ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE
FIRST REGULAR SESSION
36th Legislative Day
Wednesday, May 1, 2013

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

Prayer by Reverend Diane Wendorf, North Parish Congregational Church (UCC), Sanford.

National Anthem by Mt. Ararat High School Chamber Singers, Topsham.

Pledge of Allegiance.

Doctor of the day, Aaron Tebbs, M.D., North Yarmouth.

The Journal of yesterday was read and approved.

COMMUNICATIONS

The Following Communication: (H.C. 145)

STATE OF MAINE
126TH MAINE LEGISLATURE

April 29, 2013
Honorable Millicent M. MacFarland
Clerk of the House
2 State House Station
Augusta, Maine 04333
Dear Clerk MacFarland:
Pursuant to our authority under Title 12, Chapter 619, Subchapter 2, §6447 of the Maine Revised Statutes, we are pleased to appoint the following members to the Lobster Management Policy Council:
Representative Peter Doak of Columbia Falls
Representative Brian L. Hubbell of Bar Harbor
Representative Walter A. Kumiega III of Deer Isle
Representative Jeremy G. Saxton of Harpswell
Representative Wayne R. Parry of Arundel
Should you have questions regarding these appointments, please do not hesitate to contact us.
Sincerely,
S/Justin L. Alfond
President of the Senate
S/Mark W. Eves
Speaker of the House

READ and **ORDERED PLACED ON FILE**.

The Following Communication: (S.P. 546)

RESOLUTION OF THE CALAIS CITY COUNCIL & CALAIS SCHOOL COMMITTEE IN SUPPORT OF FULLY FUNDING MAINE'S PUBLIC SCHOOLS

Whereas, public education is integral to the democratic viability and economic future of Maine by directly and indirectly contributing to the intellectual and physical development of the children and young adults of our great state; and
Whereas, recognizing the essential need of a strong public school system the voters of Maine in 2004 overwhelmingly approved a referendum requiring the State of Maine to fully fund 55% of the cost of public education; and
Whereas, since 2008, the state has short-changed its share of funding for public education by over $500 million in flagrant violation of the letter and spirit of the 2004 referendum; and
Whereas, as the state has abandoned its commitment to fund our public schools property owners throughout the state have often been asked to shoulder more of the responsibility for funding our schools, often through increases in local property taxes; and
Whereas, the Governor has proposed in his budget moving the funding for our schools backwards by reducing GPA to local school districts by $12.56 million from 2012-13 levels and shifting an additional $14 million in retirement costs from the state to the local school districts for each of the next two years; and
Whereas, if the Governor's proposed budget is adopted in its current form, our school district will be forced to take drastic actions to balance their budgets by laying off educators, reducing personnel, cutting programs and services, and asking local middle class families to pay even more in property taxes to make up for the shortfall from the state;
Now Therefore, be it resolved that:
The Calais City Council & Calais School Committee calls on the legislators of both parties to fully fund our public schools as expressed by the will of the citizens of Maine in the 2004 referendum by providing the required 55% of the cost of public education in Maine; and
The Calais City Council & Calais School Committee calls upon the legislators of both parties to reject the Governor's proposal to shift pension payments onto local cities and towns; and
Therefore be it finally resolved, that the Calais City Council & Calais School Committee calls upon the Maine Legislature to raise additional state revenue in an equitable fashion in order to avoid regressive tax shifts to municipalities.
Signed
S/Marianne Moore
Mayor
S/James Macdonald
School Committee Chair

Came from the Senate, **READ** and **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

READ and **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** in concurrence.

The Following Communication: (S.P. 547)

TOWNS OF MAPLETON,
CASTLE HILL AND CHAPMAN
P.O. BOX 500, 103 PULCIFUR ROAD
MAPLETON, MAINE 04757

April 8, 2013
RESOLVE, to express objections from the Joint Board of Selectmen for Mapleton, Castle Hill and Chapman regarding the Governor's proposed biennial budget.
WHEREAS, the State Administration has submitted a proposed budget for the coming biennium that will dramatically shift the burden of funding state government to municipalities and property tax payers by eliminating or significantly altering several property tax relief programs; and
WHEREAS, the Governor's purpose for the proposed budget is to encourage local governments to save money by consolidating services and finding alternatives to funding municipal government; and
WHEREAS, the proposal to suspend municipal revenue sharing, redirect commercial vehicle excise tax and modify the homestead and business equipment tax reimbursement programs would result in an annual loss of approximately $173,000 in revenues and represents an additional $1.20 on the tax rate for the towns; and
WHEREAS, the homestead exemption property tax benefit loss will impact the individual property tax payer the equivalent of an additional $1.30 on the tax rate; and
WHEREAS, the Towns of Mapleton, Castle Hill and Chapman have saved money through consolidation of services, reducing

the tax burden on property owners by nearly 50% compared to similar Maine towns, and have led the State in finding alternatives by consolidating their municipal government through their 1992 Interlocal Agreement, operating joint administrative, highway, fire and law enforcement services;

NOW, THEREFORE, BE IT RESOLVED BY THE MAPLETON, CASTLE HILL AND CHAPMAN JOINT BOARD OF SELECTMEN that the Towns hereby declare their opposition to the Governor's proposed biennial budget and its detrimental shift of state government costs onto municipalities and property tax payers in the interest of forcing local governments to save money by consolidating services and finding alternatives to funding municipal government; and

BE IT FINALLY RESOLVED that the Joint Board of Selectmen calls upon the State Legislature to implement fair and equitable budget solutions that do not burden, but rather reward property taxpayers whose municipal government found alternatives that save money through consolidation of services.

Read and Adopted by a Vote of the Mapleton, Castle Hill and Chapman Joint Board of Selectmen in meeting assembled: April 8, 2013

Municipal Officers
Town of Mapleton
S/Barry Buck
S/Grant Clark
S/David Dunlavey
S/Scott Smith
Town of Castle Hill
S/Herman Condon
S/Maylen Kenney
S/Gerald McGlinn
S/Rowell McHatten
S/Robert Vigue
Town of Chapman
S/Issac Braley
S/Patricia Sutherland

Came from the Senate, **READ** and **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

READ and **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** in concurrence.

The Following Communication: (S.P. 549)

TOWN OF FALMOUTH
RESOLUTION IN OPPOSITION TO LD 300

Resolution No 90-2013

WHEREAS, the property taxpayers of Falmouth are obligated to fund education for their K-12 students under the laws of the State of Maine; and

WHEREAS, more than 70 percent of Falmouth property taxes are spent to support education in the Falmouth School District; and

WHEREAS, the largest line item expense after salaries in the school district's budget is for the cost of health care insurance for teachers, administrators and support staff; and

WHEREAS, competition most often produces lower prices for goods and services and improves understanding of the value of such goods and services; and

WHEREAS, the 125th Maine Legislature passed LD 1326 An Act To Allow School Administrative Units To Seek Less Expensive Health Insurance Alternatives and the bill was signed into law by the governor to enable the release of health insurance loss data to individual school districts for the purpose of understanding and soliciting competitive proposals for health insurance; and

WHEREAS, the new law, having been in effect for less than one year, breaks a decades-long virtual monopoly by the Maine Education Association Benefits Trust over local health insurance costs by concealing the loss data for individual school districts; and

WHEREAS, the United States Federal Court in Maine and the United States Federal Court of Appeals in Boston both have rejected arguments by the Maine Education Association Benefits Trust that attempted to block implementation of this insurance reform

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FALMOUTH, that the Town Council hereby urges the 126th Legislature to reject LD 300, or any other legislation that restricts access to local loss data and designates the Town Manager to communicate the Town Council's opposition to this bill's sponsors, other legislators, the Joint Standing Committee on Insurance and Financial Services and other municipal officials.

Approved this 8th day of April 2013
Attest: S/Ellen Planer, Town Clerk
Date: April 8, 2013

Came from the Senate, **READ** and **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES AND THE COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**.

READ and **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES AND THE COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS** in concurrence.

The Following Communication: (S.C. 279)

MAINE SENATE
126TH LEGISLATURE
OFFICE OF THE SECRETARY

April 30, 2013
Honorable Mark W. Eves
Speaker of the House
2 State House Station
Augusta, Maine 04333

Dear Speaker Eves:

In accordance with 3 M.R.S.A. §158 and Joint Rule 506 of the 126th Maine Legislature, please be advised that the Senate today confirmed the following nominations:

Upon the recommendation of the Committee on Education and Cultural Affairs, the nomination of Ryan Armstrong of Hampden for appointment to the Maine Maritime Academy, Board of Trustees.

Upon the recommendation of the Committee on Energy, Utilities and Technology, the nomination of David J. Barber of Cape Elizabeth for appointment to the Efficiency Maine Trust Board.

Sincerely,
S/Darek M. Grant
Secretary of the Senate

READ and **ORDERED PLACED ON FILE**.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Bill "An Act To Reduce the Use of Hospital Emergency Departments for Preventable Oral Health Conditions"
(H.P. 1068) (L.D. 1486)

Sponsored by Speaker EVES of North Berwick.

Cosponsored by Senator GRATWICK of Penobscot and Representatives: BERRY of Bowdoinham, FARNSWORTH of Portland, GILBERT of Jay, GRAHAM of North Yarmouth, HERBIG of Belfast, PEOPLES of Westbrook, SANBORN of Gorham.

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

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

Sent for concurrence.

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

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Monica Wood, of Portland, a bestselling and award-winning author of fiction and nonfiction, who won the 2012 May Sarton Memoir Award for best memoir from a United States or Canadian woman for her latest work, *When We Were the Kennedys: A Memoir from Mexico, Maine.* She is also the runner-up for the 2012 New England Book Festival Award in autobiography for the book, which has been reviewed glowingly across the nation by some of the most prestigious literary reviewers and in the most influential periodicals, such as the *New Yorker* online, the *Boston Globe*, the *New York Times*, *Publishers Weekly* and *Down East* magazine. *When We Were the Kennedys* has been a bestseller in Maine and in New England and was chosen for *Oprah Magazine*'s summer reading list. Ms. Wood's published work includes 4 successful works of fiction and she also writes books to help teachers and writers. We congratulate her on her receiving these notable honors for her writing talent and we extend our best wishes to her for continued success;

(HLS 199)

Presented by Representative BRIGGS of Mexico.

Cosponsored by Senator PATRICK of Oxford, Senator HASKELL of Cumberland, President ALFOND of Cumberland, Representative DION of Portland, Representative STUCKEY of Portland, Representative JORGENSEN of Portland, Representative HARLOW of Portland, Representative FARNSWORTH of Portland, Representative MOONEN of Portland, Representative CHIPMAN of Portland, Representative RUSSELL of Portland.

On **OBJECTION** of Representative BRIGGS of Mexico, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-102)** on Bill "An Act To Require Edible Landscaping in a Portion of Capitol Park"

(H.P. 324) (L.D. 474)

Signed:

Senator:

LACHOWICZ of Kennebec

Representatives:

GRAHAM of North Yarmouth
BOLAND of Sanford
CHENETTE of Saco
HAYES of Buckfield
NADEAU of Winslow
NADEAU of Fort Kent

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

Signed:

Representatives:

MacDONALD of Old Orchard Beach
PEASE of Morrill

READ.

Representative GRAHAM of North Yarmouth moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

The SPEAKER: The Chair recognizes the Representative from China, Representative Cotta.

Representative **COTTA**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This was a good idea. I think when the good Representative put it forward it was an edible landscape down in Capitol Park. On the surface, it may appear to be humorous, but my opposition to it is that we are going to use and can use public funds. I don't believe in that. I think it's a good idea. I think private funds and the commission that oversees the park has a special revenue account, they can accept private funds, but I do not support this motion because it includes the use of public funds. Thank you.

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

Representative **HICKMAN**: Thank you, Mr. Speaker. Mr. Speaker, Women and Men of the House. The first bill this organic farmer brings before this body is one that highlights a bit of agriculture on capitol grounds. I guess you could call that serendipity. When I stand on the third floor balcony of the State House overlooking the beautiful expanse of Capitol Park, I see food. Blueberries, sage, hyssop, oregano and chocolate mint, with their attractive white, pink and purple flowers, make great shrubs or hedges. I even see sweet potatoes, okra and collard greens. Have you ever seen the flowers of a sweet potato plant? They look like morning glories. How about okra? Yes, it grows quite well in Maine, especially as our summers grow hotter. Right before it produces one of the most nutritious foods on the planet, it puts forth flowers that look like hibiscus blooms, light golden pedals with a deep reddish-purple stamen. Who likes braised collard greens with onions and garlic? Right before collards go to seed, they produce tall abundant shoots of startling yellow flowers that reach toward heaven. Folks who visit my farm in Winthrop while collards are in bloom are always struck by their magnificence. If you've never seen an onion flower open or garlic scapes dramatic curl, then you haven't seen much of anything. A carpet of red, purple and deep green salad greens can cover the ground with more character and personality than grass could ever offer up. Food as landscape. I want people, especially children, to see agriculture when they visit the State House. I want them to see how beautiful food producing plants can be.

How much will this cost the state? Next to nothing. Thanks for the generosity of Paris Farmers Union in Winthrop I received a huge donation of seeds that we can use to get the garden started. A few legislators have expressed interest in helping design the project and people all over the region have already offered to help maintain the edible landscaping. One woman even suggested we plant a few rows of apple trees and down the road we could feature an apple blossom festival in the spring, something members of the Legislature might enjoy during session. Mr. Speaker, edible landscaping in Capitol Park would

cut down on maintaining the lawn with mowing, saving money in the long run, since all of what we design will maintain itself over time as permaculture. It will enhance and build upon Frederick Law Olmsted's original design for the park, I like Maine's rich agricultural heritage, and make an excellent educational opportunity, particularly for children who visit the State House campus. In reference to what money will be used other than not very much more than we already used to maintain the grounds of Capitol Park, the fiscal note on this bill says simply "The development of a plan to incorporate food-producing plants, shrubs and trees into the landscaping of a portion of Capitol Park can be implemented within the existing budgeted resources of the State House and Capitol Park Commission. The commission's proposed budget includes Other Special Revenue Funds allocations that could be used to authorize expenditures of any private contributions for the purpose of adding any food-producing plants to the landscaping in Capitol Park."

I will close by saying that a veteran from Korea who was in the public hearing on the day that this bill was presented waves me over as I was walking out of the room. He was wearing a mask because he has some immune disorder where he can't actually be in public without it, and he tapped me on the shoulder and he said, "Representative Hickman, I just want to you to know that this might be the best piece of legislation that I've ever seen, and so if we're going to raise money for this and you need some, just give me a call and I will write the state a big check." That being said, Mr. Speaker, I urge this body to vote for the motion Ought to Pass as Amended, and I request a roll call.

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

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

The SPEAKER: The Chair recognizes the Representative from Morrill, Representative Pease.

Representative **PEASE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to this bill not because of it in itself. I think Representative Hickman has provided a very good way to show that we can do things in the state that exemplify what needs to be done as far as us eating local grown fresh produce, but my opposition to the bill is very simple. I think there is an awful lot that we have been sent here to do. We've got a budget, we've got hospitals to pay. We've got numerous things to do. This is not something that has to be in legislation to do. It can be done. I can be done by the grounds people doing it. Representative Hickman has very much talked about the way that we can do this with 4-H and stuff, and I applaud that. I think it's something that I have no problem with doing it. I have a problem with legislating it. I have a problem with legislating it for the future and holding people accountable to making sure it's done every year because I think this can be done as a volunteer method without us spending time in the state coming up with new rules, new regulations, new laws that really can just be done, period. Thank you.

The SPEAKER: The Chair recognizes the Representative from Buckfield, Representative Hayes.

Representative **HAYES**: Thank you, Mr. Speaker. Mr. Speaker, Women and Men of the House. I rise in support of this bill and I want to correct a couple of pieces of understanding that happened at the horseshoe when we dealt with this in committee. Frankly, we could do this without a law but we're not, so if we don't instruct the groundskeepers through the Executive Director's Office that we want this, we have no reason to believe it will happen. We agree that it's a good thing to do, so telling them and adding that to their charge is not a bad thing. It's necessary to have the language regarding state resources for a very practical reason. We're not adding anything to the budget, but we're substituting. Instead of buying green bushes that aren't edible, we replace those purchases with edible shrubbery or plant producing, and if we left language in the bill, which we tried the first time, that would prohibit any state resources, we could not implement the bill. So the Executive Director came and educated us on that point. What we recognized was we were keeping this within existing resources. We did create an opportunity for contributions and for those to be left precisely with this purpose in mind, but we're not adding to the charge. We're adding to the charge, we're broadening what we're asking these folks to do, but we're not adding to the budget in any way. We're simply saying when you are replacing plants, we want an emphasis on edible plants and so they will be purchasing those where they would have been purchasing nonedible plants before. I would suggest that it won't happen unless we tell them to do it and that is our job. If we think it's a good idea, we should tell them to do it, and it won't cost us anymore money, it just substitutes different purchases. So we're going to be buying things anyway for the landscaping, we're just going to be putting more of an emphasis on edible plants. I thank the good Representative from Winthrop for bringing this to our attention and adding this to the work that we can accomplish this session. Thank you, Mr. Speaker.

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

Representative **TURNER**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. When the good Representative from Winthrop asked me to cosponsor this bill and as someone who was raised on fresh produce, it only made commonsense to me. Also, the bill has addressed the funding, and I think you heard the previous speakers speak about the funding. By designating this small portion of Capitol Park to edible landscaping, it will bring more awareness to visitors about the important role of food, where it comes from, how it's grown, nutritional value and how it's harvested. I urge you to support the motion on the floor. Thank you, Mr. Speaker.

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

Representative **DAUGHTRY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of the pending motion. In 1920, Frederick Law Olmsted's firm was commissioned by Governor Milliken to prepare a plan for the capitol grounds. The park that we have out in front of us is now on the National Registry of Historic Places. While the design originated from the Olmsted firm and was based upon his style, we didn't implement the full vision that was proposed for this site. I am a graduate of Smith College where I was a student in their landscape studies minor program and I focused on landscape architecture. One of the highlights of studying at this program at Smith was that we were surrounded and living on a Frederick Law Olmsted design. Having studied firsthand his work and theory, I can say with confidence that this bill will perfectly fit his style and help further his vision and complete it right here in Augusta. We have an excellent opportunity to lead. That's what we do here in Maine. We take the first step and we show others how it's done, but we wouldn't be the first here of state governments to put edible landscaping around our State House. Such landscaping transformations have already occurred in Baltimore, Maryland; Portland, Oregon; and Montpelier, Vermont. Madison, Wisconsin staffers ripped out the flowers around the capitol and replaced them with potatoes, cabbages, carrots, corn, peppers and tomatoes. In 2009, Vermont established the first in the nation's State House Food Community Garden. By

incorporating edible plants into the landscape of Capitol Park, as I said, we can lead by example. The edible landscaping can help expose citizens of our state to many types of plants they have never seen before. It can pay tribute to Maine's proud agricultural history by featuring displays of our native plants and key crops. Imagine strolling through Capitol Park and seeing potatoes blossoming near a display of local lupines. Imagine turning the corner and seeing strawberries edging a bed of decorative cabbage interspersed with tulips. Edible landscaping can help take a product that we are used to seeing on the shelves of the grocery store and place it in reality. We can watch as these plants transition from germination to blossoming to harvest time. The grounds of Capitol Park should be a living museum that will inspire and educate Mainers to grow their own edible landscapes and take part in preserving and honoring Maine's farming tradition. As you've heard, the funding has been addressed. This is really a bill to make sure that we implement this plan. It's part of a long going history where we haven't fully seen the vision of its original intention from Frederick Law Olmsted. So I urge you all, let's take a stand, let's be part of history, and let's pass this bill.

The SPEAKER: The Chair recognizes the Representative from Freedom, Representative Jones.

Representative **JONES**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in support of LD 474. As a symbolic gesture, let me address this issue. My dear brother from Winthrop and my dear sister from Brunswick have a different approach to food than I do, being a little less sophisticated. Food insecurity in Maine is real. Two hundred thousand people of our brothers and sisters around the state are food insecure, and 23 percent, nearly 1 in 4 Maine children are food insecure. I will tell you this: Edible landscaping in Capitol Park will not address this issue, but I certainly hope that it brings this issue to the foreground. Let's consider, just as an example, I mean I don't pay a lot of attention, for example, to flowering okra or some of those things, but if we did till a mere one acre in the park across the street, we could grow nine tons of carrots. We could grow eight tons of winter squash. We could grow seven tons of potatoes, six tons of turnips, five tons of beets, three tons of broccolis on one acre of land. This is only one acre. A square plot of land, 209 feet by 209 feet. The highest and best moral use of our land when our fellow citizens are hungry is the production of food and although this effort may have only a minute effect on actually alleviating hunger in Maine, it certainly sends a message that we value good local food and the health of our citizens, and that to properly feed ourselves we must rely on local agriculture. Thank you, Mr. Speaker.

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

ROLL CALL NO. 65

YEA - Beaudoin, Beaulieu, Beavers, Beck, Berry, Black, Bolduc, Briggs, Brooks, Campbell J, Campbell R, Carey, Casavant, Cassidy, Chapman, Chenette, Chipman, Cooper, Cray, Daughtry, DeChant, Devin, Dill, Dion, Dorney, Evangelos, Farnsworth, Fitzpatrick, Fowle, Frey, Gattine, Gideon, Gilbert, Graham, Grant, Guerin, Hamann, Harlow, Harvell, Hayes, Herbig, Hickman, Hubbell, Jones, Kaenrath, Kent, Keschl, Kinney, Knight, Kornfield, Kruger, Kumiega, Kusiak, Lajoie, Libby N, Longstaff, Luchini, MacDonald S, MacDonald W, Maker, Malaby, Marean, Marks, Mason, Mastraccio, McCabe, McGowan, McLean, Monaghan-Derrig, Moonen, Moriarty, Morrison, Nadeau A, Noon, Peoples, Plante, Pouliot, Priest, Pringle, Rankin, Rochelo, Rotundo, Russell, Rykerson, Sanborn, Sanderson, Saucier, Saxton, Schneck, Shaw, Short, Stanley, Stuckey, Theriault, Tipping-Spitz, Treat, Turner, Tyler, Verow, Villa, Volk, Welsh, Werts, Wilson, Winchenbach, Wood, Mr. Speaker.

NAY - Ayotte, Bennett, Chase, Clark, Cotta, Crafts, Crockett, Doak, Dunphy, Duprey, Espling, Fredette, Gillway, Jackson, Johnson D, Johnson P, Libby A, Lockman, Long, McClellan, McElwee, Newendyke, Nutting, Parry, Pease, Peavey Haskell, Reed, Sirocki, Timberlake, Wallace, Weaver, Willette, Winsor.

ABSENT - Boland, Davis, Dickerson, Gifford, Goode, Hobbins, Jorgensen, Nadeau C, Nelson, Peterson, Powers.

Yes, 107; No, 33; Absent, 11; Excused, 0.

107 having voted in the affirmative and 33 voted in the negative, with 11 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-102)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, May 2, 2013.

CONSENT CALENDAR
Second Day

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

(H.P. 441) (L.D. 622) Bill "An Act To Amend the Laws Concerning Reciprocal Disciplinary Actions in Harness Racing and Pulling Events" (EMERGENCY)

(H.P. 450) (L.D. 658) Bill "An Act To Change the Grade Standards of the Maine Maple Syrup Industry"

(H.P. 744) (L.D. 1051) Bill "An Act To Clarify the Authority and Responsibility of Forest Rangers"

(H.P. 877) (L.D. 1243) Bill "An Act Regarding Next Generation 9-1-1 and Making Changes in Surcharge Remittance for Certain Telecommunications Service Providers"

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

BILLS IN THE SECOND READING
Senate as Amended

Bill "An Act To Update the Maine HIV Advisory Committee"
(S.P. 39) (L.D. 88)
(C. "A" S-32)

House as Amended

Bill "An Act To Establish the Commission on Health Care Cost and Quality"
(H.P. 191) (L.D. 230)
(C. "A" H-76)

Bill "An Act To Release a Restriction on Former State Land in Passadumkeag Currently Owned by Dale Ross"
(H.P. 221) (L.D. 312)
(C. "A" H-101)

Resolve, To Establish MaineCare Eligibility for Young Adults Who Were Formerly in Foster Care
(H.P. 337) (L.D. 487)
(C. "A" H-99)

Bill "An Act To Improve Organ Donation Awareness"
(H.P. 586) (L.D. 835)
(C. "A" H-103)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the Senate Paper was **PASSED TO BE ENGROSSED as Amended** in concurrence and the House Papers were **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

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

UNFINISHED BUSINESS

The following 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** - Committee on **JUDICIARY** on Bill "An Act To Strengthen the Rights of Grandparents under the Grandparents Visitation Act"

(H.P. 170) (L.D. 209)

TABLED - April 25, 2013 (Till Later Today) by Representative PRIEST of Brunswick.

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

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

Representative **SHORT**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise to speak in opposition of the pending motion and in support of the Minority Ought to Pass Report. I decided to run for office because of my desire to bring causative changes into the lives of Maine people. Therefore, as difficult as it is for me to speak publically about my personal life, I find that I must do so in this case. My wife, Debora, and I have grandchildren, two of which we have not been allowed to see or speak with for nearly five years. I pray that no one in this chamber has, is or will ever go through this painful experience. I can tell you from firsthand experience that grandparent rights/laws exist in title only, so for the sake of all those grandparents that are currently going through what my wife, Debora, and I are currently experiencing, I ask the ladies and gentlemen of this House to follow my light. Mr. Speaker, I would also like to request a roll call vote. Thank you.

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

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

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

Representative **GUERIN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As a member of the Judiciary Committee who voted with the majority on the Majority Report, I would urge you to support the Majority Report. I certainly am in favor of grandparents in good standing seeing their grandchildren and having access to their grandchildren, but I believe that this is a parental rights question and when we look at the family rights, I think we have to go back and look at who is the primary person responsible for a child. If in a sad case a grandparent was not supportive of the parental role and had access to the children forced by the court, I think that could be detrimental to the child's development and that we should defer to the parental control in the case of visitation.

The SPEAKER: The Chair recognizes the Representative from Newport, Representative Fredette.

Representative **FREDETTE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As an attorney, I have had, over the years, grandparents come to my office and say to me "You know, I have a relationship with my grandchild and now my son or my daughter is mad at me because I didn't give them some money, or I didn't do this or I didn't do that." So they come in and they see me as an attorney and they say "Mr. Fredette, is there something I can do to see my grandchildren?" I say to them "Well, there is actually a statute that already exists in Maine law and it's a grandparent's right statute." But then I proceed to tell them that the statute is meaningless because under the Supreme Court's interpretation of the existing statute, it essentially bars grandparents from taking any action in court to try to have, establish or see their grandchildren, and we all realize today in today's difficult world grandparents are increasingly playing a more important role in their grandchildren's lives, given our economic environment. So the relationship between grandparent and grandchild, while important, I believe is even more important today. What this bill attempted to do and attempts to do is to carve out a little bit more room out of that Supreme Court decision so that if someone wants to take to an attorney and have a conversation with them about the possibility of going to court and seeing their grandchildren, as the good Representative from Pittsfield, Representative Short, indicated, that they would at least have a shot of having a conversation with an attorney and then deciding whether or not they should go to court to try to press for their case to be able to see their grandchildren. I also agree with the good Representative from Glenburn, Representative Guerin, who indicates that it is primarily the role of the parent to be the primary caregiver for children today, and I believe that. I don't know how many of us would want our parents meddling into our own lives and the raising of our own children, I get that. However, I think there are cases where it is done in an abusive way, in a very mean way, simply to further an argument between a parent and their parent, which would be the grandparent. So I believe what this bill does is simply try to open the door a little bit more so that instead of when somebody comes in to see me or any attorney and say "Geez, you know, I'd like to see my grandparent," that this allows them to do that and therefore I will be voting against the Ought Not to Pass motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Moriarty.

Representative **MORIARTY**: Thank you, Mr. Speaker. Mr. Speaker, Fellow Members of the House. I am a member of the Judiciary Committee and I voted with the minority on the recommendation. I support the bill itself. Some of my comments will track those of the Representative from Newport. There is an existing statute entitled the Visitation Rights of Grandparents Act. It doesn't given blanket authorization for grandparents to visit their grandchild but applies only when "a sufficient existing relationship exists." The problem with the statute is that that term was never defined and currently is not defined. There is decisional law from the Maine Supreme Court indicating that urgent reasons must exist before grandparents may have the status to seek visitation and that the only so-called urgent reason that has been recognized so far is the situation when grandparents have served as de facto parents for their grandchildren. The proposed bill does nothing more than to give a definition to the term "sufficient existing relationship" which again is the key term that is already in the statute itself and it provides that such a relationship exists when the grandparents have played a significant beneficial role in the lives of their grandchildren, which would include but not be limited to those situations in which they have acted as parents. I think that the law court's interpretation of the Act is more narrow than what was probably intended by the Legislature originally and that the proposed definition of the key term is a true reflection of what was intended. It would in fact enable more grandparents to seek status, to obtain the status necessary to seek visitation rights with their grandchildren. Therefore, having voted in support of the bill in committee, I will support the Representative from Pittsfield's motion.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Crockett.

Representative **CROCKETT**: Thank you, Mr. Speaker. Mr. Speaker, Distinguished Members of the House. I am actually on the Minority Report which would be Ought to Pass, however, I find myself rising because further deliberation and study and without amendment, this bill is dangerous. What it does, it undermines a parent's rights. If a grandparent didn't like the decision a parent made regarding their child, you now have a different recourse. That's why the Supreme Court has recognized the rights of parents. This law, this bill, with a single sweep, undermines that. The Family Law Advisory Commission that we rely so heavily upon because they are experienced family law attorneys strongly oppose the bill, and I think the Honorable House Chair would probably allude to that in his statements, but there is no question that as it stands, without amendment, this is a dangerous bill and I will be supporting the pending motion.

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

Representative **MOONEN**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise also as a member of the Judiciary Committee and as a member of the Majority Report and I just apparently am going to echo a little bit of what other folks have said. We work closely in the Judiciary Committee with the Family Law Advisory Commission. It is composed of lawyers and judges who have spent their entire careers working on family law issues, and they gave us some input on this bill. They let us know that the U.S. Supreme Court has said that there is a fundamental liberty interest to direct the care, custody and control of children for parents, a fundamental interest, and the Maine Law Court has noted that forcing parents to defend against their claim for grandparent visitation may itself be an infringement on this fundamental right of parents. So this is, I agree with my colleague from Bethel, this is some dangerous territory that we probably don't want to wade into. There is a lot of constitutional problems that will come up with this, so I urge you to support the pending motion.

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 was on the Judiciary Committee in the 1980s when this statute was put together and we heard from both sides at that point. We heard from grandparents and we heard from parents, and the one thing I remember most of all was a woman who told me "I am convinced that my father-in-law is a child molester. I am absolutely convinced of that. The family denies it, but I am convinced of that. I do not want to have to go to court and defend having my child not see this person and to tear the entire family apart. Please, please, please do not open this statute up." We put together a statute, which was fairly narrow. The good Representative Moonen has quoted part of the Family Law Advisory Commission statement. *Troxel*, which is a U.S. Supreme Court decision, narrowed the ability of grandparents to see children, to visit with children over the objection of parents, and in fact, parent parenting is definitely a fundamental right. The Family Law Commission on who we rely heavily on the Judiciary Committee stated at the end of its report to us on this bill, this bill purports to broaden the definition of "sufficient existing relationship" beyond what would likely pass constitutional muster under current law. Such an amendment would not be prudent. So FLAC, the Family Law Advisory Commission, does not support LD 209 for the reasons set out above. This bill has severe constitutional problems. If you pass it, then it will go up through the courts and maybe even the U.S. Supreme Court, which will, I'm fairly confident, overturn it. So I ask you not to support this law as immediately appealing as it might seem. Parental rights are fundamental under our Constitution and this bill goes beyond what the Constitution will allow. Thank you.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative Monaghan-Derrig.

Representative **MONAGHAN-DERRIG**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I, too, am on the Judiciary Committee and I was in the Minority Report, however, if I knew then what I know now, I would have changed my vote and joined the Majority Ought Not to Pass. We heard some very compelling testimony. It was very unfortunate. A grandmother and grandfather came and presented their testimony. I would say that I had a moment of sympathy and empathy for this couple and I really hope they can resolve their problems with their grandparents' rights. But having further read information after the testimony and after the work session, unfortunately, I found out more information that I should have paid attention to. Again, had I known then what I know now, I would have joined the Majority Ought Not to Pass Report and I hope that you will vote as well Ought Not to Pass. Thank you.

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

Representative **CHAPMAN**: Thank you, Mr. Speaker. Mr. Speaker, Friends and Colleagues of the House. This bill, whether we expand or contract the rights of grandparents, will not solve the problem of promoting good parenting for our children. This bill itself will not alleviate all of the difficulties and the difficulties created by it need to be solved by other means. In reference to the decisions of the Supreme Court, the Supreme Court has to, over time, be following the way society works and has been noted previously, our society is now putting more attention on the relationships of the grandparents to the grandchildren and I think our making a statement to that effect is important as we move forward. So I will not be supporting the motion on the floor. Thank you.

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

The SPEAKER: The Chair recognizes the Representative from Newport, Representative Fredette.

Representative **FREDETTE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House, and very briefly, by Accepting the Majority Ought Not to Pass vote today, just be aware that you are essentially agreeing that the existing statute, which allows for visitation for grandparents, essentially doesn't exist and that's what you'll be supporting today. Thank you.

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

ROLL CALL NO. 66

YEA - Ayotte, Beaudoin, Beaulieu, Bennett, Berry, Black, Bolduc, Briggs, Brooks, Campbell J, Campbell R, Carey, Casavant, Cassidy, Chase, Chenette, Clark, Cooper, Crafts, Cray, Crockett, Daughtry, Davis, DeChant, Dill, Dion, Dorney, Dunphy, Duprey, Espling, Farnsworth, Fitzpatrick, Fowle, Frey, Gattine, Gideon, Gifford, Gilbert, Gillway, Graham, Grant, Guerin, Hamann, Hobbins, Hubbell, Johnson D, Johnson P, Kaenrath, Kent, Kinney, Knight, Kornfield, Kruger, Kumiega, Lajoie, Libby A, Libby N, Long, Longstaff, Luchini, MacDonald W, Maker, Malaby, Marean, Mason, Mastraccio, McCabe, McClellan, McElwee,

McGowan, McLean, Monaghan-Derrig, Moonen, Morrison, Noon, Nutting, Parry, Peavey Haskell, Peoples, Plante, Priest, Pringle, Rankin, Reed, Rochelo, Rotundo, Russell, Sanborn, Saucier, Saxton, Schneck, Shaw, Sirocki, Theriault, Timberlake, Tipping-Spitz, Treat, Turner, Tyler, Villa, Volk, Welsh, Wilson, Winchenbach, Mr. Speaker.

NAY - Beavers, Beck, Chapman, Chipman, Cotta, Devin, Dickerson, Doak, Evangelos, Fredette, Harlow, Harvell, Hayes, Herbig, Hickman, Jackson, Jones, Keschl, Kusiak, Lockman, MacDonald S, Marks, Moriarty, Nadeau A, Nadeau C, Newendyke, Pease, Pouliot, Rykerson, Sanderson, Short, Stanley, Stuckey, Verow, Wallace, Weaver, Werts, Willette, Winsor, Wood.

ABSENT - Boland, Goode, Jorgensen, Nelson, Peterson, Powers.

Yes, 105; No, 40; Absent, 6; Excused, 0.

105 having voted in the affirmative and 40 voted in the negative, with 6 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

Bill "An Act Regarding the Administration and Financial Transparency of the Citizen Trade Policy Commission" (EMERGENCY)

(H.P. 816) (L.D. 1151)

TABLED - April 30, 2013 (Till Later Today) by Representative BERRY of Bowdoinham.

PENDING - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-105)**.

Subsequently, **Committee Amendment "A" (H-105)** 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**.

Representative HERBIG of Belfast **PRESENTED House Amendment "A" (H-110)**, which was **READ** by the Clerk.

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

Representative **HERBIG**: Thank you, Mr. Speaker. I just wanted to take a moment to clarify. This amendment corrects a small error in a unanimous Committee Amendment to carry out the intent of the committee and the bill's sponsor, the fine Representative from Calais. The effective date of the bill needs to be moved into this fiscal year to accomplish our intent. There is no impact from the original Committee Amendment or this Amendment. Thank you.

Subsequently, **House Amendment "A" (H-110)** was **ADOPTED**.

Subsequently, under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-105)** and **House Amendment "A" (H-110)** and sent for concurrence.

The Chair laid before the House the following item which was **TABLED** and today assigned:

TABLED AND TODAY ASSIGNED

HOUSE DIVIDED REPORT - Majority (10) **Ought Not to Pass** - Minority (3) **Ought to Pass as Amended by Committee Amendment "A" (H-78)** - Committee on **JUDICIARY** on Bill "An Act To Expedite Court Proceedings by Providing Funds for Additional District Court Personnel"

(H.P. 371) (L.D. 552)

TABLED - April 30, 2013 by Representative PRIEST of Brunswick.

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

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 rise in opposition to the motion, although I appreciate why the majority voted the way they did. First, I want to thank Representatives DeChant and Guerin, along with Senator Tuttle, for providing me with the opportunity to bring this issue to the floor of the House. This bill seeks to reduce the court bottlenecks that are delaying foreclosure proceedings and other business disputes as well as justice for victims of crimes, all of which are costing our citizens and businesses money and mental anguish they should not have to be expending. The needs of our Judiciary branch have been ignored for too long and this increase in staff is long overdue. A few additional points I would like to make include let's not diminish homeowner protections due to inadequate funding of the Judiciary Branch of our State Government. Secondly, a key element of a state being attractive to business is an adequately functioning judicial system that allows for prompt resolution of business disputes. Finally, let us, therefore, help our state to be seen as business friendly by spending money to fund the court system adequately.

I am going to offer three quotes for your consideration. These are from Illinois Chief Justice Thomas Kilbride and it was published in November 2012. His first quote that I want to share with you is "Left unresolved, budgetary shortfalls could threaten the justice system as a whole." Secondly, "Courts provide an essential function of government. When the courts' work is delayed ... everyone is affected - whether it's the crime victim awaiting justice, the injured person trying to recover compensation, or the business entity seeking enforcement of contracts or property rights. Justice delayed is tantamount to justice denied." Finally, the third one I want to quote is "We recognize the perplexing budgetary forces facing the executive and legislative branches. But we plead with them to remember the courts are not an agency or department providing a governmental service, but an equal, constitutional branch conducting a vital function of our government. The funding of our courts is not a partisan issue, nor policy to be debated, but a bedrock necessity that supports the foundational underpinning of our state's constitutional democracy."

My final comment is, in view of our budget constraints, I am hoping that you might be willing to let our distinguished Appropriations Committee determine if they can squeeze out even a half of what the bill requests, that is, one Judge position, one Deputy Marshal position, one Assistant Clerk position and one Law Clerk and related costs to expedite Court proceedings. Thank you.

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. Obviously, the Judiciary Committee is sympathetic towards the good Representative's bill but, and the but is the question of priorities, we are, as you may know, asking for $5 million for indigent legal defense. That's a good amount of money. We think it's constitutionally required, but it is still a good amount of money. You have to remember that the Judiciary has only been fully

funded as of the last session. Before that, it was never fully funded and so courthouses were closed for part of the day, clerks couldn't take in information, and judges obviously were forced to go as far as they can but obviously the courts fell behind. Now that things are fully funded, the courts are catching up. It's again a question of priorities. We felt, the vast majority of the committee felt that this was not a priority at this point. The Judiciary did not ask for it and therefore we recommend that you vote it Ought Not to Pass. Thank you.

The SPEAKER: The Chair recognizes the Representative from Newport, Representative Fredette.

Representative **FREDETTE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the motion Ought Not to Pass and I rise in opposition to this because this is about priorities. I bet everybody in this room knows somebody who is going through a divorce or I bet everybody in this room knows somebody that has had a protection from abuse or seeking a protection from abuse or a land dispute or whatever reason you might be seeking to have a conflict resolved in our Maine court system. I can tell you from practicing law, we do not have sufficient resources in our Judiciary to do the amount of work that needs to be done. It's a simple fact and the data supports that. That is a fact. In any given day when a protection from abuse is filed, there are timeframes within which certain things are supposed to have. So, for example, if somebody comes into my office and they are seeking a protection from abuse because their spouse is beating them or their spouse has threatened to shoot them or their boyfriend has threatened to hurt them or their children, the process that I then undertake is that we prepare a complaint for a protection from abuse and I take it down to the local district court in Newport, and most times there is not a judge there. There is not a judge there because we don't have enough judges, so then the clerk spends part of the day trying to find a judge somewhere in some courthouse so that they can fax this complaint to them to see if whether or not the complaint on its merits will provide for a temporary protection from abuse. That's not the best way to go about protecting our women and children and those that might be victims in our state. We have a difficult budget in front of us, we are all aware of that, and we need to set priorities. I don't disagree with that. The Judiciary is a third and coequal branch of government. They can't necessarily be here to speak for their needs, but I can tell you as someone who represents people within that system and the people that I work with is that there needs to be more, and in terms of priorities, I believe that we can oppose the Ought Not to Pass and let this go to the Appropriations Committee and let them work on this difficult issue of funding. Thank you, Ladies and Gentlemen of the House.

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

Representative **RUSSELL**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I actually agree with the good Representative from Newport and I will be also voting in opposition to the pending motion. It is about priorities, he's absolutely right, and one of the biggest priorities that I think our country and our state faces is the foreclosure crisis. We have heard a lot about bank bailouts and economic stimulus packages, but the people that have not gotten bailed out, those are the homeowners. Those are the homeowners that are underwater right now and the courts have not been in a position to really be able to aid our homeowners and I want to be able to make sure there are a myriad of reasons, as the good Representative pointed out, to consider this. But, for me, I share the good Representative from Berwick's passion about what happens to folks who are being foreclosed upon and what happens to folks who are being foreclosed upon unlawfully. The robo-signing and the foreclosure fraud exposure came from a gentleman here in our state. We have been at the epicenter of this debate nationally and one of our key members of our state has actually been fighting for folks who have been foreclosed upon unfairly and in a lot of cases fraudulently and it has been an absolute nightmare. How many folks have heard from constituents that they are seeing foreclosure? How many people have seen constituents who have gone through the national program, which has failed miserably for homeowners, that would refinance? There are banks at the national level who are using that as a means to ultimately foreclose on our homeowners and I think that's unconscionable and it's a travesty. I respect the work of the Judiciary Committee on this. I think they've put a lot of heart and soul into it and I respect the fact that we have finally fully funded our Judiciary system as we should, but this is a fundamental component of fairness and when Maine's future is on the backs of our homeowners, we have a responsibility to make sure that our courts are able to hear from those folks and to have a fair adjudication of that and that does not happen when judges are unfortunately underwater themselves in terms of paperwork. Because this is a lot to do with paperwork. It has a lot to do with paperwork chasing, and I want to make sure that our homeowners have a fighting chance in the court system that is constitutionally protected for them. Thank you, Mr. Speaker. I hope that folks will follow my light and the good Representatives who have spoken before me and vote in opposition to the pending motion.

Representative BERRY of Bowdoinham **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 Bethel, Representative Crockett.

Representative **CROCKETT**: Thank you, Mr. Speaker. Mr. Speaker, Distinguished Members of the House. I completely commend what the sponsor of this bill was trying to do. I, myself, am an attorney. I went toe to toe with some of the biggest banks in the country and not because I ever wanted to get into foreclosure defense law, just because a constituent was crying at my doorstep so you do what you have to do. Our courts are definitely underfunded, nobody will argue that, me least of all. However, to vote for this is to change the priorities dramatically. We have foster children that are looking for health care or access to health care. We have elderly, we have heating issues. We have so many priorities. In agriculture, you've got farmers looking for milk subsidies. All worthy endeavors, however, our system, while it's not perfect, is working, not great but we have some of the best – this is coming from someone who has defended foreclosures – we have some of the best protections for consumers in the country. There is no question about that. While we would certainly love the money to make it even better, as a priority, it just doesn't rank up there. So I will be supporting the pending motion and the Honorable House Chair.

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

Representative **JOHNSON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will make this quick, but I did want to say that it's taking over two years for abatement processes for constituents to go through the court system. To me, that's unacceptable, along with all these other things. I do believe that this is a piecemeal approach to the problem. It won't solve the problem because if you look at the drug problem we have today, we have lax laws, we have people being plea bargained out that really need some penalty. We have lack of jail space to keep those people. So all of these

issues are really important and affect our society, so I am going to vote against the pending motion. Thank you.

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

Representative **PRIEST**: Thank you, Mr. Speaker. Two points. This Legislature, the courts do deal with the foreclosure provision. The good Representative from Hallowell, Representative Treat, put together a mediation program which is fairly successful. Does it take time? Yes, but the results have been very good. So it's not as if the courts are not working on foreclosures, they are. Again, this is a question of priorities. Thirty percent of the judges now are not screened. Everybody who gets in here is screened. Thirty percent of the judges now, when they hold court, are not screened. That is a priority, that is a concern for us. We are very concerned about that because you could very well have a judge killed, as they have been in other states, for lack of screening. You have to weigh the priorities. Would we like to have everything fast? Yes. Are we the worst in the country? No. I read yesterday in the newspaper that the Bronx takes over two years to deal with trials of misdemeanors. We're much better than that. So again, it's a question of priorities. We have a lot of wants for the Judiciary. This is not one that they have signaled they need. They do need others and we will deal with those. So again, I urge you to support the Majority Report which is Ought Not to Pass. Thank you.

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. I stand in opposition to the pending motion. We've heard in the State of the Judiciary address over the last three times that I've had the privilege of serving in the Legislature, that entry screening is a very critical issue with the judicial branch. I think it's important to look, last year, we made it a priority to protect ourselves. The court system is where conflict goes to get resolved and I think it's very important that we make it a priority to protect those people working in our court system, so I urge you to oppose the pending motion.

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

Representative **BEAVERS**: Thank you, Mr. Speaker. I apologize for rising a second time and I totally do support the emphasis on security in the court system, however, when Judiciary originally submitted their budget to the Chief Executive, they did include this exact amount. I got this exact amount and what their needs were from the Judiciary. The Chief Executive cut this out of the budget as not being a high priority. Oops, I'm not supposed to say that, sorry. I apologize. As a result, I think that's why we should leave the decision to Appropriations to figure out if they have money for this. I do not want it to be taken away from security in our courts. I also agree that that is a priority. Thank you.

The SPEAKER: The Chair recognizes the Representative from Newport, Representative Fredette.

Representative **FREDETTE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Briefly, I want to support the good Representative from Berwick's comments and I do agree with her that our vote today really will be a reflection of our desire to see this funded, and while I am not a supporter of leaving everything up to Appropriations to try to figure out how to resolve it, I think this would be an indication that this is an important priority for this body. Thank you.

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

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

The SPEAKER: 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. 67

YEA - Ayotte, Beaulieu, Beck, Bennett, Berry, Brooks, Campbell J, Carey, Casavant, Chase, Chenette, Clark, Cooper, Cotta, Crafts, Cray, Crockett, Daughtry, Davis, DeChant, Devin, Dill, Dion, Dorney, Dunphy, Duprey, Espling, Farnsworth, Fitzpatrick, Fowle, Frey, Gattine, Gideon, Gifford, Gilbert, Gillway, Graham, Grant, Guerin, Harvell, Hayes, Hobbins, Hubbell, Jackson, Jorgensen, Kaenrath, Kent, Keschl, Kinney, Knight, Kornfield, Kruger, Kumiega, Kusiak, Lajoie, Libby A, Libby N, Long, Longstaff, Luchini, MacDonald S, MacDonald W, Malaby, Marean, Marks, Mason, Mastraccio, McCabe, McClellan, McElwee, McGowan, McLean, Monaghan-Derrig, Moonen, Moriarty, Nadeau C, Newendyke, Noon, Nutting, Parry, Peavey Haskell, Peoples, Plante, Priest, Rankin, Rochelo, Rotundo, Sanborn, Sanderson, Saucier, Saxton, Schneck, Shaw, Short, Sirocki, Stanley, Stuckey, Theriault, Timberlake, Tipping-Spitz, Treat, Tyler, Verow, Villa, Volk, Weaver, Welsh, Werts, Wilson, Winsor, Mr. Speaker.

NAY - Beaudoin, Beavers, Black, Bolduc, Briggs, Campbell R, Cassidy, Chapman, Chipman, Dickerson, Doak, Evangelos, Fredette, Hamann, Harlow, Herbig, Hickman, Johnson D, Johnson P, Jones, Lockman, Maker, Morrison, Nadeau A, Pease, Pouliot, Pringle, Reed, Russell, Rykerson, Wallace, Willette, Winchenbach, Wood.

ABSENT - Boland, Goode, Nelson, Peterson, Powers, Turner.

Yes, 111; No, 34; Absent, 6; Excused, 0.

111 having voted in the affirmative and 34 voted in the negative, with 6 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought Not to Pass** on Bill "An Act To Allow Stores under 10,000 Square Feet To Be Open on Certain Holidays"

(H.P. 841) (L.D. 1197)

Signed:
Senators:
PATRICK of Oxford
CLEVELAND of Androscoggin

Representatives:
HERBIG of Belfast
CAMPBELL of Newfield
GILBERT of Jay
HAMANN of South Portland
MASON of Topsham
MASTRACCIO of Sanford
VOLK of Scarborough

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

Signed:

Senator:
CUSHING of Penobscot

Representatives:
DUPREY of Hampden
LOCKMAN of Amherst
WINCHENBACH of Waldoboro

READ.

Representative HERBIG of Belfast moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **JOHNSON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As the sponsor of this bill, I'd like us to consider a different report on this. This bill came to me from a constituent. It's just one more exemption to our long aging blue laws. The request came, like I said, from a constituent of mine that has a family run business and they've been in business for over 25 years. Last year, they had the fortune to be able to build a new store behind their existing convenience store. Their new store is more of a full service grocery store, but it is still in the small size. It also has a Dunkin' Donuts and a sandwich shop in it, and they do a great job and they serve the Town of Holden, the surrounding communities, very well and they have for over 25 years. Before they expanded their store, they had no problem being open because the limit was 5,000 square feet on these three days that we're talking about, which is Thanksgiving, Christmas and Easter, and they are a family run store. When I wrote this bill originally, I tried to write in that language, a family run store that was under 10,000 square feet, but the Revisor's Office had a problem with that language, Mr. Speaker. But anyway, they've done a great job. They went above and beyond in building this building. It's a high quality building. It's a state of the art building. It's extremely energy efficient and it's become a model for new construction around the state even. The Chief Executive has toured the facility as a model for his energy efficient plan. The store proves a valuable service to the community. He was able to open, before expanding, he was able to be open these three days and since he has expanded to over the 5,000 square foot limit, which is just a random number, he can no longer serve his customers on these three days. I know one of the big problems that people talk about when we talk about expanding these numbers to 10,000 square feet, they're afraid that we're going to include the big box stores, Mr. Speaker, and they're going to force people to work. Well, that's not the case. We're still in the range of a small family owned business, and in the past, when he was able to be open, he put a signup sheet next to the sheet that told people when they were going to work and he left these dates open and he had no problem. Within an hour they were filled up because people want to come out and help him out those days. He's open six or seven hours a day versus 13 hours on his normal days, and he still can make the same amount of money in those six or seven hours that you can in a normal business day, 13-hour day. So it's really a good bill and we ought to be able to help. It's not just this one customer either. There is a lot of other businesses in this size category that can benefit from this and they are the type of businesses, again, like I said, are family owned businesses. They aren't going to make it mandatory for their people to work. They treat their employees like family and most of these businesses do that. Just in closing, I guess I'd like to say we already allow larger businesses to be open on these three days, such as L.L.Bean, movie theatres, cab companies, all whom have many more employees than these small businesses do, and so I would urge you guys to rethink this and vote down the motion that's on the floor now please so that we can move to the Ought to Pass motion. It's good for the economy, it's good for the communities, and it will help us all out. Thank you, Mr. Speaker, for your time.

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

Representative **HERBIG**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in opposition to LD 1197. This actually received bipartisan opposition coming out of our committee. There were a lot of reasons that members of our committee did not support this. Primarily, for myself, it was because I don't want to be responsible for someone missing a meaningful event with their family so someone else can shop. Well, at first this bill may appear to be a pro-business bill. At the public hearing, we really saw that that was not the case. We received strong opposition from retailers. Eighty-five percent of the Retail Association opposes LD 1197. Businesses like Reny's and Marden's came to the public hearing to oppose this because they wanted to stick up for their employees who do not support this measure. They don't want any of their employees to miss Thanksgiving dinner, Easter service or Christmas morning with their families. The Reny's family was wonderful to talk to. They actually talked about how they resisted shopping on Sundays and initially when that law passed, they continued to stay closed on Sundays, but eventually the pressures of their retail business forced them to go to that area. They still pay time and a half on Sundays, however, they said that they have such loyal employees, they feel like they can't say no. They also see pressure from coworkers on each other and I worry about that in this incidence. You worked on Thanksgiving so I need to work on Christmas, etcetera. The current law excludes businesses smaller than 5,000 square feet. It allows them to be open for business. This was designed to offer owners of small mom-and-pop stores an opportunity to decide to work for themselves as they wish. This has worked out well. In my district, three local convenience stores, these are some of their busiest days. If larger stores are allowed to be open on these three days, the only winners will be the larger stores. Our small mom-and-pop businesses will lose. LD 1197 only redistributes a small amount of business on a few very meaningful family days. It does nothing to grow our economy or create jobs. In Maine, we are better than this. Let's respect the workers and their families who will bear the burden of this law. Thank you.

Representative GILLWAY of Searsport **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 Searsport, Representative Gillway.

Representative **GILLWAY**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise to oppose the Ought Not to Pass on this motion. I received calls from three of these family owned stores. In each case, a small grocery store was bought and in two of them, they were actually failing stores. The new owners' hard work and attention to the business resulted in success. They built new stores or they added on to or expanded the stores that they were in. The tax collector, being one of them, was very happy. Because they crossed an arbitrary sized limit that was set by a Legislature over 100 years ago, they are now being prohibited from opening on the days that are mentioned in this bill. They can't even open as a one man show

and help our community. I urge you to support our small businesses and these are small businesses, and urge you to follow my light. Thank you.

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

Representative **GILBERT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I stand in support of the Ought Not to Pass motion. After this bill was heard in my committee, LCRED, I talked with cashiers, stock clerks, and other retail workers in my district. They told me these were the three days that they could count on being home and celebrating these holidays, Easter, Thanksgiving and Christmas, with their families. Families love their mothers home on Thanksgiving and their families together for Christmas. Secondly, I know that there is a carve out for those workers who object to working on these days. I also know there are several ways to get around this carve out. You see, prior to my career in state government, I worked as a retail store manager when stores were first allowed to open on Sundays. Workers could refuse to work Sundays, it was in the law, however, keep in mind that most retail workers work part time and most would like to see more hours in their schedule. But if a worker refused to work on Sunday, they could find their hours reduced when subsequent work schedules were posted. This same thing can happen to workers refusing to work on Easter, on Thanksgiving or Christmas if this becomes law. Let's help our families celebrate these family building holidays together and vote Ought Not to Pass this bill.

The SPEAKER: The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative **CAMPBELL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I was very impressed by the people that owned Reny's that came and asked us not to pass this bill. We get three days out of 365 days for people to be together with their families to celebrate these days that we all enjoy, and whether some people like to hear it or not, I'll repeat, it's all about money. Thank you.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Plante.

Representative **PLANTE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'd like to speak to this on a personal level for myself. This past Easter, I had to work from 3 to 9 on my job over at the Shaw's in Dover, New Hampshire. I did barely get to fit in my Easter dinner with my family, a nice ham, some potatoes. It was wonderful. It was one of the few times I've been actually been able to have a dinner with them, but that's the point of these days, these very few days we have as families. We can actually enjoy a nice time with our families and not think it's time to go to work. I can tell you there was no real business that was occurring. Of course, folks need to go out and pick the occasional can of green beans or maybe some stuffing, whatever may be for the particular holiday for the item that they're short on at the time when they are preparing dinner. These moments happen and it's reality, we understand that. But the idea that somehow we need to just grant a larger allowance for businesses of all sizes to basically be open is nothing more than just a continuation I feel of telling folks that there is no real reason to have any one particular day for family. I believe in having this wonderful time with my family, if it's only three days a year, I think that's too few, but we shouldn't look to say we need to contract that to a smaller number. Thank you.

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

Representative **JOHNSON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I apologize for rising a second time. I don't think I rose twice in my first term altogether. But I just want to make it clear, this is not mandatory for stores to be open at this time and I think the type of stores that you're going to see that are going to take advantage of this opportunity, which is an economic opportunity for them, will not make it mandatory for their people to work. It's mainly going to be their family where they are going to have their family time together, and I'm a pro family guy so I just want you to consider that when you register your vote and please, again, follow my light and let's pass on Ought to Pass or let's get by this motion so we can Accept an Ought to Pass motion. Thank you.

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

ROLL CALL NO. 68

YEA - Beaudoin, Beavers, Beck, Berry, Black, Boland, Bolduc, Briggs, Brooks, Campbell J, Carey, Casavant, Cassidy, Chapman, Chenette, Chipman, Cooper, Crafts, Crockett, Daughtry, Davis, DeChant, Devin, Dickerson, Dill, Dion, Dorney, Espling, Evangelos, Farnsworth, Fitzpatrick, Fowle, Frey, Gattine, Gideon, Gilbert, Graham, Grant, Guerin, Hamann, Harlow, Hayes, Herbig, Hickman, Hobbins, Hubbell, Jones, Jorgensen, Kaenrath, Kent, Knight, Kornfield, Kruger, Kumiega, Kusiak, Lajoie, Libby N, Longstaff, Luchini, MacDonald W, Marks, Mason, Mastraccio, McCabe, McGowan, McLean, Monaghan-Derrig, Moonen, Moriarty, Morrison, Nadeau C, Noon, Peoples, Plante, Priest, Pringle, Rankin, Rochelo, Rotundo, Russell, Rykerson, Sanborn, Saucier, Saxton, Schneck, Shaw, Short, Stanley, Stuckey, Theriault, Tipping-Spitz, Treat, Verow, Villa, Volk, Welsh, Werts, Mr. Speaker.

NAY - Ayotte, Beaulieu, Bennett, Campbell R, Chase, Clark, Cotta, Cray, Doak, Dunphy, Duprey, Fredette, Gifford, Gillway, Harvell, Jackson, Johnson D, Keschl, Kinney, Libby A, Lockman, Long, MacDonald S, Maker, Malaby, Marean, McClellan, McElwee, Nadeau A, Newendyke, Nutting, Parry, Pease, Peavey Haskell, Pouliot, Reed, Sanderson, Sirocki, Timberlake, Tyler, Wallace, Weaver, Willette, Wilson, Winchenbach, Winsor, Wood.

ABSENT - Goode, Johnson P, Nelson, Peterson, Powers, Turner.

Yes, 98; No, 47; Absent, 6; Excused, 0.

98 having voted in the affirmative and 47 voted in the negative, with 6 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

SENATE PAPERS

Bill "An Act To Implement Managed Care in the MaineCare Program"

(S.P. 552) (L.D. 1487)

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

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

Bill "An Act To Address Maine's Immediate Workforce Needs"

(S.P. 554) (L.D. 1489)

Came from the Senate, **REFERRED** to the Joint Select Committee on **MAINE'S WORKFORCE AND ECONOMIC FUTURE** and ordered printed.

REFERRED to the Joint Select Committee on **MAINE'S WORKFORCE AND ECONOMIC FUTURE** in concurrence.

Bill "An Act To Create a Tax Expenditures Budget Process" (S.P. 553) (L.D. 1488)

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

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

The following Joint Order: (S.P. 551)

ORDERED, the House concurring, that the Joint Standing Committee on Judiciary shall report out, to the Senate, a bill regarding issues pertaining to guardians ad litem.

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

READ and **PASSED** in concurrence.

CONSENT CALENDAR
First Day

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

(S.P. 309) (L.D. 884) Bill "An Act To Improve Death Investigations" Committee on **JUDICIARY** reporting **Ought to Pass**

(S.P. 245) (L.D. 696) Bill "An Act To Include Raising Equines in the Definition of Agriculture for the Purpose of the Maine Workers' Compensation Act of 1992" Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-42)**

(S.P. 301) (L.D. 876) Resolve, To Establish a Working Group To Study Issues Relating to Broadband Infrastructure Deployment Committee on **ENERGY, UTILITIES AND TECHNOLOGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-41)**

(S.P. 320) (L.D. 943) Bill "An Act To Amend Provisions of the Law Pertaining to Motor Vehicles" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-40)**

(S.P. 328) (L.D. 983) Bill "An Act To Make Allocations from Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Calendar Year Ending December 31, 2014" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-39)**

(H.P. 449) (L.D. 657) Resolve, Directing the Department of Agriculture, Conservation and Forestry To Review, Clarify and Update Its Rules Pertaining to the Maple Syrup Industry Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-106)**

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

SENATE PAPERS

The following Joint Order: (S.P. 525)

ORDERED, the House concurring, that the Joint Standing Committee on Health and Human Services shall report out, to the Senate, a bill regarding the cost of copies of medical records.

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

READ and **PASSED** in concurrence.

ENACTORS
Emergency Measure

An Act To Remove the Limit on the Retention of Live Smelts (H.P. 361) (L.D. 542)

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. 133 voted in favor of the same and 2 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

On motion of Representative BENNETT of Kennebunk, the House adjourned at 12:00 p.m., until 10:00 a.m., Thursday, May 2, 2013 in honor and lasting tribute to Melvin Weiner, of Kennebunk.