayotte, Bennett, Black, Burns DC, Cebra, Chase, Clark T, Cotta, Crafts, Cray, Cushing, Damon, Davis, Dow, Dunphy, Foster, Fredette, Gifford, Gillway, Guerin, Hamper, Harmon, Harvell, Johnson D, Johnson P, Knapp, Libby, Long, Malaby, McClellan, McKane, Morissette, Nass, O'Connor, Olsen, Parker, Parry, Plummer, Prescott, Richardson W, Rioux, Sanderson, Sarty, Sirocki, Timberlake, Turner, Wallace, Waterhouse, Weaver, Willette A, Willette M, Wood.

NAY - Beaudoin, Beaulieu, Beavers, Beck, Beliveau, Berry, Blodgett, Boland, Bryant, Cain, Carey, Casavant, Chapman, Chipman, Clark H, Clarke, Cornell du Houx, Curtis, Dion, Driscoll, Duchesne, Eberle, Edgecomb, Espling, Eves, Fitts, Fitzpatrick, Flood, Fossel, Gilbert, Harlow, Herbig, Hogan, Hunt, Kaenrath, Keschl, Knight, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maker, Maloney, Martin, Mazurek, McCabe, McFadden, Monaghan-Derrig, Morrison, Moulton, Nelson, Newendyke, O'Brien, Peoples, Peterson, Picchiotti, Pilon, Priest, Rankin, Richardson D, Rochelo, Rosen, Rotundo, Russell, Sanborn, Shaw, Stevens, Strang Burgess, Theriault, Tilton, Treat, Tuttle, Valentino, Volk, Wagner R, Webster, Welsh, Winsor, Mr. Speaker.

ABSENT - Bickford, Bolduc, Briggs, Celli, Crockett, Dill J, Flemings, Goode, Graham, Hanley, Haskell, Hayes, Hinck, Innes Walsh, Kent, Stuckey.

Yes, 52; No, 82; Absent, 16; Vacant, 1; Excused, 0.

52 having voted in the affirmative and 82 voted in the negative, 1 vacancy with 16 being absent, and accordingly the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers **FAILED**.

Subsequently, the Unanimous Committee Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "B" (H-378)** was **READ** by the Clerk.

Representative ESPLING of New Gloucester **PRESENTED House Amendment "B" (H-756)** to **Committee Amendment "B" (S-378)**, which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from New Gloucester, Representative Espling.

Representative **ESPLING**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I stand today to offer an amendment to LD 1503. I believe that the bill that came out of committee was a good faith effort to address some issues in regards to student expulsion from public schools and truancy. However, in looking over the bill as it was coming to the House, I had some concerns about unintended consequences. This amendment seeks to address those concerns.

The committee bill, if passed, would change the compulsory age from 7 down to 6 until 18 instead of 17. This House Amendment seeks to keep the current ages at 7 and 17. The amendment also removes the changes to the exceptions to compulsory education. This amendment does not change any of the language in reference to expulsion from public school or truancy. Many of our education laws are specifically written for the public schools in mind, but we need to remember that more and more alternative ways of learning are entering into the discussion and these changes to current law can have a negative impact on these alternative forms of education. Parents can decide to enroll their children in local public schools, choose a private school, a religious school, home school, online classes, college classes, residential programs for at-risk kids or even a combination of many of these. I know of families whose children are homeschooled, take classes at the local public school, participate in the local school sports programs, take homeschool co-op classes and take college classes all in one school year. Some students are able to enter college at a young age due to accelerated learning programs. Please consider the ramifications of a change in compulsory age requirements. Students need to have a clear path to pursue their next steps in life. The amendment to LD 1503 clears them to do that without a fear of being accused of truancy, continues to enable the unique schedules of some students and the fact that they can complete high school work at an accelerated pace.

We all want to instill in our children a love for learning throughout their lifetime. This love for learning doesn't magically start at 6 or 7 and end at 17 or 18. Please consider the uniqueness of each child, the uniqueness in which they learn and the uniqueness of educational programs that serve our students well. In speaking with the bill's sponsor I came to understand and appreciate all of the work that was put into this bill. This amendment just seeks to address the specific unintended consequences with the least amount of changes to the committee bill, so I do hope that you'll support this amendment. Thank you.

Subsequently, **House Amendment "B" (H-756)** to **Committee Amendment "B" (S-378)** was **ADOPTED**.

Committee Amendment "B" (S-378) as Amended by House Amendment "B" (H-756) thereto was **ADOPTED**.

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

Subsequently, under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "B" (S-378) as Amended by House Amendment "B" (H-756)** thereto in **NON-CONCURRENCE** and sent for concurrence.

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

HOUSE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (5) **Ought to Pass as Amended by Committee Amendment "A" (H-809)** - Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Protect Maine's Biomass and Forest Products Industries by Allowing Biomass Generators To Enter into Short-term Contracts"

(H.P. 1258) (L.D. 1706)

TABLED - March 23, 2012 (Till Later Today) by Representative FITTS of Pittsfield.

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

Subsequently, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Bill "An Act To Provide Tax Relief for Maine's Citizens by Reducing Income Taxes"

(S.P. 252) (L.D. 849)
(S. "C" S-443 to C. "C" S-427)

- In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (S-427) AS AMENDED BY SENATE AMENDMENT "C" (S-443)** thereto.

TABLED - March 23, 2012 (Till Later Today) by Representative CURTIS of Madison.

PENDING - **PASSAGE TO BE ENGROSSED**. (Roll Call Ordered)

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 passage of this bill and the aspect of this that I'd like to focus on and have you think about is the composition of our state budget and what happens to the revenue that we bring into the state and where it goes. If you look at a pie chart of our state budget, in recent years something like 40¢ of every $1 that we spend, that we take in rather, goes out to aid to public K-12 education; 32¢ or so goes to health related functions such as payments to hospitals, nursing homes and medical providers; 6¢ of every one of those dollars goes to the University of Maine; a couple of cents goes to our community colleges and the rest goes to all the other functions in state government. Something like 80 percent or 80¢ of every $1 that we take in goes back out to the communities, half of that to K-12 education, the other half, roughly, for payments to health care providers. So I ask you to think about what we're doing here in providing this kind of income tax relief to people. Yes, it sounds great. Who doesn't want lower taxes, lower income taxes? I do, everyone does, but the impact on our state budget is enormous. Half the money that we bring in, we don't spend here in Augusta. It goes back out to our communities to support the good things that go on there, either in health care or in education. So I believe that if we are going to reduce the income tax by the amount that we're talking about which, over time, will represent about 20 percent of that revenue stream, 20¢ out of every $1 that we bring in, it's going to have an enormous impact on our ability to provide aid to public education and to provide the kind of health care through our hospitals, through our doctors, through nursing homes to the people in need in the State of Maine. So I ask you to think about that as a major, major piece of the fiscal responsibility that we ought to be taking on and not dropping by the wayside.

We are going to shift, if we do this, drop our revenue stream by 20 percent, we're going to shift the burden of those costs back to the local communities or onto the backs of people who need the kind of health care that we've been funding, and I suggest to you that that is not a good thing, particularly since, in the case of local communities, you're going to be sending it back or putting it on the backs of the property tax which is the least fair of all the taxes that we have in the State of Maine, and you know how hard we've worked to provide property tax relief to communities and to people. This is going to exacerbate that problem. Part of our issue, Mr. Speaker, is I think we are postponing, we are making this cut now but we are postponing responsibility for it and sort of putting it on a credit card and letting it happen, letting it transpire over the years to a point where it will eventually take something like $604 million a year out of our state revenue stream. But we are not taking responsibility for that. We are letting that happen in the future. We are letting other people besides ourselves take on this burden. So I think that we're engaging in some kind of potentially magical thinking. We think we can make this cut now. We don't have to pay for it now. The cuts will not happen to us. We will not have to be responsible for them, but I am asking you to think about being responsible for them, thinking about that future and not postponing the costs of this, the burden of this on to our communities in the future. Mr. Speaker, for those reasons, I rise in opposition to this bill and I hope that all of our members will think about that responsibility as you take this vote here tonight. Thank you, Mr. Speaker.

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

Representative **HARVELL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today to speak about a dream, a dream that Senator Butland had in the '90s coming out of that deep recession about what should happen when revenues began to increase, and he put forth a measure such as this. Two years later in the budget, it is my understanding it was removed. But I am going to stand here today for Angus King, because two years ago on a television program with former governors, he stood up and said his one great regret of what they had squandered during the '90s was that he had not supported that Senator's measure. So I am going to redress that wrong for him today.

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. Whenever I hear of cost shifts to the local municipalities, in my other capacity as mayor of Biddeford, I get very nervous. As you all know, I'm sure many of you have been involved in school boards and city councils, when there is talk of a mill increase to offset things that occur from the state that get pushed downward, people aren't happy. I suspect that all of you recognize that one of the taxes, if not the tax that is most detested, is the property tax. So I encourage you to vote against this particular bill. I worry about the impact on the property tax and I feel that any shift, any shift on to the local taxpayer is not a good thing. 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. The fiscal conservatives in my district think we are crazy. Currently, if there's an end-of-the-year surplus, the money is used to stabilize our rainy day fund, which protects our bond rating and it pays down the $2.5 billion in unfunded actuarial liability, plus a few other long-term obligations. This bill skims 40 percent of that money, 40 percent of the money that would pay down our debt is swept. So I took this debate to my town meeting in Hudson and I put it to some of my conservative friends and it turns out, if you ask constituents what we should do with it, if you should pay your bills, pay our debts, protect our bond rating or lower taxes, every one of them said we should pay our bills first and defend our credit, every one of them.

Men and Women of the House, I present a parable of three majorities. There once was a story told that the majority party doesn't pay its debts and jeopardizes Maine's bond rating. The legend was that if ever there was extra money left over, that majority would spend it on partisan priorities and lo the people were angry and elected a new majority. But the second majority heeded not its own words and swept 40 percent of the money that would have been used to pay its debts and stabilize the budget and spent it on other priorities. In lo the people were amazed and they were so afraid, for they thought it unwise to

reduce revenue before paying the bills. And it came to pass that a third majority was elected and it looked very much like the first, and when a budget crisis fell upon the land because of LD 849, the third majority erased the law, rebalanced the tax code by lowering the income tax and broadening the sales tax, only this time the reformed package didn't include car repairs. Then a feast followed, there was a fatted calf. It was a celebration.

Seriously, to be serious, I really recommend that you check with your voters at home on this. We often say that government should be like households and not spend what we don't have, but a responsible household pays its bills first. Mainers are now wondering if either party is capable of keeping its hands off a surplus. I don't want to tell my fiscally conservative friends in the body what to do, but you might want to just Table the bill long enough to discuss it back home, find out what your own constituents think and then quietly commit this bill back to committee next week where it can be gently smothered with a pillow. Nobody needs to know that we're even discussing skimming 40 percent of the money that was supposed to pay our debts. Thank you, 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. I rise to correct the misconception in an email I received from the one group that appears to support LD 849, and it was email that I received last night, referred to earlier today on the floor by my friend and colleague from Farmington.

The 1997 tax relief fund that was enacted – and it was in '97 and not in '95 as the email suggested – was in fact repealed by the same Legislature that enacted it. Interestingly, it also contains no ratcheting effect. There was no ratchet whatsoever in this fund. It did take some surplus and it applied it towards a relatively progressive tax reduction, actually, that would benefit the middle class, but there was no ratcheting effect, no commitment of future resources whatsoever. So I just want to make that clear. Again, it was repealed by the same Legislature that enacted it and very different from the proposal we have before us.

As we heard, the proposal before us is fiscally irresponsible. It commits us, it really commits future Legislatures to finding money that we cannot find and in fact that money would amount to $1.2 billion, even before federal matching funds, and a likely loss of those are taken into account. That's in today's dollars in relation to one biennial budget. It's fundamentally unfair because it gives a $1 to the working poor, minimum wage, single parent working full time, and it gives $21,000 over that to the wealthiest 1 percent making an average of $750,000, three quarters of a million dollars a year. They get $21,000, more than that.

And finally, very importantly, this bill thumbs its nose at Maine people who have asked us three times in referendum not to enact mechanisms that cap and ratchet down revenue, but rather they've asked us to focus on property tax relief and on school funding. So I do look forward to this vote politically, whatever it may bring, but I worry that if this bill does pass to be engrossed, it is a very sad day for policy, for our state, for our middle class, for our towns, for our schools, and most importantly for the reputation, for the integrity of this body and all of us here today. 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. I'll try to keep this under an hour. I'm all for lowering taxes. I really, really, really, really, really, really, really want to vote for lower taxes. I don't believe this does it and it certainly doesn't do it in an honest way and I would point out that the voters have spoken three times, thrice – Polesky, TABOR I, TABOR II – against this scheme and I urge you to vote against it as well. Thank you.

The SPEAKER: A roll call having been previously ordered, the pending question before the House is Passage to be Engrossed as Amended by Committee Amendment "C" (H-427) as Amended by Senate Amendment "C" (H-443) thereto. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 276

YEA - Ayotte, Bennett, Black, Burns DC, Chase, Clark T, Crafts, Cray, Curtis, Cushing, Damon, Davis, Dow, Dunphy, Edgecomb, Espling, Fitts, Fitzpatrick, Fossel, Fredette, Gifford, Gillway, Guerin, Hamper, Harmon, Harvell, Johnson D, Johnson P, Knight, Libby, Long, Maker, Malaby, McClellan, McFadden, McKane, Morissette, O'Connor, Olsen, Parker, Parry, Plummer, Prescott, Richardson W, Rioux, Rosen, Sanderson, Sarty, Shaw, Sirocki, Tilton, Timberlake, Turner, Wallace, Waterhouse, Weaver, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

NAY - Beaudoin, Beaulieu, Beavers, Beck, Beliveau, Berry, Blodgett, Boland, Bryant, Cain, Carey, Casavant, Chapman, Chipman, Clark H, Clarke, Cornell du Houx, Cotta, Dion, Driscoll, Duchesne, Eberle, Eves, Flood, Foster, Gilbert, Goode, Harlow, Herbig, Hogan, Hunt, Kaenrath, Keschl, Knapp, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maloney, Martin, Mazurek, McCabe, Monaghan-Derrig, Morrison, Moulton, Nass, Nelson, Newendyke, O'Brien, Peoples, Peterson, Picchiotti, Pilon, Priest, Rankin, Richardson D, Rochelo, Rotundo, Russell, Sanborn, Stevens, Strang Burgess, Theriault, Treat, Tuttle, Valentino, Volk, Wagner R, Webster.

ABSENT - Bickford, Bolduc, Briggs, Cebra, Celli, Crockett, Dill J, Flemings, Graham, Hanley, Haskell, Hayes, Hinck, Innes Walsh, Kent, Stuckey, Welsh.

Yes, 61; No, 72; Absent, 17; Vacant, 1; Excused, 0.

61 having voted in the affirmative and 72 voted in the negative, 1 vacancy with 17 being absent, and accordingly the Bill **FAILED PASSAGE TO BE ENGROSSED as Amended by Committee Amendment "C" (H-427) as Amended by Senate Amendment "C" (H-443)** thereto in **NON-CONCURRENCE** and sent for concurrence.

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

On motion of Representative RICHARDSON of Carmel, the House adjourned at 7:15 p.m., until 10:00 a.m., Wednesday, March 28, 2012.