

MAINE STATE LEGISLATURE

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Legislative Record
House of Representatives
One Hundred and Nineteenth Legislature
State of Maine

Volume I

First Regular Session

December 2, 1998 – May 12, 1999

ONE HUNDRED AND NINETEENTH LEGISLATURE
FIRST REGULAR SESSION
35th Legislative Day
Thursday, April 8, 1999

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

Prayer by Father Lionel G. Chouinard, St. Augustine Church, Augusta.

National Anthem by Lyman Moore Middle School Band, Portland.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

SENATE PAPERS

The following Joint Order: (S.P. 766)

ORDERED, the House concurring, that Bill, "An Act to Clarify the Voting Rights of Persons Residing in Certain Sanitary Districts," S.P. 187, L.D. 580, and all its accompanying papers, be recalled from the legislative files to the Senate.

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

READ.

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

Representative **DAVIDSON**: Mr. Speaker, Men and Women of the House. I ask leave of the House to recall this bill back from the files. Mr. Speaker besides the fact that we had so much fun with it the first time around, a number of times we have charter changes in these sanitary districts and sewer districts that change and need referendum changes. There were certain issues within the charter that happened after this bill was killed. As a courtesy to members, we try to go out of our way to accommodate local members and their sanitary districts. I would appreciate the House leave to bring this back. Thank you.

Pursuant to Joint Rule 404, this Joint Order requires the affirmative vote of two-thirds of those present for **PASSAGE**. 105 having voted in the affirmative and 45 in the negative, 105 being more than two-thirds of the membership present, the Order was **PASSED** in concurrence.

The following Joint Order: (S.P. 767)

ORDERED, the House concurring, that the Joint Select Committee to Review the Maine Tort Claims Act is established as follows.

1. Committee established. The Joint Select Committee to Review the Maine Tort Claims Act, referred to in this order as the "committee," is established.

2. Membership. The committee consists of 13 members appointed as follows.

A. The President of the Senate shall appoint 3 members from the Senate who either serve on the Joint Standing Committee on Judiciary or are interested in reviewing the Maine Tort Claims Act.

B. The Speaker of the House of Representatives shall appoint 10 members from the House of Representatives who either serve on the Joint Standing Committee on Judiciary or are interested in reviewing the Maine Tort Claims Act.

3. Chairs. The first Senate member named is the Senate chair and the first House member named is the House chair.

4. Appointments; convening committee. All appointments must be made no later than 30 days following the effective date of this order. The appointing authorities shall notify the Executive Director of the Legislative Council upon making their appointments. When the appointment of all members is complete, the chairs of the committee shall call and convene the first meeting of the committee no later than 60 days following the effective date of this order.

5. Duties. The committee shall review the Maine Tort Claims Act including, but not limited to, the limitation on damages established in the Maine Revised Statutes, Title 14, section 8105, subsection 1 and the experience of the Legislature in acting upon claims submitted to the Legislature pursuant to section 8105, subsection 3.

6. Staff assistance. Upon approval of the Legislative Council, the Office of Policy and Legal Analysis shall provide necessary staffing services to the committee.

7. Compensation. Members of the committee are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2 and reimbursement for travel and other necessary expenses for attendance at meetings of the committee.

8. Report. The committee shall submit a report along with any recommended legislation to the Joint Standing Committee on Judiciary no later than November 1, 1999. Following receipt of the report, the Joint Standing Committee on Judiciary may introduce legislation to the Second Regular Session of the 119th Legislature. If the committee requires an extension of time to make its report, it may apply to the Legislative Council, which may grant the extension.

9. Committee budget. The chairs of the committee, with assistance from the committee staff, shall administer the committee's budget. Within 10 days after its first meeting, the committee shall present a work plan and proposed budget to the Legislative Council for its approval. The committee may not incur expenses that would result in the committee exceeding its approved budget.

Upon request from the committee, the Executive Director of the Legislative Council or the Executive Director's designee shall provide the committee chair and staff with a status report on the study budget, expenditures incurred and paid and available funds.

Came from the Senate, **READ** and **REFERRED** to the Committee on **JUDICIARY**.

READ and **REFERRED** to the Committee on **JUDICIARY** in concurrence.

The following Joint Order: (S.P. 771)

WHEREAS, the Legislature finds that there is a trend in other states to change the way in which income of multistate businesses is apportioned for income tax purposes; and

WHEREAS, the interaction of different apportionment approaches creates a disincentive for capital investment in Maine; and

WHEREAS, this trend may be placing Maine at a competitive disadvantage in attracting and retaining investment and jobs; now, therefore, be it

ORDERED, the House concurring, that the Commission to Study Single-sales Factor Apportionment is established as follows:

1. Commission established. The Commission to Study Single-sales Factor Apportionment, referred to in this order as the "commission," is established.

2. Membership. The commission consists of the following 11 members:

- A. The State Tax Assessor or the State Tax Assessor's designee;
- B. The Commissioner of Economic and Community Development or the commissioner's designee;
- C. Three members from the Senate appointed by the President of the Senate. Two of these members must be members of the Joint Standing Committee on Taxation and one member must be a member of the Joint Standing Committee on Business and Economic Development;
- D. Four members of the House of Representatives appointed by the Speaker of the House. Three of these members must be members of the Joint Standing Committee on Taxation and one member must be a member of the Joint Standing Committee on Business and Economic Development; and
- E. Two members of the business community appointed by the Governor.

3. Chairs. The first Senate member named is the Senate chair. The first House member named is the House chair.

4. Appointments; convening commission. All appointments must be made no later than 30 days following the effective date of this order. The appointing authorities shall notify the Executive Director of the Legislative Council upon making their appointments. When the appointment of all members is complete, the chairs of the commission shall call and convene the first meeting of the commission no later than August 15, 1999.

5. Duties. The commission has the following duties:

- A. To gather information pertaining to single-sales factor corporate income tax apportionment, including, without limitation, the experience of other states that have adopted single-sales factor corporate income tax apportionment; and
- B. To make recommendations to the Joint Standing Committee on Taxation as to the advisability of adopting single-sales factor corporate income tax apportionment in the State, including any recommendations for legislation.

6. Staff assistance. Upon approval of the Legislative Council, the Office of Fiscal and Program Review shall provide necessary staffing services to the commission. The Department of Administrative and Financial Services, Bureau of Revenue Services shall provide information and services as requested by the commission.

7. Compensation. Legislative members of the commission are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2 and reimbursement for travel and other necessary expenses for attendance at meetings of the commission.

8. Report. The commission shall submit a report to the Joint Standing Committee on Taxation by January 1, 2000. The Joint Standing Committee on Taxation may introduce legislation in the Second Regular Session of the 119th Legislature to implement the recommendations of the commission.

9. Commission budget. The chairs of the commission, with assistance from the commission staff, shall administer the commission's budget. Within 10 days after its first meeting, the

commission shall present a work plan and proposed budget to the Legislative Council for its approval. The commission may not incur expenses that would result in the commission exceeding its approved budget.

Upon request from the commission, the Executive Director of the Legislative Council or the executive director's designee shall provide the commission chairs and staff with a status report on the study budget expenditures incurred and paid and available funds.

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

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

Non-Concurrent Matter

Bill "An Act to Reimburse Androscoggin County for Shortfalls in State Reimbursement for Jail Costs"

(H.P. 1511) (L.D. 2159)

REFERRED to the Committee on **CRIMINAL JUSTICE** in the House on April 7, 1999.

Came from the Senate **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** in **NON-CONCURRENCE**.

The House voted to **ADHERE**.

Non-Concurrent Matter

Bill "An Act to Transfer the Regulatory Responsibilities of the Arborist Examining Board to the Department of Agriculture, Food and Rural Resources"

(H.P. 1025) (L.D. 1436)

PASSED TO BE ENGROSSED in the House on March 30, 1999.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-63)** in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act to Expand the Number of Lights Firefighters May Use on Their Motor Vehicles"

(H.P. 38) (L.D. 52)

Minority (2) **OUGHT TO PASS AS AMENDED** Report of the Committee on **TRANSPORTATION** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-84)** in the House on March 31, 1999.

Came from the Senate with the Majority (9) **OUGHT NOT TO PASS** Report of the Committee on **TRANSPORTATION** **READ** and **ACCEPTED** in **NON-CONCURRENCE**.

The House voted to **ADHERE**.

COMMUNICATIONS

The Following Communication: (H.C. 127)

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333**

March 22, 1999

Honorable Joseph W. Mayo
Clerk of the House
State House Station #2
Augusta, ME 04333
Dear Clerk Mayo:

Pursuant to my authority under 22 MRSA, §3883, I am appointing Representative Michael Quint of Portland to the Maine Children's Trust Fund.

Sincerely,
S/G. Steven Rowe
Speaker of the House

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 128)

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333**

March 22, 1999
Honorable Joseph W. Mayo
Clerk of the House
State House Station #2
Augusta, ME 04333
Dear Clerk Mayo:

Pursuant to my authority under 38 MRSA, §954, I am appointing Rep. Christopher O'Neil of Saco to the Saco River Corridor Commission.

Sincerely,
S/G. Steven Rowe
Speaker of the House

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 129)

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333**

March 22, 1999
Honorable Joseph W. Mayo
Clerk of the House
State House Station #2
Augusta, ME 04333
Dear Clerk Mayo:

Pursuant to my authority under 37-B MRSA, §792, I am appointing Mr. Tom Blaisdell of West Buxton to the Emergency Response Commission.

Sincerely,
S/G. Steven Rowe
Speaker of the House

READ and ORDERED PLACED ON FILE.

**PETITIONS, BILLS AND RESOLVES REQUIRING
REFERENCE**

The following Bills and Resolves were received, and upon the recommendation of the Committee on Reference of Bills were **REFERRED** to the following Committees, ordered printed and sent for concurrence:

EDUCATION AND CULTURAL AFFAIRS

Bill "An Act to Establish a School Voucher Program"
(H.P. 1520) (L.D. 2170)

Presented by Representative GLYNN of South Portland.
Cosponsored by Representatives: BUCK of Yarmouth, JOY of Crystal, MACK of Standish, MENDROS of Lewiston, TRAHAN of Waldoboro.

JUDICIARY

Bill "An Act to Create the Maine Surrogacy Law"
(H.P. 1523) (L.D. 2173)

Presented by Representative GERRY of Auburn. (BY REQUEST)

TRANSPORTATION

Resolve, to Require the Department of Transportation to Build a Truck Escape Ramp on Route 16 in Bingham

(H.P. 1521) (L.D. 2171)

Presented by Representative McGLOCKLIN of Embden.
Cosponsored by Senator MILLS of Somerset and Representatives: DUGAY of Cherryfield, FISHER of Brewer, FULLER of Manchester, GILLIS of Danforth, SHIAH of Bowdoinham, TRAHAN of Waldoboro.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Bill "An Act Requiring That the Costs of Transporting Highway Construction and Maintenance Materials to Isle au Haut by Barge or Ferry be Paid from the Highway Fund"

(H.P. 1522) (L.D. 2172)

Presented by Representative VOLENIK of Brooklin.
Cosponsored by Senator PINGREE of Knox and Representatives: DUDLEY of Portland, PERKINS of Penobscot, SANBORN of Alton, SKOGLUND of St. George.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

ORDERS

On motion of Representative BROOKS of Winterport, the following Joint Order: (H.P. 1524) (Cosponsored by Senator CATHCART of Penobscot and Representatives: MURPHY of Kennebunk, SAXL of Portland, THOMPSON of Naples, Senators: BENOIT of Franklin, KILKELLY of Lincoln, LIBBY of York, LONGLEY of Waldo, PINGREE of Knox)

WHEREAS, the Maine Indian Claims Settlement Act of 1980 recognized Maine's Native American Tribes as Sovereign Nations; and

WHEREAS, the Legislature finds that there is a need to address the issue of recognition of the tribal government representatives of Maine's Native Sovereign Nations in the Legislature; and

WHEREAS, the Legislature finds that there is a need to conduct a study to review the involvement of Native American tribes in state legislatures throughout the United States and other countries; now, therefore, be it

ORDERED, the Senate concurring, that the Committee to Address the Recognition of the tribal government representatives of Maine's Native Sovereign Nations in the Legislature is established as follows.

1. Committee established. The Committee to Address the Recognition of the Tribal Government Representatives of

Maine's Native Sovereign Nations in the Legislature, referred to in this order as the "committee," is established.

2. Membership. The committee consists of 8 members as follows.

A. The President of the Senate shall appoint 3 members from the Senate, one of whom must be a member of the minority party.

B. The Speaker of the House of Representatives shall appoint 3 members from the House of Representatives, one of whom must be a member of the minority party.

C. The Representative of the Penobscot Nation to the Legislature.

D. The Representative of the Passamaquoddy Tribe to the Legislature.

3. Chairs. The first Senate member named is the Senate chair and the first House member named is the House chair.

4. Appointments; convening committee. All appointments must be made no later than 30 days following the effective date of this order. The appointing authorities shall notify the Executive Director of the Legislative Council upon making their appointments. Within 15 days after all members have been appointed, the chairs shall call and convene the first meeting of the committee. The committee may meet as often as necessary, at the call of the chairs.

5. Duties. The committee shall conduct a study to address the issue of recognition of the tribal government representatives of Maine's Native Sovereign Nations in the Legislature. In conducting the study, the committee shall review:

A. The current participation and responsibilities that Native American representatives have in the legislative process throughout the nation and other countries;

B. The rules concerning such participation contained in the House Rules, Senate Rules and Joint Rules of the 119th Legislature; and

C. With input from the office of the Attorney General and tribal attorneys, the possible constitutional issues arising from such representation as well as the issues that may arise from the Maine Indian Claims Settlement Act of 1980.

The study must address the issues of voting rights and the sponsorship of legislation and may include other relevant issues.

6. Staff assistance. Upon approval of the Legislative Council, the Office of Policy and Legal Analysis shall provide necessary staffing services to the committee.

7. Compensation. Members of the committee are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses for attendance at meetings of the committee.

8. Report. The committee shall submit a report along with any recommended legislation and any recommended changes to the House Rules, Senate Rules and Joint Rules to the Joint Standing Committee on Judiciary and the Legislative Council by December 1, 1999. Following receipt of the report, the Joint Standing Committee on Judiciary may introduce legislation to the Second Regular Session of the 119th Legislature. If the committee requires an extension of time to make its report, it may apply to the Legislative Council, which may grant the extension.

9. Committee budget. The chairs of the committee, with assistance from the committee staff, shall administer the committee's budget. Within 10 days after its first meeting, the

committee shall present a work plan and proposed budget to the Legislative Council for its approval. The committee may not incur expenses that would result in the committee's exceeding its approved budget.

READ and **REFERRED** to the Committee on **JUDICIARY**. Sent for concurrence. **ORDERED SENT FORTHWITH.**

On motion of Representative SIROIS of Caribou, the following House Order: (H.O. 21)

ORDERED, that Representative David G. Lemoine of Old Orchard Beach be excused March 31st for personal reasons.

AND BE IT FURTHER ORDERED, that Representative David R. Madore of Augusta be excused April 5th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Kevin L. Shorey of Calais be excused March 30th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Jane W. Saxl of Bangor be excused March 31st for personal reasons.

READ and **PASSED.**

REPORTS OF COMMITTEE

Change of Committee

Representative COWGER from the **JOINT SELECT COMMITTEE ON RESEARCH AND DEVELOPMENT** and the Committee on **UTILITIES AND ENERGY** on Bill "An Act to Strengthen Maine's Research and Development Capacity in Renewable Energy Resources"

(H.P. 1152) (L.D. 1649)

Reporting that it be **REFERRED** to the Committee on **UTILITIES AND ENERGY**.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **UTILITIES AND ENERGY**.

Sent for concurrence.

Ought to Pass As Amended

Report of the Committee on **JUDICIARY** on Bill "An Act to Amend the Provisions Relating to Executive Sessions in Connection with the Transaction of Public or Government Business"

(S.P. 94) (L.D. 233)

Reporting **Ought to Pass As Amended by Committee Amendment "A" (S-55)**.

Came from the Senate with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-55) AS AMENDED BY SENATE AMENDMENT "A" (S-65)** thereto.

Report was **READ** and **ACCEPTED**. The Bill **READ ONCE**. **COMMITTEE AMENDMENT "A" (S-55) READ** by the Clerk. **SENATE AMENDMENT "A" (S-65) READ** by the Clerk and **ADOPTED**. **COMMITTEE AMENDMENT "A" (S-55) AS AMENDED BY SENATE AMENDMENT "A" (S-65)** thereto **ADOPTED**.

The Bill was assigned for **SECOND READING** Tuesday, April 13, 1999.

Divided Report

Majority Report of the Committee on **MARINE RESOURCES** reporting **Ought to Pass** on Bill "An Act to Ensure Safety in the Sale of Shellfish"

(H.P. 792) (L.D. 1115)

Signed:
Senators:

GOLDTHWAIT of Hancock
PENDLETON of Cumberland
MacKINNON of York

Representatives:

Harbor

STANWOOD of Southwest
HONEY of Boothbay
ETNIER of Harpswell
LEMONT of Kittery

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

Signed:
Representatives:

USHER of Westbrook
VOLENIK of Brooklin
PINKHAM of Lamoine
PIEH of Bremen
BAGLEY of Machias
McNEIL of Rockland

READ.

Representative ETNIER of Harpswell moved that the House **ACCEPT** the Majority **Ought to Pass** Report.

The SPEAKER: The Chair recognizes the Representative from Lamoine, Representative Pinkham.

Representative **PINKHAM**: Mr. Speaker, Men and Women of the House. I ask that you not support the Ought to Pass report. This was a divided report. It was a seven to six report out of committee. This bill is the identical bill that we had two years ago in front of our committee and it was defeated at that time and I recommend that it be defeated this time. This bill is a bill that would require people harvesting clams, shellfish along the Maine coast, this would mandate that they would have to sell to a certified wholesale dealer in the State of Maine. Right now along the coast we have a lot of restaurants in the summertime that sell steamed clams. As the law is now, harvesters can sell steamed clams directly to the restaurants for local consumption in those restaurants. Say this bill is passed, it would require those harvesters to have to sell to a wholesale dealer and then the restaurants would have to go buy from the wholesale dealers.

Two years ago when this bill came up, the Department of Marine Resources tried to get this bill pushed through saying that it was a safety problem. The Interstate Shellfish Sanitation Program was in affect here. I say that the Interstate Shellfish Program is just what it says it is. It is an interstate program and it only applies to clams that are being shipped or transported beyond the limits of the State of Maine. Nobody has come up with any proof that clams that are sold and consumed in the State of Maine come under this interstate shellfish. If it did, it would be an intrastate shellfish program. This is an interstate shellfish program which applies to clams being shipped or transported beyond the limits of the State of Maine. We asked for information if people are getting sick off these clams. In the last two years we have had no records of anybody in the State of Maine being taken ill by consuming clams that have not gone through a certified dealer. Across the country there were several hundred cases of people getting ill, but mostly gulf coast states.

It is interesting to know that the clams or shellfish that these people have been getting ill off of all came from certified dealers. I don't see why we should put more rules and regulations on the small harvesters in the State of Maine when there is no law that says they have to do this anyway.

The people that are pushing this is the federal government. They have come up with a model ordinance they call it. If all the states would go with this model ordinance, it would be great, but it is not a law. It is only a recommendation. I don't feel that we should pass this. Like I said, it is the same bill that came in front of us two years ago. We defeated it and nothing has changed on any of the playing fields as far as people getting sick or no laws have changed since that. All of the sanitation regulations in the state are done by rules and regulations by the department, not by state law. I ask that you defeat this motion. If the department really wants to do something with this, they can do it by rules. They don't have to do it by passing state laws. Thank you very much.

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

Representative **ETNIER**: Mr. Speaker, Men and Women of the House. The good Representative from Lemoine, Representative Pinkham, is correct. This bill was before us two years ago. It was a department bill then. It is a department bill today. Two years ago it never made it out of the committee. This year it did with a slim majority support. I am on the Majority Report. This time around the majority of the committee believed quite strongly that this was a serious issue to the harvesters of the State of Maine. I say that because if we do not get in compliance with the Interstate Shellfish Sanitation Conference on this particular issue of sales to certified dealers only then they have the ability to find us in non-compliance in what is called an unresolved issue and at that point they can shut down interstate sales of all of our shellfish. That doesn't just mean soft shell clam. It means cohogs, it means the huge mussel agriculture and it means any shellfish produced in the state could no longer be sold out of the State of Maine. If you don't think that is a big deal, that is at least 50 percent of our market especially during the off summer months goes to the out of state and international markets. Those sales would be no longer possible if we did not get in compliance with this particular issue.

To the diggers and harvesters in my area and probably a majority of them in the State of Maine, that is a serious threat. What the impact of that would be to drive the market price down, the amount of money they get paid, down dramatically. It would potentially impact the image of the safety and health of sanitation of Maine's shellfish for a long time if we were found in non-compliance with this issue.

What this does do, potentially, if we pass this bill, don't get me wrong, there will be what is believed to be a small portion of the harvesters of shellfish in the State of Maine will no longer be able to sell directly to a restaurant or directly to a retail operation who does not meet the certified deal qualifications. That is true. If the restaurant or the retailer does not choose to get into the dealer program and meet the requirements, which I have listed here, they would not be able to buy directly from the diggers. That does not mean the digger cannot sell to anyone who is a certified dealer. It does not mean that the digger cannot sell directly to the consumer. Those things he can continue to still do or she could continue to still do.

That is really it for me. We had a number of people speak at the public hearing urging us to finally get in compliance with this including the Maine Soft Shell Clam Advisory Council and a

number of the shellfish dealers up and down the coast and a handful of harvesters as well, who came to us and pleaded with us to recognize this as a very serious threat to their livelihood if we do not get into compliance. I do recognize it may very well impact a handful of diggers who will get perhaps a less market price if they can't sell directly to a restaurant, but the vast majority of diggers are placed at a far greater threat if we do not get into compliance. The threat, I believe, is fairly real. I believe the majority of the committee felt it was real.

I will read from a letter I got from the Interstate Shellfish Sanitation Conference dated March 17th of this year from the executive director. If you will bear with me, just one or two sentences. "The FDA regional shellfish specialist has communicated on numerous occasions the FDA's concern regarding the statutory issue. The FDA has indicated that continued failure by the state in this regard will result in the initiation of the unresolved issue process as outlined in the ISSC constitution by laws and procedures. Ultimately this process could result in the removal from the ICSSL of all shellfish dealers certified by the State of Maine. This action would prevent shellfish dealers certified by your state from shipping shellfish products in interstate commerce." That is a very real threat. They have been very patient waiting for us to get in line on this particular issue. It is not a big deal to the diggers of the State of Maine to do so. I urge you to support the Majority Report. Thank you.

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

Representative **PIEH**: Mr. Speaker, Ladies and Gentlemen of the House. Good morning. I rarely find myself on the other side from the resident from Harpswell. I have a great deal of respect for him. However, it is not a handful of harvesters. I have talked to several harvesters in my area and not one of them would like to lose the opportunity to be selling directly to the restaurants and small retailers that they sell to. I have talked to some restaurants and they said the reason they want to buy directly from the harvesters is they are guaranteed a fresh clam. They develop relationships with these people over time and they are sure of what they are getting and where it comes from. It is much fresher than if they buy from a dealer who may store it for several days. The harvester almost digs to order for restaurants they have relationships with. I think it is a valid point to be concerned about federal interstate rules. I think that is our problem and not the harvesters problem. I think we need to work on getting Maine a waiver if we need to go for our in-state sales. None of these clams go out of state. We need to do things like that or we need to say that all restaurants are automatically licensed because they have whatever the things are that a dealer would have so that we would protect our harvesters. Clam diggers don't make a lot of money. This makes a huge difference for those harvesters and what they put in their pocket. For them, it is their livelihood. They worked really hard to build relationships and their clams are reliable. If their clams are older, they will sell them to a dealer and not to the restaurants. The dealers don't do anything special with these clams. They don't put them through some three or four day process that gets rid of any fecal bacteria that might cause a bit of sickness if you don't cook them properly. The only thing the dealers do that is different is, they have some regulations they have to have a place of business and have some things on that plate. I encourage you, ask you, to defeat the pending motion and put this bill through Ought Not to Pass. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Daigle.

Representative **DAIGLE**: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **DAIGLE**: Mr. Speaker, Men and Women of the House. I am concerned being somebody who as a child being used to pick blueberries for sale to restaurants. I am concerned about what kind of a precedent this is. In particular, are there any other examples where the federal government imposes a middleman between the harvester and the marketplace or is this a concept of imposing this on the clam digger the first in a series of federal impositions or is it just one of many that we just know becoming aware of? Thank you Mr. Speaker.

The SPEAKER: The Representative from Arundel, Representative Daigle has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Brooklin, Representative Volenik.

Representative **VOLENIK**: Mr. Speaker, Men and Women of the House. I will attempt to answer part of that question. This is being imposed by the federal government. It is being imposed that there should be a middle man. The imposition is actually encouraged by the middle man himself. This is an issue between the small traditional harvesters of clams who traditionally sell to their local retailer or local restaurant and the ever growing middle man who now has the lobbying power to lobby the federal government for stronger regulations so that that middle man be buyer and seller of clams both in state and out of state so that that buyer can gain a larger share of the market and not the small little harvester right out of the market. That is the basis of this issue and the good Representative is correct. If we set this precedent, where will it go to next? What sellers of products will gain a market share of other products in this state. It is a great danger we have to face. We were able to defeat this measure two years ago. It is time that we defeat it now and stop this ever growing process of lobbying power ever enriching the middle man and those processors and sellers who have the power to expand their power across this state. Thank you.

The SPEAKER: The Chair recognizes the Representative from Pembroke, Representative Goodwin.

Representative **GOODWIN**: Mr. Speaker, Men and Women of the House. Living on the coast in Washington County, Pembroke, I can speak for probably 400 to 500 diggers between Calais and Milbridge. They make their living on the flats.

I will go to the safety issue first. They dig on flats that are opened and closed by the state, DMR biologists, by inspection. The red tide inspections are being paid for by the cohog tax. Sixteen thousand dollars of that goes into red tide inspection. During the month of August, usually when the water temperatures climb, we have the red tide bloom and they close down certain flats. The clam diggers in Washington County and the rest of the State of Maine who sell steamers and have been doing so for 100 years. They should be allowed to continue that process regardless of the wholesalers and the federal government. Let's give those folks back home a chance to go at it. I would appreciate a vote not in support of the Ought to Pass, but let's defeat that and go on to take care of the problem. I thank the Speaker.

The Chair ordered a division on the motion to **ACCEPT** the Majority **Ought to Pass** Report.

Representative PIEH of Bremen **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass** Report.

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

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

ROLL CALL NO. 66

YEA - Andrews, Bull, Colwell, Davidson, Desmond, Dunlap, Etnier, Gagnon, Hatch, Honey, Kane, Lemont, McDonough, Norbert, O'Neal, Perry, Saxl JW, Saxl MV, Stanwood, Thompson, Tripp, Twomey, Wheeler GJ.

NAY - Ahearne, Bagley, Baker, Belanger, Berry DP, Berry RL, Bouffard, Bowles, Bragdon, Brennan, Brooks, Bruno, Bryant, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Cote, Cowger, Cross, Daigle, Davis, Dudley, Dugay, Duncan, Duplessie, Fisher, Foster, Frechette, Fuller, Gagne, Gerry, Gillis, Glynn, Goodwin, Gooley, Heidrich, Jacobs, Jodrey, Jones, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Matthews, Mayo, McAlevey, McGlocklin, McKee, McKenney, McNeil, Mendros, Mitchell, Murphy E, Murphy T, Muse, Nass, Nutting, O'Brien, O'Neil, Peavey, Perkins, Pieh, Pinkham, Povich, Powers, Quint, Richard, Richardson E, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Schneider, Sherman, Shiah, Shields, Shorey, Sirois, Skoglund, Snowe-Mello, Stanley, Stedman, Stevens, Sullivan, Tessier, Tobin D, Tobin J, Townsend, Tracy, Trahan, Treadwell, True, Tuttle, Usher, Volenik, Waterhouse, Weston, Wheeler EM, Williams, Winsor.

ABSENT - Bolduc, Buck, Bumps, Green, Jabar, Joy, Martin, Plowman, Richardson J, Watson, Mr. Speaker.

Yes, 23; No, 116; Absent, 11; Excused, 0.

23 having voted in the affirmative and 116 voted in the negative, with 11 being absent, the Majority **Ought to Pass** Report was **NOT ACCEPTED**.

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

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act to Provide a State Income Tax Check-off for Contributions to the Maine Veterans' Memorial Cemetery"

(H.P. 60) (L.D. 73)

Signed:
Senators:

MILLS of Somerset
DAGGETT of Kennebec
RUHLIN of Penobscot

Representatives:

GAGNON of Waterville
LEMOINE of Old Orchard Beach
CIANCHETTE of South Portland
STANLEY of Medway
GREEN of Monmouth
MURPHY of Berwick
COLWELL of Gardiner

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-167)** on same Bill.

Signed:

Representatives:

LEMONT of Kittery
DAVIDSON of Brunswick
BUCK of Yarmouth

READ.

Representative GAGNON of Waterville moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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

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

ROLL CALL NO. 67

YEA - Bagley, Baker, Berry RL, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bryant, Cameron, Cianchette, Clough, Colwell, Cote, Cowger, Dudley, Duncan, Duplessie, Etnier, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Goodwin, Green, Hatch, Heidrich, Jacobs, Jodrey, Kane, Kneeland, Labrecque, LaVerdiere, Lemoine, Lindahl, Mailhot, Marvin, Matthews, Mayo, McDonough, McGlocklin, McKee, McKenney, McNeil, Murphy E, Norbert, Nutting, O'Neil, Perry, Pieh, Pinkham, Povich, Powers, Quint, Richard, Richardson E, Rines, Rosen, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Shiah, Shields, Shorey, Skoglund, Stanley, Stedman, Sullivan, Tessier, Townsend, Tuttle, Twomey, Usher, Volenik, Weston.

NAY - Ahearne, Andrews, Belanger, Berry DP, Bowles, Bull, Campbell, Carr, Chick, Chizmar, Clark, Collins, Cross, Daigle, Davidson, Davis, Desmond, Dugay, Dunlap, Gerry, Gillis, Glynn, Gooley, Honey, Jones, Kasprzak, Lemont, Lovett, MacDougall, Mack, Madore, McAlevey, Mendros, Mitchell, Murphy T, Muse, Nass, O'Brien, O'Neal, Peavey, Perkins, Samson, Schneider, Sherman, Sirois, Snowe-Mello, Stanwood, Stevens, Thompson, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tripp, True, Waterhouse, Wheeler EM, Wheeler GJ, Williams, Winsor.

ABSENT - Buck, Bumps, Jabar, Joy, Martin, Plowman, Richardson J, Watson, Mr. Speaker.

Yes, 80; No, 61; Absent, 9; Excused, 0.

80 having voted in the affirmative and 61 voted in the negative, with 9 being absent, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act to Exempt Pension and Retirement Benefits from the Maine Income Tax"

(H.P. 115) (L.D. 146)

Signed:
Senators:

RUHLIN of Penobscot
DAGGETT of Kennebec
MILLS of Somerset

Representatives:

GAGNON of Waterville
GREEN of Monmouth

DAVIDSON of Brunswick
 COLWELL of Gardiner
 STANLEY of Medway
 LEMOINE of Old Orchard Beach
 MURPHY of Berwick
 BUCK of Yarmouth

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-166)** on same Bill.

Signed:
 Representatives:

LEMONT of Kittery
 CIANCHETTE of South Portland

READ.

Representative GAGNON of Waterville moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the pending motion of Ought Not to Pass on LD 146, which is "An Act to Exempt Pension and Retirement Benefits from the Maine Income Tax." I further support the Ought to Pass amendment by the committee. This issue is probably the single most important issue in my district. That is regarding the tax burden. The bill proposes, starting effective January 1, 2000, that Maine state residents pension and all other retirement plans recognized by the code under \$25,000 per person or \$44,000 for a joint return be exempt from Maine State Income Tax. This proposal is a great program and that is a tax cut for the elderly.

Many of you might be wondering what this kind of program would cost. In its first year, we are looking at about an \$18 million item in the budget. In the second year, \$60 million. This is what it is going to cost to give the hardworking people of Maine who are retired and on fixed incomes a tax break. It is a tax break across the board for everyone. When we start to look at some of the programs that as a Legislature we passed and the negotiations that we were going through. I think some very eloquent arguments have been made on the floor. I supported both the House and the Senate in their actions in supporting the current services budget that we recently passed. I believe very much in some of the programs that we are looking at and that we have sent to the Appropriations Table, but now are at a place in the budgetary process where we are going to have to start balancing the programs that we have all wanted and the need for a tax cut. I can think of no greater program for the people of Maine than a tax cut for the elderly. The two largest affected groups probably in the State of Maine that we gear a lot of our programs to are both the children and the elderly. In many instances they are unable to defend and speak for themselves and that is why we are all here.

When I campaigned door to door in the district, it was noted that all one has to do is move out of state and go down to Florida, Disney World vacationland, and they don't have to pay an income tax down there. When we look at what the tax burden is doing to our people, do we really want a state in which to receive services, special education services for children, it is better to find those out of state. We said no and we have looked

at those types of programs. Now when we look at the elderly, the other side of the spectrum, the people that have risked their lives in time of war and those who have built our country and ensured the rights that all of us have today as we sit within these chambers. They have retired and they are looking to be protected. Where is the Legislature? That is why I am supporting this bill.

Our current philosophy in state government has been not a tax cut for the elderly, but a program for the elderly. We see that through the Discount Drug Program. We additionally see that through a program such as the Homestead Exemption. The solution has been up until now to take money away from the elderly, take money away from everyone, develop a program and a bureaucracy and then give it back as tax relief. Tax relief is, don't take the money. Don't take their money. They need their money for their medication. They need their money for their rent. They need their money for their food. If we are serious about helping the elderly, we are not going to take their money.

I urge very much that my fellow colleagues in the House will consider this proposal. Consider the positive affects to the economy of Maine by keeping our elderly in the State of Maine and by assisting them in staying self-sufficient in their homes as long as possible. I urge you to vote against the pending motion of Ought Not to Pass. I thank you.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I want to thank the Representative from South Portland for bringing this very important piece of legislation forward. Ladies and gentlemen, I think it is time that we step up to the plate and did something about our tax burden on our retirees. When I first came up here in my first term in the 117th, it was one of the biggest issues with the elderly in my area and it still is. I can remember reading a magazine, *Money Magazine*, and they had a picture of the United States and they had the states colored in different colors and there was six states that was colored orange. The message from that magazine was that if you had money invested in the State of Maine, take it out. If you didn't and you were thinking about going there, don't go. I talked to a lot of people who belonged to the AARP in my area. The president of the AARP in my area is a close personal friend. He has since moved out of state. His primary residence is in North Carolina. A number of others that I knew personally have gone to Florida for their primary residence and they come up here in the summer. Others have moved out of the state entirely. The good Representative from South Portland is entirely correct. Not only are we losing people out of the State of Maine, but we are hurting the elderly that have to stay here by taxing their retirement incomes.

People are not only being lost from the state and the money that we are taking with them out of the banks and the money that we put into our communities. We are also losing what they call the brain drain. I am sure you are aware of that. The other thing is there is a lot of voluntarism. These elderly people have some time on their hands and like to volunteer time within the communities. We are losing a lot of that too. If we really want to help the elderly, and like the good Representative from South Portland said, the best program that the state can provide instead of setting up new programs is a tax reduction or a tax burden reduction. Thank you. I hope you will vote against the pending motion.

The **SPEAKER**: The Chair recognizes the Representative from Waterville, Representative Gagnon.

Representative **GAGNON**: Mr. Speaker, Men and Women of the House. I would like to thank the sponsor, the good Representative from South Portland, for bringing this issue to the Taxation Committee. We hear a lot of bills, very good ideas, in ways to cut taxes. As most of you know, we had the largest workload this session. Most of them are very good. We have to start figuring out the best way to pay for these programs and what the overall tax policy is going to be for the state and how we move forward. Basically what happened with this idea was the fiscal note literally knocked our socks off. In fact, I am still looking for one of those socks right now. Sixty-three million a year is equivalent to a little over a half a penny on the sales tax. It would mean significant cuts in spending in education. It would allow for a number of other tax cuts if we had that kind of money. We had bills concerning the sales tax on clothing, children's clothing, repeal of the snack tax, that is one of the ideas that we are still trying to bang around. Excise on automobile, is another idea. There are just a lot of very good ideas out there. The Representative presented the bill. He mentioned AARP. They didn't testify in favor of the bill. They had other legislative agenda, I guess. I would like folks to take a look at the report on this bill. While I would love to provide this type of tax relief and many others that we look at, at this point, this is just not possible. Thank you Mr. Speaker.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I speak to you today not as a legislator, but as the vice-chairman of the Salvation Army Advisory Board of Androscoggin County. I can tell you how important it is to do fund raising for my organization and for many organizations that provide charitable service to the people of this state. Our biggest contributors are usually the elderly of this state, people who are retired that we are chasing out of the state with this. They are being recruited to come to Florida where they don't have to pay any taxes. They leave. Every time they leave they take all the money that they donated to charities with them and they leave a big void in the State of Maine. I urge you. Don't hurt us by chasing the elderly out of the state. Thank you.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative McAlevey.

Representative **MCALLEVEY**: Mr. Speaker, Ladies and Gentlemen of the House. As a member of the Southern Maine Area Agency on Aging Advisory Board, I would be remiss if I didn't speak to this issue. There is another thing that is happening throughout the state. I know of a couple who retired early in their life from Virginia and moved to Maine. They were both professionals. Both of them brought tremendous skills to the state in their retirement. They both took chief administrative positions in their second careers. One in Cumberland County and one in a police department in southern Maine. They worked for about a year and they realized that their retirement pensions from their employment in Virginia was going to be taxed. They quit their Maine jobs and moved to Dairy, New Hampshire. This is happening time and time again. We are losing their expertise and the expertise of other seniors who want to live in Maine and retire and find out they financially can't do that. That issue I think is one very important issue.

The second other issue is like all other retirees, are living on a fixed pension. They have paid their taxes. They have paid their dues. We need to give them a break on their retirement income and shield that from tax liability. They have been there

for us in the past. We need to be there for them now and in the future. Thank you.

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

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. I rise to urge you to support the majority motion on this. We deliberated on this bill a great deal. It is a terrific idea. I don't think there is any question. It didn't pass the threshold test of what I believe politics is, which is what is possible. The fiscal note on this bill is as my House chair said, \$63 million a year. It is a great idea. I ask you, where is the money? A week ago we were debating whether to spend \$200,000 on the Maine State Library. The question was asked, where is the money? This body will have an opportunity to provide some pension relief for a great many Maine residents in a future bill that comes before this body that has great support from the Taxation Committee. That bill will address the funding mechanism in a responsible manner and will provide a realistic way to achieve that goal. I don't argue with the intent of this legislation. We all know and we all try to provide as much relief to our senior citizens as we can through the Circuit Breaker Program, Low Cost Elderly Drug Program and I know we are all going to vote to increase those programs this year too. The reality is this is just not doable. I think as we look forward in revamping and modernizing our tax structure in the State of Maine, we may find ways to make it doable. I would urge this body to support the Majority Ought Not to Pass Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Dexter, Representative Tobin.

Representative **TOBIN**: Mr. Speaker, Ladies and Gentlemen of the House. I want to explain some reality that has happened to me in the last two and a half years. When I am asked to speak at local organizations, many times I am asked what they view as the biggest problem in the State of Maine. This is my second term. The first term I knocked on every door in my district. The second time I knocked on every door in my district. What did I learn? The reality in my district is there is a tremendous elderly population and the vast majority of that population are women anywhere from the ages of 57 to well into their 90s. They are living all alone. They are trying to maintain their homes which are literally falling down around them. I remember going into one house and the lady was lonesome. That is probably the biggest problem in the elderly peoples homes that I visited. Lots of times I couldn't even leave. They didn't want me to go out the door. They needed someone to talk to.

The second biggest problem, ladies and gentlemen, is the lack of financial resources to our elderly. One lady opened her refrigerator and showed me a half a gallon of milk, a half a jar of peanut butter and a half a loaf of bread and three cans of cat food. They all have cats, probably to relieve their loneliness. This is an opportunity, ladies and gentlemen, to help the elderly, especially the women in the State of Maine who are alone whose husbands have passed away. Please vote against the pending motion.

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

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I speak as a cosponsor of LD 146. Otherwise, I probably wouldn't stand up and speak. I know that those who have spoken before me have been far more eloquent than I can be. I will tell you the exempting pension benefits for

Maine Income Tax is long overdue. Who needs this money more than the elderly? Our retirees have worked long and hard and have saved for years so they can live a more comfortable life. You know what, the more they save, the more they put away, it doesn't seem to help much because we take it away from them. They are living a very difficult life. Please let us respect their long years of work and please support voting for LD 146 and vote against the pending motion. Thank you.

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

Representative **MURPHY**: Mr. Speaker, Ladies and Gentlemen of the House. I rise today to say why I am on the Ought Not to Pass report. This decision was a hard one for all of us in our committee and we did discuss it to great length. I am on the Ought Not to Pass report because the fiscal note on it for the year 1999-00 is \$17, 700,000 just for the year. For the year 2000-01 is almost \$64 million. For the year 2001-02 almost \$65 million. It goes up to \$68 million. I did not have \$68 million a year to put into this fund. That is the reason I am Ought Not to Pass. If anyone in this chamber can find \$130 million for the year 2001-02, I say vote for it. If you can't, you have to give this some consideration. You are really going to put the burden onto some of the rest of us. Thank you. I hope you vote yes on the pending motion.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative True.

Representative **TRUE**: Mr. Speaker, Ladies and Gentlemen of the House. I can understand the reservation of perhaps feeling that we cannot afford to do this. I have not heard anyone say anything about the fact that if you do do this many of these people will not remain as residents of Florida, Mississippi, Alabama and all of the states which do as we are asking to be done by this bill. If you will remember the laws, if they stay six months and one day, then you can declare residency. I have talked with a lot of the elderly in my district and they say they would like to spend more time in Maine and start to figure what they can return to you be being here an extra two or three months. Figure that in. This is a population that is not going to cause a problem with our schools. Most of them have already raised their children. Therefore, that will be a positive attribute. As many speakers have done very eloquently, it is time. The problem that arises in many, a few years I had looked into doing basically the same thing for those people who have retired in the teaching profession, to help those who have been retired 20 years or so. I was told that one person who objected, there would be a class action suit and cause a problem. In this regard, it takes care of all of those within a price range. I think that is pliable. I do not believe that it will cost us the amount of money that is being quoted because of various factors. I thank you very much.

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

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. I wonder what does the Elderly Prescription Drug Program cost? What does the Medicaid/Medicare Program cost? What does the Food Stamp Program cost? I would further ask what price can we put on dignity on allowing our mothers, our fathers and our grandparents to keep their dignity? I would leave you with one quote. "When a man says that he approves of something in principle, it means he hasn't the slightest intention of carrying it out in practice." Thank you.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I apologize for getting up a second time. I will be very brief. I just wanted to address the issue of the money and the fiscal note. We have to ask ourselves how much money have we spent or are we going to spend on new programs? The money that will be put back into the pockets of the elderly will be reinvested in Maine's economy. We have to set priorities and one of the priorities we should ask ourselves is whether we want to have or not is do we want to do this for the elderly or do we want to go ahead and create new programs. My priority is to do this for the elderly and create less new programs. Thank you.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Belanger.

Representative **BELANGER**: Mr. Speaker, Men and Women of the House. It seems it was a week ago when we had a bill before us that people were standing and saying let's not worry about the fiscal note. Let's let the Appropriations Committee take care of that. Today, I hear the same argument in reverse from the reverse. I can tell you when Loring Air Force Base closed from personal conversations I had with a good many people that many of them would have liked to have stayed in Maine, but they moved to states where they either didn't have an income tax or their pensions were exempted from State Income Tax. I would hope that you would defeat the pending motion and move this bill to passage. Thank you.

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

Representative **MCNEIL**: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative **MCNEIL**: Mr. Speaker, Men and Women of the House. Could somebody answer the question that if these people receive this exemption, would they then not be eligible for some of the Medicaid or some of the drug programs?

The SPEAKER: The Representative from Rockland, Representative McNeil has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Waterville, Representative Gagnon.

Representative **GAGNON**: Mr. Speaker, Men and Women of the House. Some of those programs, of course, are contingent on income, so if you increase the income of individuals, certainly there will be people that fall out of those programs. Other programs, circuit breaker and other programs we presently have on the books that are even directed toward elderly folks. The modified circuit breaker program, as most of you know, are directed specifically at the elderly vote. That would be a reality.

The SPEAKER: The Chair recognizes the Representative from Lebanon, Representative Chick.

Representative **CHICK**: Mr. Speaker, Ladies and Gentlemen of the House. I rise this morning not to add fuel to this discussion, but to share with you my view of our experience here in the Legislature. It starts long before we convene. There is a considerable amount of news in the press about programs from both sides of the aisle. Here this morning I hear people speak and listen to them, but I have only one thought that if we were calling the plays in a football game and we had two coaches and they had nearly equal authority to decide what the next play was going to be, I don't think we would win many

football games. I look at the end result and here we are again talking about something that is really important to a large population of the State of Maine. I think we would do well to remember that the future is quite uncertain. Hopefully, it will be on an upward swing. Some of the figures discussed will not be so far out of line. Thank you

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

ROLL CALL NO. 68

YEA - Bouffard, Brennan, Bryant, Bull, Colwell, Davidson, Dudley, Dunlap, Duplessie, Etnier, Frechette, Fuller, Gagnon, Hatch, Kane, Lemoine, Mailhot, Murphy E, Norbert, O'Neil, Pieh, Powers, Samson, Sanborn, Saxl MV, Shiah, Stanley, Stevens, Sullivan, Tessier, Townsend, Tripp, Tuttle, Twomey, Volenik, Williams, Mr. Speaker.

NAY - Ahearne, Andrews, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bowles, Bragdon, Brooks, Bruno, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Cote, Cowger, Cross, Daigle, Davis, Desmond, Dugay, Duncan, Fisher, Foster, Gagne, Gerry, Gillis, Glynn, Goodwin, Gooley, Green, Heidrich, Honey, Jacobs, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McKenney, McNeil, Mendros, Mitchell, Murphy T, Muse, Nass, Nutting, O'Brien, O'Neal, Peavey, Perkins, Perry, Pinkham, Povich, Quint, Richard, Richardson E, Rines, Rosen, Savage C, Savage W, Saxl JW, Schneider, Sherman, Shields, Shorey, Sirois, Skoglund, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Tracy, Trahan, Treadwell, True, Usher, Waterhouse, Watson, Weston, Wheeler EM, Wheeler GJ, Winsor.

ABSENT - Buck, Bumps, Jabar, Martin, Plowman, Richardson J, Thompson.

Yes, 37; No, 106; Absent, 7; Excused, 0.

37 having voted in the affirmative and 106 voted in the negative, with 7 being absent, the Majority **Ought Not to Pass** Report was **NOT ACCEPTED**

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-166)** was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. As we try to look to the future and build a strong Maine economy, we have to address that question of plant population. It is because of three drains, a youth drain, a jobs drain and a seniors drain. We have the opportunity with this report, this positive vote, to begin to take that first step to address that senior strain. Mr. Speaker, I request a roll call.

Representative **MURPHY** of Kennebunk **REQUESTED** a roll call on the motion to **ADOPT Committee Amendment "A" (H-166)**.

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

The SPEAKER: A roll call has been ordered. The pending question before the House is adoption of Committee Amendment "A" (H-166). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 69

YEA - Ahearne, Andrews, Bagley, Baker, Belanger, Berry DP, Bolduc, Bouffard, Bowles, Bragdon, Brooks, Bruno, Bull, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Cote, Cross, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Etnier, Fisher, Foster, Frechette, Fuller, Gagne, Gerry, Gillis, Glynn, Goodwin, Gooley, Green, Heidrich, Honey, Jacobs, Jodrey, Jones, Joy, Kane, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McKenney, McNeil, Mendros, Mitchell, Murphy T, Muse, Nass, Nutting, O'Brien, O'Neal, Peavey, Perkins, Perry, Pieh, Pinkham, Povich, Quint, Richard, Richardson E, Richardson J, Rines, Rosen, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Sherman, Shields, Shorey, Sirois, Skoglund, Snowe-Mello, Stanwood, Stedman, Stevens, Tessier, Thompson, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tripp, True, Tuttle, Twomey, Usher, Waterhouse, Watson, Weston, Wheeler EM, Wheeler GJ, Winsor.

NAY - Berry RL, Brennan, Bryant, Colwell, Cowger, Dunlap, Duplessie, Gagnon, Hatch, Lemoine, Mailhot, Murphy E, Norbert, Powers, Samson, Shiah, Stanley, Sullivan, Townsend, Volenik, Williams, Mr. Speaker.

ABSENT - Buck, Bumps, Duncan, Jabar, Martin, Plowman. Yes, 122; No, 22; Absent, 6; Excused, 0.

122 having voted in the affirmative and 22 voted in the negative, with 6 being absent, **Committee Amendment "A" (H-166)** was **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-166)** and sent for concurrence. **ORDERED SENT FORTHWITH**.

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

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

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

the following members of the Lawrence High School Boys Basketball Team: Justin Underwood, Jed Johnson, Randy Nadeau, Nick Bolduc, Mike Brown, Jon Kent, Kris Knights, Matt Clement, Josh Berard, Corey Pellitier, Alan Smith, Justin Roderick, Todd MacArthur and Trafton Teague as winners of the 1999 State Class A Eastern Maine Legion Championship. We extend our congratulations and best wishes to them on this achievement;

(HLS 225)

Presented by Representative **TESSIER** of Fairfield. Cosponsored by Representative **BUMPS** of China, Senator **MILLS** of Somerset.

On **OBJECTION** of Representative **TESSIER** of Fairfield, was **REMOVED** from the Special Sentiment Calendar. **READ**.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Tessier.

Representative **TESSIER**: Mr. Speaker, Men and Women of the House. I rise this morning to offer my congratulations to the Lawrence Bulldogs and commend them for their outstanding 1998-1999 basketball season that lead them to be the 1999 Eastern Maine Class A Champions. The Bulldogs beat three teams in the Eastern Maine Tournament to win their fifth regional championship in 14 years. During this successful season, the Bulldogs allowed 48.8 points per game and forced nearly 20 overturns a night in the regular season. The Bulldogs are coached by Coach Mike McGee who was recently named the Coach of the Year by the Central Maine Morning Sentinel. Coach McGee took this team that had won only six games last year and molded it into the 1999 Eastern Maine Class A Championship team. This feat played heavily in his being named Coach of the Year. Over the years Coach McGee has guided the Lawrence Bulldogs to 13 playoff berths in 14 years. It is my understanding that he will be returning to coach the Bulldogs next year. Thank you Mr. Speaker.

PASSED and sent for concurrence.

Majority Report of the Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-168)** on Bill "An Act to Eliminate the Lodging Tax on Long-term Rentals"

(H.P. 892) (L.D. 1249)

Signed:

Representatives:

GAGNON of Waterville
GREEN of Monmouth
LEMOINE of Old Orchard Beach
LEMONT of Kittery
COLWELL of Gardiner
DAVIDSON of Brunswick
CIANCHETTE of South Portland

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

Signed:

Senators:

RUHLIN of Penobscot
DAGGETT of Kennebec
MILLS of Somerset

Representatives:

STANLEY of Medway
MURPHY of Berwick
BUCK of Yarmouth

READ.

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

The Bill was **READ ONCE. Committee Amendment "A" (H-168)** was **READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Tuesday, April 13, 1999.

CONSENT CALENDAR

First Day

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

(S.P. 512) (L.D. 1513) Bill "An Act to Clarify the Definition of 'Area of Operation' for Municipal Housing Authorities"

Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass**

(S.P. 540) (L.D. 1602) Bill "An Act to Expand Term Limits of Maine Employers' Mutual Insurance Company Directors" Committee on **BANKING AND INSURANCE** reporting **Ought to Pass**

(S.P. 18) (L.D. 3) Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (EMERGENCY) Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-53)**

(S.P. 45) (L.D. 116) Bill "An Act to Protect Consumers in Real Estate Mortgage Transactions" Committee on **BANKING AND INSURANCE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-59)**

(S.P. 228) (L.D. 650) Bill "An Act to Amend the Crime of Theft by Deception to Include False Impressions as to Identity" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-60)**

(S.P. 401) (L.D. 1192) Bill "An Act to Update Insurance Financial Standards" Committee on **BANKING AND INSURANCE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-54)**

(H.P. 929) (L.D. 1306) Bill "An Act to Require Legislative Review of Motor Vehicle Fuel Standards" (EMERGENCY) Committee on **NATURAL RESOURCES** reporting **Ought to Pass**

(H.P. 162) (L.D. 224) Bill "An Act to Prohibit the Taking of Another Person's Legal Identification" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-183)**

(H.P. 298) (L.D. 406) Resolve, Regarding Legislative Review of Chapter 125: Health Care Information that Directly Identifies an Individual, Major Substantive Rules of the Maine Health Data Organization (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-170)**

(H.P. 406) (L.D. 548) Bill "An Act to Appropriate Funds for Conservation at the Local Level" Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-173)**

(H.P. 410) (L.D. 552) Bill "An Act to Change the Minimum Time for Issuing a Temporary Registered Gross Weight Increase from 2 Months to One Month" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-178)**

(H.P. 531) (L.D. 738) Bill "An Act to Revise Maine's Trespass Laws" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-181)**

(H.P. 553) (L.D. 774) Bill "An Act to Make Moving a Mobile Home with Unpaid Taxes Subject to a \$250 Forfeiture" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-177)**

(H.P. 572) (L.D. 812) Bill "An Act to Allow the State Police to Accept Revenue for Providing Services to Municipalities and Counties" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-180)**

(H.P. 641) (L.D. 891) Bill "An Act to Establish Thresholds for Delegated Purchasing Authorities and Requirements for Competitive Bidding" Committee on **STATE AND LOCAL**

GOVERNMENT reporting **Ought to Pass as Amended by Committee Amendment "A" (H-187)**

(H.P. 776) (L.D. 1099) Bill "An Act to Exempt the Requirement that All Municipal Taxes Be Paid in Advance of Moving a Mobile Home" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-176)**

(H.P. 899) (L.D. 1256) Resolve, to Establish a Task Force to Study the Operation of and Support for the Board of Environmental Protection Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-169)**

(H.P. 956) (L.D. 1354) Bill "An Act to Amend the Law Regarding Conflict of Interest" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-186)**

(H.P. 984) (L.D. 1382) Bill "An Act to Require That Both the Northern Maine Regional Juvenile Detention Facility and the Maine Youth Center Receive Detainees" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-182)**

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

(S.P. 163) (L.D. 483) Bill "An Act to Include a Dentist on the Board of Dental Examiners" Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-58)**

On motion of Representative TOWNSEND of Portland, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ** and **ACCEPTED**. The Bill was **READ ONCE**. Committee Amendment "A" (S-58) was **READ** by the Clerk.

The same Representative presented **House Amendment "A" (H-163)** to **Committee Amendment "A" (S-58)** which was **READ** by the Clerk and **ADOPTED**.

Committee Amendment "A" (S-58) as Amended by **House Amendment "A" (H-163)** thereto was **ADOPTED**.

The Bill was assigned for **SECOND READING** Tuesday, April 13, 1999.

**CONSENT CALENDAR
Second Day**

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

(S.P. 233) (L.D. 655) Bill "An Act to Increase the Penalty for Failure to Yield the Right-of-way to a Visually Impaired Pedestrian" (C. "A" S-51)

(H.P. 650) (L.D. 900) Bill "An Act to Reestablish the Municipal Boundary between Pownal and Durham"

(H.P. 65) (L.D. 78) Bill "An Act to Ensure Funding for a Replacement Correctional Facility in Washington County" (C. "A" H-150)

(H.P. 155) (L.D. 217) Bill "An Act to Increase the Appropriation to the Saco River Corridor Commission" (C. "A" H-160)

(H.P. 261) (L.D. 365) Bill "An Act to Amend the Laws Regarding Reporting Requirements for the Maine Health and Higher Educational Facilities Authority" (C. "A" H-162)

(H.P. 341) (L.D. 457) Bill "An Act to Increase the Sanctions for Criminal Mischief Within a Correctional Facility" (C. "A" H-149)

(H.P. 415) (L.D. 557) Bill "An Act to Prohibit the Surveillance of the Interior of Dressing Rooms" (C. "A" H-155)

(H.P. 477) (L.D. 684) Bill "An Act to Give the Commissioner of Public Safety Law Enforcement Powers" (C. "A" H-154)

(H.P. 513) (L.D. 720) Bill "An Act Concerning the Method of Taking of Soft Shell Clams" (C. "A" H-159)

(H.P. 522) (L.D. 729) Bill "An Act to Increase State Funding for the Purchase of School Buses" (C. "A" H-157)

(H.P. 534) (L.D. 741) Bill "An Act to Assist the Department of Public Safety in Implementing the Requirements of Fingerprint-based Background Checks" (EMERGENCY) (C. "A" H-152)

(H.P. 587) (L.D. 827) Bill "An Act to Promote the Cranberry Industry and to Encourage Cultivation of Cranberries in the State" (C. "A" H-156)

(H.P. 732) (L.D. 1022) Bill "An Act to Provide Funding for the Advisory Commission on Women Veterans" (C. "A" H-158)

(H.P. 863) (L.D. 1220) Bill "An Act to Provide for Resident State Police Officers for Municipalities Without a Police Force" (C. "A" H-153)

(H.P. 944) (L.D. 1341) Bill "An Act to Provide Additional Funding for the Maine Indian Tribal-State Commission" (C. "A" H-161)

(H.P. 988) (L.D. 1386) Resolve, to Establish a Police Cadet Program for the State Police (C. "A" H-151)

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

**BILLS IN THE SECOND READING
Senate**

Bill "An Act to Amend Law Enforcement Powers of Maine Forest Rangers"

(S.P. 397) (L.D. 1188)

House As Amended

Bill "An Act Authorizing County Commissioners to Enact Noise and Animal Control Ordinances in Unorganized Territories"

(H.P. 108) (L.D. 139)
(C. "A" H-145)

Bill "An Act to Increase the Property Tax Exemptions for a Parsonage"

(H.P. 150) (L.D. 212)
(C. "A" H-140)

Bill "An Act to Allow a One-time Double Exemption for Income Tax Filers Who Adopt a Dependent Child"

(H.P. 295) (L.D. 403)
(C. "A" H-141)

Bill "An Act to Require the Legislature to Examine Executive Orders for Violations of Separation of Powers"

(H.P. 464) (L.D. 627)
(C. "A" H-143)

Bill "An Act to Require Courts to Reimburse Jurors for Parking Expenses"

(H.P. 490) (L.D. 697)
(C. "A" H-133)

Bill "An Act to Require Reflectors on the Front of Utility Trailers"

(H.P. 673) (L.D. 929)
(C. "A" H-148)

Bill "An Act to Require the State to Reimburse Licensed Vehicle Inspection Stations for Unused Inspection Stickers"

(H.P. 698) (L.D. 965)
(C. "A" H-147)

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

House As Amended

Resolve, Regarding Legislative Review of Chapter 5: Standards for Continuing Professional Education for Acupuncturists and Naturopathic Doctors; Chapter 6: Standards Relating to Prescriptive Authorities and Collaborative Relationships; and Chapter 9: Fees, Section 1, Major Substantive Rules of the Department of Professional and Financial Regulation (EMERGENCY)

(H.P. 20) (L.D. 30)
(C. "B" H-97)

Was reported by the Committee on **Bills in the Second Reading** and **READ** the second time.

On motion of Representative CAMERON of Rumford, was **SET ASIDE**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "B" (H-97)** was **ADOPTED**.

The same Representative presented **House Amendment "A" (H-195)** to **Committee Amendment "B" (H-97)** which was **READ** by the Clerk and **ADOPTED**.

Committee Amendment "B" (H-97) as Amended by **House Amendment "A" (H-195)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "B" (H-97)** as Amended by **House Amendment "A" (H-195)** thereto and sent for concurrence.

ENACTORS

Mandate

An Act to Require Public Hearings for School Administrative District Referenda

(H.P. 461) (L.D. 624)
(C. "A" H-87)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 138 voted in favor of the same and 0 against, and accordingly the Mandate was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Mandate

An Act to Extend the Penobscot County Budget Committee

(H.P. 667) (L.D. 923)
(C. "A" H-88)

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

Representative CLARK of Millinocket **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken.

ROLL CALL NO. 70

YEA - Ahearne, Andrews, Bagley, Baker, Belanger, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Brennan, Brooks, Bryant, Bull, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clough, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Foster, Frechette, Gagne, Gagnon, Gerry, Gillis, Glynn, Goodwin, Gooley, Green, Hatch, Heidrich, Honey, Jacobs, Jodrey, Jones, Kane, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Matthews, Mayo, McAlevey, McDonough, McKee, McKenney, McNeil, Mendros, Mitchell, Murphy E, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien, O'Neal, O'Neil, Peavey, Perry, Pieh, Pinkham, Povich, Powers, Richard, Richardson E, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Sherman, Shiah, Shields, Shorey, Sirois, Skoglund, Snowe-Mello, Stanley, Stanwood, Stevens, Sullivan, Tessier, Thompson, Tobin D, Tobin J, Townsend, Tracy, Trahan, Treadwell, Tripp, True, Tuttle, Twomey, Usher, Volenik, Watson, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Bruno, Clark, Davis, Joy, Lindahl, McGlocklin, Stedman, Waterhouse.

ABSENT - Berry DP, Buck, Bumps, Fuller, Jabar, Martin, Perkins, Plowman, Quint.

Yes, 133; No, 8; Absent, 9; Excused, 0.

133 having voted in the affirmative and 8 voted in the negative, with 9 being absent, and accordingly the Mandate was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Resolve Pursuant to the Constitution Public Land

Resolve, to Transfer Land in Edmunds

(H.P. 656) (L.D. 912)
(C. "A" H-89)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provision of Section 23 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 129 voted in favor of the same and 2 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Acts

An Act to Further Decriminalize Operating an Unregistered Vehicle

(H.P. 165) (L.D. 227)
(C. "A" H-83)

An Act to Exempt Persons 70 Years of Age and Older From Paying the Fee for Commercial Shellfish Licenses

(H.P. 279) (L.D. 387)
(C. "A" H-90)

An Act to Amend the Radon Registration Act

(H.P. 514) (L.D. 721)
(C. "A" H-91)

An Act to Increase the Penalties for Violation of Lobster Conservation Laws

(S.P. 285) (L.D. 803)
(C. "A" S-33)

An Act to Establish the Position of School Nurse Consultant

(H.P. 676) (L.D. 932)
(C. "A" H-85)

An Act to Increase Fines for Long-term Care Facilities that Fail to Provide Quality Care to Residents

(S.P. 361) (L.D. 1065)
(C. "A" S-31)

An Act to Modify the State's Safe Drinking Water Laws

(H.P. 802) (L.D. 1125)
(C. "A" H-92)

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.

An Act to Permit Local Control and Funding of An Educational Building in Accordance With a Municipal Charter

(S.P. 280) (L.D. 798)
(C. "A" S-34)

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

On motion of Representative GERRY of Auburn, was **SET ASIDE**.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Gerry.

Representative **GERRY**: Mr. Speaker, Ladies and Gentlemen of the House. What this bill and amendment does is to allow a municipal school unit to approve a locally funded school construction project without a local referendum if the municipality operates under a charter that does not require referendum for construction projects. This only affects just a handful of towns and Auburn is one of them. This is an attempt of Auburn to do some school construction projects without sending it out to vote. Last time we had a very big major construction project at two schools it got sent out to a vote the first time and the people turned it down. It had to go out to a second vote after it was explained. I want to be on record in supporting local control. I also support the right of my people in the Town of Auburn to have the right to vote whether or not they think they can afford to go out for school projects. I request a roll call.

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

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

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

Representative **BRENNAN**: Mr. Speaker, Men and Women of the House. I hope that you will support the pending

motion. This is a very simple bill. All it says is if a local municipal charter allows for a school district to build a building and it doesn't require that that issue go to referendum because it is in sequence with their municipal charter, they don't have to do it. This only applies to cases where there isn't state money involved. All we are doing is allowing municipalities to continue to operate within the boundaries of their charter relative that they do with any other building or any other municipal project. It is a very simple, very straight forward bill.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Gerry.

Representative **GERRY**: Mr. Speaker, Ladies and Gentlemen of the House. I agree with the previous speaker, but this is also an attempt for my town, which this bill was put in almost specifically for, to get around the vote. As I said, in past history our town has always done voting, but it is not required in the charter. This is just reinforcing the position that it does not have to go out for the vote. I am saying that I can't in good conscience if for some reason all the citizens of my town don't know about a school construction project, this could be a million dollars or whatever that the school district itself has saved is going to use to go out and fund a project. I am just saying that the people on the other end of the town should have the right to know where some of their tax dollars and money goes for the schools and to this construction project. I am not trying to get you all to vote in a range war or a turf war. This is just what I feel is right because this is going to affect my town. Like I said, there is only four or five towns that this is going to affect. Thank you.

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

ROLL CALL NO. 71

YEA - Ahearne, Bagley, Baker, Belanger, Berry DP, Berry RL, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Cameron, Campbell, Carr, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cowger, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Ethier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gillis, Glynn, Goodwin, Gooley, Green, Hatch, Honey, Kane, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Mack, Madore, Mailhot, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McNeil, Mitchell, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien, O'Neal, O'Neil, Peavey, Pieh, Pinkham, Povich, Powers, Richard, Richardson E, Richardson J, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Sherman, Shiah, Shields, Sirois, Stanley, Stedman, Stevens, Sullivan, Tessier, Thompson, Tobin D, Tobin J, Townsend, Trahan, Treadwell, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Andrews, Bowles, Cross, Foster, Gerry, Heidrich, Jodrey, Jones, Joy, Kasprzak, Lindahl, Lovett, MacDougall, McKenney, Mendros, Murphy E, Perkins, Rines, Skoglund, Snowe-Mello, Stanwood, Tracy, True, Waterhouse.

ABSENT - Bolduc, Buck, Bumps, Cianchette, Jabar, Jacobs, Martin, Perry, Plowman, Quint, Shorey.

Yes, 115; No, 24; Absent, 11; Excused, 0.

115 having voted in the affirmative and 24 voted in the negative, with 11 being absent, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

UNFINISHED BUSINESS

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

An Act to Amend the Laws Governing the Hancock County Budget Process

(H.P. 323) (L.D. 439)
(C. "A" H-69)

TABLED - April 5, 1999 by Representative POVICH of Ellsworth.
PENDING - **PASSAGE TO BE ENACTED.**

The SPEAKER: The Chair recognizes the Representative from Ellsworth, Representative Povich.

Representative **POVICH**: Mr. Speaker, Men and Women of the House. Regarding LD 439, "An Act to Amend the Laws Governing the Hancock County Budget Process." I have proposed three pages of remarks single spaced that I was prepared to make, but in deference to the Committee on State and Local Government and to this body I will not demure, nor will I deliver those remarks. They are available for your edification, however, at seat 45. Although these are brilliant examples of undelivered oratory, do not injure yourselves streaking over here to read them.

Mr. Speaker, Men and Women of the House, I go on record to say I do not like this bill. It singles out the Hancock County legislative delegation as the only delegation of state not formally invited in statute to review the annual county budget. The language, in my opinion, also reduces the number of public meetings the county commission is required by statute to hold. I do not like the implications of this policy, however, if that is the will of the body, so be it. I object to this LD, but I do not ask for a division. Thank you Mr. Speaker, men and women of the House. I now present to you the next five minutes of speech time actually, your time, that I did not use up.

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

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

HOUSE DIVIDED REPORT - Majority (11) **Ought Not to Pass** - Minority (2) **Ought to Pass as Amended by Committee Amendment "A" (H-132)** - Committee on **JUDICIARY** on Bill "An Act Providing for a Vote of Confidence before a Judge Is Eligible for Reappointment"

(H.P. 28) (L.D. 37)

TABLED - April 7, 1999 (Till Later Today) by Representative BULL of Freeport.

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

On motion of Representative THOMPSON of Naples, **TABLED** pending the motion of Representative BULL of Freeport to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned.

HOUSE DIVIDED REPORT - Majority (9) **Ought Not to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (H-142)** - Committee on **TAXATION** on Bill "An Act to Provide Tax-exempt Status to Organizations That Teach Reading"

(H.P. 271) (L.D. 379)

TABLED - April 7, 1999 (Till Later Today) by Representative GAGNON of Waterville.

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

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

An Act to Update and Amend the Maine Pharmacy Act (EMERGENCY)

(H.P. 434) (L.D. 576)
(C. "A" H-80)

TABLED - April 7, 1999 (Till Later Today) by Representative SAXL of Portland.

PENDING - **PASSAGE TO BE ENACTED.**

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

An Act to Change the Way Nursery License Fees Are Established

(H.P. 537) (L.D. 744)
(C. "A" H-75)

TABLED - April 7, 1999 (Till Later Today) by Representative SAXL of Portland.

PENDING - **PASSAGE TO BE ENACTED.**

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

TABLED AND TODAY ASSIGNED

The Chair laid before the House the following items which were **TABLED** and today assigned:

HOUSE REPORT - **Ought to Pass as Amended by Committee Amendment "A" (H-134)** - Committee on **TRANSPORTATION** on Bill "An Act to Prohibit the Transportation of Open Containers that Contain Liquor"

(H.P. 154) (L.D. 216)

TABLED - April 7, 1999 by Representative TRACY of Rome.

PENDING - **ACCEPTANCE OF COMMITTEE REPORT.**

On motion of Representative BOUFFARD of Lewiston, **TABLED** pending **ACCEPTANCE** of the Unanimous **Ought to Pass as Amended** Committee Report and specially assigned for Tuesday, April 13, 1999.

HOUSE DIVIDED REPORT - Majority (7) **Ought to Pass as Amended by Committee Amendment "A" (H-71)** - Minority (6) **Ought Not to Pass** - Committee on **STATE AND LOCAL GOVERNMENT** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require a Referendum for a People's Veto to Be Held at a Primary or General Election

(H.P. 166) (L.D. 228)

TABLED - April 7, 1999 by Representative AHEARNE of Madawaska.

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

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative Ahearne.

Representative **AHEARNE**: Mr. Speaker, Men and Women of the House. I wish this bill and all its accompanying papers be Indefinitely Postponed. As we are all aware, we dealt with this issue yesterday and I believe this bill is no longer necessary. Thank you.

On motion of Representative **AHEARNE** of Madawaska, the Bill and all accompanying papers were **INDEFINITELY POSTPONED**.

Bill "An Act to Amend the Laws Governing the Construction of Salt and Sand Storage Facilities"

(S.P. 764) (L.D. 2156)

- In Senate, **REFERRED** to the Committee on **TRANSPORTATION**.

TABLED - April 7, 1999 by Representative **RINES** of Wiscasset.

PENDING - **REFERENCE IN CONCURRENCE**.

On motion of Representative **BOUFFARD** of Lewiston, **TABLED** pending **REFERENCE** in concurrence and later today assigned.

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

SENATE PAPERS

The following Joint Order: (S.P. 773)

ORDERED, the House concurring, that when the House stands Adjourned it does so until Tuesday, April 13, 1999 at 9 o'clock in the morning and when the Senate stands Adjourned it does so until Tuesday, April 13, 1999, at 10 o'clock in the morning.

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

READ and **PASSED** in concurrence.

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

SENATE PAPERS

Bill "An Act to Protect the Citizens of Maine from the Dangers of Counterfeit Consumer Goods" (**EMERGENCY**)

(S.P. 775) (L.D. 2174)

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

REFERRED to the Committee on **CRIMINAL JUSTICE** in concurrence.

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

The **SPEAKER**: The Chair recognizes the Representative from York, Representative **Andrews** who wishes to address the House on the record.

Representative **ANDREWS**: Mr. Speaker, Men and Women of the House. As a freshman legislator, I wondered on what great issue I would rise to address my fellow legislators. I never dreamed that it would be under such a sad and tragic circumstance. If you watched the news at all last night and this morning, you are probably aware that a very tragic, freak accident happened in the Town of York. As chairman of the Board of Selectmen and as a grandmother who is attempting to do what many other grandmothers do, assist in the raising of a child, I am very closely involved with this accident.

A very freak accident of a tree limb fell on the students while they were at recess at my granddaughter's school. Tragically, one nine year old child died. The second nine year old child most likely may lose his arm and hand. I have been in touch with the school. They are extremely devastated. I would ask for a moment of prayer for both the parents and the families of the two students and all the other students and teachers who witnessed this tragic accident and ask that we adjourn in their memory. Thank you.

The House rose in a moment of silence.

On motion of Representative **ANDREWS** of York, the House adjourned at 11:36 a.m., until 9:00 a.m., Tuesday, April 13, 1999 pursuant to the Joint Order (S.P. 773) in honor and lasting tribute to Matthew Cruz of York, who was tragically killed at the York Elementary School.