

# MAINE STATE LEGISLATURE

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**House Legislative Record**  
of the  
**One Hundred and Eighteenth Legislature**  
of the  
**State of Maine**

**Volume II**

**First Special Session**

May 16, 1997 - June 20, 1997

**Second Regular Session**

January 7, 1998 - March 18, 1998

ONE HUNDRED AND EIGHTEENTH LEGISLATURE  
SECOND REGULAR SESSION  
26th Legislative Day  
Thursday, March 5, 1998

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

Prayer by Reverend Arthur W. Greeley, Retired, National Association of Congregational Christian Churches, Poland.  
Pledge of Allegiance.  
Doctor of the day, Stephen Frost, M.D., Waterville.  
The Journal of yesterday was read and approved.

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**SENATE PAPERS**

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$10,000,000 to Finance the Acquisition of Land for Conservation, Outdoor Recreation and Wildlife Habitat Protection and Farmland Preservation and to Access \$5,000,000 in Matching Contributions From Public and Private Sources"

(S.P. 847) (L.D. 2253)

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

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

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**Non-Concurrent Matter**

Bill "An Act to Implement the Recommendations of the Interagency Committee on Outdoor Trash Burning"

(H.P. 1408) (L.D. 1972)

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-797) AS AMENDED BY HOUSE AMENDMENT "B" (H-816)** thereto in the House on February 25, 1998.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-797) IN NON-CONCURRENCE.**

On motion of Representative ROWE of Portland, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

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**COMMUNICATIONS**

The Following Communication: (H.C. 407)

**TASK FORCE TO REVIEW  
THE APPLIED TECHNOLOGY CENTERS  
AND APPLIED TECHNOLOGY REGIONS  
CHAPTER 74, RESOLVES OF 1997**

March 2, 1998

Members of the 118th Legislature  
Members of the Joint Standing Committee on Education and Cultural Affairs  
State House

Augusta, ME 04333

Dear Members,

On behalf of the members of the Task Force to Review the Applied Technology Centers and Applied Technology Regions, it is my pleasure to forward the final report of this task force to you. The report is organized into "Proceedings," "Findings," and "Recommendations." The "Recommendations" section of the report is organized according to the issue areas as they appear in the Chapter 74 Resolves.

In view of the short time frame for this report, the task force members did not feel that there was adequate time to review

some of the areas in as much detail as necessary. Therefore, some of the recommendations call for more in-depth study.

The Chair and members of the committee are prepared to make a formal presentation of the report to you at your convenience. They are also willing to discuss the report in detail and to answer any questions you have regarding the report, the task force deliberations, or the process utilized. You may also contact either Lloyd Keast or me at the Maine Department of Education and we would be happy to respond to your questions or to discuss the report with you.

Sincerely,  
S/Yvonne V. Damborg  
Staff

**READ** and with accompanying papers **ORDERED PLACED ON FILE.**

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The Following Communication: (H.C. 408)

**MAINE STATE LEGISLATURE**

**AUGUSTA, MAINE 04333**

**COMMISSION TO DESIGNATE OUTSTANDING MAINE  
CITIZENS WHOSE PORTRAITS ARE TO BE  
DISPLAYED IN THE STATE HOUSE**

February 27, 1998

Honorable Elizabeth H. Mitchell

Speaker of the House  
118th Maine Legislature  
State House

Augusta, Maine 04333

Dear Speaker Mitchell:

Pursuant to Resolves of 1997, Chapter 64, the Commission to Designate Outstanding Maine Citizens Whose Portraits are to be Displayed in the State House is pleased to submit its final report, including recommended legislation. On behalf of all the members of the Commission, we would like to express our appreciation for having the opportunity to participate in the study and development of recommendations relating to future portraits of historic significance for the Maine State House.

Sincerely,  
S/Representative William Lemke  
Chair  
S/Earle G. Shettleworth, Jr.  
Vice-Chair

**READ** and with accompanying papers **ORDERED PLACED ON FILE.**

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The Following Communication: (H.C. 409)

**STATE OF MAINE  
DEPARTMENT OF STATE**

I, the Secretary of State of Maine, certify that according to the provisions of the Constitution and Laws of the State of Maine, the Department of the Secretary of State is the legal custodian of the Great Seal of the State of Maine which is hereunto affixed and that the paper to which this is attached is a true copy from the records of this Department.

**STATE OF MAINE  
PROCLAMATION**

**An Act to Prevent Discrimination**

WHEREAS, the One Hundred and Eighteenth Legislature of the State of Maine, in the First Special Session, by an act entitled, "An Act to Prevent Discrimination," passed by a concurrent vote of both branches and approved May 16, 1997, which said act is known and identified as Chapter 205 of the Public Laws of 1997, enacted said measure; and

WHEREAS, the electors of this State filed with the Secretary of State written petitions addressed to the Governor of the State of Maine, as required by Article IV, Part Third, Section 17, of the Constitution of Maine, requesting that the act entitled "An Act to Prevent Discrimination" be referred to the electors of this State; and

WHEREAS, by proclamation of the Governor, upon receipt of notice from the Secretary of State declaring the validity of the petitions, declared said act be referred to the electors for approval at an election held on February 10, 1998; and

WHEREAS, it appears by the return of votes cast by the electors of the various cities, towns and plantations voting upon said act on February 10, 1998, and reviewed by the Governor on February 25, 1998, that a majority of said votes were in opposition of this act becoming law; namely,

145,452 for, and  
138,153 opposed;

NOW, THEREFORE, I, ANGUS S. KING, JR., Governor of the State of Maine, in pursuance of the provisions of the Constitution of Maine in such case provided, declare said measure is not adopted.

IN TESTIMONY WHEREOF, I have caused the Great Seal of the State to be hereunto affixed given under my hand at Augusta this twenty-fifth day of February in the year One Thousand Nine Hundred and Ninety-Eight.

S/ANGUS S. KING, Jr.

Governor

S/DAN A. GWADOSKY

Secretary of State

**READ** and with accompanying papers **ORDERED PLACED ON FILE.**

---

The Following Communication: (S.C. 580)

**THE SENATE OF MAINE  
3 STATE HOUSE STATION  
AUGUSTA, MAINE 04333**

March 4, 1998

The Honorable Elizabeth H. Mitchell

Speaker of the House

118th Maine Legislature

2 State House Station

Augusta, Maine 04333

Dear Speaker Mitchell:

In accordance with Joint Rule 506, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Natural Resources the nomination of Andrew A. Cadot of Freeport for reappointment as a Member of the Board of Environmental Protection.

Thank you for your attention to this matter.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

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

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**ORDERS**

On motion of Representative GAMACHE of Lewiston, the following House Order: (H.O. 40)

**ORDERED**, that Representative Thomas Bull of Freeport be excused February 25 for legislative business.

**AND BE IT FURTHER ORDERED**, that Representative Paul Chartrand of Rockland be excused February 18 for personal reasons.

**AND BE IT FURTHER ORDERED**, that Representative Nancy L. Chizmar of Lisbon be excused February 18 for personal reasons.

**AND BE IT FURTHER ORDERED**, that Representative Lucien A. Dutremble of Biddeford be excused February 23, February 24 and February 25 for health reasons.

**AND BE IT FURTHER ORDERED**, that Representative Jeffery G. Joyner of Hollis be excused February 26 and March 2 for personal reasons.

**AND BE IT FURTHER ORDERED**, that Representative Roy I. Nickerson of Turner be excused February 26 and February 27 for personal reasons.

**AND BE IT FURTHER ORDERED**, that Representative Judith A. Powers of Rockport be excused February 18 for personal reasons.

**AND BE IT FURTHER ORDERED**, that Representative Shirley K. Richard of Madison be excused February 19 for personal reasons.

**AND BE IT FURTHER ORDERED**, that Representative Kathleen Alicia Stevens of Orono be excused March 2, March 3 and March 4 for personal reasons.

**AND BE IT FURTHER ORDERED**, that Representative Russell P. Treadwell of Carmel be excused February 25 for health reasons.

**AND BE IT FURTHER ORDERED**, that Representative Thomas J. Wright of Berwick be excused February 19 and February 26 for personal reasons.

**READ** and **PASSED.**

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**SPECIAL SENTIMENT CALENDAR**

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

**Recognizing:**

Waterboro Rescue team members Jackie Calvo, Bev Sinclair, Angie Calvo, Susan Link, Steve Oullette and Dan Link on their first delivery. A healthy 7 lb. 2 oz. baby girl was delivered to Tammy Gignac on February 11, 1998. We extend our appreciation to the Waterboro Rescue team for their continued efforts in helping the people of the State;

(HLS 1176)

Presented by Representative McALEVEY of Waterboro.

Cosponsored by Senator LIBBY of York.

On **OBJECTION** of Representative McALEVEY of Waterboro, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

The **SPEAKER**: The Chair recognizes the Representative from Waterboro, Representative McAlevee.

Representative **McALEVEY**: Madam Speaker, Men and Women of the House. The Town of Waterboro is a pretty sedate community and it takes a lot to get the residents excited. The town is just abuzz that the rescue department in their 20 years of existence delivered their very first baby. They went to a residence to transport a pregnant mother and then delivered the baby and transported two to the hospital. The baby's mother Tammy Gignac exercised excellent judgment when she didn't name baby Waterboro Gignac.

**PASSED** and sent up for concurrence.

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**REPORTS OF COMMITTEE**

**Divided Reports**

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Bill "An Act to

Require Tobacco Manufacturers to Disclose Ingredients Contained within Tobacco Products"

(S.P. 508) (L.D. 1570)

Signed:  
Senators:

Representatives: PARADIS of Aroostook  
MITCHELL of Penobscot

BROOKS of Winterport  
KANE of Saco  
LOVETT of Scarborough  
JOYNER of Hollis  
BRAGDON of Bangor  
SNOWE-MELLO of Poland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-473)** on same Bill.

Signed:  
Senator:

LONGLEY of Waldo

Representatives:

MITCHELL of Portland  
FULLER of Manchester  
PIEH of Bremen  
QUINT of Portland

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

**READ.**

On motion of Representative KONTOS of Windham, **TABLED** pending **ACCEPTANCE OF EITHER REPORT** and later today assigned.

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Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-463)** on Bill "An Act to Extend the Prevailing Wage Laws to the Maine Turnpike Authority"

(S.P. 708) (L.D. 1956)

Signed:  
Senators:

CATHCART of Penobscot  
TREAT of Kennebec  
MILLS of Somerset

Representatives:

HATCH of Skowhegan  
BOLDUC of Auburn  
CLARK of Millinocket  
RINES of Wiscasset  
STANLEY of Medway

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

Signed:

Representatives:

PENDLETON of Scarborough  
JOYCE of Biddeford  
TREADWELL of Carmel  
LAYTON of Cherryfield

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED Report READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-463).**

**READ.**

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

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

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Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act to Exempt from State Income Tax Previously Taxed Contributions to an Individual Retirement Account"

(S.P. 636) (L.D. 1853)

Signed:  
Senators:

RUHLIN of Penobscot  
DAGGETT of Kennebec  
MILLS of Somerset

Representatives:

TRIPP of Topsham  
TUTTLE of Sanford  
ROWE of Portland  
GAGNON of Waterville  
MORGAN of South Portland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-468)** on same Bill.

Signed:

Representatives:

GREEN of Monmouth  
BUCK of Yarmouth  
CIANCHETTE of South Portland  
SPEAR of Nobleboro  
LEMONT of Kittery

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

**READ.**

Representative TRIPP of Topsham moved that the House **ACCEPT** the Majority **Ought Not to Pass Report.**

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought Not to Pass Report** and later today assigned.

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Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-841)** on Resolve, to Allow David Prentiss to Sue the State of Maine (EMERGENCY)

(H.P. 1476) (L.D. 2075)

Signed:

Senator:

CAREY of Kennebec

Representatives:

LABRECQUE of Gorham  
CHIZMAR of Lisbon  
BIGL of Bucksport  
GAMACHE of Lewiston  
TRUE of Fryeburg  
BELANGER of Wallagrass

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

Signed:

Senators:

DAGGETT of Kennebec  
FERGUSON of Oxford

Representatives:

GAGNE of Buckfield  
TUTTLE of Sanford

TESSIER of Fairfield  
FISHER of Brewer

**READ.**

Representative TUTTLE of Sanford moved that the House **ACCEPT** the Minority **Ought Not to Pass** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Minority **Ought Not to Pass** Report and specially assigned for Friday, March 6, 1998.

**CONSENT CALENDAR  
First Day**

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

(H.P. 1369) (L.D. 1919) Bill "An Act to Inform Crime Victims about the Disposition of Charges" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-840)**

(H.P. 1416) (L.D. 1980) Bill "An Act to Require a Tax Identification Number for Sales Tax Exemptions on Hay and Animal Bedding" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-839)**

(H.P. 1500) (L.D. 2122) Bill "An Act to Support the Long-term Care Steering Committee" Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-837)**

(H.P. 1507) (L.D. 2129) Resolve, to Approve a Maine Technical College System Lease with the South Portland Housing Authority Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-836)**

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

(H.P. 1368) (L.D. 1918) Bill "An Act to Clarify the Definition of Functionally Water-dependent Use as it Pertains to the Shoreland Zone" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-838)**

On motion of Representative PERKINS of Penobscot, was **REMOVED** from the First Day Consent Calendar.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Perkins.

Representative PERKINS: Madam Speaker, Men and Women of the House. On (7-1) could somebody explain that. I heard a couple of ideas on it. I got a copy of the bill and I didn't get the amendments because it wasn't in the computer. If somebody could just explain what this does regarding boathouses and shoreland zoning. Would this make it more difficult to build a boathouse with shoreland zoning?

The SPEAKER: The Representative from Penobscot, Representative Perkins has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Rowe.

Representative ROWE: Madam Speaker, Men and Women of the House. In response to the question, this amendment, I think the summary on the amendment, (H-838), I think the summary does a good job of explaining what the amendment does. It basically replaces the bill. It clarifies that recreational boat storage buildings are not functionally water dependent uses for purposes of mandatory shoreland zoning. It makes clear that retaining walls are functionally water dependent uses. It also provides that the exclusion of recreational boat storage buildings

from the definition of functionally water dependent uses as deemed to be incorporated into municipal ordinances. Finally, it clarifies that water dependent uses are exempt from the water set back requirements approved by the Department of Environmental Protection. It was a unanimous committee report. We spent a lot of time on it. We felt that this was very reasonable and thus provided some clarity that a lot of municipal code enforcement officers are looking for. It also makes it clear that the law will comport with the way that it has been interpreted and applied in the past by the Department of Environmental Protection. Thank you.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Perkins.

Representative PERKINS: Madam Speaker, Men and Women of the House. This bill would take out boathouses from the group that we would have possible exemptions from shoreland zoning. Is that correct? In other words, if this passes, boathouses will no longer be in the category that could be exempt. Is that correct?

The SPEAKER: The Representative from Penobscot, Representative Perkins has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Rowe.

Representative ROWE: Madam Speaker, Men and Women of the House. The answer is, it would make it clear that recreational boat storage buildings are excluded, yes, from the definition of water dependent uses. These uses are allowed to be constructed near the shore. I think it is really not fair to say that it would change the way that things are currently being interpreted. I think what we tried to do is to make the law comport with actual practice. Again, we have heard from code enforcement officers that this would make their lives easier by making the law very clear with respect to this issue.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative WATERHOUSE: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. Does this, in any way, this new law, require present non-commercial boathouses to be removed or are those boathouses grandfathered?

The SPEAKER: The Representative from Bridgton, Representative Waterhouse has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Rowe.

Representative ROWE: Madam Speaker, Men and Women of the House. The answer is, no, it would not cause the removal of any boathouses that are already constructed. It would be prospective in application. Again, I might add, this is the way the department is currently interpreting the law, but to answer your question, no.

The Committee Report was **READ** and **ACCEPTED**. The Bill was **READ ONCE**. **Committee Amendment "A" (H-838)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, March 6, 1998.

**CONSENT CALENDAR  
Second Day**

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

(S.P. 195) (L.D. 623) Bill "An Act to Provide Opportunities for Choice within the Public School System" (C. "A" S-472)

(S.P. 730) (L.D. 2008) Bill "An Act to Clarify Mileage Reimbursement for Employees of Community Action Agencies" (C. "A" S-474)

(S.P. 751) (L.D. 2029) Bill "An Act to Amend the Charter of the Van Buren Light and Power District" (C. "A" S-470)

(H.P. 882) (L.D. 1199) Bill "An Act to Ensure Adequate Nutrition and Support for Low-income Legal Immigrants" (EMERGENCY) (C. "A" H-833)

(H.P. 1321) (L.D. 1870) Bill "An Act to Amend Criminal OUI Penalties Concerning Suspension of a Motor Vehicle Driver's License" (C. "A" H-831)

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

(H.P. 1303) (L.D. 1846) Bill "An Act to Prohibit the Opening of Liquor Stores on the Maine Turnpike" (EMERGENCY) (C. "A" H-830)

On motion of Representative TUTTLE of Sanford, was **REMOVED** from the Second Day Consent Calendar.

On further motion of the same Representative, **TABLED** pending **ACCEPTANCE** of the Unanimous **Ought to Pass as Amended** Report and specially assigned for Monday, March 9, 1998.

#### ENACTORS

##### Acts

An Act to Protect Internal Waters of the State

(H.P. 55) (L.D. 80)

(C. "A" H-805)

An Act to Increase Health Insurance Benefits for Retired Educators

(H.P. 132) (L.D. 174)

(H. "B" H-815)

An Act to Amend the Membership Requirement for the Cumberland County Budget Advisory Committee

(H.P. 1388) (L.D. 1941)

(C. "A" H-811)

An Act to Correct Errors and Inconsistencies in Licensing Requirements for Licensed Insurance Professionals and Insurers

(S.P. 756) (L.D. 2034)

(C. "A" S-462)

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

#### TABLED AND TODAY ASSIGNED

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

HOUSE DIVIDED REPORT - Majority (7) **Ought to Pass as Amended by Committee Amendment "A" (H-828)** - Minority (5) **Ought Not to Pass** - Committee on **LABOR** on Bill "An Act to Provide a Cost-of-living Adjustment to Minimum Wage Earners" (H.P. 462) (L.D. 633)

**TABLED** - March 3, 1998 by Representative HATCH of Skowhegan.

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

On motion of Representative KONTOS of Windham, **TABLED** unassigned pending **ACCEPTANCE** of the Majority **OULD TO PASS AS AMENDED** Report.

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

Bill "An Act to Implement the Recommendations of the Interagency Committee on Outdoor Trash Burning"

(H.P. 1408) (L.D. 1972)

Which was **TABLED** by Representative ROWE of Portland pending **FURTHER CONSIDERATION**.

Representative ROWE of Portland moved that the House **RECEDE AND CONCUR**.

The **SPEAKER**: The Chair recognizes the Representative from Bridgewater, Representative Wheeler.

Representative **WHEELER**: Madam Speaker, Ladies and Gentlemen of the House. I don't want to debate this issue again. You all know how I stand on the issue. I would just like to remind you that this is a matter of local control and I feel that the people in each one of these rural communities or any community for that matter, should have a say in adopting this criteria. Thank you very much.

Representative **CAMPBELL** of Holden **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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 the motion to Recede and Concur. All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 427

**YEA** - Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Bunker, Chartrand, Chizmar, Colwell, Cowger, Davidson, Driscoll, Dutremble, Etnier, Farnsworth, Fisher, Fisk, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, Mailhot, McKee, Meres, Mitchell JE, Morgan, Muse, O'Neil, Paul, Perry, Poulin, Povich, Powers, Quint, Richard, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Tessier, Townsend, Tripp, Tuttle, Usher, Volenik, Watson, Winn, Wright, Madam Speaker.

**NAY** - Ahearn, Barth, Belanger DJ, Belanger IG, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Cianchette, Clark, Clukey, Cross, Desmond, Donnelly, Dunlap, Foster, Gerry, Gieringer, Gooley, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, LaVerdiere, Layton, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey, McElroy, Murphy, Nass, Nickerson, O'Brien, O'Neal, Ott, Peavey, Pendleton, Perkins, Pinkham RG, Pinkham WD, Plowman, Rines, Savage, Sirois, Snowe-Mello, Spear, Stanley, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winsor.

**ABSENT** - Berry DP, Bigl, Bodwell, Dexter, Honey, Lemaire, Pieh, Skoglund, Stevens, Thompson, Vigue.

Yes, 66; No, 74; Absent, 11; Excused, 0.

66 having voted in the affirmative and 74 voted in the negative, with 11 being absent, the motion to **RECEDE** and **CONCUR** was not accepted.

On motion of Representative ROWE of Portland, the House voted to **INSIST** and ask for a **COMMITTEE OF CONFERENCE**. Sent up for concurrence.

SENATE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (5) **Ought to Pass as Amended by Committee Amendment "A" (S-473)** - Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Require Tobacco Manufacturers to Disclose Ingredients Contained within Tobacco Products"

(S.P. 508) (L.D. 1570)

Which was tabled by Representative KONTOS of Windham pending **ACCEPTANCE OF EITHER REPORT**.

Representative MITCHELL of Portland moved that the House **ACCEPT** the Minority **Ought to Pass as Amended** Report.

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

Representative MITCHELL: Madam Speaker, Men and Women of the House. You wouldn't know it by all the lobbyists in the hall, this should not be a controversial bill. It is actually quite a simple matter. It involves the practice that we require for all other products. This bill merely requires tobacco companies to provide information about 15 known carcinogens. Carcinogens that are on the hazard substance list and carcinogens that are listed in every other product that they are found in. Products like gasoline, plywood and rocket fuel. Why would we want to protect a special exemption just for the tobacco company? Why should they alone be able to withhold this information? Why is withholding potentially dangerous information their top issue of the session, as quoted in the paper by tobacco lobbyist, Carol Martel-Reiss. This bill requires the tobacco companies to provide information to the Bureau of Health. What you are going to hear today is that you can get this information elsewhere. That is not true. If you search on the Internet, you can probably find some general information about benzene, arsenic and all these lovely products and find out that they are typically dangerous. What you can't get are brand by brand listings of the amounts of these carcinogens that are found in these products. You can't compare the product, even if you want to. You don't have to find out if you don't want to know. Dora Mills isn't going to chase you down in the halls. You don't have to know, but if you want to know what you are consuming, that is potentially deadly, you have a right to find that out. This makes that right available to all of us. Therefore, I urge the Ought to Pass as amended report.

Representative BROOKS of Winterport moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Brooks.

Representative BROOKS: Madam Speaker, Ladies and Gentlemen of the House. This is a bill that was carried over from last year. My position on this bill hasn't changed one bit. The bill, legislation very similar to it, not exactly the same, you are going to hear that, is currently in litigation in Massachusetts. Legislation similar to this was passed in another state. It looks as if we have the laboratories elsewhere. It looks as if we are going to be able to turn to these other states when they are able to clear up their act a little bit and be able to get the information that we need. My friend from Portland that says this information is not available brand by brand is absolutely correct. I went down to try to get it to through the law library. I did get information on all of these items that are included in cigarettes, but you can't get it brand by brand. If we are going to try to figure out a way for people to quit smoking, let's figure out a reasonable approach to this and not try to encourage them by putting together a list of ingredients that won't be published on a package of cigarettes. One of the arguments I have heard is this would give people a chance to choose between different brands and determine whether or not they want to use one that has

more or less carcinogens in it. I am not sure that is a very good argument for me.

I quit smoking many, many years ago. I believe that we ought to be out there encouraging and trying to figure out a way to convince teens from starting smoking, but not by spending money trying to force manufacturers to put the ingredients out there on a list when that list will become available to us from other sources. I am also concerned about whether or not we pass this bill, we, too, won't end up in court. I have been told we won't because Michigan or someplace else has already passed a bill similar to this. I very seriously doubt that. I would say that the most prudent thing to do and the most economically feasible thing to do is to wait. Again, my position hasn't changed from last year. Last year it was in litigation. Let's let it stay in litigation and let's look to other states to be able to get that information available to us. It is out on the Internet. You can go get it. Perhaps you can't get it for a particular type of cigarettes, but you certainly can get the information. I have done it myself.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Kane.

Representative KANE: Madam Speaker, Men and Women of the House. This is a good bill. This is not the right time. As the Representative from Winterport pointed out, there is currently litigation going on that may very well affect the future of this kind of a bill. In the last session I was an outspoken advocate against tobacco. That has not changed. The intent of this bill and what it could accomplish, I am very supportive of. The same reason why we held the bill over from last session is because current litigation continues. For consistency and principle, it makes no sense, at this time, to pass the bill while there is litigation going on in other courts that could nullify the effectiveness of this bill. I urge you to support the move for Indefinite Postponement. Thank you.

The SPEAKER: The Chair recognizes the Representative from Manchester, Representative Fuller.

Representative FULLER: Madam Speaker, Ladies and Gentlemen of the House. I am one of those people who was on the Minority Report that we really ought to pass this bill. Relative to the issue of lawsuits, the Massachusetts bill required that all ingredients be disclosed. That bill has been held up in the courts at one level, but I will acknowledge that it's presently under appeal. However, Minnesota passed a law last year which asked them to disclose the levels of five ingredients, all of which are known to be harmful. This law has not been challenged, if we do not anticipate a lawsuit based on a limited list of ingredients. All of these chemicals are commonly reported in tobacco products and are found on the hazardous substance list produced by OSHA, the EPA and NYOSH. All of the chemicals are regulated by these agencies except when it comes to tobacco products. I will tell you that the information that is presently available in our public library does not address brand issues. It is general information. It does not identify which brands contain more or less of these products.

These are chemicals that are not found commonly in products consumed by people. They are not found in food or drink. There is no other consumed product that the public does not know its ingredients. Coke and Pepsi list their ingredients and their trade secrets are still kept secret. Let me talk about some of these products. Ammonia, which is one of the products, is a corrosive substance causes irreversible damage to human tissue. The tobacco industry has recently been found to have manipulated the levels of ammonia in cigarettes since ammonia helps increase the absorption of nicotine. This allowed the tobacco industry to lower the levels of nicotine in tobacco products, but at the same time maintain the same amount of nicotine being absorbed by the smoker. In effect, keeping the



smoker addicted. Arsenic, how many of us really want to put arsenic in our bodies? It is a cancer causing agent. It is the most dangerous classification of carcinogens the US EPA denotes. It also causes damage to a fetus. Cadmium is another cancer causing agent that also causes damage to a fetus. It is used in making batteries. Do we really want to put that into our lungs? Formaldehyde is a carcinogen and also causes damage to genes. Cigarette smoke is reported to contain 90 micrograms per cigarette of formaldehyde. Yet the occupational exposure limit is 0.016 parts per million. Therefore, your smoker is absorbing much more of that particular product. Lead, we have all heard about lead and its impact on children. It is a cancer causing agent and also causes damage to the fetus. It causes permanent nerve damage, particularly to the fetus and child. Benzene is another class A cancer causing agent. A typical smoker inhales 2 milligrams of benzene daily. Higher than what is allowed under work conditions by OSHA.

I could go on and on with the rest of the list. It would be my position that if people have access to this information, that it will impact on their smoking habit. This information will be used by the Bureau of Health in their public education efforts. This information will be out there. I will also add that my husband died of smoking related illnesses after a very long serious bout with not being able to breath. The last two years of his life, he could not walk eight feet even with oxygen attached all the time without having to sit down and catch his breath. Let me tell you, it is one horrible way to die, as is lung cancer. I urge your defeat of the motion to Indefinitely Postpone.

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

Representative DAVIDSON: Madam Speaker, Men and Women of the House. I stand today to urge you to oppose the Indefinite Postponement of this bill. I will take it from a fairly different tact then it has been taken before. Just to talk a bit about what the Representative from Winterport and others who oppose this bill and their reasoning. I haven't heard one comment on the substance of this legislation. What I have heard is an issue of timing. There are certain constitutional perimeters that we have as we go about our responsibilities day to day here. We can take a number of things into account. We can take into account polls. We can take into account polls. We can take into account sentiment in our districts. We can take into account sentiment of the states, sentiment in the nation, the substance of the issues and we can take into account what happens in other states. I urge you never to use and I think if you look at the tradition and how our constitution is set up both in the state and in the nation, the states are empowered with incredible responsibility and rights to act as they so choose. The court system and the executive is there to balance that power and simply because there may be problems in Massachusetts or there are problems in Michigan, Minnesota or other places should in no way get in the way of what we decide to do day to day in this body. It is the whole point of our constitutional set up.

The second issue is that this information is out there. I would stand before you today and say that people who live in my hometown don't have legislative law bearers and maybe we can set up a program where you can amend this bill so that you can get 500 camel packs and return them for a computer and then everybody could get online and get the information from there. I think it is important that we empower the consumer with this information because I think if you read through this bill you will see that these are exactly the types of things that we don't want to go into the bodies of our kids and our neighbors and our friends and our families. I encourage you to vote against the Indefinite Postponement of this bill. Thank you Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Poland, Representative Snowe-Mello.

Representative SNOWE-MELLO: Madam Speaker, Men and Women of the House. I rise before you today to also give you a background on the other side of the story on some listed ingredients in LD 1570. I will give you really the other side of the story. Many of these ingredients are already found in foods and fish and let me just go through this with you. Cadmium is present in numerous foods such as meat, eggs, fish, milk products, oysters, salmon, rice and wheat, green leafy plants, not limited to vegetables, usually accumulate cadmium in their leaves. Arsenic is found in groundwater and hot springs and in all animals, especially in shrimp, clams, oysters, lobsters, scallops, mussels, crawfish and fish. I really love lobster and my goodness, I am going to give it up because arsenic is in there. According to the FDA arsenic and its compounds and widely distributed in nature and traces of arsenic are found in most foods. Formaldehyde occurs naturally in foods, fruits, vegetables, milk and milk products, meat and fish, shellfish, kidney beans and barley plants. Lead, let's talk about lead. Lead is present in soil, water and absorbed by all living organisms. It occurs naturally in all plants found in virtually all foods, radishes, potatoes, milk, wine, fish and seafood as well as drinking water. Ammonia is used in many fertilizers and in the preparation of foods. It is also used in the food and beverage industry as a source of nitrogen required for the growth of yeast. Also, I sometimes use ammonia to clean my kitchen floor. I would also like to make note that the four leading cigarette manufacturers do not add any of these substances in tobacco in the manufacturing of their cigarettes. Please, you know there is two sides to every story and I urge you to support the Indefinite Postponement of this bill.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Cameron.

Representative CAMERON: Madam Speaker, Ladies and Gentlemen of the House. I commend the people that are supporting this bill. I really, really believe that their intentions are admirable. If you recall in the last session, I was the sponsor of the Governor's bill to increase the taxes on cigarettes. I think maybe that qualifies me as being an anti-smoker. I don't want to be misconstrued when I urge you to support the Indefinite Postponement of this bill. I submit to you, ladies and gentlemen, that you can't find 10 people in the State of Maine today that don't know smoking is dangerous. We all know it. It is not news. I would also submit to you that smokers don't spend a lot of time researching which brand that they smoke. I am afraid that this bill could potentially have the exact opposite effect that we want than we intend. Does anybody in this room want to be a part of inadvertently sending the message to our young folks that a little bit of this is okay? Go out and find the brand that has the least amount of these materials and it is okay to smoke those. None of us wants to do that. I know the people supporting this bill don't want that, but I am, quite frankly, afraid that that is the message that we might be sending. If we truly want to do something about smoking, let's ban advertising of smoking. Let's deglamorize smoking. If we truly want to have an effect on it, I think that those are some of the avenues that we may want to consider. Again, I applaud the people that are trying to do this. I cannot accept that it is going to do any good. It is going to create more work and I don't believe with any effect. I do know and I have heard the debate in the other body that said if we only save 10 people it is worth doing. I don't dispute that. If we save one, it is worth doing. I don't think we are going to save anybody. I am truly afraid that the wrong message is going to be sent to our young people that a little bit of this is okay so go out and smoke brand X because that one won't bother you so much.

Again, if we truly want to do something, let's ban advertising. Thank you.

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

Representative COWGER: Madam Speaker, Men and Women of the House. This body, over the years, has established environmental regulations and as a member of the Natural Resources Committee, I can say I am quite familiar with them at this point. These regulations have been established in our state to protect the environment that belongs to all of us. We regulate chemicals indeed that are put into the air by business and industry, like it or not. Every single one of the chemicals on this list is regulated or required to be reported as it is discharged into our atmosphere. The atmosphere that we all breath. This is regulated now. It is difficult for me to understand why, when these chemicals are regulated being discharged into the atmosphere that we all breath, that the information should not be disclosed when we are inhaling it into our lungs directly. I would urge you to vote against Indefinite Postponement of this bill and to require similar regulations of these chemicals as we do into our general atmosphere. Thank you.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Etnier.

Representative ETNIER: Madam Speaker, Men and Women of the House. I want to preface my remarks by saying that in deference to the good Representative from Rumford, Representative Cameron, I would be more than willing to amend this bill to ban advertising for cigarettes if that is what you would like. Bring it on. I will help you draft it. First we have to defeat this motion before us of Indefinite Postponement. Let's do that, then we can get onto the good amendment that we will be working on to ban advertising as well. I would also like to request, before I forget to do it, that when the vote be taken, it be taken by the yeas and nays.

What are the tobacco companies so afraid of? That is what I cannot figure out here today. Why have the tobacco companies spent so much money lobbying against this one bill? Why do the tobacco companies want special rights and be uniquely exempt from public disclosure of any of their ingredients even the 15 known toxins, known carcinogens that we are requesting in this bill? Is it because they are at all concerned about the health of any Maine citizens? Is it because they are at all concerned that Maine has the highest youth smoking rate in the country? Is it because they are at all concerned with anything besides maximizing profits at the expense of smokers and non-smokers through second hand smoke, lives and health? I don't think that is the case. It is solely because they fear the release of factual information regarding known carcinogens will potentially decrease sales. That is the only reason they have been working the halls folks. It is not because they care about the people of the State of Maine, because they don't care about the people of the State of Maine because they are worried about their profits. As Representative Kane so eloquently stated, this is a good bill. For that sole reason, I ask you to oppose the motion that is before us today. Thank you for your time.

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

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

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

Representative TOWNSEND: Madam Speaker, Men and Women of the House. I can think of no other issue which so strongly accentuates the difference in thinking between the general public and those of us who spend our time under the

dome. We have been talking about tobacco for a good long time, a number of years now. I think that what we have discovered in that time is that the general public is anti-tobacco. They want to know what is in the cigarettes. They want to know information about the tobacco industry. It is only in the rarefied atmosphere of state houses where you have to run a gauntlet of suits, for those of you who like suits, to get into the chambers that we tend to see things a little differently. I would like to walk through some of the arguments which have been used against the bill so far. One was an issue of cost. I turned to the amendment and found that the fiscal note says that all the costs associated with the bill could be absorbed so that is simply not an issue. An issue of timing, there is never the right time to do the right thing. You can always wait and let the other states do it. We did that two years ago. We shouldn't sue the tobacco industry, those poor fellas. Forty other states went ahead and did the job for us. After, because of their guts, their strength, the Liggett Industry reached a settlement with those states. We said, wait a minute. Get us on the bandwagon. We want some of that money. We went ahead and decided that perhaps we did like that idea after all.

It has been argued that these ingredients are no big deal. I would suggest to you that if they were leaching into your drinking water, you would be calling the DEP. You would be upset. It has also been said that the information is available on the Internet. It has been pointed out that it is not brand specific. You have to be on the Internet and have access to it. Porn is on the Internet, that doesn't mean it is the best source of information for our children. What I am getting at is that all of these arguments are the arguments of a very cynical and manipulative industry, which has made millions, not millions, billions of dollars of profit creating a product which is addictive, which contains poisons and which will when used as directed, kill its consumer. They have killed my relatives. They have killed yours. They have laughed all the way to the bank. Are we going today to vote to continue their practices to allow them to make money by filling this hall with suits, grabbing you by the elbow as you walk through the door and saying, hey, I really need you on this one buddy, or are we going to stand up, have some guts, do the right thing and open the windows and let the sun shine on the facts? When we do that, we get somewhere. Because those other states and others had some guts, you cannot pick up a newspaper today without finding news of another memo or internal document from the tobacco industry which points out that yes, indeed, they certainly have been targeting children all these years. Gosh .what a surprise. We all knew it then. We have proof now because some other folks had the guts to make it happen. Because they had those guts, Joe Camel is a thing of the past. We have moved on and now we are selling cigarettes with sex, but at least my 7 year old thinks that is kind of gross.

The choice today really isn't about whether benzene is a good thing or a bad thing and whether arsenic is all right sometimes. The only choice is whether we are going to be the toadies of the tobacco industry or we are going to stand up and do the right thing for the people who elected us. Thank you.

The SPEAKER: The Chair recognizes the Representative from Wayne, Representative McKee.

Representative MCKEE: Madam Speaker, Men and Women of the House. I am not particularly comforted by my good colleague, Representative Snowe-Mello's litany of the toxic chemicals which appear today in our foods. I am not comforted that there is lead in our houses, that the deer which browse in Maine forests have cadmium in their livers. Our good friends, the Native Americans, don't dare eat it anymore. I am not comforted that I can't eat the fish out of any river in any vicinity of my home. I am not comforted that there is mercury and dioxin in

every lobster that we pick up and that we don't have a label that goes along with that lobster that says eating of this lobster could be dangerous to the health of women of childbearing years. How dare we not send a lobster out of Maine with that warning? It is true. A cigarette that you pick up today has 100 more chemicals in it than it had when I took a puff back in the 50s in high school. That stewed to the number of pesticides and insecticides that are sprayed on that tobacco. The two most heavily sprayed crops in the world today are tobacco and soy beans. You know where soy beans are, they are all through our foods. This is not going to go away. You know what is not going to go away because of the place I just left this morning because of schools, because of education. We are teaching to ask questions. What is in what I am eating? What is in what I am wearing? What is in what I am putting on my skin? We are asking those questions. We are going to get answers. The public is not going to let this question go away. Believe it or not, kids do not believe me when I read off that list of ingredients on cigarettes. Their reply, "No Mrs. McKee, not in the cigarettes, that is just tobacco." I tell them not unless you are growing it yourself organically, will you not find those chemicals. Why should we protect this industry? I suggest that we pay attention to what education is doing for our students and what it has done for us. It has taught us to ask questions and I want to know the answer. What is in those cigarettes? I want to see it on the label on the box. I hope you will support the committee on LD 1570.

The SPEAKER: The Chair recognizes the Representative from Bremen, Representative Pieh.

Representative PIEH: Madam Speaker, Ladies and Gentlemen of the House. My name is on the Minority Ought to Pass Report and I am rising to encourage you to vote against Indefinite Postponement. One of the reasons given was that there is a lawsuit in Massachusetts right now. I would like you to know that lawsuit is for all ingredients in the tobacco products. This is not a requirement for all ingredients. Should this law pass, it will not result in a lawsuit like in Massachusetts. The one other thing that I would like to say in response to the good Representative from Rumford, whom I respect very much is that my son is a smoker and he started at 13. He quit about three weeks ago for maybe the eighth or ninth time. He works very hard at trying to stop. If I had this list of the carcinogens and these ingredients that are dangerous to our health to show him and to share with him, it might help him gain the strength and save his life. I encourage you, please, to vote against the Indefinite Postponement so we can move on and pass the Minority Ought to Pass Report. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Plowman.

Representative PLOWMAN: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative PLOWMAN: Madam Speaker, Ladies and Gentlemen of the House. I am confused. I am reading the Committee Amendment and no where on the Committee Amendment does it say that the ingredients as listed and provided to the Bureau of Health will be put on every package of cigarettes in the state. I heard that in the debate and I would like to have someone from the committee clarify what the Committee Amendment does mean.

The SPEAKER: The Representative from Hampden, Representative Plowman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Mitchell.

Representative MITCHELL: Madam Speaker, Men and Women of the House. The Representative is correct. It does not require the ingredients to be listed on the box.

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

Representative QUINT: Madam Speaker, Men and Women of the House. I, like my good friend from Saco, believe that this is a good bill. I believe it is a very good bill. I, too, supported carrying it over this year because of the court case in Massachusetts. I think it is important to know that since then, the original appeal of the law was upheld. It now is being appealed again. Since then we have discovered that the law is very different. It is only 15 ingredients instead of all the ingredients that is stated in the Massachusetts law. I also think it is important to note and I know it has been said once before, but I need to say it one more time, is that there is no other product that we consume day to day that doesn't have the ingredients on this. As many of you received, I passed two labels around. One was Jell-O and one was Diet Coke. The other argument, of course, is that there are all these trade secret things that will be divulged if we start listing this information. I have to say that Diet Coke's best kept secret has been kept secret for years and that by disclosing this on the outside of their container has not jeopardized their market share and people aren't reproducing it. I would encourage you to defeat the Indefinite Postponement of this bill.

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

Representative BRAGDON: Madam Speaker, Ladies and Gentlemen of the House. We have had a lot of debate on this. I want to be very brief. Not only does this bill require that tobacco companies disclose what ingredients they use, the main opposition to this bill is that it requires the quantities of those ingredients which is trade secrets. Representative Quint referred to the labels that he photocopied and distributed. That list, in general, what those ingredients are, that information is already available on cigarettes brand specific. What this bill would do is require the companies to disclose how much of those 15 ingredients is in each cigarette. That is a trade secret and I don't think it is fair to ask any company to do that, regardless of whether they are a tobacco company or not. I hope you will support the Indefinite Postponement of this bill.

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

Representative MITCHELL: Madam Speaker, Ladies and Gentlemen of the House. In response to the last speaker, I would venture to guess that people aren't choosing their brands because they have more arsenic or benzene in them. The trade secrets that the tobacco industry is concerned about was flavorings and we are not including them on our list.

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

#### ROLL CALL NO. 428

YEA - Ahearne, Barth, Belanger DJ, Bigl, Bolduc, Bouffard, Bragdon, Brooks, Bruno, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Chizmar, Cianchette, Clark, Clukey, Cross, Dexter, Donnelly, Driscoll, Dunlap, Dutremble, Fisher, Fisk, Foster, Frechette, Gamache, Gerry, Goodwin, Jones SA, Joy, Joyce, Joyner, Kane, Kasprzak, Kerr, Kneeland, Kontos, Labrecque, Lane, Layton, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Brien, O'Neil, Ott, Paul, Pendleton, Perry, Pinkham RG, Pinkham WD, Plowman, Poulin, Rines, Savage, Saxl JW, Shannon, Snowe-Mello, Spear, Stanley, Stedman, Taylor, Tessier, Tobin, Treadwell, True, Underwood, Usher, Vigue, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor.

NAY - Bagley, Baker, Belanger IG, Berry RL, Brennan, Bryant, Bull, Bunker, Chartrand, Colwell, Cowger, Davidson, Desmond, Etnier, Farnsworth, Fuller, Gagne, Gagnon, Gieringer, Gooley, Green, Hatch, Jabar, Jones KW, Jones SL, LaVerdiere, Lemaire, McKee, Mitchell JE, Morgan, Muse, O'Neal, Peavey, Perkins, Pieh, Povich, Powers, Quint, Richard, Rowe, Samson, Sanborn, Saxl MV, Shiah, Sirois, Thompson, Townsend, Tripp, Tuttle, Vedral, Volenik, Watson, Wright, Madam Speaker.

ABSENT - Berry DP, Bodwell, Honey, Skoglund, Stevens.

Yes, 92; No, 54; Absent, 5; Excused, 0.

92 having voted in the affirmative and 54 voted in the negative, with 5 being absent, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** in concurrence.

SENATE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (S-463)** - Minority (4) **Ought Not to Pass** on Bill "An Act to Extend the Prevailing Wage Laws to the Maine Turnpike Authority"

(S.P. 708) (L.D. 1956)

Which was tabled by Representative HATCH of Skowhegan pending her motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

Representative JOYCE: Madam Speaker, Men and Women of the House. I think this bill is a bad idea. The original intent of the Davis Bacon laws and the prevailing wage laws was to regulate the wages on construction projects involving federal funds. The Maine Turnpike, none of the projects involve federal funds. I think it is a real bad precedent to set to start expanding all those laws to all the other construction projects. Thank you.

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

Representative PENDLETON: Madam Speaker, Ladies and Gentlemen of the House. The very interesting thing about this bill is that it suddenly makes the Maine Turnpike, like the State of Maine, a public entity and that any money coming into it, you are forcing them to recognize the prevailing wage laws and you are saying to them that you will do this. This is going to have the tendency to hurt the small contractor that comes in and does small jobs for the Maine Turnpike during the length of the turnpike. The prevailing wage is going to tell them that they are going to have to pay the prevailing wage for the industry and run up the costs and therefore may delay some of their projects because of the higher cost.

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

Representative WRIGHT: Madam Speaker, Men and Women of the House. Here we go again. What this will do for the small contractors is it will level the playing field. What it will do is they will know what the prevailing wage will be. They will know what their cost will be. It will just be easier for them to bid for the bigger companies. Over and over again we hear that it is going to hurt the small companies. It won't hurt the small companies. Also, I want you to know that the Maine Turnpike Authority and the Department of Labor had no objection to this when it was heard. Here we go again. I just hope you support this.

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

Representative HATCH: Madam Speaker, Men and Women of the House. When we heard this bill in committee, we had a couple of contractors who came forward to testify in opposition to this bill. One of the contractors put up metal buildings. I don't know what that had to do with constructing a road, but

nevertheless, he was in opposition. The other contractor when questioned by the committee members, we asked if he did other contracting jobs around the state and he said yes. Folks, if you do construction work on Route 1, 2 or on the Interstate, you are already under the prevailing wage. I can't see where this is going to hurt any contractors to bidding on a job. They all know going in how much they have to pay their laborers. I believe this is a very good bill. When the Turnpike Authority came in they said they would have to hire someone at \$70,000, I applied for the job only to find out the Labor Department already does that work, so there is no need for an extra person.

This is really a good bill. It brings everybody under the same umbrella and if they can do the work on Route 1 and 95 and have to pay the prevailing wage, then those same contractors can pay prevailing wage on the turnpike. Thank you.

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

Representative MACK: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative MACK: Madam Speaker, Men and Women of the House. It was my understanding that when the turnpike gets expanded and when work is done on the turnpike, that it will be paid for by an increase in tolls and also from some bonds. I would like to ask anyone who knows the answer, how much more will the tolls increase and how much more will the taxpayers of Maine have to pay if this goes through?

The SPEAKER: The Representative from Standish, Representative Mack has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Skowhegan, Representative Hatch.

Representative HATCH: Madam Speaker, Men and Women of the House. In answer to their question, I don't think anybody can calculate that at this point. I do know that the Turnpike Authority went out and questioned other states in regards to their prevailing wage. One of the states came back and said that it cost him less. It was underbudget and they finished the job more timely with experienced workers. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. I guess I must be missing something here. I am referring to what Representative Wright said previously, that being required to pay the prevailing wage would actually help out because then they would know what their costs were going to be and they could be competitive. I must be missing something here because when I put a bid out, the prevailing wage of carpentry in my area is probably about \$20 an hour. That is what the going rate is for most carpenters. I only charge \$15 an hour. I get, using that logic, I should have a better chance getting those bids if I charge that \$20 an hour. If I am wrong with my analysis of what was said by Representative Wright, I wish he could point out how that works because I would love to charge the \$20 an hour and get that work.

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

Representative WRIGHT: Madam Speaker, Men and Women of the House. What I said was all contractors will know before they go in what the wages will be. The wages and the benefits, hopefully. I just also want to say that back when we had this debate before about prevailing wage, I passed out some sheets and a national survey was done. When comparing the top 26 states in construction dollar volume despite an 81 percent wage differential between the top paying and the low paying, the highway stage averages \$123,000 per mile savings over the low wage stage. Why was this? They had highly skilled, highly

trained workers who they kept. We heard yesterday how the good companies keep their workers. They are highly trained and highly skilled. It is not like they are gypsies traveling from job to job. This will help the State of Maine. It will help the workers of Maine. It will help the families of Maine.

Representative MACK of Standish **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 Bridgton, Representative Waterhouse.

Representative WATERHOUSE: Madam Speaker, Men and Women of the House. I apologize for getting up again, but I can't believe what I am hearing. I would like to think that I am a great carpenter. In fact, I am. I get a lot of work that I have to turn away because I have too much work. I know carpenters that charge a lot more than I do, but don't get work. It is not because of the price they are charging. It is because they don't do their work very well. They have a reputation. Others charge that higher rate and they are good and they get the work also. Could I direct a question through the chair to Representative Wright?

The **SPEAKER**: The Representative may proceed.

Representative WATERHOUSE: Madam Speaker, Men and Women of the House. Representative Wright, could you tell me if I knew the prevailing wage for carpenters in my area is \$20 an hour, which it is, how being required to bid out at \$20 an hour would make my chances of getting that bid as opposed to charging like \$15?

The **SPEAKER**: The Representative from Bridgton, Representative Waterhouse has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Berwick, Representative Wright.

Representative WRIGHT: Madam Speaker, Men and Women of the House. As we say in the industry and I am from that industry, you have to use a very sharp pencil on your other costs.

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

Representative COLWELL: Madam Speaker, Men and Women of the House. I think that is the point. If the wages are equal, the difference will be in your productivity. How smart you do the job. How well you do the job. That is the answer to the good Representative from Bridgton. I would just like to say that we seem to be spending a lot of time this week debating ways to lower wages for Maine workers. I, for one, plan to support this motion. I want to go on record as being in favor of raising the wages for Maine workers.

The **SPEAKER**: The Chair recognizes the Representative from Carmel, Representative Treadwell.

Representative TREADWELL: Madam Speaker, Ladies and Gentlemen of the House. I am on the opposition side on this bill. For the reason we all have been discussing here, it is going to increase the cost of widening the Maine Turnpike, those projects. Having said that, there is a plus side. I think if we continue to raise the cost of doing business in the State of Maine as we have done all this week, as has been pointed out, we are going to run our companies out of business. We are going to run them out of state. We are not going to have to widen that turnpike. That is the plus side of this argument I believe.

The **SPEAKER**: The Chair recognizes the Representative from Jay, Representative Samson.

Representative SAMSON: Madam Speaker, Men and Women of the House. Of course I rise to support this legislation. Currently, this involves all state projects and state highways. I think the reason why the turnpike has never been covered is it

was believed that by now the state would have those highways. Most contractors that work on the Maine Turnpike pay prevailing wage. The bottom line of this legislation is that local workers could be protected from outsourcing to cheap labor. That is the bottom line.

The **SPEAKER**: The Chair recognizes the Representative from Scarborough, Representative Pendleton.

Representative PENDLETON: Madam Speaker, Men and Women of the House. I just want to clarify what the good lady from Skowhegan had to say about the contractor who built metal buildings that spoke before you. He was the president of the Associated General Contractors of the State of Maine. He was representing their position. It wasn't necessarily his because he said he was outside of this normal part of operation.

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. 429

YEA - Ahearn, Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Bunker, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Goodwin, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemke, Mailhot, McKee, Meres, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Perry, Pieh, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Stanley, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Volenik, Watson, Wheeler GJ, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Bigl, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Dexter, Donnelly, Fisk, Foster, Gieringer, Gooley, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey, McElroy, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Pendleton, Perkins, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Winglass, Winn, Winsor.

ABSENT - Berry DP, Bodwell, Honey, Poulin, Skoglund, Stevens, Vigue, Wheeler EM.

Yes, 78; No, 65; Absent, 8; Excused, 0.

78 having voted in the affirmative and 65 voted in the negative, with 8 being absent, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-463)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, March 6, 1998.

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SENATE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (5) **Ought to Pass as Amended by Committee Amendment "A" (S-468)** on Bill "An Act to Exempt from State Income Tax Previously Taxed Contributions to an Individual Retirement Account"

(S.P. 636) (L.D. 1853)

Which was tabled by Representative TRIPP of Topsham pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

Subsequently, the Majority **Ought Not to Pass** Report was **ACCEPTED**.

LEGISLATIVE RECORD - HOUSE, March 5, 1998

On motion of Representative PLOWMAN of Hampden, the House **RECONSIDERED** its action whereby the Majority **Ought Not to Pass** Report was **ACCEPTED**.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Plowman.

Representative PLOWMAN: Madam Speaker, Men and Women of the House. This bill after you read the title is a little bit difficult to understand, but I think I got a handle on it. Basically it is asking that people who have already been taxed on their IRAs once and are switching their IRAs to the State of Maine, not be subject to double taxation. It seems like a common sense bill and I would ask you to oppose the Majority Ought Not to Pass and I ask for a division.

Representative PLOWMAN of Hampden **REQUESTED** a division on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

The Chair ordered a division on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

A vote of the House was taken. 65 voted in favor of the same and 59 against, the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

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On motion of Representative OTT of York, the House adjourned at 11:40 a.m., until 9:00 a.m., Friday, March 6, 1998 in honor and lasting tribute to Henry W. Ott of Palm Harbor, Florida and Hon. Harvey Bevis Johnson, of Smithfield.