

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Fifth Legislature
State of Maine

Daily Edition

Second Regular Session
January 4, 2012 to May 31, 2012

Pages 1594 - 2357

Pending - **REFERENCE**

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

Senate at Ease.

Senate called to order by the President.

On motion by Senator **SAVIELLO** of Franklin, Bill and accompanying papers **INDEFINITELY POSTPONED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Create the Leased Space Reserve Fund and To Amend the Law Regarding the Issuance of Securities under the Maine Governmental Facilities Authority"

S.P. 678 L.D. 1904

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-527)** (8 members)

Minority - **Ought To Pass as Amended by Committee Amendment "B" (S-528)** (1 member)

Tabled - April 9, 2012, by Senator **THOMAS** of Somerset

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-527)** Report

(In Senate, April 9, 2012, Reports **READ**.)

On motion by Senator **THOMAS** of Somerset, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-527)** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-527) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Ordered sent down forthwith for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

Bill "An Act To Encourage Enrollment in High School Electrical Education Programs"

H.P. 1353 L.D. 1833
(H "A" H-871 to C "B" H-837)

Tabled - April 9, 2012, by Senator **ALFOND** of Cumberland

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence

(In House, April 5, 2012, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-837) AS AMENDED BY HOUSE AMENDMENT "A" (H-871)** thereto.)

(In Senate, April 5, 2012, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-837)** Report **ACCEPTED**, in concurrence. **READ ONCE**. Committee Amendment "B" (H-837) **READ**. House Amendment "A" (H-871) to Committee Amendment "B" (H-837) **READ** and **ADOPTED**, in concurrence. Committee Amendment "B" (H-837) as Amended by House Amendment "A" (H-871) thereto, **ADOPTED**, in concurrence.)

(In Senate, April 9, 2012, **READ A SECOND TIME**.)

Senate at Ease.

Senate called to order by the President.

On motion by Senator **ALFOND** of Cumberland, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

The Chair laid before the Senate the following Tabled and Later (4/5/12) Assigned matter:

HOUSE REPORTS - from the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Permit Video Gaming for Money Conducted by Nonprofit Organizations"

H.P. 1078 L.D. 1469

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-887)** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-888)** (5 members)

Tabled - April 5, 2012, by Senator **FARNHAM** of Penobscot

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, April 4, 2012, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-887)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-887)**.)

(In Senate, April 5, 2012, Reports **READ**.)

Senator **FARNHAM** of Penobscot moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-888)** Report, in **NON-CONCURRENCE**.

On motion by Senator **PATRICK** of Oxford, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Farnham.

Senator **FARNHAM:** Thank you Mr. President. The Minority and Majority Reports both will permit video gaming for money conducted by non-profits. The difference is in the machine. Video poker machines, as you all probably know, have been owned and operated by non-profits in this state for many years. It's the use of these machines that has been regulated. Just a little history. I needed this myself, so I just want to share a quick rundown through the history as a try at it. In 1973 the law that governs games of chance was enacted which prohibited the use of a slot machine to conduct games of chance for money. In 1979 the law was amended to include these other video gaming machines and, again, had them prohibited for being used to conduct games of chance for money. In 1981 an opinion was brought forward and it said machines could be licensed if they were operated within the scope of a license. They would be licensed if the machine does not award the winning player with cash, premiums, or merchandise. Then two years later, in 1983, a law was passed that allowed for the electronic video machines to be licensed by the State Police. It allowed for people to pay for the privilege to just play this type of machine but, again, could not receive cash or anything of value in return for the play. These laws prohibiting the use of machines, slot machines and electronic video machines, for gambling pretty much remained in place until 2003, when the racino referendum passed. Again, that only addressed the slot machines, which left all these other machines still out in the state in various organizations, various non-profits, and they were being used in varying degrees. Unofficial terms for the machines might be "the white machine" with an electronic video machine registered by the State Police and was used for entertainment purposes only, as the law pertained. A "gray machine" might be an electronic video machine registered by the State Police, but used to pay out prizes. Those machines were in violation of the law. I've heard of the "black machine", an electronic video machine not registered and being used illegally. The Minority Report will allow for non-profits who have been licensed to conduct games of chance for two years and who have a facility they own or have leased for two years to actually use, legally, the machines to electronically dispense and display sealed type games. The element of chance is determined by a pre-printed ticket roll within the machine. The distinction between these machines and slot machines is that the element of chance is determined by a pre-printed ticket. The

machine itself does not determine the element of chance. The modern version of this machine may appear like a slot machine, with elaborate electronic displays and ticket readers that display the result of a ticket having been read on the screen. The machines are not subject to on-line monitoring because of the fact that the game is determined by the installed tickets. Proceeds of play would be the same as those of regular sealed tickets, so that would allow the utmost flexibility to the non-profits. I'll just finish my remarks by saying that there are five veterans on the Veterans and Legal Affairs Committee, there are three veterans on the Minority Report, there is one veteran on the Majority Report, and there is one veteran on neither report. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Patrick.

Senator **PATRICK:** Thank you Mr. President. Just a point of order. I think it says the Ought to Pass "A" Report. I think that is the Majority Report. I just want to make sure I'm debating the right report.

THE PRESIDENT: It says Minority Ought to Pass A, meaning as amended, Committee Report B.

Senator **PATRICK:** Thank you Mr. President. They've got that corrected. Ladies and gentlemen of the Senate, the Minority Report, basically I'll read the summary of what it says. The amendment replaces the bill and is the Minority Report of the committee. The amendment permits veterans organizations licensed to conduct games of chance to operate electronic and mechanical ticket dispensers. These machines dispense Lucky 7 or similar sealed tickets and may include a function that electronically reads a dispensed ticket to determine if it is a winning ticket. The amendment specifies the element of chance is not determined by the machine, but by the ticket itself. This bill has come before the Veterans and Legal Affairs Committee for many, many years. The one question that was asked of veteran's organizations straight forward was, "Do you want these machines that are in Report B, which are basically sealed ticket machines?" The veterans, themselves, are right here and I'm sure they would say, as I did, unequivocally they said no, not at all. They did not want these machines. They basically have them now. They have the pull kind that you have. The only difference between what they have right now is it looks like a slot machine with spinning wheels and you have an electronic reader that reads a sealed ticket. The veterans were asked straight forward, "Do you want these machines?" The non-profits were asked, "Do you want these machines?" They said no. They said that these are like a glorified slot machines. When the electronic ticket is read the bombs go off bursting in the air. You get all kinds of lights and sirens just like a real slot machine, but it is a sealed ticket. I have dealt with this issue since the last 1970's, as I've been the member of several non-profits off and on throughout my whole adult life. What the veteran's organizations and non-profits are looking for is a manner where they can basically get a raise in the revenue that they generate to keep their organizations afloat. Not putting these machines in but putting in the other type of machines would do that. In fact, what they actually asked for was the ability to have 250 slot machines with the state for non-profits, and especially for veterans because that is what our primary focus was. They actually asked that we could, basically, have a one year hiatus law when you set the thing up. We'd start off, not

with the full compliment of 250 machines, with 100 machines. They would be able to see if whether or not there were enough non-profit organizations that would fit under the scope of being able to use these machines. They also said, as I did, that they understand that the scope of non-profits is so huge that it would encompass thousands of them and they wanted to make sure that we narrowly focus this bill. What we did, we were able to boil it down to C-8, C-10, and C-19, which are the non-profit veteran's organizations. The C-8 and C-10 are actually domestic fraternal order or associations exempt from taxation organizations. What they are asking for is a way that, unlike in the past where there was actually no oversight of the machines, there would be full oversight of the machines that they would finally get if we passed some sort of a bill. Hopefully it's the type that they would like. They would like to see the bill in a posture where it would be almost identical to the casinos, where there would be central site monitoring, where every dime of the machine would go in and be registered at the same place as the casinos go so everyone knows where every dime goes in and every dime goes out. All the percentages would be paid out and the entities that would get their share, the State would get their share, and the municipalities would get their share. They wouldn't have to set it up. It would be just like everything else. You'd have a municipal vote. They wanted to have something that they have been denied for many, many years because our committee was unable to get this bill or any bill into the posture where it had full oversight. They wanted a bill that would allow them to have a pay out of at least 80%, which is a little lower than the casinos but that way it may generate a little bit more money for them. They also realized that in the State of Maine law right now we have 3,000 slot machines statewide. Each casino has 1,500 but Pen National only has 1,000 in use. With the size of the business with the table games, I don't believe, unless things go way better than they are right now, that they will ever use the other 500. I would actually be brazen to say I don't ever think Oxford will use their other 500. We originally wanted to have the bill where we could take the number of slot machines underneath, but that raised the hackles of some so we didn't do it that way. What we did was bump up the total from 3,000 to 3,250. A non-profit wouldn't be a mini casino; it would be a non-profit that would have up to five slot machines. Throughout the committee we actually listened and learned about just how many organizations we were talking about. We were actually trying to get it to a position where it's not going to go forward. You'd have to have an organization that had games of chance, a license, for the last two years and you'd have to have a building or lease that you'd had for two years. There would be nothing going forward, but it's taking care of the entities that we have now; our VFWs, our American Legions, our AMVETs, and such. They wanted to make sure that not just anyone could come and play them, so it would have the same rules that govern games of chance. If you are in a non-profit you can only have members and/or guests play. The machines have to be in a specific location within the building. The percentage that would be given out would be 10% of the net slot machine income and must be deposited into the Gaming Control Board Administrative Expense Other Special Revenues Account, which is a non-lapsing, dedicated account; 8% of the net slot machine income would be deposited to the General Fund; 2% of the net slot machine would be credited to the Gambling Addiction Prevention and Treatment Fund; and 10% of the slot machine fund would be forwarded directly to the municipality. This is a pretty tight, iron clad bill that has been worked on for the last at

least 12 years that I know of, probably earlier than that. The last thing is that we wanted to have those that would have the final say as to whether or not this is a good thing for their organizations or not, so we asked them. It's kind of one of the most important things. If you're going to try to help out veterans, are you going to help them out the way you want to help them out or do you want to help them out they way they are asking to be helped out? Unequivocally, they said they would like to go with the option that I brought forward. They believed in the issue 100% in that this is a narrowly focused bill that would have a limited effect on the amount of machines in the state of Maine. You will probably hear that Maine just voted down a huge expansion of gaming. What I would say is that we've voted down the ability to have three major casinos in the state of Maine. Nothing within the referendums touched base with anything to do with non-profits. Ladies and gentlemen of the Senate, if you want to do something for the veterans you would do as the bill came from the House on April 4th, Ought to Pass as Amended by Committee Amendment "A". I would ask you to vote against this bill and vote for the way the veteran's organizations are asking for your support. Vote this down and move on to Amendment "A". Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Plowman.

Senator **PLOWMAN:** Thank you Mr. President. Men and women of the Senate, I stand to urge you to vote for the Minority Ought to Pass as Amended Report. Some years ago the Veterans and Legal Affairs Committee acknowledged that veterans and non-profit organizations were indeed being impacted by the new Bangor Racino in Bangor. A bill was put forward to allow Texas Hold-um to be held. It was a pretty generous plan. You could have Texas Hold-um tournaments quite often in every town. We've had table games going on with the charitable organizations and the veterans who are eligible. We heard public testimony at the time of the hearing that some of the veteran's organizations were not taking advantage of Texas Hold-um because they could not come up with the \$100 fee in order to run a tournament. These machines cost, a slot machine, about \$15,000. In order to qualify under the other report you'd have to put \$5,000, refundable, in an account to show that you are seriously interested in that license, which is not free. I'm trying to figure it out. If you can't come up with \$100 to play Texas Hold-um, how do you come up with \$15,000 for a machine and a license? Since we have table games going on in some towns, and now we want to start small slot parlors, which it would be most of the time, there would be a small casino some nights of the month when you also have Texas Hold-um available. If you are looking at passing what was requested, you will actually have small casinos here and there throughout the state of Maine. We did hear over and over that the people did not vote for an expansion of gaming. When preparing the Minority Report, we looked at a way to do this without expanding gaming. We looked at what we did for the Passamaquoddy a few years ago. The legislation in front of you, in the Minority Report, is to allow what is now only allowed to the tribes. It is to allow the veterans the ability to use the same machines that are being used by the Passamaquoddy on the reservation. The difference is, and must be, that the determining factor for the win is within the machine. As long as the determining factor is within the machine it does not constitute an increase in gambling for the state of Maine. It is what we already have on the books. It is an effective way of raising money. If you

stood both machines side-by-side, you would not be able to tell the difference from looking at it or how it logs in what you've won or your ability to keep playing until you run out of money. The only difference is that with one machine the odds are determined and fed through a central monitoring system. The other machine, the odds are already predetermined because you buy a box, just like you do now with rip-off tickets, and the reader will read the tickets as they are spun out and will tell you across the screen if you have won or not. It will continue to charge the credits that you've won. If you've won \$15 then you can use that \$15 to keep buying more tickets or you can cash out. The machines are less expensive. They don't require monitoring. They don't require the State to enter into a contract. The monitoring contract would be through whoever we have for the RFP. It costs the State money to do that. That's why a certain percentage goes into the Gambling Control Fund. These would be stand-alone machines. You would continue to operate the same way you do. I think what the people in the audience thought was that you would put a quarter in or a dollar in and turn a little handle like you do when you are buying Tide at the laundromat. This is not what it is. The machines look alike. We saw a demonstration of them. It's an offer and it does something that the other report doesn't do. It doesn't expand gambling. It doesn't create a new product in a new place. It doesn't create small casinos throughout the state of Maine. It does add a level of play that people have come to expect when you are looking for some time on the town. The other thing that I heard just a little bit earlier, and it bothers me more than any other part of this. A veteran or a member with two guests will be the people who play. If you have 100 members and they each bring a couple of guests, let's hope that they are bringing somebody new every week because the same three people every week or every night of the week will be the same people putting their money in the three to five machines, or one to five machines, and pretty soon that kind of market falls off. That's a lot of cannibalization of a very small market. I don't think it's something that you can count on to last a long time. Once you've got one of these machines it's not that easy to move it along. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, first I want to say that, as many of you are aware, I've been very supportive of veterans and their organizations and often times I've heard, as I've gone around my Senate District, how, especially since Bangor has expanded, they are having a really hard time on their events supporting their organizations as they used to. It's just really difficult. To me, this is about a competitive sort of situation. When I look at who am I going to support here, I always think that we owe it to our veterans to stand up on their behalf. Their organizations do unbelievable work in our communities. I want to thank Donald Simoneau for his tireless efforts on behalf of our veterans and I have spoken with him on this and he is not in favor of the pending motion. I'm urging you right now to join me and oppose the pending motion so we can go on to the other report and support our veterans. I really tip my hat to him and to all our veteran's organizations because the community work that they do for children, for elderly, and for our people in need is amazing. They give so much back to our communities. They really need our

support. I hope you will vote against the pending motion. Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Patrick.

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, I wonder if many of us here actually know what C-19, C-8, and C-10 do and how they derive their income. After all, they are pretty similar. How do they get their money to survive, to pay their bills, to give to their charitable organizations? They do bingo. They do sealed tickets. Some of the sealed tickets you can pull out of a machine. You just can't spin them on a wheel yet, electronically. They do raffles. They do casino nights, full fledged casino nights. Can you imagine that? They could probably have 15 games. The caveat is you can only bet \$1 at a time. I'll tell you one thing right now, ladies and gentlemen, the casino nights have dwindled because the amount of players, the amount of volunteers it takes to run a casino night, is similar to that of Texas Hold-um. Texas Hold-um is a great event for non-profits. The trouble is that an awful lot of them don't have the 10 or 15 volunteers that it takes to hold an event. The ones that do have that enjoy the benefits. They are good and people enjoy them. I remember when we first passed them they said the proliferation across the state of Maine was going to be ungodly. Do we have a bunch of them every week, all over the state of Maine? Yes, we do. I don't know the exact figures, probably five or ten throughout the whole state of Maine. They also have cribbage tournaments. Those sound deadly to me. They have pool tournaments. They have suppers. That's how they raise their money, ladies and gentlemen. I'm sure they don't do car washes any more because most of them are now in their 70's and 80's. We take a look at gaming in the state of Maine.

We have had gaming for over 200 years. It's called harness racing. They've been betting on the ponies as long as there have probably been ponies. We talk about exceptions, ladies and gentlemen. We've made some huge exceptions in the gaming laws here in the state of Maine. One of the first ones was that the racino was supposed to be attached to a racetrack. Right attached to a racetrack so you could go and play slot machines and come out and bet on the ponies. We made a huge exception to that rule and allowed Hollywood Slots to move from the racetrack to 2,000 feet across the street. In some respects I feel bad that we made that first exception, but it was actually a good business exception for the business in Bangor. Another huge exception is when we allowed a racino to turn into a casino. The only difference between casino and racino is you have table games with slot machines. We allowed that to have a county-wide vote. We have done some huge changes to the laws. Exceptions. I think from the standpoint of if you're going to have a business in the state of Maine you make those exceptions. What they talked about, one of the important things about having the machines back legally in their clubs, is a lot of their members will go to Oxford and have gone to Hollywood Slots, which there is no problem with that. If they stay in their own organizations once in a while the non-profits will have enough money to do what they want. If you factor in the amount of non-profits that could potentially have the machines, if we over two or three years allow 250 machines, there are hundreds of employees at these non-profits and the amount of charity work that these non-profits do would be in the hundreds of thousands of dollars. Non-profits,

from years ago they had no oversight, to an organization of now we're saying all kinds of oversight, the same oversight, basically, as our for-profit casinos. We're doing it for veterans and some fraternal clubs if they fit the profile. Yes, they have to have a \$5,000 refundable deposit because we want to make sure to at least have that money up front to see they are realistic. They also have to have \$2,000 in a fund that makes sure that they can cover if there is a jackpot. The organizations said they were willing to do that. They are willing to do that, those that can afford it. If they can afford it, and they get on their feet, I'm sure they will help other organizations, veteran's organizations, if they can. Everything that I have spoke about that the veteran's organizations wanted is everything they are willing to accept except the Minority Report. That's the only thing they don't want to accept. With that, ladies and gentlemen, I would say this vote will be if you want to help the veteran's organizations and give them what they want, vote this down and move onto the Majority Report. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Farnham to Accept the Minority Ought to Pass as Amended by Committee Amendment "B" (H-888) Report, in Non-Concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#456)

YEAS: Senators: COURTNEY, FARNHAM, HASTINGS, LANGLEY, MARTIN, MASON, PLOWMAN, RECTOR, SHERMAN, SNOWE-MELLO, THIBODEAU, WHITTEMORE

NAYS: Senators: ALFOND, BARTLETT, COLLINS, CRAVEN, DIAMOND, DILL, GERZOF SKY, GOODALL, HILL, HOB BINS, JOHNSON, KATZ, MCCORMICK, PATRICK, ROSEN, SAVIELLO, SCHNEIDER, SULLIVAN, THOMAS, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

EXCUSED: Senators: BRANNIGAN, JACKSON

12 Senators having voted in the affirmative and 21 Senators having voted in the negative, with 2 Senators being excused, the motion by Senator **FARNHAM** of Penobscot to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-888)** Report, in **NON-CONCURRENCE, FAILED**.

On motion by Senator **PLOWMAN** of Penobscot, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#457)

YEAS: Senators: BARTLETT, COLLINS, CRAVEN, DIAMOND, DILL, GERZOF SKY, GOODALL, HILL, HOB BINS, JOHNSON, KATZ, MARTIN, MCCORMICK, PATRICK, SAVIELLO, SCHNEIDER, SULLIVAN, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, COURTNEY, FARNHAM, HASTINGS, LANGLEY, MASON, PLOWMAN, RECTOR, ROSEN, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE

EXCUSED: Senators: BRANNIGAN, JACKSON

19 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 2 Senators being excused, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-887)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-887) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-887)**, in concurrence.

Ordered sent forthwith to the Engrossing Division.

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, To Direct the Department of Education To Review the Essential Programs and Services Model

H.P. 702 L.D. 958

Reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-920)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-920)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "B" (H-920) **READ** and **ADOPTED**, in concurrence.