

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
47th Legislative Day
Monday, May 10, 1999

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

Prayer by Reverend Alison Andrea Jacobs, United Church of Christ at North Gorham.

National Anthem by Ellsworth High School Show Choir.

Pledge of Allegiance.

Doctor of the day, Judy Chamberlain, M.D., Brunswick.

The Journal of Friday, May 7, 1999 was read and approved.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Ensure Compliance With Disability Access Laws by the Baxter State Park Authority"

(H.P. 1189) (L.D. 1699)

Minority (2) **OUGHT TO PASS AS AMENDED** Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-381)** in the House on May 6, 1999.

Came from the Senate with the Majority (11) **OUGHT NOT TO PASS** Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY READ and ACCEPTED** in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act to Require the Display of the Prisoner of War - Missing in Action Flag"

(H.P. 1287) (L.D. 1848)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-369) in the House on May 5, 1999.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-369)** and **SENATE AMENDMENT "A" (S-231)** in **NON-CONCURRENCE**.

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

COMMUNICATIONS

The Following Communication: (S.C. 221)

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

May 6, 1999

The Honorable Joseph W. Mayo

Clerk of the House

State House Station 2

Augusta, ME 04333

Dear Clerk Mayo:

Please be advised the Senate today Adhered to its previous action whereby the Majority Ought Not to Pass Report from the Committee on Legal and Veterans Affairs on Bill "An Act to Require the Commission on Governmental Ethics and Election

Practices to Report Delinquent Filers," (H.P. 177) (L.D. 255), was accepted.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

ORDERS

On motion of Representative BAKER of Bangor, the following Joint Order: (H.P. 1575)

ORDERED, the Senate concurring, that Bill, "An Act to Exempt from the Sales Tax Feminine Hygiene Products," H.P. 1531, L.D. 2184, and all its accompanying papers, be recalled from the legislative files to the House.

READ.

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

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

the "Team Kittery" girls' basketball team, which placed second in the AAU State Basketball Tournament. The team includes: Stephanie Wheeler, Daisey Martinez and Elizabeth Endicott of Eliot; Lauren Lemieux; Jessica Collins; Casey Connor; Jenna Martin; Samantha Lamprell; Juliann Vendola; Angela Porter; and coaches Justin Wyman and Al Lemieux. We send our congratulations to the team on this occasion;

(HLS 353)

Presented by Representative WHEELER of Eliot.

Cosponsored by President LAWRENCE of York, Representative LEMONT of Kittery.

On **OBJECTION** of Representative WHEELER of Eliot, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. I rise today just to show how proud I am of the "Team Kittery" girls' AAU basketball team. Unfortunately, they couldn't make it up today because they are all studying very hard at school. I am just so proud of what they did do in a tournament this big. The team consisted of seven girls from Kittery and three from Eliot. They played a championship game against a team that consisted of girls from Augusta, Gardiner, Winslow, Waterville and Hallowell. They played very well. They were leading in the first half, but just ran out of gas in the second half. Again, I just rise to say how proud I am of what they did playing five games in two days and also spending the night together in a motel room, which I am sure they didn't get any sleep. Again, there is one girl on the team I am very proud of, that is my daughter, Steph Wheeler. Thank you very much.

PASSED and sent for concurrence.

Recognizing:

the following members of the Gardiner Area High School Wrestling Team: Jake Cotnoir, Nate Cotnoir, Adam Purington, Travis Marquis, Josh Croll, Jim Curry, Shaun Le, Micky Plourde,

Ben Hubert, G. B. Watson, Fran Hanley II, Elijah McKay, Warren Cote, Chris Whitten, Brendan Casey, Ben Dow, Misha Jones, Tai McKay and Zack Lathrop and Head Coach Fran Hanley, winners of the Tiger Invitational and Eastern A Regionals. We extend our congratulations to the team on this accomplishment;

(HLS 354)

Presented by Representative COLWELL of Gardiner.

Cosponsored by Senator TREAT of Kennebec, Representative COWGER of Hallowell, Representative WATSON of Farmingdale.

On **OBJECTION** of Representative COLWELL of Gardiner, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. It's always a proud moment when we bring our own from our communities to this chamber to honor them for athletic and scholarship achievements. I'm very pleased to bring the winner of the Eastern Class A Regional Wrestling tournament here to the capitol today. Wrestling is a sport that doesn't always shine in the spotlight as brightly as football, basketball, or hockey, but we in Gardiner are as equally proud of our wrestling team as we are of our other athletes. Wrestling is perhaps the oldest competitive sport dating back to the ancient Greeks and even before. It's a sport that requires great strength, agility, stamina and especially intellect and strategy. Often it's not the strongest wrestler who wins, but the smartest. At this time, I would also like to recognize one of the most important reasons we have such a successful program in wrestling in Gardiner and that's Head Coach Fran Hanley, who through the years with his dedication, skill and some would say, down right stubbornness, has made Gardiner wrestling a consistent force to be reckoned with throughout New England. I hope you will join me in welcoming a group of fine young men and their coaches here to the Capitol today. Thank you, Mr. Speaker.

PASSED and sent for concurrence.

Recognizing:

Louie Luchini, a senior at Ellsworth High School, who finished second in the 20th annual Foot Locker National Cross Country Championship in Orlando, Florida, earning him first-team All American honors. Other accomplishments include placing second in the National Scholastic Indoor Track and Field Championship in Roxbury, Massachusetts, winning the mile competition at the New England Indoor Track Championship and winning the one mile, 2 mile and 800 meter races at the State and Regional Championships, setting Eastern Maine records in all 3 events. He also set a new record for the state meet with his mile time of 4 minutes and 17 seconds. Louie has accepted a scholarship from Stanford University where he will be studying in the fall. We send our congratulations to Louie on these accomplishments and extend our best wishes for continued success in his future endeavors;

(HLS 356)

Presented by Representative POVICH of Ellsworth.

Cosponsored by Senator GOLDTHWAIT of Hancock.

On **OBJECTION** of Representative POVICH of Ellsworth, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **POVICH**: Mr. Speaker, Ladies and Gentlemen of the House. Before I continue, I want to recognize the supporting cast of this endeavor, the Ellsworth Boys Cross Country Team, who won the 50th Old Town Sectionals, University of Maine Invitational, Sterns Minute Man Invitational, for the 5th straight year Penobscot Valley Conference Large School Title, and finally the State B Championship. Our Coach Andy Breadsley, Assistant Coaches Jim Chadette and Chuck Whitney. They are here today and I would like to honor them as well.

Now Louie Luchini has been honored in more ways than his 17 years, in Cross Country he was Hancock County Champion, the Penobscot Valley Champion, the Eastern Maine Champion, fastest time of the day for all classes, the State Champion fastest time for the day of all classes. The New England Champion 2nd fastest time ever run on the course in 30 years, Footlocker Northeast Regional 6th place, and 2nd place in the Footlocker National Championships, highest finish ever by a Maine runner and of course Louie Luchini is no stranger to most of us because his efforts have been featured and recorded in just about every newspaper in the State of Maine. Louie runs fast and studies hard and he will continue his studies next fall at Stamford University where he was awarded a four year full scholarship. Remarkable young man from a hard working, kind and loving family, Louie represents the best of our fine Maine youth and this is only the beginning for this young man. Our best wishes and congratulations go out to Louie.

The SPEAKER: The Chair recognizes the Representative from Belmont, Representative Berry.

Representative **BERRY**: Mr. Speaker, Men and Women of the House. I serve in another capacity other than here and in teaching and that capacity is refereeing state track meets and I have been acquainted with this young man since he was a freshman in high school, actually before that. This is one of the finest runners and one of the greatest sportsmen in the sport in the State of Maine. Louie I congratulate you, much success in the future. Thank you.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Fisher.

Representative **FISHER**: Mr. Speaker, Men and Women of the House. It was probably 8 years ago I went to the cross country meet in Ellsworth and I saw Mr. Luchini's brother run. I think he was a freshman at that time and he went out like a scalded cat and I thought that kid will never finish. The best high school runner I'd ever seen. This one's better. I just wish he hadn't thrashed the Brewer kids quite as bad as he has over the years. Congratulations. Thank you.

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

Representative **PINKHAM**: Mr. Speaker, Men and Women of the House. I, too, want to rise to recognize Louie. I live the next town over and being a runner myself, I really admire the accomplishments that he's made and we're talking mile runs and things like that but Louie also is a distance runner. He runs a lot of road races that I do and, of course, I'm always looking at his back, but I'm a little older than he is too, but congratulations and best of luck at Stamford.

PASSED and sent for concurrence.

Recognizing:

the Ellsworth High School Show Choir, who won the 1999 Maine State Division I Championship. They performed at Disney World last year and will be performing in the national competition at Disney World in 2000 under the direction of Mrs. Rebecca Wright and accompanist Steven Paquette. One member, Jason Anderson, won Outstanding Male Vocalist at the Championship. We extend our congratulations on their achievements and our best wishes on their future competitions;

(HLS 357)

Presented by Representative POVICH of Ellsworth.
Cosponsored by Senator GOLDTHWAIT of Hancock.

On **OBJECTION** of Representative POVICH of Ellsworth, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **POVICH**: Mr. Speaker, Ladies and Gentlemen of the House. The ultimate high school state champions Division I Show Choir legislative sentiment says it all, however, the sentiment does not sing their praises any better than they have just demonstrated in their concert featuring the music from the Hunchback of Notre Dame. Their youthful voices soared like eagles, demonstrated the promise of our youth, which has been exerted a little bit in current events these past days. The EHS Show Choir thank you for making our day.

PASSED and sent for concurrence.

**REPORTS OF COMMITTEE
Ought to Pass As Amended**

Report of the Committee on **TRANSPORTATION** on Bill "An Act to Amend Motor Vehicle Laws"

(S.P. 587) (L.D. 1667)

Reporting **Ought to Pass As Amended by Committee Amendment "A" (S-219)**.

Came from the Senate with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-219)** and **SENATE AMENDMENT "A" (S-230)**.

Report was **READ** and **ACCEPTED**. The Bill **READ ONCE**. **COMMITTEE AMENDMENT "A" (S-219)** **READ** by the Clerk and **ADOPTED**. **SENATE AMENDMENT "A" (S-230)** **READ** by the Clerk and **ADOPTED**.

TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-212)** on Bill "An Act to Amend the Laws Governing the Aroostook Water and Soil Management Board and to Provide Funding for a Low-flow Study"

(S.P. 430) (L.D. 1267)

Signed:

Senators:

NUTTING of Androscoggin

KILKELLY of Lincoln

KIEFFER of Aroostook

Representatives:

CARR of Lincoln

FOSTER of Gray
GOOLEY of Farmington
PIEH of Bremen
GAGNE of Buckfield
GILLIS of Danforth
CROSS of Dover-Foxcroft

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-213)** on same Bill.

Signed:

Representatives:

COWGER of Hallowell

WATSON of Farmingdale

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-212)**.

READ.

On motion of Representative SHIAH of Bowdoinham, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-211)** on Bill "An Act to Amend the Laws Relating to Development and Centralized Listing of Municipal Ordinances that Apply to Forestry Practices" (S.P. 666) (L.D. 1888)

Signed:

Senators:

NUTTING of Androscoggin

KILKELLY of Lincoln

Representatives:

COWGER of Hallowell

CARR of Lincoln

GOOLEY of Farmington

PIEH of Bremen

CROSS of Dover-Foxcroft

FOSTER of Gray

GILLIS of Danforth

WATSON of Farmingdale

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

Signed:

Representative:

VOLENIK of Brooklin

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-211)**.

READ.

On motion of Representative SHIAH of Bowdoinham, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-172)** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Revoke Voting Rights of Convicted Felons While they are in Prison

(S.P. 545) (L.D. 1607)

Signed:

Senators:

CAREY of Kennebec
FERGUSON of Oxford

Representatives:

FISHER of Brewer
GAGNE of Buckfield
LABRECQUE of Gorham
MAYO of Bath
PERKINS of Penobscot
HEIDRICH of Oxford
McKENNEY of Cumberland

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

Signed:

Senator:

DAGGETT of Kennebec

Representatives:

TUTTLE of Sanford
CHIZMAR of Lisbon
SHIAH of Bowdoinham

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-172).**

READ.

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

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

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-490)** on Bill "An Act to Establish Mandatory Labeling for Genetically Engineered Foods"

(H.P. 506) (L.D. 713)

Signed:

Senators:

NUTTING of Androscoggin
KILKELLY of Lincoln

Representatives:

COWGER of Hallowell
VOLENIK of Brooklin
PIEH of Bremen
WATSON of Farmingdale
GAGNE of Buckfield

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

Signed:

Senator:

KIEFFER of Aroostook

Representatives:

CARR of Lincoln
GOOLEY of Farmington
CROSS of Dover-Foxcroft
FOSTER of Gray
GILLIS of Danforth

READ.

On motion of Representative SHIAH of Bowdoinham, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought Not to Pass** on Bill "An Act to Eliminate the Use of Nongovernmental Entities in Acquiring and Managing Lands"

(H.P. 1208) (L.D. 1737)

Signed:

Senators:

KILKELLY of Lincoln
KIEFFER of Aroostook

Representatives:

COWGER of Hallowell
VOLENIK of Brooklin
PIEH of Bremen
WATSON of Farmingdale
GAGNE of Buckfield
CROSS of Dover-Foxcroft

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-491)** on same Bill.

Signed:

Senator:

NUTTING of Androscoggin

Representatives:

CARR of Lincoln
GOOLEY of Farmington
FOSTER of Gray
GILLIS of Danforth

READ.

On motion of Representative SHIAH of Bowdoinham, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act to Require Testing for HIV and Blood-borne Pathogens of All Prisoners in the Maine Correctional System"

(H.P. 658) (L.D. 914)

Signed:

Senators:

LONGLEY of Waldo
TREAT of Kennebec
BENOIT of Franklin

Representatives:

THOMPSON of Naples
BULL of Freeport
LaVERDIERE of Wilton
MITCHELL of Vassalboro
NORBERT of Portland
JACOBS of Turner

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-478)** on same Bill.

Signed:

Representatives:

PLOWMAN of Hampden
MADORE of Augusta

SCHNEIDER of Durham
WATERHOUSE of Bridgton

READ.

Representative THOMPSON of Naples moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act to Require the Department of Human Services to Provide Disclosure in Child Protection Proceedings"

(H.P. 764) (L.D. 1087)

Signed:

Senators:

LONGLEY of Waldo
TREAT of Kennebec
BENOIT of Franklin

Representatives:

THOMPSON of Naples
BULL of Freeport
LaVERDIERE of Wilton
JACOBS of Turner
MITCHELL of Vassalboro
NORBERT of Portland
WATERHOUSE of Bridgton
MADORE of Augusta
SCHNEIDER of Durham

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-480)** on same Bill.

Signed:

Representative:

PLOWMAN of Hampden

READ.

Representative THOMPSON of Naples moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act to Amend the Freedom of Access Laws"

(H.P. 1296) (L.D. 1857)

Signed:

Representatives:

THOMPSON of Naples
BULL of Freeport
JACOBS of Turner
MITCHELL of Vassalboro
NORBERT of Portland
MADORE of Augusta
WATERHOUSE of Bridgton

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-479)** on same Bill.

Signed:

Senators:

LONGLEY of Waldo
TREAT of Kennebec
BENOIT of Franklin

Representatives:

LaVERDIERE of Wilton
PLOWMAN of Hampden
SCHNEIDER of Durham

READ.

Representative THOMPSON of Naples moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Majority Report of the Committee on **LABOR** reporting **Ought Not to Pass** on Bill "An Act to Enhance the Payment Options for Certain Employers"

(H.P. 214) (L.D. 292)

Signed:

Senator:

DOUGLASS of Androscoggin

Representatives:

HATCH of Skowhegan
MUSE of South Portland
GOODWIN of Pembroke
FRECHETTE of Biddeford
MATTHEWS of Winslow
SAMSON of Jay

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-477)** on same Bill.

Signed:

Senators:

LaFOUNTAIN of York
MILLS of Somerset

Representatives:

DAVIS of Falmouth
MacDOUGALL of North Berwick
MACK of Standish
TREADWELL of Carmel

READ.

Representative HATCH of Skowhegan moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

On further motion of the same Representative, **TABLED** pending her motion to **ACCEPT** the Majority **Ought Not to Pass** Report and specially assigned for Tuesday, May 11, 1999.

Majority Report of the Committee on **LABOR** reporting **Ought Not to Pass** on Bill "An Act to Amend the Prevailing Wage Laws"

(H.P. 728) (L.D. 1018)

Signed:

Senators:

DOUGLASS of Androscoggin
LaFOUNTAIN of York
MILLS of Somerset

Representatives:

DAVIS of Falmouth
MacDOUGALL of North Berwick
MACK of Standish
TREADWELL of Carmel

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

Signed:

Representatives:

HATCH of Skowhegan
GOODWIN of Pembroke
FRECHETTE of Biddeford
MATTHEWS of Winslow
SAMSON of Jay
MUSE of South Portland

READ.

Representative HATCH of Skowhegan moved that the House **ACCEPT** the Minority **Ought to Pass** Report.

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

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-484)** on Bill "An Act to Prohibit the Employment of Professional Strikebreakers"

(H.P. 756) (L.D. 1046)

Signed:

Senators:

MILLS of Somerset
LaFOUNTAIN of York

Representatives:

HATCH of Skowhegan
MUSE of South Portland
GOODWIN of Pembroke
FRECHETTE of Biddeford
MATTHEWS of Winslow
SAMSON of Jay
DAVIS of Falmouth

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

Signed:

Representatives:

MacDOUGALL of North Berwick
MACK of Standish
TREADWELL of Carmel

READ.

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

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

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-487)** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require Signatures from All Counties on Direct Initiative Petitions (H.P. 1020) (L.D. 1431)

Signed:

Senators:

DAGGETT of Kennebec
FERGUSON of Oxford

Representatives:

TUTTLE of Sanford

CHIZMAR of Lisbon
FISHER of Brewer
GAGNE of Buckfield
LABRECQUE of Gorham
MAYO of Bath
PERKINS of Penobscot
HEIDRICH of Oxford
McKENNEY of Cumberland

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

Signed:

Senator:

CAREY of Kennebec

Representative:

SHIAH of Bowdoinham

READ.

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

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

Majority Report of the Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-481)** on Bill "An Act to Allow Cutting of Trees in the Shoreland Zone Under Certain Conditions"

(H.P. 1036) (L.D. 1458)

Signed:

Senators:

LIBBY of York
NUTTING of Androscoggin

Representatives:

JOY of Crystal
TOBIN of Windham
ETNIER of Harpswell
MARTIN of Eagle Lake
CLARK of Millinocket
DAIGLE of Arundel
CAMERON of Rumford

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

Signed:

Senator:

TREAT of Kennebec

Representatives:

McKEE of Wayne
DUPLESSIE of Westbrook
COWGER of Hallowell

READ.

Representative McKEE of Wayne moved that the House **ACCEPT** the Minority **Ought Not to Pass** Report.

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

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on Bill "An Act to Create a State House Citizen Participation and Lobby Center" (H.P. 1447) (L.D. 2068)

Signed:

Senators:

GOLDTHWAIT of Hancock
DAVIS of Piscataquis

Representatives:

BAGLEY of Machias
McDONOUGH of Portland
BUMPS of China
KASPRZAK of Newport
JODREY of Bethel
RICHARDSON of Greenville
RINES of Wiscasset

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-489)** on same Bill.

Signed:

Senator:

PENDLETON of Cumberland

Representatives:

AHEARNE of Madawaska
TWOMEY of Biddeford
GERRY of Auburn

READ.

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

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

CONSENT CALENDAR

First Day

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

(H.P. 1415) (L.D. 2022) Bill "An Act to Improve the Marketability of Real Estate Titles" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-507)**

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

CONSENT CALENDAR

Second Day

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

(S.P. 319) (L.D. 953) Bill "An Act to Reclassify Certain Waters of the State" (C. "A" S-220)

(S.P. 362) (L.D. 1066) Bill "An Act to Establish the Early Care and Revolving Loan Program" (C. "A" S-223)

(S.P. 536) (L.D. 1598) Bill "An Act Regarding Hospital Cooperation" (C. "A" S-221)

(S.P. 693) (L.D. 1939) Bill "An Act to Fund a Minimum Level of Services for Deaf and Hard-of-Hearing Persons in all Regions of the State" (C. "A" S-206)

(S.P. 697) (L.D. 1972) Resolve, to Establish a Commission to Encourage Incorporations in Maine (EMERGENCY) (C. "A" S-215)

(S.P. 699) (L.D. 1974) Resolve, to Transfer a Parcel of State Land to the Town of Carrabassett Valley (C. "A" S-210)

(S.P. 717) (L.D. 2039) Bill "An Act to Improve Access to Residential Care in Rural Maine" (EMERGENCY) (C. "A" S-222)

(H.P. 900) (L.D. 1278) Bill "An Act to Base Sales Tax for Net Energy Billing Customers on Net Energy Deliveries"

(H.P. 1077) (L.D. 1524) Bill "An Act to Include the Income of a Lessee for the Purpose of Determining Eligibility in Farm and Open Space Tax Laws"

(H.P. 144) (L.D. 206) Bill "An Act to Create the Maine Tax filer's Prescription Medication Plan" (C. "A" H-493)

(H.P. 433) (L.D. 575) Bill "An Act to Provide for Increased Penalties, Enforcement and Education Regarding Dangerous Dogs" (C. "A" H-488)

(H.P. 1093) (L.D. 1540) Bill "An Act to Create a Historic Preservation Tax Credit" (C. "A" H-492)

(H.P. 1458) (L.D. 2090) Bill "An Act to Require that Employees in 24-Hour Convenience Stores Have Access to Telephones and Alarms" (C. "A" H-485)

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

BILLS IN THE SECOND READING

Senate As Amended

Bill "An Act to Facilitate Compliance with the Federal Communications Act of 1996"

(S.P. 141) (L.D. 377)

(C. "A" S-175)

Bill "An Act Relating to Uninsured Vehicle Coverage"

(S.P. 421) (L.D. 1258)

(C. "A" S-201)

Bill "An Act to Renew Maine's Economy"

(S.P. 569) (L.D. 1636)

(C. "A" S-190)

Bill "An Act Concerning Standards for Operation and Maintenance of Radio Antenna Towers"

(S.P. 633) (L.D. 1800)

(C. "A" S-180)

Bill "An Act to Clarify Underinsured Motor Vehicle Coverage"

(S.P. 723) (L.D. 2043)

(C. "A" S-204)

Bill "An Act Concerning Licensure of Chiropractors" (EMERGENCY)

(S.P. 784) (L.D. 2199)

(S. "A" S-205)

House As Amended

Bill "An Act to Protect Municipalities from Property Tax Loss when Land is Acquired by the State"

(H.P. 205) (L.D. 283)

(C. "A" H-203)

Bill "An Act to Increase the Length of Probation for a Person Convicted of Domestic Violence"

(H.P. 381) (L.D. 512)

(C. "A" H-451)

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

Bill "An Act to Provide Equity in Prescription Insurance for Contraceptive Coverage"

(S.P. 389) (L.D. 1168)
(C. "A" S-200)

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

On motion of Representative AHEARNE of Madawaska, was **SET ASIDE**.

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENGROSSED** as Amended and later today assigned.

Bill "An Act to Allow Beverage Sales from Mobile Service Vehicles on Golf Courses"

(H.P. 897) (L.D. 1254)
(C. "A" H-467)

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

On motion of Representative GAGNE of Buckfield, was **SET ASIDE**.

The same Representative moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

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

Representative **GAGNE**: Mr. Speaker, Ladies and Gentlemen of the House. I didn't have the opportunity to speak to this last week and I would like to let you know what this bill is really about. I believe we have gone too far with a bill like this in allowing expansion of access to liquor by granting golf courses to be able to with their golf carts traveling about the course, deliver liquor to its players for 15 holes of golf. I asked some of those who were present in our committee hearing why they couldn't travel around selling soda and sandwiches and be happy with that and they said there was no money in it and they didn't want to bother. Presently it is illegal to bring alcoholic beverages on a golf course at any time. In fact, owners are supposed to check bags and other carriers to make sure they're not bringing any onto the course. They still find cans and bottles later on when they clean up, so it's getting by them, but owners sometimes find it's too much for them to bother to do this, either because they're afraid of scaring away the people who are coming to play and losing business or else too lazy to bother with it. The liquor enforcement officer who was present at our hearing also talked with us about the difficulty of enforcing this law, if it comes to past, because those who serve the liquor are responsible for the premises that they have served to the people there, in other words at the club it's fine at the bar or lounge because they're within the serving distance of that particular person, but expanding it to the entire golf course or most of the golf course is too much. They have the club itself and sometimes some kind of a sugar shack on the 9th hole. I would think that would be enough, but instead this would include more access for them. It worries me that also college students playing golf, one of them might be 21, the others might not, and buy the liquor. Yes, the owners have a responsibility to make sure something doesn't happen like that, that they would share it, but it's very, very difficult to enforce. Also, if the golf course happens to be split by a road, a state road or any kind of main thoroughfare that liquor container has got to be left on that one side of the road so they can cross over and play the rest of the game, come back and

pick up their warm can. I don't know, but the whole thing sounds like a wild mess to me and I feel that we don't need it and should not support it. It's time we stopped this obsession with liquor sales as we did even last week and vote yes to indefinitely postpone this bill.

The same Representative **REQUESTED** a roll call on her motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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

On motion of Representative TUTTLE of Sanford, **TABLED** pending the motion of Representative GAGNE of Buckfield to **INDEFINITELY POSTPONE** the Bill and all accompanying papers and later today assigned. (Roll Call Ordered)

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, May 7, 1999, have preference in the Orders of the Day and continue with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (9) Ought to Pass as Amended by Committee Amendment "A" (H-292) - Minority (4) Ought Not to Pass - Committee on STATE AND LOCAL GOVERNMENT on Resolve, to Establish the State Office Building Location Task Force

(H.P. 226) (L.D. 304)

TABLED - May 3, 1999 (Till Later Today) by Representative AHEARNE of Madawaska.

PENDING - ACCEPTANCE OF EITHER REPORT.

On motion of Representative AHEARNE of Madawaska, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Promote Historic and Scenic Preservation

(S.P. 429) (L.D. 1266)
(C. "A" S-96)

TABLED - May 3, 1999 (Till Later Today) by Representative GAGNON of Waterville.

PENDING - FINAL PASSAGE.

On motion of Representative SHIAH of Bowdoinham, **TABLED** pending **FINAL PASSAGE** and later today assigned.

An Act to Amend Law Enforcement Powers of Maine Forest Rangers

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

TABLED - May 3, 1999 (Till Later Today) by Representative PIEH of Bremen.

PENDING - PASSAGE TO BE ENACTED.

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

HOUSE ORDER - Relative to Propounding Questions to the Justices of the Supreme Judicial Court in regards to S.P. 397, L.D. 1188, "An Act to Amend Law Enforcement Powers of Maine Forest Rangers"

(H.O. 22)

TABLED - May 3, 1999 (Till Later Today) by Representative PIEH of Bremen.

PENDING - PASSAGE.

Representative PIEH of Bremen moved that the HOUSE ORDER and all accompanying papers be **INDEFINITELY POSTPONED**.

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

Representative PIEH: Mr. Speaker, Men and Women of the House. House Order 22 requests a solemn occasion. A solemn occasion is when we ask the Supreme Court to stop what they are doing and render a decision on whether a pending piece of legislation is unconstitutional. It is a rare and indeed a solemn occasion. It may only be brought before the Supreme Court at our request for a piece of pending legislation, not for any current laws. So I was quite surprised to learn that the Agriculture, Conservation and Forestry Committee had a pending question around the solemn occasion. Around LD 1188, which is "An Act to Amend the Law Enforcement Powers of Maine Forest Rangers." I took the paper and went to the Office of Policy and Legal Analysis to find out about it and learned that the references in it were about right of entry. As I'm sure you know, right of entry is a hotly contested issue in many different areas and the forest service rangers have right of entry, access to all lands within the state to carry out the duties they're authorized by law to administer and enforce. They don't have authorization to enter any building or structure. That is current law. It has been debated in the supreme court as recently as 1984. Two state police actually entered a Maine property, went around a locked gate and a no trespassing sign into the woods to a field of marijuana, which they then took and arrested the owner and were found by the supreme court that that was actually legal. Now you may disagree with that and there were dissenters on the court that did, however, the law was upheld and the right of entry is something that all different departments have in different ways.

The Department of Agriculture, for instance, can enter buildings, any buildings that have anything to do with farming, so they can go in Senator Nuttings dairy barn whether he is there or not, with or without his permission. The Department of Marine Resources can enter boats, planes, conveyances, vehicles, boxes, locker bags, lobster traps, etc. in the job of their enforcement. The point is that rangers have and have had right of entry to land and forest, their area of responsibility for a long time and this House Order refers to right of entry.

I then went to the Department of the Attorney General and said, is there anything about this bill that is in any way potentially unconstitutional and what I received back from a combination of Jeff Pidot and Charles Leadbetter were that Mr Leadbetter indicates he cannot discern a constitutional search and seizure related issue arising from LD 1188 or related to statutes of the Bureau of Forestry all is stated in his letter. I completely agree with his analysis. I do not know of any other constitutional issue presented by LD 1188 or related laws of the Bureau of Forestry. Obviously, as with all legislative proposals, the bill presents policy issues for the Legislature to determine. I then went to the Department of Conservation and said what's up with this bill? It's got some policy issues in it that I just don't understand and they walked by me. You have a pink sheet, it was blue a few days ago when we thought we were going to deal with this describing LD 1188 and what it does. Right now law enforcement power is on the left, you'll see, include the right to arrest violators,

prosecute violators, serve criminal process against offenders, require aid and execute in forest ranger duties and deputize temporary aides. The only thing changed on the right in that part is the lawyers, the Office of Policy and Legal Analysis, and the Attorney General's Office who actually penned this bill. They are changing it to say to execute or serve criminal and civil violation processes against offenders, make warrantless arrest for crimes, investigate and prosecute offenders.

This entire bill came out of a Ranger Safety Review Committee that included on it the Attorney General's Office and the Director of Public Safety, as well as forestry service people and other department people, saying there was a need to clarify the law. Number three that you see on the left, so that it was clear what forest rangers were doing and that's what they saw this bill as doing. There is a policy change in Part B, if you look on the left, it talks about violations of people committing crimes against people that forest rangers today have had to get authority to intervene in that process even in a life threatening situation. What they did, and this is the one policy change that I've seen that's really clear in this is they will now if this law goes forward, they will not have to get prior authority if they have proper training. So, this is a crime of person against person, which doesn't happen very often with forest rangers, but you can imagine being up in the woods having to run to your truck to make a phone call before you can help save someone's life. There isn't a D on this which provides liability coverage, well in the line of duty of forest rangers, which is something other state workers have and it was an omission in law that they didn't have it.

So, those are in a nutshell what LD 1188 is about. There are a couple of policy changes, this is not about guns, we went through that, remember I put in a joint order a couple of weeks ago. Our committee is going to take a look at guns and arming forest rangers and whether that's appropriate or not. Two years ago both Houses of the Legislature voted to arm rangers. The Appropriations Committee decided that was a bad idea or whatever, they didn't fund it and it did not become law, however, the Agriculture Committee then told the Commissioner to continue toward arming rangers, which he began to do, which is now on hold and there's actually an amendment to this bill to assure that no more money is spent toward arming rangers until there is clear direction from the Second Session of the 119th Legislature. I hope that wasn't too confusing and I encourage you to support the Indefinite Postponement of this House Order. Thank you.

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

Representative MCALEVEY: Mr. Speaker, Ladies and Gentlemen of the House. There are a couple of issues here that are in play. We have on one hand the ability of a forest warden to exercise our forest product act civilly and to enter upon a person's property with or without their permission. I think that's important that they have that authority, but they also now have the authority, having graduated from the Maine Criminal Justice Academy, of that of a police officer. There's nothing wrong with that either, but the problem is the marriage of the two when it comes to entering property period. Police officers, up until a few years ago, following federal statutes, called open field doctrine, could enter anybody's property whatsoever at any time, except a building without a warrant. This Legislature, a number of years ago said no, we can't do that anymore. If there's a sign posted on the property, you have to honor it, then you have to go get a

search warrant. That's what we told our law enforcement community. Now if forest wardens were just entering property for the purposes of exercising their duties as forest wardens, I don't have a problem with that, but when you marry their right as a safety officer to enter property with or without permission with that of a police officer, we're going too far. We're expanding powers of search to a law enforcement community even though their primary role is conservation, but we are extending that authority of search beyond what I believe the intent of the original legislation of this Legislature years ago.

I'm proud of my law enforcement career, but I'm very concerned and very watchful of our law enforcement community, because if we don't watch them carefully, and we give away certain rights, eventually I'm afraid we may go towards the right, towards a police state. I don't think I'd ever say that on the floor of this body, but I have. This is one chinch in that armor, one step towards that. There's nothing wrong with the forest warden and his duties going onto property civilly, for the purpose of searching for violations, that's great. I think that's wonderful we've given them authority, but once we made them sworn law enforcement officers, there's a conflict. Because quite frankly, you'll end up with a test case and the next thing you'll know, law enforcement officers of any venue, whether they are fish and game, state police, sheriffs, municipal will be able to do the same thing without a warrant and that's a marriage of too much power in the hands of one organization within this state.

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

Representative **TRAHAN**: Mr. Speaker, Honorable Members of the House. I brought this solemn occasion forward. When I first read the bill, I immediately threw up some flags. Because I so enjoy researching the Constitution of the United States and the Maine Constitution and I was quite familiar with this issue of right of entry into lands, I was immediately concerned of the situation that we would be creating if we passed this legislation. I will read the two sections of the legislation that concern me the most. Forest Rangers and state supervisors for the purpose of enforcing forest and forest preservation laws, laws of the Maine Land Use Regulation Commission and laws and rules relating to the lands under the jurisdiction of the Bureau of Parks and Lands have statewide law enforcement powers equivalent to those of a sheriff. The second section, criminal conduct has been committed, or is being committed, in the presence of a law enforcement officer, when one or more of the officers senses afford that the officer's personal knowledge of facts that are sufficient to warrant a prudent and cautious law enforcement officer's belief that a crime involving use or threatened use of physical force against a person is being, or has just been committed. On face value, those two items threw up a flag, but how do they come in conflict with the Constitution? I say to you not by themselves but in combination with the rights of entry and the forestry practices act and I'll read.

Agents of the Bureau have rights of access to all lands within the state to carry out their duties they are authorized by law to administer and enforce. Why do I come to this concern? Our State Constitution is very clear on the rights of entry on reasonable searches and seizures. Section 1, of the Declaration of Rights of enjoying and defending life and liberty, acquiring, processing and protecting properties. Section 5, unreasonable searches are prohibited. The people shall be secure in their person's houses, papers and possessions from unreasonable searches and seizures and no warrant to search any place, or

seize any person or thing shall issue without a special designation of the place to be searched and the person or thing to be seized, nor without probable cause. Now you take the combination of all those powers that I stated earlier, the right of entry without probable cause, search warrant, the right to arrest somebody simply because in your opinion, you think they might be a threat to you and sheriff powers statewide. Think of the situations that will occur on private property. We have a state constitution that tells you that you are secure and protected on your property, yet on the other hand are passing legislation that allows officers to go onto your property without reason and without a warrant. Now you enter in guns, which has to be an ingredient when we consider such issues. A person who feels protected and feels some type of privacy on their lands could be in a situation that could cause bloodshed either to the forest ranger or to themselves and I as a legislator, would not want to be responsible for legislation that did that. Think about it, a landowner sees and I will give you a live case, for those who think that this may never occur.

Jim Harren of Canaan, Maine, and his son were working on their farm cutting wood, this is in the recent past. This is his words, he and his son often cut wood on their land to fill in their farm business when it is slow. After they had unloaded a load of wood near their home, they started back into the woods. They viewed a forest ranger passing their farm, he then turned around and followed them into the woods. The land was posted. When all had stopped, the ranger asked for their permit to cut wood, the property owner then said, this is my land I don't need a permit. The exchange from that point from the property owner was very upsetting, now you add these new powers and weapons, what situations are we putting our landowners in. It is very troubling and it is policy that needs to be debated before we go any further on this issue. Often the journey is more important than the destination.

Now to speak of the previous Representative Pieh's testimony from the Attorney General's Office, there's always more to the story. As for your informal request, I have in turn informed and examined the above identified document and will address here two proposed questions. Not my entire solemn occasion, just questions 2 and 3, he did not address question 1. That has to leave in my mind a little bit of a question mark, can he answer that question, can any of us here answer constitutional questions? I don't believe we can, that's why we have the Supreme Court, because often times questions arise and we cannot answer and we have to ask them that question for the protection of our citizens. I just happened while I was researching this, I found a case, 1998 in my town relating to search and seizure. I happen to know everyone involved, just coincidentally, in the opinion of the Supreme Court, the judge that ruled on the case dealing with curtilage, which by the way for those who do not understand curtilage, it is the area on your property where you can feel reasonably private. Where you feel privacy. For me that can be anywhere on my property. I know every rock, every tree, every birds nest, I walk my land daily. I have places on my land that I go when I need to meditate and think things through. I have a reasonable expectancy of privacy and that is the definition of curtilage. So how can we give rights of search and seizure to such areas, we can't, because we define what curtilage is to each person and in this case that's how the judge defined his reasoning.

We have observed that one's claim of protection under the 4th Amendment depends not upon a property right in the invaded

place, but rather upon whether the person has a legitimate expectancy of privacy in the invaded place and then he went on further in his judgment. The State bears the burden of proving that an area is outside the curtilage, noting that the State bears the burden of proving an exception to the general rule that warrantless searches are per se unreasonable. Judge Philbrick, I have stated clearly now what my concerns were, we have put our landowners in a horrible predicament by saying they cannot defend their rights to unreasonable searches and if they do, they can be arrested. We will arm these officers, there will be bloodshed and my conscience would not be clear unless I brought this solemn occasion forward.

I will end my testimony today with something from the Constitution explained by Harry Atwood. Most of the United States in the Union now require that the Constitution of the United States be studied in the schools, even in the states where no formal requirement exists, there is an emphatic increase in the attention given to such studies. In October, 1924, Dr. John T. Tiger, United States Commissioner of Education, made the challenging statement, I do not believe there are more than a limited number of persons, perhaps 100, who really know what is in the Constitution of the United States. The report of the Committee on American Citizenship presented the meeting of the American Bar Association, Denver, Colorado, July 14th through the 16th, 1926, contained the following remarkable confessions. Lawyers are being graduated from our law schools by the thousands who have little knowledge of the Constitution. When organizations seek a lawyer to instruct them on the Constitution, they find it nearly impossible to secure any confident. I suggest to all those individuals that came to me before I brought this solemn occasion before us today, who said that this law is constitutional. How can any of us judge constitutionality, we are not Supreme Court justices. If there is even one small doubt in your mind of the constitutionality of this law, combined with the rights of entry in the forestry practices act, we must uphold our oath of office. For me, that oath of office goes beyond my politic party, affiliation or otherwise. Please contemplate that. Thank you.

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

Representative **PIEH**: Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to respond to the question the good Representative from Waldoboro had. He asked if anyone knew the answer about the Attorney General's to his question number 1. The letter that I read from you was from Jeffrey Pidot, Chief of the Natural Resources Division, addressing question 1. Charles Leadbetter, the letter that Representative Trahan commented from, addressed questions 2 and 3. Thank you very much.

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

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. I am rising in support of this motion to indefinitely postpone. I'm going to give you my reasons why. The use of a solemn occasion is very rare, very rare, so the first question you have to ask yourself is look at the bill on its face. Does it present issues of such dramatic consequence that we need a solemn occasion. Taking a look at the bill and the two areas that have been discussed as particularly upsetting. The first one, forest rangers and the state supervisors for the purpose of enforcing forest preservation lands, and etc. have statewide law enforcement powers similar to that of the sheriff, is just a restatement of current law, simply a restatement of current law.

A solemn occasion cannot be used to get an opinion about a law that already exists, so are we being asked to get a solemn occasion because we have changed the wording. I don't think so. I happen to be a lawyer and I happen to have read the Constitution of Maine, I've read the Constitution of the United States. I've read it many times. There is nothing in this bill that rises to constitutional proportions. The issue of entry onto land is well established in Maine law. I believe that issue does have constitutional implications, the issue of entry, but that's not what's in this bill. This bill does not give any new rights of entry. Those rights have already been passed by this legislature a long time ago and in fact, in the 118th, we amended it by taking out some of the language from just the issue, the paragraph we are talking about, from the Representative from Poland, Representative Snowe-Mello's bill that went through the Judiciary Committee.

The issues presented in this bill are not of constitutional proportions, but don't mistake that with concerns about law enforcement. I agree with my friend from Waterboro, Representative McAlevey, about concerns about law enforcement and expanded use of law enforcement, particularly in areas where there may be little or not enough training. I do not agree with arming forest rangers or conservation workers or whatever I voted against the bill that passed through this body last session. I intend to vote against any bill that gives them the right to bear arms, but that isn't the issue before us. The issue before us is, do we have a constitutional question of such severity that we are going to ask the law court to step in? Are we going to give away our right to pass whatever legislation we want to pass and say the law court we don't understand this well enough? Is the criteria going to be if you have a small question in your mind about whether this is constitutional enough, that we should ask the law court? How many hundreds of bills fit into that category? We'd be asking the law court for opinions on a third of the legislation that comes through here. I, for one, don't like to involve the law court in our branch of government.

If the law is to be challenged, let it be challenged through a case that goes through the courts in the proper procedures, or if you don't like the right of entry issues, try to change the law on the right of entry. For these reasons I ask that you support the good chair's motion to indefinitely postpone and let us get on with taking up the bill, whether it is good, bad or indifferent and dealing with the issues that are in that bill. Don't vote for a solemn occasion because you don't like the current law. You should only vote for it if there is a constitutional issue in the current bill that is so important that we need the law court's opinion. Thank you.

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

Representative **TRAHAN**: Mr. Speaker, Men and Women of the House. I think I need to clarify a certain point. I think it is very important to my solemn occasion that you understand it, so that is why I've stood a second time. In dealing with this issue of laws that have already been passed and the issue of the forest rangers bill coming forward and I'll explain it as soon as I read this. The general misconception is that any statute passed by the Legislature bearing the appearance of law, constitutes the law of the land. The U.S. Constitution is the supreme law of the land and any statutes to be valid must be in agreement. It is impossible for both the Constitution and law violating it to be valid, one must prevail. This is succinctly stated as follows. The general rule is an unconstitutional statute, though having the

form and name of law is in reality no law, but is wholly void and ineffective for any purpose. Since unconstitutionality dates from the time of its enactment and not merely from the date of the decision so branding it. An unconstitutional law is legal contemplation and is as unoperative as if it had never been passed, such a statute leaves the question that it reports to settle just as it would if the statute had not been enacted. Since an unconstitutional law is void, the general principles follow that it imposes no duties, confers no rights, creates no office, bestows no power or authority to anyone, affords no protection, and justifies no court act performed under it. A void act cannot be legally consistent with a valid one and unconstitutional law cannot operate or supersede an existing law. Indeed, in so far as the statute runs counter to the fundamental law of the land, it is superseded thereby. Sixteenth American Jury Prudence, Second Edition, Section 256, just because a law is in law does not mean it is constitutional. Just as the forest ranger bill cannot be judged as constitutional, only Supreme Court justices can make that decision. That is why I cannot go any further without fighting this with every fiber of my being. If one individual is shot, if one person, one forest ranger is harmed because of something we do here and we don't ask the question that we cannot answer. We have to take responsibility for that. Thank you.

Representative **TRAHAN** of Waldoboro **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the HOUSE ORDER and all accompanying papers.

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

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

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. I believe that the good Representative, Representative Thompson, is correct that solemn occasions are relegated to only looking into the proposal in front of us, not current law. I could be wrong on that, but that's my understanding of it. I have a question if I may, Mr. Speaker.

The **SPEAKER**: The Representative may pose his question.

Representative **PERKINS**: The good Representative, Representative Thompson, pointed out that part of the underline portion of the bill in front of us under A. It is current law and my question is, could somebody just go down through the bill and specify what is new proposal in this, so that we could know what we're talking about.

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

Representative **PIEH**: Thank you, Mr. Speaker. If you will refer to your pink sheet, it was blue a few days ago, it shows current law and under number 3, it talks about the law enforcement powers. It has the law enforcement powers equivalent to a sheriff, or sheriff's deputy. That's what is in current law, including the right to arrest violators, prosecute violators, serve criminal process against offenders, require aid in executing forest ranger duties and deputize temporary aides, the change is language. If you look on the right under A, it's down about 6 lines where it says, those of the sheriff or sheriff's deputy in the sheriff's county, including the right to execute or serve criminal and civil violation processes against offenders, make warrantless arrests for crimes, investigate and prosecute offenders, require aid in executing, that goes back to the original language. So that is one rewording of current law. That is not a

change in any of the duties they are currently able to do and that they are doing and that was taken by the Attorney General's Office out of other language, defining it that was a little clearer. Under Department of Conservation policy statement, what that is about, it's about crimes people make to each other, so person to person crime. Currently, rangers have to telephone for an authority to intervene if they happen to see someone committing a crime against someone else, such as rape, or there could even be a life threatening situation. This is a change in policy. On the right to saying that they do not need to telephone. They can go ahead if they have proper training and intervene. That is a change in policy. The other addition, as I mentioned before, is not on the bill, it's to give them liability coverage during the enforcement of their duties, which is what other state workers have and was put in at the request of the Maine State Employees Association. I hope that answers your question.

The **SPEAKER**: The Chair recognizes the Representative from Danforth, Representative Gillis.

Representative **GILLIS**: Mr. Speaker, Ladies and Gentlemen of the House. I would just like to have you for a moment take into consideration what was said here today. It was mentioned that in no way one person would vote to arm a ranger. This gives the immunity for liability to help someone who's in danger, or threatened, or whatever and if you think you are going to send a forest ranger out there into a bad situation without arming them, you're kidding yourself. The next thing I would like to mention is, being a new kid on the block here, I haven't had the privilege of seeing a solemn occasion and what I understand what's been said here today, it's a very rare occasion and that being that, perhaps we should vote to defeat this motion and let the solemn occasion go forward.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is to Indefinitely Postpone House Order 22. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 134

YEA - Ahearne, Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Chizmar, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Lemont, Mailhot, Martin, Matthews, McDonough, McGlocklin, McKee, Mitchell, Muse, Norbert, O'Brien LL, O'Neal, O'Neil, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Belanger, Berry DP, Bowles, Bruno, Buck, Cameron, Campbell, Carr, Chick, Cianchette, Clough, Collins, Cross, Daigle, Davis, Foster, Gerry, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Joy, Kasprzak, Kneeland, Labrecque, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Plowman, Richardson E, Rosen, Savage C, Schneider, Sherman, Shields, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Tracy, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Bragdon, Bumps, Clark, Duncan, Jones, Shorey.
Yes, 78; No, 67; Absent, 6; Excused, 0.

78 having voted in the affirmative and 67 voted in the negative, with 6 being absent, the HOUSE ORDER and all accompanying papers were **INDEFINITELY POSTPONED**.

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

An Act to Amend Law Enforcement Powers of Maine Forest Rangers

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

Which was **TABLED** by Representative PIEH of Bremen pending **PASSAGE TO BE ENACTED**.

On motion of Representative MARTIN of Eagle Lake, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

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

The same Representative **PRESENTED** House Amendment "A" (H-326) which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative **MARTIN**: Thank you, Mr. Speaker, this amendment makes it clear that until there is legislative intent that there will be no arming of the forest rangers in Maine until that issue can be debated fully by the Legislature.

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

Representative **PIEH**: Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to tell you that I think this is a good amendment and it will help us deal with the confusion and concern over arming rangers. Thank you.

The **SPEAKER**: The pending question before the House is adoption of House Amendment "A".

House Amendment "A" was **ADOPTED**.

Representative **WATERHOUSE** of Bridgton **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended by House Amendment "A" (H-326)**.

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 Passage to be Engrossed as Amended by House Amendment "A" (H-326). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 135

YEA - Ahearne, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Brennan, Brooks, Bruno, Bryant, Bull, Cameron, Carr, Chick, Chizmar, Clough, Colwell, Cote, Cowger, Daigle, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gillis, Goodwin, Gooley, Green, Hatch, Heidrich, Honey, Jabar, Jacobs, Jodrey, Kane, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lovett, Mack, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKenney, Mitchell, Murphy E, Muse, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Sherman, Shiah, Shields, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Townsend, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Andrews, Buck, Campbell, Cianchette, Collins, Cross, Davis, Foster, Gerry, Glynn, Joy, Kasprzak, Lindahl, MacDougall, McKee, McNeil, Mendros, Murphy T, Nass, Pinkham, Plowman, Snowe-Mello, Stanwood, Stedman, Thompson, Tobin D, Tobin J, Tracy, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM.

ABSENT - Bragdon, Bumps, Clark, Duncan, Jones, Shorey.
Yes, 111; No, 34; Absent, 6; Excused, 0.

111 having voted in the affirmative and 34 voted in the negative, with 6 being absent, the Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-326)** in **NON-CONCURRENCE** and sent for concurrence.

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

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.

HOUSE REPORT - Ought to Pass - Committee on BUSINESS AND ECONOMIC DEVELOPMENT on Bill "An Act to Require Disclosures in Connection with Transfers of Residential Property"

(H.P. 1368) (L.D. 1966)

TABLED - May 3, 1999 (Till Later Today) by Representative O'NEAL of Limestone.

PENDING - ACCEPTANCE OF COMMITTEE REPORT.

On motion of Representative O'NEAL of Limestone, the Bill and all accompanying papers were **COMMITTED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (11) Ought to Pass as Amended by Committee Amendment "A" (H-280) - Minority (2) Ought to Pass as Amended by Committee Amendment "B" (H-281) - Committee on HEALTH AND HUMAN SERVICES on Bill "An Act to Amend the Law Governing the Confidentiality of Health Care Information"

(H.P. 1156) (L.D. 1653)

TABLED - May 3, 1999 (Till Later Today) by Representative KANE of Saco.

PENDING - ACCEPTANCE OF EITHER REPORT.

On motion of Representative KANE of Saco, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

An Act to Increase Penalties for Standing or Walking on Railroad Tracks

(H.P. 56) (L.D. 70)

(C. "A" H-199)

TABLED - May 3, 1999 (Till Later Today) by Representative MENDROS of Lewiston.

PENDING - PASSAGE TO BE ENACTED.

Representative MENDROS of Lewiston moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I urge you to take a look at this bill, what it does. Currently it is against the law to walk on railroad tracks, walk across them, \$5 fine up to \$20. What this bill will do is change that, stand on railroad tracks to walk across railroad tracks will be up to \$100 the first time, up to \$500 the second time and three or more times, just walking across railroad tracks or standing on them \$1,000 fine. That seems excessive to me, very excessive. Just to walk across railroad tracks. There are three arguments that I've heard why this is needed. One, is that it is private property, well I have private property, too and it's not a \$1,000 fine for walking on my private property. That's very excessive. I think we're going above and beyond to protect the railroad's interest. Secondly, is it's dangerous. It's a lot more dangerous to cross the street than to cross the railroad tracks, but jay walking, as I understand it, is only a \$25 fine. Walk across a railroad track, you have plenty of time to see a train, to make it \$1,000 fine seems very excessive. The third point, maybe this is used as a deterrent to keep people off the tracks, well if a 40 ton train coming at you isn't a deterrent, a \$1,000 fine that nobody knows about, what kind of deterrent is that going to be.

I understand there's some arguments about protection, you know we don't want children on there, well a police officer if there's a child playing on the tracks can go get that child, bring him home and say your child was on the tracks it's a \$5 fine, \$20 fine, the parents aren't going to be deterred and say don't play on the railroad tracks because I'm going to get fined. They're going to tell their kids don't play on the railroad tracks because you're going to get hit by a train. Slapping a parent with a \$1,000 fine other than just make them very angry isn't going to make their children to stop. They want their children not to play on railroad tracks so they don't get killed. I don't think this \$1,000 fine does anything other than slap people who happen to walk across them with a huge fine. I urge you to vote for the pending motion.

On motion of Representative TRACY of Rome, **TABLED** pending the motion of Representative MENDROS of Lewiston to **INDEFINITELY POSTPONE** the Bill and all accompanying papers and later today assigned.

HOUSE DIVIDED REPORT - Report "A" (7) **Ought to Pass as Amended by Committee Amendment "A" (H-354)** - Report "B" (4) **Ought to Pass as Amended by Committee Amendment "B" (H-355)** - Report "C" (1) **Ought to Pass as Amended by Committee Amendment "C" (H-356)** - Report "D" (1) **Ought Not to Pass** - Committee on LABOR on Bill "An Act to Treat All Employees Equitably with Respect to Leaves of Absence for Legislative Service"

(H.P. 235) (L.D. 339)

TABLED - May 4, 1999 (Till Later Today) by Representative HATCH of Skowhegan.

PENDING - Motion of same Representative to **ACCEPT** Report "A" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-354)**.

On motion of Representative HATCH of Skowhegan, **TABLED** pending her motion to **ACCEPT** Report "A" **Ought to Pass as Amended by Committee Amendment "A" (H-354)** and later today assigned.

HOUSE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (H-352)** - Committee on LABOR on Bill "An Act to Revise the Fact-finding Process under the Public Employees Labor Relations Laws"

(H.P. 495) (L.D. 702)

TABLED - May 4, 1999 (Till Later Today) by Representative HATCH of Skowhegan.

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

The SPEAKER: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative **MARTIN**: Mr. Speaker, Members of the House. Let me quickly tell you what this bill does and why I introduced it. It was primarily aimed at some of the work that some of you people have seen over the years developed between school boards and lawyer's firms in particular. To the process of when there is a disagreement between the two factors, the school board and members of the associations across the state. The process basically is to try to get to mediation and if that doesn't work than to go to fact finding and then arbitration and then of course the controversy continues from that point. We do not have binding arbitration in this state and that it's doubtful it is going to occur in the near future, but there is nothing in my opinion that disrupts a community any more than two or three years without a teachers contract and I've seen it happen now in a number of places all over this state. In my short hiatus away from this body, I did a lot of fact finding at the school level, in particular for teachers. What this would do basically, what goes through the fact finding process is that you have three people appointed, one is appointed by the association, that is the teachers, the second is appointed by the school board or selected in part, and the third person is an independent, basically the neutral and the three of them then go out to try to basically lay out the facts and to get both sides to agree. Unfortunately, fact finding, if it's true fact finding, it accomplishes very little because all it is is a report and after 30 days both sides can start attacking one another again. What came to my mind was the possibility of saying that if the fact-finding report is unanimous and that is labor, management and the neutral that becomes binding. That was my theory, that's what I'm suggesting as a way to try to solve these problems.

Remember, the two parties that being here, in fact are represented by both sides. Each side is represented on that fact-finding panel. Now I know that you've all been lobbied or most of you have if they thought could get you by Maine School Management. I happen to be a member of that association, since I'm still a member of the school board. I will say, and I will point out that being a member of the school board is probably the worst political job I've ever held in 35 years. I will tell you, in my opinion, from my experience on the school board that when you let factors fester that it isn't good for the students and it isn't good for the moral of the faculty and it isn't good for the community who doesn't know what's going on because it's "secretive." You can't talk about what goes on in the collective bargaining process and that isn't good for anyone in the long run. My hope is to try to move to a stage where we would be able to accomplish something with what ought to be happening, in my opinion, with labor negotiations.

Now when I look at the make up of the report, I think I have a pretty good vision of what can happen in the final outcome of this piece of legislation. I'm not blind to the other end of the hall. I do think that it is important that we, as a state, start thinking about how to solve the problem that we've got at the local level and that frankly, is where I was coming from because I think that it would work. I think it would solve some of the long-term negotiations. I was recently involved in a case in South Portland, which I have now referred to as a fact finding from heck, because it has lasted so long, went through three neutrals, went through a horrible situation in the long run and there was no need of it, in my opinion. I hate to tell you what the legal cost paid to one of Maine's big law firms was for the City of South Portland. Even the city shouldn't have to face that kind of costs, much less a small community where most of the school districts in Maine are located. So that's where I was coming from with this bill and I think it is something which we have to face and we have to somehow deal within the long run and I'd hope you'd give me a vote this morning if nothing else, to show Maine School Management that things need to change.

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. LD 702 would in effect turn fact finding, if unanimous, into the equivalent of binding arbitration on all issues including economic issues. Since currently, arbitration decisions on economic issues are advisory only LD 702 would be a drastic change of the current law. The people of Maine expect this Legislature elected by the people to make the final decisions on the expenditures of state funds just as they expect their elected county and municipal officials to make the final decision on expenditures of county and municipal funds. For those decisions, we take it out of the hands of our elected officials and place in the hands of a fact-finding panel who is not accountable to the taxpayers and is irresponsible and runs counter to that public responsibility. Two other points that I would like to make regarding this LD. One, it's a mandate and it would have to be funding with at least 90 percent of state money unless it receives a 2/3 vote here in the House. Second, the majority report was seven opposed to four in favor of the bill. Thank you, Mr. Speaker.

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

Representative **HATCH**: Mr. Speaker, Ladies and Gentlemen of the House. You have to realize in fact finding it's a second step. Mediation is first, fact finding and then arbitration. Maine Labor Relation Board put in testimony neither for nor against this bill, but I'd like to read into the record a passage from that. If mediation does not resolve all outstanding issues the parties usually move on to fact finding. Fact finding may be conducted either by the State Board of Arbitration and Conciliation or by a panel drawn from the Labor Board's list of fact finders. In either case, the fact-finding panel consists of three members, a neutral chair, an employee representative, an employer representative. Typically, the fact finders attempt to conciliate the dispute and if that is unsuccessful they convene a formal fact finding hearing. In such a hearing the parties present their respective positions on each outstanding issue and support their contentions with comparison data concerning the wage, benefits and working conditions of similar employees in public and private employment that compete in the same labor market. The fact finders then recommend a fair settlement of the

outstanding issues and controversy. In most cases, 75 percent in FY 98, the fact finders are unanimous in making their recommendations. If the parties settle their disputes within 30 days after receiving the fact finders report, the report remains confidential, otherwise it may be made public by either party in an effort to sway public opinion and force a settlement through the political process. We all know how that works. In FY 98, 70 percent of the cases that went to fact finding were resolved at that level. Can you imagine over 2/3. I think this is a good bill. It's a fair bill and I ask for your support on it. Thank you.

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

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. The current system is working just fine. Some of the numbers the Right Honorable Representative from Skowhegan showed that the majority of cases are solved by fact finding or before that. There are just a very few cases that go on beyond fact finding or to arbitration. What this would do is put binding arbitration into the law where it is not now. Maine Municipal Association and other groups testified against this because what it does is it puts the power in these arbitrators hands and takes it out of the elected officials. Those elected officials should be the ones determining the contracts. They are elected by the people of that town. They are accountable by the people of that town. These arbitrators are not accountable or elected by the people and we would be putting tremendous power in their hands. A similar situation has occurred in the State of Connecticut. In 1987, the State of Connecticut passed a law creating binding arbitration on all issues, since that went into effect they have been in binding arbitration for almost every collective bargaining agreement with all of the different bargaining units. In the State of Maine it has happened only once in two decades. In Connecticut, they have been unable to have meaningful collective bargaining because they know it will end before arbitrators. The result is a timely and expensive process. Our current system is working fine and this would put less incentive for both sides to come to agreement and work together because they know it will go to arbitration. Thank you and I urge you to vote against the pending motion.

Representative MACK of Standish **REQUESTED** a roll call on the motion to **ACCEPT the Minority Ought to Pass as Amended by Committee Amendment "A" (H-352) 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 Minority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 136

YEA - Ahearne, Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Chizmar, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Lemont, Mailhot, Martin, Matthews, Mayo, McDonough, McGlocklin, McKee, Mendros, Mitchell, Muse, Norbert, O'Brien LL, O'Neal, O'Neil, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Townsend, Tracy, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Belanger, Berry DP, Bowles, Bruno, Buck, Cameron, Campbell, Carr, Chick, Cianchette, Clough, Collins, Cross, Daigle, Davis, Etnier, Foster, Gillis, Glynn, Goodwin, Gooley, Heidrich, Honey, Jodrey, Joy, Kasprzak, Kneeland, Labrecque, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, McAlevey, McKenney, McNeil, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Plowman, Richardson E, Rosen, Savage C, Schneider, Sherman, Shields, Snowe-Mello, Stanwood, Stedman, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Tripp, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Bragdon, Bumps, Clark, Duncan, Jones, Shorey, True.

Yes, 78; No, 66; Absent, 7; Excused, 0.

78 having voted in the affirmative and 66 voted in the negative, with 7 being absent, the Minority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-352)** was **READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Tuesday, May 11, 1999.

HOUSE DIVIDED REPORT - Majority (7) **Ought to Pass as Amended by Committee Amendment "A" (H-359)** - Minority (5) **Ought Not to Pass** - Committee on **LABOR** on Bill "An Act to Amend the Workers' Compensation Law as It Pertains to Employer-selected Health Care Providers"

(H.P. 555) (L.D. 776)

TABLED - May 4, 1999 (Till Later Today) by Representative HATCH of Skowhegan.

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

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

On motion of Representative TREADWELL of Carmel, the House **RECONSIDERED** its action whereby the Majority **Ought to Pass as Amended Report was ACCEPTED.**

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

Representative TREADWELL: Mr. Speaker, Ladies and Gentlemen of the House. Since 1992, when the workers' comp law was changed and the new system was enacted, we've have a very workable law and a law that has been friendly to both the employers and the employees, I believe. It is estimated by National Council of Compensation Insurers that if this bill passes it's going to cost the employers in the State of Maine somewhere between \$13 and \$22 million in additional comp premiums. Currently the first 10 days of an injured employees rehabilitation or the first 10 days after an injury, the employer may select the doctor the injured employee is referred to. At the end of that 10 days the employee has the ability to select any doctor they wish. This system has worked very well. The doctors are bound by their oath to care for a patient no matter whether the patient is being referred by the employer or being selected by the employee. The other factor we should keep in mind is that these doctors are specialist in occupational injury. They have far more knowledge than a general practitioner in the field of occupational injury and therefore the injured employee in most cases is returned to work quicker. The employee's peace of mind, their self esteem is much better because they can get back on the work force and be a contributing member of society a lot quicker than if they were kept out of work with a non disabling injury or

an injury that was not serious enough to keep them on the injured roles. I'm not saying that this always happens, but I think that the most critical time in an injury is the first day or two after an injury to get that person into rehabilitation and back to the work force as soon as possible. I would urge that we defeat the Ought to Pass motion that's before us and go on to accept the Ought Not to Pass.

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

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

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

Representative HATCH: Mr. Speaker, Ladies and Gentlemen of the House. This legislation was introduced to correct a serious problem, which has existed in Maine since the 1992 reform. A provision of current law, which allows employers to control, I repeat to control, an employee's medical treatment entirely for the first 10 days following an injury. In fact, to deny an employee the right to see his own physician unless he pays for that, even his primary care provider, is not right. We all know in the last few years, we've all gone to HMO's and we all have primary care providers for ourselves and most of us for our families. But during the first 10 days following an injury, unless you're in a contract and you happen to be organized and the contract specifies that you can go to your own doctor, you have to go to the employer's doctor. This is bad public policy and it's bad health policy. It interferes with the relationship between an injured worker and his normal treating physician and denies access to specialists that your doctor might recommend, which might be very necessary. It is directly inconsistent with the requirements of normal health maintenance policy, which require a person to see his primary care provider and it is contrary to the well-established principles and prompt, full, and appropriate medical care is the most important part to recovery from injury. Over the course in the last 5 years, I've heard from numerous employees who are denied access to specialists for quite a period of time by the insurance companies. What happens that an employer has their in house doctors, or I prefer to call them their hired gun specialists, which they use to examine and control the treatment or non-treatment more likely of an injured worker. In the critical first 10 days following an injury, disrupt the relationship with the employees family doctor, eschew medical care. There is no legitimate purpose in this except to deny good medical care and deny appropriate diagnosis and treatment to an injured worker. I strongly encourage you to support LD 776 to remove the employer or the insurance carrier from the relationship between an injured worker or patient and the medical community, and to allow appropriate selection of medical care by the injured worker.

A couple of remarks I'd like to make in regards to LD 776, one of the hearings an employer stood up, said this was another ill attempt to do away with the reforms of 1992. If this passes, how will we control our employees? Can you imagine? There was also a business owner who testified before us, I'm keeping the names out of it, I think all the members of the committee who were at the hearings will recognize them, said that his employees loved to have him go to the doctors with them. Can you even imagine it? I think I'd want my husband to go to the doctor with me, I'm not sure about my employer, but if the Governor wants to go, or the people of my district want to go, I

suppose. The actuary for the insurance industry also said that it would cost more to have your primary care physician. I'm just wondering, would it cost more because you get better treatment, because you'd be healed faster. Occupational diseases in this state are currently being treated by the medical profession. Board certified occupational disease doctors are very, very limited, although we do have many treatment centers that treat the obvious effects of occupational injury. I ask for your support on the Majority Ought to Pass and I thank you for your time.

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

Representative DAIGLE: Mr. Speaker, Ladies and Gentlemen of the House. I urge you to vote against the pending motion, because I believe that if we were to pass this law as currently written, it would ultimately result in additional injury and potential death to many employees. Now that sounds like a very serious charge. Let me give you some reasons why I believe I can substantiate that. I have been responsible for other people in the workplace for over 25 years, beginning as a military officer, and more recently, working for a large manufacturing company. In the last couple of years, I was in charge of the plant safety committee. My experience handling injured workers is not a question of whether or not they were truly injured and how they should be treated, my most significant problem has been keeping the injured worker from coming back to work too soon. My experience has been that when a worker is out of work they know that their peers are back on the job place working overtime or working extra hard. They want to come back to work and they want to get going. I send them to an industrially trained physician to assess the degree of their workplace injuries and whether it's appropriate to come back. When a worker sees their personal physician and comes back and says well he has an injured back, be careful he doesn't lift more than so many pounds. When I send that person to an industrial hygienist, they come back with work restrictions that talk about exactly the kind of work that person is normally assigned and those work restrictions can be very important.

The lack of those work instructions can be life threatening. For example, an injured worker has a problem with their breathing. A personal physician says take it easy, an industrial doctor says, he is restricted from confined space entry, confined space requires wearing personal protective equipment, a negative pressure air respirator and exposed to a toxic environment. Perhaps that industrial physician understands that that exposure to that environment can be life threatening because of those medical conditions. A personal physician has no knowledge of that issue. An industrial physician says, restricted from elevated space work, because he understands the injury has vertigo as a possible phenomena. He knows that that worker is assigned to climb a large ladder could get dizzy, or on a scaffold, he will give me work place instructions to the kind of work that person is assigned, because before that physician was selected he has come into the factory. He has understood what happens there and he knows that that worker and an elevated platform with vertigo could die. That's the difference between an industrial physician's response to the management and a personal physician who may not have any knowledge what takes place in the factory. It is absolutely appropriate that the industrial physician consult with the primary care provider in giving that medical care and everyone I've ever dealt with has in fact always done that, but it is not appropriate to take that personal physician experience as being the guidance of what

that person can do once they are brought into an industrial environment. Now finally, I worked for a chemical company. We dealt with massive amounts of toxic chemicals that had to be carefully managed. Another very important thing, know only to an industrial physician, is the possible side effects between normal industrial exposure to chemicals and possible prescription drugs and do you want to be responsible for saying to a person, an employee whose sole focus right then is getting back to work, because that's what he wants to do, so that he knows his friends are not working overtime and covering his weight for them, to say to him that you're going to sit there and be sent to an environment where the drugs you are taking, or the ladders you climb, or the confined space you enter, or the high heat stress environment, may or may not put you in a life threatening situation, because your doctor does not understand. That industrial doctor does.

I have one personal experience in my working life where I did not properly use an industrial physician and I will regret it forever. I had a worker who had an injured back and he saw his own physician and he came back with a basic instruction to just take it easy. Against my better judgment, did not ask for an industrial physician to respond. That person eventually injured his back on the job. It's not a matter of cost. It's not a matter of what that person's getting for workers compensation claims, the matter that always bothers me is that he ultimately was injured. I didn't get the appropriate medical diagnosis to know what he's asked to do in the workplace and what his medical condition was, which is why I really urge you to defeat this pending motion.

The SPEAKER: The Chair recognizes the Representative from North Berwick, Representative MacDougall.

Representative MACDOUGALL: Mr. Speaker, Men and Women of the House. During the hearings, we had several bills, we went from morning and pretty late that evening. There was a fellow by the name of Joseph Lalond, he's general manager of the Maine Potato Growers, he came down from Presque Isle and sat patiently all day until we took this bill up and he went home again that night. I would just like to quote one sentence from him out of his testimony, "Frankly, this is not an issue of the employer controlling the employee, but rather it is an issue of the employer ensuring that the employee gets the best and most appropriate treatment quickly with an experienced specialist familiar with the employees occupation." That was his main concern that he shared with the committee and I believe that to be true. Just recently the Workers' Compensation Board extended benefits from 260 to 312 weeks because the incidences of lost time accidents, those of over 7 days, have actually dropped a point better than the national average. That to me points to the fact that this policy is working.

We had another employer come to us who works in the field of masonry and talked how when they approach a site, one of the important things they do before they begin to do any work is to have proper medical personnel who know what they do, know where they are, so in the event of an injury everything is prepared. That is part of their modus operandi before they do the work. It's very important to that employer.

In another testimony before us, the Associated Contractors of Maine, which is a group of 250 general contractors in construction related firms in the State of Maine, 250 companies, each year they collect lost time injury statistics from their general contractor members and from that a ratio is developed from those statistics to provide them with the number of lost time injuries that occur every 200,000 hours worked. It's valuable

information for evaluating safety in their industry because lost time injuries, of course, are the more serious injuries generally. This ratio is compared to general contracting firms performing similar types and amounts of construction work across the country. For the 3rd year in a row, and for the 4th out of the last 5 years, they have won a collective 1st place award in the national organization for posting the lowest lost time injury rate for their various chapters in their size across the nation. In 1996, the national average for lost time injuries was 2.52 injuries for 200,000 hours worked, their chapter average was better by more than half at only 1.23. The national average was 2.52, theirs was 1.23. In 1997, the members did even better with over 80 percent of their 250 members reporting these lost time injuries, their ratio was .74 while the national average was 2.21. Ladies and gentlemen, this legislation before you today wants to upset some tremendous work that is actually going on as we speak, reducing injuries in the workplace, and when the injuries occur having an occupational specialist ready and able and prepared to deal with that injured worker. Where I work at Spencer Press in Wells Maine, we have almost 700 employees and will be approaching 750 by the end of the summer and I talked to our management there and our people that are involved when there are injuries in the workplace. Less than 1 percent of the time has it even been asked for a different doctor, or they didn't like the doctor the company has assigned. Never, ever, one or two instances has Spencer Press denied their request. Companies want the best thing for their employees. It only makes sense to get them back to work and as Representative Daigle from Arundel mentioned, not too soon either. Done in a properly medical sound matter. What we have folks is something that works extremely well, we had testimony that demonstrated that and I believe the facts support that. Please vote against the pending motion. Thank you.

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

Representative **SAMSON**: Mr. Speaker, Men and Women of the House. I stand to support the Ought to Pass motion on the floor. Workers' comp is a no fault insurance plan. When you are injured at work, doesn't matter if it was your fault, or the company's fault, whatever, the insurance, if you're self insured, the insurance pays for all your medical bills and if you lose enough time they pay for your lost time. All this bill says, is that in this no fault system that we have, in the State of Maine, is that when you are injured you have the right to go see your physician within the first 10 days and the workers' comp and no fault system has to pay that physician. It does not mean that the company can't send you to the company doctor to visit him or her, it just states that you go see your physician, you may have problems that the company doctor doesn't know about. All it says is that when you go and see your doctor, your physician, Workers' comp, the no fault system we have in this State pays that bill in the first 10 days. I could talk on and on about workers' comp and the folks that have come up and testified for or against this bill. I'm telling you right now, this is what the bill says. You have to think in your mind what is fair, how would you feel if you were injured at work. Would you want to see your physician or would you want to wait 10 or 11 days to see your physicians before it's paid for. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Matthews.

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. This bill and I do hope that you support the

Majority Ought to Pass as amended Report. From listening to the testimony here this morning and it reminds me of the testimony at the hearing and work sessions. It really has to do with choice. The free choice of an employee to make that determination and in listening to the good comments of the opposition, it seems to stand the free choice and logic on its head. Because I think our whole health care system has been founded upon the primary care physician. The general practitioner who better knows that individual than his or her doctor. Now the idea that the occupational health doctor is the end all and be all is quite different than what I have experienced. My father was a primary care physician and he knew just about everybody in the town that I lived in and he saw just about everybody in the town that I lived in when I was a kid. This deals with choice and as far as the ability to hold down the costs of occupational injuries, I concur. I hope that the primary reason, as the good Representative from Jay, Representative Samson, and Representative Hatch from Skowhegan, our chair so eloquently stated, the primary purpose, I hope, is to get the injured employee better, to make them better and whole. That primary care doctor, that doctor we all know and have trusted and worked with over the years, I'm sure will work with occupational therapist and the doctor from the company, he or she, hopefully of good standing and I'm sure an expert at what they do, that they'll collaborate. Let's give that employee that choice and right now, as was mentioned, we have the choice in all other kinds of situations to go to our primary care doctor, in fact, we're asked to do that by most of the insurance policies that we have today, except in the workplace. I'll leave you with one other final comment as you deliberate and think about your decision here today. One of the insurer, I can't remember what company, and I wouldn't mention it on the floor anyway, one individual who said this is a terrible bill, don't open this up. The occupational doctors are the experts. They know more, they study all the time. They are the trained experts in the field and the primary care doctors may not keep up on the latest research. I said to that individual, maybe I've been taking my kids to the wrong doctor all these years. I should have taken them to the company doctor, cause the last time I checked the primary care doctors stayed pretty well versed and if they don't, they are not upholding the Hippocratic Oath and again, I've never known a doctor that he or she didn't attend all kinds of research and conferences and stay on top of things so they could better treat you and me. Let's give the employee the choice. That's the issue at stake. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Mayo.

Representative **MAYO**: Mr. Speaker, Ladies and Gentlemen of the House. I rise today in opposition to the current motion and urge that you defeat it so we can go on to the Minority Report. This bill is a roll back of one of the most significant changes that occurred in 1992 with the Workers' comp Blue Ribbon Commission. The existing law is a major reason why today the workers' compensation system sees fewer lost time claims, less litigation, less doctor shopping, and less cost. I would remind you that we heard previously that with the passage of this bill we will see an increase in workers' compensation costs in excess of \$10 million and possibly as high as \$22 million per year. That is a 5 to 8 per cent increase in our total workers' compensation cost. Current law in place since 1992 has helped employees return to work sooner because occupational physicians are well versed in employees light duty program and are willing to

discuss with the employer and the employee how to accommodate workers with light duty instead of steering them to the system of going out on comp. Ladies and gentlemen of the House, I would urge that you do not support the Majority Ought to Pass Report. Thank you.

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

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. I practiced orthopedic surgery for 32 years in this state. I was in practice many years before the reforms were enacted in 1992. What a change. Before we had the 10 day required law, employees were going to the wrong doctor. They were getting the wrong treatments. They were getting many repetitive treatments over long periods of time. They were missing work, but some of them were out mowing lawns, fixing roofs, and going on trips too. After the changes in the law, that all was taken care of. No system is perfect, but the employer selection is a much major improvement of what used to exist. I don't think many physicians could be called hired guns, that's a demeaning term, most of them have their integrity. I was not a specifically selected physician for primary care, but was a consultant and I stood back and saw what happened. Employers do not want their employees to return to work until they are ready and they want somebody to tell them they're ready that's competent in those matters. I urge the defeat of this motion.

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

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. I also urge defeat of the pending motion. I'd like to share a story of one of the companies that came in to testify. This company is somewhere involved in the construction industry and as such they do not have a plant, or an office where most of the work is done. They go off on different job sites. One of the employees of that company came in and testified that one of his jobs is before they go to any job site to start work, he makes sure that there is an occupational specialist in the area who knows what they are doing and is on alert that some injured workers may be coming in. In the few cases where there have been injuries, it has worked very well to get the injured worker healed in a timely and efficient manner. What is best, not only for the system, but most importantly for the injured worker. What has been called a serious problem by some, is actually great benefit to the system. Because the occupational specialists are set up and ready, if a worker does get injured, they get the best care available and can be healed quickly. What happens if the workers do not go to these occupational specialist, they might go to a doctor, they may go to a doctor that is not as well trained in these specific types of injuries, the worker would not be healed as quickly, and also because of that he may not go to work as quickly, or go to work too quickly, ending up with more injuries and also possibly costly litigation down the road. One other benefit of the occupational specialist is that if there is a company that uses occupational specialist, he can stop friends in that workplace. You have a lot of entries of this specific type. You may want to look at your process and how you work and try to prevent some of these injuries from happening in the future. That is what's been happening. The number of disabling cases and injuries has been going down greatly because of this and other preventative measures. This is the best thing for the workers. Not only is this the best for the workers who have been injured, this is also best for all the

workers throughout the State of Maine. A strong economy and having more jobs available helps all workers, since the workers' comp reforms have been put into place, Maine is now reporting record job growth. We're at the highest level of jobs ever recorded in Maine history. This is one of the reasons why. If we throw a \$17 million cost back onto the system, Maine workers will lose their jobs, less companies will locate in Maine and existing employers will be more apt to leave. I urge you to defeat the pending motion, not only to help the injured workers get healed quicker, but to help all workers in the State of Maine and to protect the jobs we have here.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. I would like to address this body as someone who actually pays \$45,000 a year in workers' comp premiums. One thing I can't do anymore is afford anymore increases. You are squeezing the small businessman. We cannot afford any more increases in workers compensation. Let me explain how the workers' compensation system works. When you pay a premium, you can call up your insurance company and say, look my premiums are a lot I want to know how I can reduce them. They will come in and evaluate your job site. They'll say what is the most frequent type of injury you have and you explain it to them. Then they say, okay, let me go back and I will send you a list of physicians who specialize in the type of injury that you have and then you have the opportunity as an employer to pick one of those physicians, or pick 3 of them, go out and speak to them and you decide what is best for you and what is best for your employees. We have this mind set out here that we think the employer is only looking out for themselves and not the employee.

The fact of the matter is, without your employees working and being productive you might as well shut down as a business. So me, as an employer, what I did was I picked out a physician, and granted, I've hardly had any lost time injuries, but what I've done is picked out a physician that I think meets my needs. Nothing says that this employee cannot go to their primary care physician, but they must wait 10 days before they do that. They need to go to someone who is trained in the type of injury that they may have. What I'm asking today is that we do not go back to 1992 when we drove business out of the state, what I'm asking is that we keep the reforms in place, make them work some more, let's bring more jobs to Maine. We're seeing all kinds of manufacturers leave this state, one of the reasons is, there's no money to be made, our costs are way too high, our taxes are too high. Why do we want to do more to harm the employees that are employed right now and why do we want to drive more business out of the state? Please vote against the pending motion.

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. 137

YEA - Ahearne, Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Chizmar, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dunlap, Duplessie, Etnier, Fisher, Frechette, Gagne, Gagnon, Gerry, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Mailhot, Martin, Matthews, McDonough, McGlocklin, McKee, Mitchell, Muse, Norbert, O'Brien LL, O'Neil, Perry, Pieh, Powers, Quint, Richard,

Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Belanger, Berry DP, Bowles, Bruno, Buck, Cameron, Campbell, Carr, Chick, Cianchette, Clough, Collins, Cross, Daigle, Davis, Dugay, Foster, Fuller, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Joy, Kasprzak, Kneeland, Labrecque, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Plowman, Povich, Richardson E, Rosen, Savage C, Schneider, Sherman, Shields, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Bragdon, Bumps, Clark, Duncan, Jones, O'Neal, Shorey.

Yes, 75; No, 69; Absent, 7; Excused, 0.

75 having voted in the affirmative and 69 voted in the negative, with 7 being absent, the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-359) was READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Tuesday, May 11, 1999.

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

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

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

Representative **MCKEE** Mr. Speaker, having voted in error on LD 1188, after having been absent from the Chamber, I wish that the Record record a correction to Yea. Thank you.

The **SPEAKER:** The Record will so reflect.

HOUSE DIVIDED REPORT - Majority (6) Ought to Pass as Amended by Committee Amendment "A" (H-357) - Minority (3) Ought Not to Pass - Committee on LABOR on Bill "An Act to Restore State Funding for Mediation Services Provided by the Maine Labor Relations Board"

(H.P. 564) (L.D. 785)

TABLED - May 4, 1999 (Till Later Today) by Representative HATCH of Skowhegan.

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

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

Representative **HATCH:** Mr. Speaker, Ladies and Gentlemen of the House. This bill restores state funding for mediation services to resolve disputes in municipal labor relations. The state would pay for up to 3 days of mediation. The parties would share equally the cost of additional days, unless either party shows undue hardship, in which case the state would waive the obligation to pay. The general fund

appropriations for this bill will be \$31,763 in the first year and \$42,350 in the second year. Usually this pays for up to three mediation sessions and approximately 80 requests for mediations per year, mediation resolves 82 percent of the cases. In the early 90s, when the state budget needed money, this is one of the things that we cut. Currently under the law, both parties must pay 50 percent, the employer and the employees. This is a good bill. It's something that would help our municipalities out and I ask that you vote Ought to Pass. Thank you.

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

Representative **MACK:** Mr. Speaker, Right Honorable Men and Women of the House. I urge you to vote against the pending motion and against this bill. This bill would in effect increase the amount of mediation in the State of Maine. No one can disagree with the fact that ideally we don't want any mediation, we don't want any arbitration, we want the sides to sit down and come to an agreement on their own. We want them to be able to look each other in the eye, have some give and take and come to an agreement. Well, if we start subsidizing mediation, we're going to have less people coming to agreements on their own. They'll be more apt to go to mediation, say, oh why not, we'll go to mediation, the state's paying for it anyway. If we want better labor management relations, we should vote no on this bill and encourage them to come to agreements on their own. Thank you.

Representative **MACK** of Standish **REQUESTED** a roll call on the motion to **ACCEPT the Majority Ought to Pass as Amended Report.**

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

The **SPEAKER:** 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. 138

YEA - Ahearne, Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Carr, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Davis, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gagnon, Gerry, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Mailhot, Martin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, Mitchell, Muse, Norbert, O'Brien LL, O'Neal, O'Neil, Perkins, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Cameron, Campbell, Chick, Cianchette, Clough, Collins, Cross, Daigle, Duncan, Foster, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Joy, Kasprzak, Kneeland, Labrecque, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Pinkham, Plowman, Richardson E, Rosen, Savage C, Schneider, Sherman, Shields, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Bumps, Frechette, Jones, Shorey.

Yes, 84; No, 63; Absent, 4; Excused, 0.

84 having voted in the affirmative and 63 voted in the negative, with 4 being absent, the Majority Ought to Pass as Amended Report was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (H-357) was READ by the Clerk and ADOPTED. The Bill was assigned for SECOND READING Tuesday, May 11, 1999.

HOUSE DIVIDED REPORT - Majority (9) Ought to Pass as Amended by Committee Amendment "A" (H-350) - Minority (4) Ought Not to Pass - Committee on LABOR on Bill "An Act to Provide a Paralegal Assistant to Each Workers' Compensation Advocate"

(H.P. 598) (L.D. 838)

TABLED - May 4, 1999 (Till Later Today) by Representative HATCH of Skowhegan.

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

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

Representative HATCH: Mr. Speaker, Ladies and Gentlemen of the House. The title of this bill is in error now, we changed the bill to address that there would only be two Paralegals and one auditor. The auditor would work for the monitoring, auditing, and enforcement division. Currently they have two auditors trying to audit 130 plus insurance companies in this state. The Paralegals would work with the two busiest offices in the state, I believe they are Brunswick and Lewiston. As you probably know, two years ago we passed the bill for the advocates to be added to the workers' comp system to help employees. Right now they are having a very difficult time to keep up. Two Paralegals would at least help those in the busiest office to go through some of the paperwork. The workers' comp people, including the executive director and their legal counsel, showed up at the hearings. Actually, they would like to have these positions. Right now they are doing a reshuffling of all the organization, trying to put people where they need to go as far as making sure that all the different positions are covered. The auditing division should have about six people, they currently have two and a director who does some auditing. You probably saw on your desk a bright orange sheet of paper that said don't roll back workers' comp eluding to another bill that's coming up. Don't by any means be confused. The bill that's coming up wouldn't help the system, it would only help to get some injured workers out of that system that the advocates themselves feel their claims have no merit. So I would suggest if you're going to vote on a bill that will actually help people in this state that would actually do something that you vote for this bill. It would add two Paralegals to help with paperwork for the advocates that's desperately needed at this time. As I said, the executive director and the legal counsel were there at all the hearings. It would cost \$135,000, it's not out of the state budget, it's assessment on the businesses, which would probably be less than 1 percent, if that, of what they are paid. I thank you very much and I'd ask that you vote Majority Ought to Pass.

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

Representative TREADWELL: Mr. Speaker, Ladies and Gentlemen of the House. I agree with the good Representative from Skowhegan on many of the points that she made. I believe that the members of the committee who voted with me on the Ought Not to Pass Report were concerned, not about the fact

that we were asking for two more Paralegals and an Auditor, we were concerned more about the additional assessment for the Workers' comp Board. As was mentioned, last year we raised the assessment on the Workers' comp insurers in the State of Maine from \$6 million to \$6,600,000. This bill will add another \$135,000 to that assessment. We're piling on more and more expenses, at the same time, that fund has a \$1.5 million surplus or fund balance in the account right now. I don't see the need of an additional assessment. I certainly would agree with the philosophy of added two Paralegals and an Auditor, but the Board has the ability to do that themselves. That's perfectly within their control to add those two Paralegals if they want that. But I do not agree with increasing the assessment by \$135,000. Thank you, Mr. Speaker.

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

Representative TESSIER: Mr. Speaker, Men and Women of the House. I rise this afternoon to speak in favor of this Ought to Pass as Amended motion. This is a bill that I submitted at the beginning of this session. I must tell you that I was not surprised to see this coming across my desk last week, a flyer opposing the bill. I was, however, greatly taken back by its banner headline of, Don't Roll Back Workers' comp. Ladies and gentlemen of the House, this bill is a far cry from rolling back workers' comp. I believe it helps to improve the current system and as a result could help to actually prevent rolling back workers' comp. Over the past three years I have carefully watched the workers' comp process. I do not want to return to the days of high workers' comp costs of the early 90s. As I watched the current workers' comp system, however, I came to realize that the process moved far too slowly for injured workers. The workers' comp advocate I saw spent far too much time on routine paperwork and research, rather than advocating for the injured worker's case.

The solution to this I felt was not a drastic change to the workers' comp system, rather, I reasoned giving the advocates Paralegal assistants to accomplish the administrative and research functions of the advocate's job would allow the advocates the time to move along the cases in a timely manner. Giving an injured worker a timely hearing of his case is hardly rolling back workers' comp. If the long list of business organizations on the flyer passed out opposing this bill do not truly want to roll back workers' comp, the need to stop opposing every effort to improve the current system and recognize that every system can always be improved upon. The better the current system works, the less likely we are to see workers' comp rolling back. I ask you to support the Ought to Pass as Amended motion. Thank you.

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

Representative MACK: Mr. Speaker, Right Honorable Men and Women of the House. When you talk about workers' comp, there are many bills dealing with workers' comp this year. You cannot look at each one individually. When we talk about don't roll back workers' comp, we're talking about the package of about a dozen bills all together that will add over \$80 million of costs to the workers' comp system. We all know that job growth has improved since the workers' comp reforms. Cost of workers' comp has gone down by about 40 percent. At this same time the injured workers, their payments on average, are increasing and time to get their cases processed are going down. This is just one of those package of bills that will in a small amount roll back

workers' comp and if we pass all the bills, workers' comp will be rolled back. One of the major reasons it has been said to put this bill in is to decrease the time that it takes to process a workers' comp claim. Nobody wants a large backlog or a long time to get these claims processed. It's unfair to the insurance company and most of all, it's unfair to the injured workers. We need to look at past history and what has been happening to the Workers' comp Board and a flyer we have sent out last week. Since the first quarter of 1997, the last two years alone, the backlog on workers' compensation cases pending through the system is down by over 40 percent in just two years.

The Workers' comp Board is doing a great job in cleaning up that backlog. There is another bill that has been passed in the Labor Committee unanimously, which is a rare thing in the Labor Committee, but we have recently unanimously passed the bill that will help get rid of an estimated 30 percent of the cases pending in the backlog, the most frivolous cases both by employees and the insurance companies. We are doing something to cut down on this backlog already. Also, it has been said that this is a desperate need, well you know the Workers' comp Board has a budget of \$6.6 million every year. If this was such a desperate need, they have the authority within their resources to fill these positions. Last year we raised the tax, the assessment, which gets passed on to employers and to the amount of jobs created in the state by 10 percent, to increase the amount of employee advocates and those employee advocates are doing a great job. We should give them time to continue to decrease the backlog, which they have been doing. Another increase in the assessment, another new tax, is not what the State of Maine needs to keep jobs here. Thank you and I urge you to vote against the pending motion.

Representative MACK of Standish **REQUESTED** a roll call on the motion to **ACCEPT** the Majority Ought to Pass as Amended Report.

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

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

Representative **SAMSON**: Mr. Speaker, Men and Women of the House. I stand in support of the Ought to Pass Report. During the hearings we asked the Workers' Comp Board if there truly was problems with the program and they said yes, we have some problems. The problems are in the clerical area. They need some Paralegal help. Right now they said, "We're pushed to the max." I asked where those areas are that are behind and they said Lewiston area, Portland area, Augusta area, Bangor area, and Caribou area. Those are the places that need some help with these Paralegals. Thank you.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. We just passed \$18 million increase a few hours ago and now we're going to pass on another little incremental cost to the workers' comp system. The 118th Legislature supported the 10 advocates for the Workers' Comp Board. That was almost a unanimous support. We didn't mind increasing that \$600,000 to help the injured worker, but right now when you have a \$1.5 million budget surplus sitting in the Workers' Comp Board, why do you need to assess another tax on top of your workers' comp premiums for business right now. It makes no sense. If they want to hire Paralegals they more than very easily can find the money to do it, but no, in this body it's often too easy to say

business can pay for this why should we take it out of the budget somewhere. Just let's pass it on to business, they have the money. Ladies and gentlemen, I'm here to tell you it's getting harder, and harder, and harder to make a profit. Inflation is down, we need to pay our workers more, which we're trying, we need to pay them benefits, which we're trying, all of which are increasing, but now you want to tax us some more. We cannot afford it. We can't pass our price increases anymore because the competition in the market place is too strong. At some point, let's wake up. Let's stop chipping away at the reforms. A little increment every single time hurts. I ask you to vote against this pending motion. I support the Paralegals, but let them take it out of their surplus. They don't need to tax me again. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Matthews.

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. I hope that you will support the majority members of the Committee and support the good gentlemen from Fairfield, Representative Tessier's bill. It is important. We listened to testimony from the Workers' compensation Board that these Paralegal positions are needed and probably for political reasons they're not being asked for. Well, you know, I know this is a political body and we do political business each and every day, but sometimes we do some good things for the injured worker also. This simply means that we will cut down on the caseload and the duration of cases and with all good respect to other members that are in opposition to this bill, that were not at the hearing and the work sessions, there are injured workers that are going up to two years waiting for their case to be resolved. I asked the gentlemen from the Workers' Compensation Board, what is the average duration of a case, 8 to 10 months. These Paralegal positions, we've pared it down to two as the good Representative from Skowhegan, Representative Hatch, our chair mentioned and one Auditor. We've pared this down in an attempt to begin to deal with the back load of cases and to bring it down to a manageable situation. It's a good bill and I hope we'll support it. It does do a little bit more in the way of trying to reduce the workload and it makes sense. I hope you will vote for the majority report. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from North Berwick, Representative MacDougall.

Representative **MACDOUGALL**: Mr. Speaker, Ladies and Gentlemen of the House. The Department of Labor, through the Bureau of Labor and Standards Director, Mr. Allan Hensee, came to our public hearing on this bill and testified against it and one of those reasons, refer to a report commission that was sought by the Workers' compensation Board, done by the Cooper's and Librance Study. They reported back to the Workers' Compensation Board with their best practices, recommendations from a study of other state's workers' compensation. This report came back in December 1997, included several key recommendations. The one that I think is most important for us to remember as we vote today is, you can reduce cost claim by shifting the focus away from dispute resolution to dispute prevention. That's a major point to remember, because the high cost per claim that you see in Maine, you don't see in states that have adopted this best practice procedure here of shifting their focus away from the resolution to prevention. That's one thing I would like you to remember this morning. Also, along with that, there are many recommendations from this report, including retooling, reprioritizing staffing, some of the measures are still in the

working stages and yet to be done. For those reasons, I would ask you to oppose the present motion and I thank you.

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. I am not on this committee. I am a business owner. I do keep track of how we continue to assess workers' comp costs at the bottom of the policy costs as I go through negotiating each year with my insurance company. From what I understand, we want to hire two people and spend \$173,000, is that correct for two persons? If someone can correct me on that, \$173,000 for two persons to do this job when we already have \$1 million dollar surplus and the Workers' Comp Commission has the ability to hire these persons anyway. So, if you're looking for a way to just jack up the costs at the bottom of my insurance policy to assess for the board, than just come out and say it. But, if you can't come up with the money to pay two Paralegals to take care of this, than maybe we really need to rethink how much we are micromanaging the Workers' Comp Board. Also, if you are going to be paying \$67,000 a year to Paralegals, I'm applying for the job, because they will be making more money than we're paying the hearing officers. At this point, I think we really need to look back on what we're spending for two Paralegals and I'm sure they can find it within their budget, if they find that there is a need. I don't see any need to be reassessing the amount. The amount, by the way, is a multiplication at the bottom of what you pay, the higher your premiums are, the more money you pay into the system. It's not a flat fee for each employer. So you are going to hit some business really hard. I don't see where it's necessary. The people may be necessary, but you don't need the extra money. Thank you.

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

Representative **GOODWIN**: Mr. Speaker, Men and Women of the House. The answer to the good Representative's question, \$135,000 is to pay for two Paralegals and an Auditor, actually three positions. The Labor Committee, in discussion with the Commissioner, this bill called for nine Paralegals and we cut that down to two and an Auditor, so only three positions for \$135,000. It's a good investment. There's a million and a half dollars left in the surplus account of workers' comp, most of the insurance carriers in the State of Maine have been reimbursing businesses because of the smaller number of claims, that, we expect, will continue. We got good reports from the Board. One of the review items for the Labor Commission this year will be the Workers' comp Commission, they're going to review that thoroughly and we will have answers for this body in the coming session. I ask the body to accept the Majority Ought to Pass as Amended.

The SPEAKER: The Chair recognizes the Representative from Lincoln, Representative Carr.

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

The SPEAKER: The Representative may pose his question.

Representative **CARR**: To any member of the Labor Committee, I've heard considerable discussion about ample money to pay for this already in the Commission. That really hasn't been touched upon, I was just wondering what the reason why this hasn't been used. If someone could answer that for me please.

The SPEAKER: The Representative from Lincoln; Representative Carr has posed a question through the Chair to

anyone who may care to respond. The Chair recognizes the Representative from Standish, Representative Mack.

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. The answer to the good Representative's question, I'm not sure why these positions have not been filled, except that the Workers' Compensation Board has other priorities within their budget than these positions. As has been stated, they have \$6.6 million in their budget to divide amongst the various staff members, how they best see fit. Right now they don't best see fit for these new positions. They also, if they needed to, have a million and a half dollar surplus they could tap into for these positions, but again they don't think that it's fit to use that money for these positions. Thank you.

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

Representative **HATCH**: Mr. Speaker, Ladies and Gentlemen of the House. Actually, to answer that question, they cannot add position count without an okay from us, number one. So they would have to ask us for 3 positions. Number two, the \$1.5 million will probably go back into the budget and be less assessed on the businesses, I think both of those things work together. It's almost like Legislative headcount; they have to have the positions in order to fill them. Thank you.

The SPEAKER: The Chair recognizes the Representative from North Berwick, Representative MacDougall.

Representative **MACDOUGALL**: Mr. Speaker, Men and Women of the House. My understanding is, that can shift within their budget. Thank you.

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

ROLL CALL NO. 139

YEA - Ahearne, Bagley, Baker, Berry RL, Bolduc, Brennan, Brooks, Bryant, Bull, Cameron, Carr, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gagnon, Gerry, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Mailhot, Martin, Matthews, McDonough, McGlocklin, McKee, Mendros, Mitchell, Muse, Norbert, O'Brien LL, O'Neil, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Belanger, Berry DP, Bouffard, Bowles, Bragdon, Bruno, Buck, Campbell, Chick, Cianchette, Clough, Collins, Cross, Daigle, Davis, Duncan, Foster, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Joy, Kasprzak, Kneeland, Labrecque, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey, McKenney, McNeil, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Plowman, Richardson E, Rosen, Savage C, Schneider, Sherman, Shields, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Bumps, Dugay, Frechette, Jones, Lemont, O'Neal, Shorey.

Yes, 79; No, 65; Absent, 7; Excused, 0.

79 having voted in the affirmative and 65 voted in the negative, with 7 being absent, the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-350)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Tuesday, May 11, 1999.

HOUSE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (6) **Ought to Pass as Amended by Committee Amendment "A" (H-351)** - Committee on **LABOR** on Bill "An Act to Provide Binding Arbitration for Police Departments, Sheriff Departments and Professional Fire Departments"

(H.P. 600) (L.D. 840)

TABLED - May 4, 1999 (Till Later Today) by Representative HATCH of Skowhegan.

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

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

Representative HATCH: Mr. Speaker, Men and Women of the House. You've been the whole gamete today from mediation to fact finding and this is the final bill arbitration. The bill was amended to add binding arbitration on monetary issues for law enforcement officers employed by the state, as well as for police, sheriff and fire fighters employed on the local level. It adds a provision subjecting the arbitrator's decision to referendum if the employer so requests. It also adds a fiscal note to the bill. It seemed to me with all the different steps that we go through when there is a contract that is open between an employer and a employee, once we get to arbitration, we ought to pretty well know how both sides feel. I feel this is a good bill. I think it's a bill whose time has come and I'd ask for your support. Thank you.

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

Representative TREADWELL: Mr. Speaker, Ladies and Gentlemen of the House. This LD, if passed, would result in binding interest arbitration on economic issues with the municipal and county employees and local law enforcement and professional fire fighters. When we have our elected officials back in our communities, we expect them to handle the items that relate to the budget for the towns and the county government where we work. We don't expect professional arbitrators to be setting into the process those things, which affect our budget. The State of Connecticut enacted binding arbitration several years ago and since that law went into effect, with only a few limited exceptions, the State of Connecticut has been to binding arbitration for almost every collective bargaining agreement with all of its bargaining units. By comparison, the executive branch of the State of Maine, which has binding arbitration only for non-economic issues, has been to interest arbitration only once in two decades. In Connecticut, the parties have been unable to engage in meaningful collective bargaining since they expect to end up before interested arbitrators. The result is a system which is extremely time consuming and very expensive. Not only is the arbitration, process itself a costly proposition, but arbitrators have issued decisions that are very expensive without understanding the implications of their decisions. If I didn't mention it before, I will again now. This is a mandate.

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

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

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

Representative MUSE: Mr. Speaker, Men and Women of the House. I'll be brief. This is a bill that has come back year in, year out, dealing with binding arbitration on monetary matters, however, there is a bit of a twist to it on this version. The biggest problem that has always confronted binding arbitration on monetary matters and the largest argument, it quite frankly has been hard to deal with, has been that we would be taking away from local control. To a certain extent I can agree with that, however, the amendment to this bill eliminates that argument. The way it will do that is if an arbitrator's decision rules in favor of the police, or the firemen, and the town fathers, or the county commissioners, or the city council disagree with that decision, they can appeal that decision and put it on the next ballot, and let the voters decide for themselves. We're not taking away local control, if anything else, it's providing for more local control. This is an opportunity to take care of the men and women who take care of all of us. They don't have an opportunity to strike and quite often in contract negotiations they go one year, sometimes two years, and some cases three years with no contracts. This is an opportunity to take care of these men and women. I would strongly urge your support of this bill. Thank you.

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

Representative MACK: Mr. Speaker, Right Honorable Men and Women of the House. This bill is an affront to local control. If this bill passes, no longer will the locally elected and accountable officials be in control. Their power would be put in the hands of a board of arbitrators, who have neither been elected nor are accountable to the people of these towns. The Right Honorable Representative from South Portland, Representative Muse, mentioned that the voters get a say if the local officials don't like the contract, well, this would take that away from the voters. This would take the ability of the voters to choose the representatives to make these decisions and put all the power in the hands of these arbitrators. Like the good Representative from Carmel has said about the lessons in Connecticut. In Connecticut when they went to binding arbitration, the amount of arbitration went up about a hundred fold. Right now in Maine binding arbitration is very rare. Arbitration is rare. There are a few cases where the employees and the management come to an impasse and do not have a contract, but it is very rare in the State of Maine. Right now both sides sit down, negotiate and try to come up with the best deal they can. It doesn't always work, but the vast majority of the time it does. If we put binding arbitration in, we will be getting rid of that need to sit down and negotiate on your own, because they know that the arbitrators will take care of it. Why sit down and negotiate in good faith when we can give it to the arbitrators. I urge you to join myself, the administration, Maine School Management Association, and the offices of the City of Portland and vote against the pending motion. Thank you.

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

Representative MUSE: Mr. Speaker, Men and Women of the House. With all due respect to Representative Mack, I'm not quite sure why the board of educators are weighing in on a bill that affects the police and the sheriffs, and the fire departments, but I have to disagree that this bill put all the power in the hands

of a professional arbitrator. It simply will not, contract negotiations will go on the same way that they always do and providing that both parties are negotiating in good faith, everything will work splendidly. There are, however, times much like this very body, that we all belong to, when we reach an impasse and decisions are hard to come by. When an arbitrator could step in, hear all sides of the argument and make a decision. It's very simple. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from North Berwick, Representative MacDougall.

Representative **MACDOUGALL**: Mr. Speaker, Men and Women of the House. The dispute resolution system is based on a couple of premises, the most important of which is a sense of balance that there has to be a give and take from both sides. This particular bill would usurp that sense of balance, because when you are talking about labor relations and the environment you want during those relations, it's best when people aren't forced to accept something from the other. In other words, they both have to argue in good faith and I believe this bill would usurp that. So to achieve the bargaining agreements between the parties, this bill removes that mechanism of dispute resolution that has served Maine so well by enlarge. During a public hearing and work session, the Director of Human Resources from the City of Portland, shared a few thoughts with the Committee and she's worked at Portland for 20 years. She mentioned that they regularly do use the state mediators to assist in reaching contract settlements and on several occasions have proceeded to fact finding, however, they have not been to interest arbitration during her 20 years with the city. The best collective bargaining agreements are those reached by both parties, not in closed settlements. This particular bill would take away that key balance and that is so important. Again, I'll just remind you of the State of Connecticut that the Representative, Representative Treadwell, related to earlier. This bill if it does pass, it will increase the interest arbitration and the report from that woman from the City of Portland instead of having in 20 years none go to that level, this bill will in effect cause that to change dramatically.

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 passage of this LD. Having served at the local level for a number of years, I can tell you that this type of binding arbitration would be very much a detriment to the community. In fact, while I served nine years of service on our South Portland City Council, I can tell you that we reached impasse several times on contracts over money issues and in fact, many contracts spend several years before settlement and there's a lot of reasons for that. That is probably the first and foremost is it's in the union's best interest not to settle contracts and very often that is what has happened. I remember distinctly one year, we went on a contract cycle the fire department waited three years before settling their contract. It should be very much of interest to note to everyone in the Chamber that when a contract, particularly one that's of a police or fire department at the local level goes disputed, what happens is the present contract that's in effect stays in effect until a new agreement is reached. People don't go without pay at the local level when these contracts aren't settled. Very much the opposite of what happens is maybe what's on the table is a 3 percent raise, rather than settle for that 3 percent raise, well let's see if we can get a little bit more if we drag our heels and not

settle with the local officials, maybe after a little while longer, they might go with a larger increase. When the final agreement is reached and it's adopted, then all of those salaries or moneys all get paid in a lump sum amount retroactive back to the first day that the contract began, so in effect they get all of their wages after they reached settlement.

As far as binding arbitration goes, there is binding arbitration currently in place and that's your local elected officials. They have the ability to settle these monetary issues and in effect they do that on a regular basis. If this pending bill does in fact pass, what we are going to do, we will be taking away control from our local officials forcing property tax increases at the local level and the corresponding budgetary cuts that go with them. Just because other departments are paying a very large increase this year, doesn't mean your local department in your town or city can afford that and they're going to have to make a tough decision at the local level. Whether or not that means cuts in public education, not paving streets, in order to meet increased pay and benefits. These things are all decided right now at our local level and we should not be taking the decision making authority away from them. I thank you for your attention.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Winsor.

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

The SPEAKER: The Representative may pose his question.

Representative **WINSOR**: I've been reading the amendment for the minority report and I'm curious about the mandate provisions of this bill and I'm wondering if the mandate would require us, if we don't put a mandate on this bill, would the state be required to make up any salary increases determined by an arbitrator for local and county officials? Thank you.

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

ROLL CALL NO. 140

YEA - Ahearne, Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gagnon, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Mailhot, Martin, Matthews, McDonough, McGlocklin, McKee, Mitchell, Muse, Norbert, O'Neil LL, O'Neal, O'Neil, Perry, Pieh, Povich, Powers, Quint, Richardson J, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Cameron, Campbell, Carr, Chick, Cianchette, Clough, Collins, Cross, Daigle, Davis, Duncan, Foster, Gerry, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Joy, Kasprzak, Kneeland, Labrecque, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Plowman, Richard, Richardson E, Rines, Rosen, Savage C, Schneider, Sherman, Shields, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Bumps, Frechette, Jones, Shorey.

Yes, 76; No, 71; Absent, 4; Excused, 0.

76 having voted in the affirmative and 71 voted in the negative, with 4 being absent, the Minority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-351) was READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Tuesday, May 11, 1999.

HOUSE DIVIDED REPORT - Majority (9) **Ought to Pass as Amended by Committee Amendment "A" (H-358)** - Minority (4) **Ought Not to Pass** - Committee on **LABOR** on Bill "An Act to Require the State to Pay Medicare Costs for Retired State Employees and Retired Teachers"

(H.P. 663) (L.D. 919)

TABLED - May 4, 1999 (Till Later Today) by Representative HATCH of Skowhegan.

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

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

Representative **TREADWELL:** Mr. Speaker, Ladies and Gentlemen of the House. What this bill will do is require the state to pay the cost of Medicare Part B for all state retirees, state employees and teachers. As far as I know, it would be the only retirement plan that would require the fund to pay for this Medicare cost and it's going to be actually the other people in the State of Maine that's going to be paying that cost. I in all good conscience can't expect the taxpayers in my community to pay for Medicare Part B for state retirees when nobody is stepping to the plate and paying their insurance costs. There's a fiscal note attached to this bill that in the first year is \$3,258,000 plus, the second year it's \$4,344,000 plus, so it's not an inexpensive piece of legislation. I would urge the members of the House to reject the motion that is on the floor.

Representative **TREADWELL** of Carmel **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended Report.**

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

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

Representative **SAMSON:** Mr. Speaker, Men and Women of the House. I stand to support the Ought to Pass Report. At a public hearing no one spoke in opposition to this bill and no one spoke neither for nor against. The way this works is, if you were hired before 1985, your covered under the state's plan when you retire, but if you were hired after 1985, you pay 1.45 percent to social security. Now if you should retire at age 60 or 62 and you work for the state, or if you are a teacher, you're covered fully under the state medical plan. Once you reach the age of 65 or 66, because you paid into social security, or because your spouse belongs to social security, there's an offset and suddenly you're faced with a \$45 to \$50 a month bill. What this bill does is, it treats everybody who works for the state and teachers equitably as far as Medicare when they retire. I hope that you support this bill.

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

Representative **MACK:** Mr. Speaker, Right Honorable Men and Women of the House. I urge you to vote against the pending motion. As has been stated, this bill has a fiscal note, has cost of over \$6 million, another \$6 million to the taxpayers of

the State of Maine. Medicare, Medicaid are very confusing. Right now in Medicare there are different plans, there's Part A and Part B. Part A is already covered, we're just talking about an additional piece to pay even more for them to get the Part B for additional coverage. This is on top of the state employee retirement and health that they get and the Medicare Part A, because we would give them an additional Part B. Also, to keep in mind is that this cost would be permanent. We have passed another bill in the Labor Committee giving state employees permanent security for all of their retirement benefits. Once we give them this we will never be able to take it away. It may seem nice to pass on some of the state surplus in good times, but when times get tough, we will not be able to dip into this and take part of it back. It's an enormous cost. It's an additional benefit. Also, when these people were working, they did not have this as part of their benefit package. They were working under a contract with an existing benefit package. They were happy to work under it and then when they retired, after the fact, we are trying to add even more onto their package. It's one thing to tell people who are working now, when you retire we're going to give you an additional benefit. It's quite another after someone has retired to lump even more on and expect the taxpayers to pay for it. Thank you and I urge your vote against the pending motion.

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. 141

YEA - Ahearne, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Davis, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gagnon, Gerry, Gillis, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Lemont, Mailhot, Martin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, Mendros, Mitchell, Muse, Norbert, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Perkins, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Tobin J, Tracy, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Bowles, Bragdon, Bruno, Buck, Cameron, Campbell, Cianchette, Clough, Collins, Cross, Daigle, Duncan, Foster, Glynn, Heidrich, Jodrey, Joy, Kasprzak, Kneeland, Labrecque, Lindahl, Lovett, MacDougall, Mack, Marvin, McKenney, McNeil, Murphy E, Murphy T, Nass, Nutting, Peavey, Pinkham, Plowman, Richardson E, Rosen, Schneider, Sherman, Shields, Snowe-Mello, Stanwood, Stedman, Tobin D, Townsend, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Bumps, Carr, Frechette, Jones, Madore, Shorey, True.

Yes, 93; No, 51; Absent, 7; Excused, 0.

93 having voted in the affirmative and 51 voted in the negative, with 7 being absent, the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-358) was READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Tuesday, May 11, 1999.

HOUSE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (3) **Ought to Pass as Amended by Committee Amendment "A" (H-346)** - Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Reduce Operating Under the Influence by Requiring Certification of On-premise Alcohol Servers"

(H.P. 259) (L.D. 363)

TABLED - May 4, 1999 (Till Later Today) by Representative TUTTLE of Sanford.

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

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

HOUSE DIVIDED REPORT - Majority (12) **Ought Not to Pass** - Minority (1) **Ought to Pass as Amended by Committee Amendment "A" (H-347)** - Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Permit Wine to be Ordered through the Mail"

(H.P. 854) (L.D. 1211)

TABLED - May 4, 1999 (Till Later Today) by Representative TUTTLE of Sanford.

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

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

HOUSE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (6) **Ought to Pass as Amended by Committee Amendment "A" (H-348)** - Committee on **LEGAL AND VETERANS AFFAIRS** on Resolve, Authorizing the Family of Adam Wilson to Sue the Town of Rockport

(H.P. 1345) (L.D. 1945)

TABLED - May 4, 1999 (Till Later Today) by Representative TUTTLE of Sanford.

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

On motion of Representative SAXL of Portland, **TABLED** pending the motion of Representative TUTTLE of Sanford to **ACCEPT** the Minority **Ought to Pass as Amended** Report and later today assigned.

HOUSE DIVIDED REPORT - Majority (11) **Ought to Pass as Amended by Committee Amendment "A" (H-320)** - Minority (2) **Ought Not to Pass** - Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Provide Computers for Use in the Legislature" (EMERGENCY)

(H.P. 666) (L.D. 922)

TABLED - May 4, 1999 (Till Later Today) by Representative AHEARNE of Madawaska.

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

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

JOINT ORDER - Relative to Establishing The Task Force to Redesign the Governance System of the Governor Baxter School for the Deaf

(H.P. 1183)

TABLED - May 4, 1999 (Till Later Today) by Representative BRENNAN of Portland.

PENDING - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-367)**.

On motion of Representative SAXL of Portland, **TABLED** pending **ADOPTION of Committee Amendment "A" (H-367)** and later today assigned.

Bill "An Act to Require a Minor Who is the Underlying Cause of a Liquor Violation to Provide Identification to a Law Enforcement Officer"

(H.P. 274) (L.D. 382)

TABLED - May 4, 1999 (Till Later Today) by Representative TUTTLE of Sanford.

PENDING - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-313)**.

Subsequently, **Committee Amendment "A" (H-313)** 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**.

Representative MENDROS of Lewiston moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I stand against this motion. I don't know if any of you have the amendment to this 313, which changes the title to "An Act to Make Failure to Provide Proper Identification a Violation of the Liquor Laws." If you read through it, refuse to provide identification to any law enforcement officer after the minor has been advised that the officers are investigating a possible liquor violation, but then when you read on further, it gives descriptions. Refusal to provide identification is a person may not refuse to provide any law enforcement officer proper identification after that person has been advised that the officer has reason to believe that the person is under 21 years of age and that an investigation is being made for possible liquor violations. This makes it a Class E crime. What this will do if you don't have identification on you, you have to refuse when you are asked for identification. What this does in effect is everybody has to have identification on them, even if they are over 21, because the police officer only has to believe the person is under 21 years of age. I don't believe we need to be in a state where you always have to carry identification around to show who you are. I understand the importance of keeping under age people from drinking and I think we have laws to deal with that, but what this does is it makes it a Class E violation, a Class E crime, to not have I.D. on you. I have a real problem with that. I don't see why walking around without identification should be a crime. That's my problem with this bill. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Sanford, Representative Tuttle.

Representative **TUTTLE**: Mr. Speaker, Men and Women of the House. I would hope that you would defeat the pending motion for indefinite postponement. Essentially what the bill does, it lays down a framework under which law enforcement

officers can verify the proof of identification in the event that it appears that a minor is illegally present, or on the premises of probable violation of law has occurred. It provides that any officer may detain the suspected minor for the purposes of obtaining creditable identification during the time the verification is being sought, the officer may require the person to remain in his or her presence for no more than 2 hours and the bill states that this type of detention does not constitute an arrest. A person providing reasonable evidence of identification is to be released immediately. If a person intentionally fails to provide reasonable identification, the officer may arrest that person, if subsequent to an arrest it appears that the person's identification was accurate, the person must be released and any record of the custody shall reflect why the person was released.

Now at the public hearings, we had many proponents to this bill. It said the bill helps to deal with the issue when a minor is present at a BYOB function and although not guilty of any violation personally, the minor's presence is a proof of license violation. A minor who has not committed a violation cannot be detained, enforcement could verify his, her age. This bill would allow for that. We received much testimony from the Bureau of Liquor Enforcement in support of the bill and I'll paraphrase it as follows, it said that the particular bill was suggested by the Bureau and is part of the Department's proposal for this legislative session. The issues we are trying to address by the introduction of this legislation is simple. Many times a law enforcement officer or a liquor enforcement officer may encounter a minor at a liquor premises or BYOB function. This personally is not in violation of the law by being present at the premises at the permitted function. The license or permit holder has committed an administrative violation for allowing a minor to be present. The minor not having committed a violation cannot be legally detained. This amendment would allow us to detain a person suspected of being a minor long enough so that we can verify the age. As many of you are aware, we have over the years have had many discussions in this area.

I do recognize the concerns of the good Representative from Lewiston, Representative Mendros, but in all honesty, it's my opinion and the opinion of many people that I talk to, that this bill will do an awful lot to improve the area of enforcement and I think with the problems of abuse of alcohol and particularly with minors in the state, this bill is a right step in that direction. I would hope that you would concur with the unanimous support of the Committee on Legal and Veteran Affairs.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Mayo.

Representative **MAYO**: Mr. Speaker, Ladies and Gentlemen of the House. I rise to oppose the indefinite postponement of this bill and its accompanying papers. L.D. 382 is a unanimous report of the Committee on Legal and Veteran Affairs. The amended bill which you have in front of you does not specify a drivers license, or a state identification card, but simply states proper identification, which is consistent with other laws requiring proof of identification that are currently on the books. It is common, it is very common, for a law enforcement officer to simply ask the name, address, and age when a possible violation of law is suspected. This is identification that can be verified. If you don't have the identification with you, you can take it to the person who is requesting it. If a minor has presented false identification to a licensee, the group that holds a liquor license, who in good faith, tried to establish that person's age as 21 years or older, the minor is in violation of current law for processing

false identification, thus refusal to provide proper identification would limit the officer's ability to establish if a violation had occurred. The amended version of the bill has received legal review within OPLA, the original bill raised a number of significant constitutional issues. The committee realized that this is the reason for the amendment. The amended version is consistent with other laws on the books and approved practiced by law enforcement officials in this state today. Ladies and gentlemen, I urge you to defeat this proposal of indefinite postponement, to go on and accept the unanimous committee report. Thank you.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I have before me the original bill, LD 382, which did talk about immediate release and verification of identity, the ability to release people, they would have so much time to get the information to the police officer. A lot of the things we are talking about I have no problem with those. The problem I have is with the amendment which says, further amend the bill by striking out everything after the enactor clause and before the summary and inserting in its place the following. So LD 382 is irrelevant here, it's been replaced with this bill, that I just read the highlights. You can look at it yourself, I read just about the whole thing. If you don't have some form of I.D., proper identification, which means they just can't take your word for it, because that was in the original bill. If you don't have some form of identification, yea, it doesn't have to be a drivers license, but you have to have something. You are in violation of a Class E crime. I don't think that we should be forcing people, as I said before, to have to carry I.D. around or they are criminals if they're not carrying I.D. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **WATERHOUSE**: To anybody that could answer. Right now if a police officer, a law enforcement person, goes into an establishment with this type of situation is present, can they now look at someone who they think is under age and remove them from the premises or ask them if they have no identification to leave?

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

Representative **TUTTLE**: In answer to his question, the answer is no. That's the reason why the legislation was submitted.

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

Representative **STEVENS**: Mr. Speaker, Men and Women of the House. I stand today supporting the indefinite postponement of this bill. This is a very bad bill. People are not required to carry identification. Minors, many minors don't have identification until they have their driver's license, or a passport, or a student I.D. I hope that you will support the indefinite postponement of this bill and its papers. This bill is unnecessary. Liquor enforcement officers are trained, they don't need these further tools to do this job. They have their specific training in

dealing with adolescents, as well as adults who abuse the law. This is a very bad bill, please join me and vote green. Thank you.

The Chair ordered a division on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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

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

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

ROLL CALL NO. 142

YEA - Andrews, Berry RL, Bowles, Bragdon, Brennan, Brooks, Bryant, Buck, Clark, Cowger, Davidson, Dudley, Duncan, Duplessie, Etnier, Foster, Fuller, Gerry, Gillis, Glynn, Goodwin, Green, Jacobs, Jodrey, Joy, Kasprzak, LaVerdiere, MacDougall, Mack, Martin, McGlocklin, McNeil, Mendros, Mitchell, Muse, Norbert, Perkins, Pinkham, Plowman, Quint, Richardson E, Rines, Savage W, Saxl JW, Sherman, Stanley, Stanwood, Stevens, Thompson, Tracy, Trahan, Treadwell, Tripp, Twomey, Usher, Volenik, Waterhouse, Watson, Winsor.

NAY - Ahearne, Bagley, Baker, Belanger, Berry DP, Bolduc, Bouffard, Bruno, Bull, Bumps, Cameron, Campbell, Chick, Chizmar, Cianchette, Clough, Collins, Colwell, Cote, Cross, Daigle, Davis, Desmond, Dugay, Dunlap, Fisher, Gagne, Gagnon, Gooley, Hatch, Heidrich, Honey, Jabar, Kane, Kneeland, Labrecque, Lemoine, Lemont, Lindahl, Lovett, Madore, Mailhot, Marvin, Matthews, Mayo, McAlevey, McDonough, McKee, McKenney, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Perry, Pieh, Povich, Powers, Richard, Richardson J, Rosen, Samson, Sanborn, Savage C, Saxl MV, Schneider, Shiah, Shields, Sirois, Skoglund, Snowe-Mello, Stedman, Sullivan, Tessier, Tobin D, Tobin J, Townsend, True, Tuttle, Weston, Wheeler EM, Wheeler GJ, Williams, Mr. Speaker.

ABSENT - Carr, Frechette, Jones, Shorey.

Yes, 59; No, 88; Absent, 4; Excused, 0.

59 having voted in the affirmative and 88 voted in the negative, with 4 being absent, the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers **FAILED**.

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-313)** and sent for concurrence.

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

HOUSE DIVIDED REPORT - Majority (7) Ought Not to Pass - Minority (6) Ought to Pass as Amended by Committee Amendment "A" (H-348) - Committee on **LEGAL AND VETERANS AFFAIRS** on Resolve, Authorizing the Family of Adam Wilson to Sue the Town of Rockport

(H.P. 1345) (L.D. 1945)

Which was **TABLED** by Representative SAXL of Portland pending the motion of Representative TUTTLE of Sanford to **ACCEPT** the Minority **Ought to Pass as Amended** Report.

The SPEAKER: The Chair recognizes the Representative from Rockport, Representative Powers.

Representative **POWERS**: Mr. Speaker, Men and Women of the House. I think probably a number of you have observed, heard, been talked to, have some information concerning this incident that has given rise to this bill. It's a tragic and emotional story and I feel very sympathetic toward the family of Adam Wilson. There has been no demonstration of negligence on the part of the police officers so that the residents of Rockport should not be held responsible for this tragedy. Furthermore, making an exception to the Maine Tort Claims Act would set a dangerous precedent for all of our municipalities. I want to recount to you briefly what happened in June of 1995. A nine year old boy was riding his bike with a friend along the side of Route 73 in South Thomaston. The boy swerved at the same time that a car was coming up behind him, that car made an effort actually in approaching the boys and had already pulled over the center line to give them space. When the boy swerved, there was no further to go, the car could not avoid hitting him and Adam was hit and incurred the brain injury you probably have heard about. He still suffers from that injury. The vehicle which hit Adam was the same one that subsequent to that accident, the state police determined was not at fault. It was not speeding. That is in contradiction to an editorial that you have had come across your desk on bright orange paper, which twice stated that this was a speeding vehicle. The state police did not charge the driver for speeding. He was going 46 MPH in a 40 MPH zone. It was very clear from the reconstruction of the accident that an effort to give the bicyclists room had been made by pulling to the left. It was also very clear that the operator of the vehicle had braked when the child swooped into the path of the car. Finally, the state police and confirmed also by the county sheriffs who were there, determined that there was not impairment on the part of the driver. The blood alcohol test was 0.00 and there was no observation of drug impairment. Now this was the same driver who had been summoned approximately an hour and a half before for possession of an ounce and a half of marijuana and for furnishing alcohol to a minor. The details of that story are that the reserve officers on duty at Rockport and at that time we did not have a standing police force, we used reserve officers, had observed a car parked, thought it to be in an odd place, wanted to check it out, in fact, smelled marijuana in the vehicle and upon inspection found marijuana in the vehicle. They also found alcohol in the vehicle. They asked that car to go with them to the police station in order for the summons to happen. They observed the operation of the vehicle as it proceeded, they observed no signs of impairment on the part of the driver. They detained the driver for about 90 minutes and than had no cause to charge him further and let him go. I'd like to remind you, in the absence of any observed indication of impairment, it is unlawful for law enforcement officers to order field sobriety tests. There's a lot of question here as to whether field sobriety test was given, I don't contest that it was, it was not given, but there was no cause for its being given. This car proceeded down a road, several roads, into another town and the accident occurred. It was an unfortunate coincidence and a very costly accident.

The Maine Tort Claims Act prohibits suits against municipalities and their employees for claims that result from performing or failing to perform a discretionary function or duty, whether or not the discretion is abused. The Rockport police officer was engaged in a discretionary function when deciding whether to detain the driver. Furthermore, making an exception to the Maine Tort Claims Act in this case will send a message to all of our municipalities and their officials that they cannot trust

the discretionary function immunity given to them by that Act. Furthermore, if this bill is enacted, police officers who are having to decide whether to detain a person will have to consider two potential law suits their municipal employer. An action like the Wilson case or a civil rights action by the person who was detained and discretionary function is embedded in the Tort Claims Act just to avoid such a dilemma. I want to reiterate, this is a story of great difficulty, but I want to point out that if there had been wronged, I would want Adam Wilson's family to have recourse and money for their son's treatment and his therapies and for reimbursements. Their underinsured motorist coverage should help them in this effect, but the Rockport reserve officers judgments of non impairment were subsequently supported by the state police report and their observations, by whom those officers had been trained at the police academy. Rockport's immunity should stay in tact and I urge you to vote against this pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Union, Representative Savage.

Representative **SAVAGE**: Mr. Speaker, Ladies and Gentlemen of the House. When I came to this body I was town manager for the Town of Rockport. Adam Wilson and his family were and still are residents of Warren. Now as Representative for District 60, the Wilson's are my constituents. Because Adam cannot speak for himself, I am his spokesperson. Adam lives a short walk from his elementary school and the little league ball field where he played on the Win to Win Farm Team. On June 10, 1995, all of that changed. It was on that day the Wilson's, Theresa and Kenneth, dropped Adam, a healthy happy nine year old, off at a birthday party in South Thomaston. While there he got on a bike and rode across Route 73 where he was struck by a car. Adam was critically injured and hospitalized for five months for a closed head injury. He was in a comma for weeks and left with permanent physical and emotional injuries. Some may think the Rockport police did not cause the accident, but Adam's family would say, they could have prevented it. Thank you.

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

Representative **MCKENNEY**: Mr. Speaker, Men and Women of the House. Some of you have probably served on the Legal and Veteran Affairs Committee and if you did, suits against the state are probably the worst day you had there. I wouldn't wish it on anybody. Lacking any instructions to the contrary, I considered myself in the role of a grand juror when listening to that testimony, without benefit of any oath, so you don't know who's telling the truth and who's not. You heard some of the facts, here's a few more facts and maybe I'll repeat a few, but they bear repeating I think.

The police stopped this car in Rockport. They found a driver and two minors. They found open bottles of whiskey. They found open bottles of beer. They found an overwhelming smell of marijuana and they found marijuana. If those facts don't warrant a sobriety test, I don't know what does. The driver was cited for possession of marijuana and furnishing alcohol to a minor and essentially let go. After checking with the police chief in my town, he told me his procedure would be to take the keys away from that driver and either give him a ride home or make him walk home, but in any event he'd come after his car the next day. I dare say that a lot of towns would have a procedure similar to that. Some more facts, the driver of that car has multiple convictions, would you like to hear what they are, theft,

criminal trespass, possession of drug paraphernalia, possession of scheduled drugs. When asked how often he smoked marijuana, 5 or 6 times a week, that's every day. The most troubling testimony, when the driver was deposed was that he smoked so much. You would think that with people like that driving around, it would behoove our police officers to be well trained in this regard. Those two police officers were reserve officers, I can see maybe putting one reserve officer out in the street with a trained officer, but not two reserve officers with minimal training. Rockport tells us now that they have a procedure against this, but the very fact that they didn't have a procedure at the time is enough to send this to trial and again I reiterate the point that, as a grand juror, you sort through the evidence and decide if there's enough evidence to go to trial and I think in this case, there is clearly enough evidence to let a court sort it out. I think they need their day in court. Thank you.

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

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. I'm standing in opposition to the present motion. I've reviewed this file in great detail. I've read the deposition of the driver of the vehicle. I've read the police reports. I'm like the Representative from Cumberland, I don't think the tests for the Legislature is whether it passes the muster of a grand jury. The policy of the State of Maine is that the state and it's all municipal subdivisions have immunity from discretionary functions. Whether to arrest someone or not to arrest someone is a discretionary function. Whether to perform a test or not perform a test is a discretionary function. We give that immunity blanket to the state and the subdivisions, the towns and the cities. Because of that immunity, they don't insure themselves against loses of this type, so make it clear to you that what you're being asked to do is to have this money come out of the pockets of the taxpayers of the Town of Rockport, number one. Now this was a horrible result, the victim of this accident clearly was injured severely through maybe some fault of his own, the state police accident reconstruction indicates that the boy veered in front of the motor vehicle.

Be that as it may, my test for these, I suggest to you should be, is this such an outrageous action in this case for the law enforcement personnel to warrant allowing a law suit against the town? Sure, these were part time reserve officers who had been through what's called the 100 hour course at the Criminal Justice Academy. The 100 hour course which the State of Maine has established as the course to qualify as a reserve law enforcement officer. This is not the town saying, a reserve officer, I'm only going to let him go to this, that's the course that they take to become a reserve officer. Now if you look at the facts of this case, the driver was parked and the Rockport Police came up to them and smelled some marijuana, searched the vehicle, and unlike some of the handouts you received, really it was one and a half grams of marijuana in a little film case, one of those plastic film cases and reading the deposition of the young man who was the driver, he paid \$15 for it, perhaps a half hour, or hour earlier. They seized that along with some alcohol and one half empty bottle of beer, a partially drunk bottle of whiskey. There were other people in the vehicle. They smelt no alcohol on the breath of the driver and indicated nowhere that the driver was in any way impaired. In fact, there wasn't even a driver at that time, it was a parked vehicle. They, in fact, observed no sense of impairment and had him follow them to the police station in his own vehicle. He was given a couple of citations as

was indicated for possession of that small amount of marijuana and for providing liquor to the minor who was in the back seat of the car. Upon whom they did smell the smell of alcohol. Now, there was a time drag, an hour to an hour and a half later the accident happened. Now it's important to note that the accident scene was investigated by an entire different police department. It was investigated by the Knox County Sheriff Department. The Knox County Sheriff Department as per standard procedure took this young man and gave field sobriety tests, including an HGN test, now this the standard test for seeing if there is an impairment. They have you follow the tip of a pen to look for smooth pursuit of the tip of the pen and look for what they call clues, clues are hesitations when you are following the pen. If you hesitate and then start again, those are the types of clues they look for. There's no indication they found any clues of this young man. They took a blood alcohol test, which is standard when an accident of personal injury is involved. They called the state police to try to get a blood technician to take a test, there was no one available to take the test. Nowhere in any of the Knox County Sheriff Report does it indicate that this young man was impaired when he was operating the vehicle and the fact that he has a prior criminal record means nothing, because if we're going to prejudge everybody that has a prior criminal record, we're going down the wrong road. There was no evidence that the young man was impaired at the time he struck that young boy. Subsequently, the state police reconstruction team came to the scene, reconstructed the accident and came to the conclusion, V1 and V2, V1 is the motor vehicle, V2 is the bicycle, north on Route 73, V2 veered into the path of unit number one, unit number one was unable to avoid striking unit number two, than they did a measurement of the skid marks and all the coefficients involved and found the speed to be 46 MPH. I don't find this to be a highly outrageous activity on the part of the Rockport Police Department and we can't just be telling people they can sue because there is a bad injury. As much as we would like to make everyone whole, that's not what exceptions to the Tort Claim Act is all about. If we want people to be sued every time there's a discretionary mistake, we have to change the Tort Claim Act to allow law suits and then let the state and the municipalities insure themselves against these types of incidents. I ask you to vote against the Ought Not to Pass Report.

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

Representative **MUSE**: Mr. Speaker, Men and Women of the House. This bill is not about making somebody whole, with all due respect to the former speaker. No matter what our actions are here today, they will not make Adam whole. What our actions can do here today is make the law enforcement community recognize that there are problems that need to be addressed. The town has already addressed some of them and changed some of their standards. I worked for 12 years as a training officer in the law enforcement community and I can tell you very comfortably and very honestly, that as soon as budget dollars begin to tighten and shrink, what gets cut, what gets short changed, it's training, constantly.

The 100 hour program for law enforcement officers is a program that the Maine Criminal Justice Academy is lobbying very hard to do away with. The Maine Chiefs want to do away with it. Everybody in the law enforcement wants to do away with the 100 hour program and in very short amount of time it will be done as soon as the new police academy opens. One of the

officers at the scene of the accident and I have a copy of an affidavit that was just faxed here. Officer James Moore, who said in his affidavit and I will quote it for you, "Through the Knox County Sheriff Department Dispatcher, I requested that the Maine State Police send a drug recognition technician to the accident scene to determine whether or not Michael Fitzgerald may be under the influence of drugs, however, a drug recognition technician was not sent to the accident scene and no tests were done at the time to determine whether Michael Fitzgerald may have been under the influence of drugs." No test was conducted. Furthermore, the thing that this case will do is shed more light on this 100 hour program. If we could imagine, and make for instances, can you imagine, I don't know how many people in this room have ever been stopped and been suspected of operating under the influence or know somebody who might have been.

My mind is wondering thinking of the double law suit we'd be looking at when the police said, follow me back to the police station because I want to interrogate you, we're going to decide whether you are under the influence. Had the accident occurred then, while I was following him back to the police station and he struck the boy on the bicycle. I can't fathom how a law enforcement officer would think that that would be proper. All that we are doing here, ladies and gentlemen, is affording Adam's family their day in court. That's all and every single time that somebody brings a law suit like this forward, we hear what a slippery slope we're going down and that this is wrong and we shouldn't allow this and immunities. We're the final say to allow this family to have their day in court, nothing more, and that's a day I feel very strongly that they are entitled to. Thank you.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Tuttle.

Representative **TUTTLE**: Mr. Speaker, Men and Women of the House. I'm not a lawyer. I would try to explain to you why I vote like I did. As you've heard from testimony from Representative Savage, she testified at the public hearing on the behalf of the Wilson family whose 9 year old son was badly injured when hit by car driven by a person whom the Wilson alleged the Rockport police should not have allowed to be driving. Now the opponents to the bill at the public hearing, we had an attorney, Gordon Scott, the town attorney for Rockport testify that the police did what they should have done, that there was no evidence that the driver of the car was impaired. The police were not negligent. Rockport follows state police standard operating procedures, we had asked them if that had changed since the incident. They told us it has not. One of the officers was a reserve officer who had not been through the police academy and it was mentioned that the use of reserve officers is common in that town, but such use has largely been abolished since the incident.

The Attorney for the Wilson family testified that Adam Wilson was hit by a car, as you've heard, by a man whom the Rockport police had talked with some time before the accident. The police apparently had found evidence of drugs and alcohol use in the car and the Wilson family alleged that there was significant evidence to warrant the police arresting the driver or taking at least his car keys away from him and not allowing that person to drive further. The family alleges that this constituted fault on the part of the police and that the fault resulted in the accident that injured Adam Wilson. They also indicated that the family sued both the town and the driver, but as most of us know, as we've heard today, the claim against the town has been dismissed

because of the town's immunity under the Tort Claims Law. As most of you are aware, due to the immunity provided to municipalities under the Maine Tort Claims Act, Adam Wilson cannot have his day in court without expressed authorization of the Legislature. That's why this bill is needed.

The driver Fitzgerald had been in custody, as I mentioned before, by the Rockport police shortly before the accident and was released. They issued him a summons on possession on marijuana and the furnishing of alcohol without even administering any type of recognized field sobriety test. It says here after searching the vehicle one of the officers asked Fitzgerald to blow in his face, Fitzgerald did and according to the officer's sworn disposition testimony, the smell of alcohol was not on his breath. Fitzgerald then followed the officers back to the police station which has been mentioned in testimony here, it boggles my mind that you have somebody that you suspect of intoxication and other things and you ask them to follow you in his car in back of the police officer's back to the station. I'm not a police officer. I'm not a lawyer, but just common sense, for the life of me I can't understand that. It said at no time was any accepted sobriety test performed. We have since learned through discovery, that the Town of Rockport, as I mentioned, has no standard procedure regarding the investigation of a person who is suspected of operating a motor vehicle under the influence of intoxicating drugs or alcohol. That's still the case. The facts in this case become even more disturbing with conflicting testimony from two officers as to their actions later that night after they heard about the accident over the police radio. The officers testified that he and his partner drove to the police chief's house on Saturday night and went inside and talked to the chief about the incidence. The other officer testified that no such visit ever occurred. The police report was not filed until later that night.

Ladies and gentlemen of the House, as I've always said to you, these bills before the Legal and Veterans Affairs Committee are always most difficult. I agonize some nights, I can't sleep. Are we doing the right thing, making the right decision, hearing the attorneys, hearing the Attorney General, but from my humble opinion, just being a regular person from the state, a legislator for a number of years, I hope that you would conclude that this case at least deserves the opportunity to be proven in court. I received many letters from mothers against drunk driving, I can paraphrase, I'm sorry Mr. Speaker, if I'm going on too long. I take this issue to my heart. Although we understand the need for police officers to exercise their own judgment, in individual cases it goes on to say how can an officer be expected to make a reasonable determination if he or she has received no training on how to conduct a field sobriety test, or when to call for assistance or drug recognition technician. From the testimony I was given from the court case, questioned when Michael Fitzgerald, the driver, was outside the vehicle, did you do a field sobriety test, the answer was no. Did Officer Moore, the answer again was no. When you were inside the vehicle, did you do any kind of sobriety test, I asked Mr. Fitzgerald to blow in my face. Did the Maine Criminal Justice Academy ever tell you to blow in the face test was an accepted sobriety test, the answer was no. Question, you did not do any other test except for the general observations and blow in the face situation, the answer was correct. If somebody was high or intoxicated by marijuana, would you smell marijuana on the breath. The answer was no. What did you tell, or should you do if you suspected a driver of a vehicle was under the influence of alcohol or drugs, the answer

of what you should do is probably conduct a field sobriety test, have them do an alphabet or stand on one leg or another.

Mr. Speaker, I can go on and on with this testimony, but I would ask that you would give the family their day in court. As I said before, I'm not a lawyer, I'm only one person who tries to render fair judgment and I've deliberated on this considerably and I think that the Wilson family at least deserves their day in court. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Rockport, Representative Powers.

Representative **POWERS**: Mr. Speaker, Men and Women of the House. I just want to clarify a few things that have come up in this discussion. Reserve officers seem to be getting a bad wrap in a lot of this conversation. The Representative from Cumberland, Representative McKenney, referenced the two reserve officers who were on duty in the car, that is not accurate, Rockport had one reserve officer on duty, the other was riding as an observer, taking a look at whether he was interested in going further into law enforcement. He was not responsible for this case. The second thing I would like to ask you, is it better to have some, rather than none, or no, law enforcement? The community from which Adam Wilson comes, where he still resides, for instance, has no municipal police force, is dependent on the county sheriff's force. Rockport was in a stage of transitioning just at the time this accident occurred. It now has full time police officers and does not rely on reserve officers. It now does have and has its officers use the procedures taught at the Criminal Justice Academy for determining whether there is impairment from alcohol or other drugs. However, even with a full time police force, Rockport like all the towns in our county are dependent on the state police to perform certain specific assessments for impairment. One is this horizontal gaze tracking that the Representative from Naples, Representative Thompson, referenced and the other is the official DRT or Drug Recognition Test that Representative Muse referred to. That is why the county police when investigating this accident in South Thomaston that does not have a police force called the state police to do these investigations and reconstruct the accident. That is where I would like to leave you with my remarks today. That is where we need to go back to the final report, in which it was determined that the driver of the car had absolutely no alcohol in his blood and showed no impairment from drugs, so once again I urge you to vote against this minority report. Thank you very much.

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

Representative **RICHARDSON**: Mr. Speaker, Men and Women of the House. I've listened to the debate closely, because I think we are missing a point here. I don't think this is the negligence of two police officers, because they were trained and with their limited training they did all that they knew how to do. The real question for us is whether Rockport was negligent in preparing its officers and what do we know. We know that when the officers stopped this individual, they were caught sitting in a parked car, it reeked of marijuana, marijuana was found in the car, there was an open beer, one bottle was wedged between Fitzgerald's seat and the door and a half empty bottle of whiskey was on the front seat. June 10, this year, my little boy will have already have reached the age of 10 and I think of all the things that I have been able to do with him, that the Adam Wilson family will not be able to do with him. The fact is and it has already been admitted to, that the town failed to properly train

these officers for the tests that they are required to conduct and they had no policies whatsoever in administering these alcohol tests. Communities such as Rockport want to make decisions about training, decisions about supervision, then they should live by the consequences of their actions. If they want to hire part time reserve officers, if they want to have just part time officers on the street without having a full time officer there to oversee them, then they should live with the consequences of their actions and it shouldn't be Adam and his family. So today when you think about Adam, you think about all the things that Adam gets to do, or you get to do with your children, that Adam's family doesn't get to do with him, ask who the responsible party here was, because if the proper action had been taken at the time, Adam and that car would never have met at that point in time in which the accident occurred. So it is clear to me, notwithstanding what all the other good people have said about their feelings that Rockport is not at fault, I don't see the fault of the police officers really the question here, because with just 100 hours of limited training, they weren't taught to do this, but Rockport certainly bears the responsibility of deciding on what kind of law enforcement agency they wanted in the department. Thank you.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Jabar.

Representative **JABAR**: Mr. Speaker, Ladies and Gentlemen of the House. I rise not to discuss the facts of this case, because I don't believe that's really the issue before us. The issue before us is the continued creditability of the Maine Tort Claims Act. The law in many instances can be very harsh and I can tell you a lot of stories about people who have been denied remedies in court because of the statute of limitations or because of the Maine Tort Claims Act, but unless we're ready to add on to the Maine Tort Claim Act an exception that says, if you can come to the Legislature with a very emotional case, you can get around the Maine Tort Claims Act. I would love to see exceptions to the Maine Tort Claims Act for cases such as this, because there are cases like this out there which don't seem to be handled by our justice system that don't seem to be fair. But the issue before us, if we are going to abide by the strict law of the Maine Tort Claims Act, I don't think that we have any choice, but to turn down this motion and not allow the claim to go forward. It's difficult, but that's the way the law is in a lot of circumstances. So I reluctantly rise to argue against giving these people the right to come before this legislature to ask for remedy, because unless we do that, we will be flooded with claims. Where do we draw the line? I've told a lot of people, as I'm sure many attorneys have from time to time, listen I'm sorry, there's nothing I can do. The statute has gone by, it's too late, there's immunity. Police officers have immunity, towns have immunity, there's nothing you can do about it. This is another one of those examples where the law is harsh. I rise not to support the pending motion, to vote red, to support the majority ought not to pass. Thank you.

Representative **TUTTLE** of Sanford **REQUESTED** a roll call on his motion to **ACCEPT** the Minority **Ought to Pass as Amended Report**.

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

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Tuttle.

Representative **TUTTLE**: Mr. Speaker, Men and Women of the House. As many of us know, Maine prides itself on the

strong local control and its home rule. If communities want to make law enforcement training and policy decisions for themselves, I'm paraphrasing from the Bangor Daily News, they must be held accountable for those decisions. The flip side of local control must be local responsibility, if passage of this bill would set a precedence, it is a precedence that ought to be set. Finally, Maine boast of having one of the toughest drunk driving laws in the nation, but the law does little good if possible drunken drivers are not tested. If possible drug impaired drivers are handed tickets along with their keys. The passage of LD 1945, will do more than give the Wilson family a day in court. It will send a clear message to all departments in the state that public safety is more important than municipal immunity. For that reason, Mr. Speaker, I would encourage this body's support for the pending motion.

Representative SHIAH of Bowdoinham assumed the Chair.
The House was called to order by the Speaker Pro Tem.

The SPEAKER PRO TEM The Chair recognizes the Representative from Gorham, Representative Labrecque.

Representative **LABRECQUE**: Mr. Speaker, Ladies and Gentlemen of the House. I will be very brief. As it has been previously said, these cases are extremely difficult to deal with. Part of the training we receive in the Legal and Veterans Affairs Committee is the fact that the Attorney General comes down, or a member of his staff, and explains to us the process and the immunity and our inability, or our desire not to allow people to sue the state. In fact, in cases that I have had to deal with in the previous legislatures that I have served in, generally there has been an outright payment if we feel that there is, or there appears to have been some problems, in this particular instance, however, we're not being asked to sue the state. We're being asked to allow somebody to sue a town and I really do believe that this is setting precedence and I really do think that you need to ponder that when you make your decision and you also need to ponder the fact, did the law enforcement officials cause the accident. Thank you, Mr. Speaker.

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

Representative **MCALEVEY**: Mr. Speaker, Ladies and Gentlemen of the House. The issues that are before us, asking permission to sue the town, we need to put some things in perspective. We train our law officers depending on the level of certification they apply for. In our motor vehicle laws, in this case OUI and drugs. We also give them in that training preconditions, you can't go from A to Z or A to L before you do BCDE & F. In this case, if you think someone's impaired, you can't require them to take a test unless you have a proponents of the evidence before hand, slurred speech, balance problems, cognitive problems and if you do charge them immediately, you are going to have a defensive attorney throw it out because you didn't go through the proper steps, but if we are going to allow these people to sue the town, then we ought to name ourselves as codefendants because the State of Maine trained those officers and the State of Maine provided them with the laws and the procedures they have to follow, whether they followed them or not, we made those laws. We established those procedures through rulemaking, which is in the officer law enforcement manual of procedures. We're responsible, so if you are going to

allow them, you ought to allow us to be named as codefendants, because if there is some guilt to be laid here, and I'm not saying whether there is or not, if there is a civil liability here, we're just as countable, or potentially countable as these other people are, because these officers, regardless of their training were following our training that we dictated and were following our procedures and our laws.

The SPEAKER PRO TEM: The Chair recognizes the Representative from South Portland, Representative Muse.

Representative MUSE: Mr. Speaker, Men and Women of the House. Just three very quick points that I'd like to make. The first being, we've been told that the gentlemen was not speeding, the state police in reenacting the accident have concluded he was traveling at 46 miles an hour at the time of impact. The speed limit and I think the operative word there is limit posted was 40 miles per hour, clearly he was speeding. Secondly, in regards to what Representative McAlevey has just stated, we do share some of the blame because we continue to allow officers to go out and patrol the streets in our towns and our cities with this 100 hour course under their belts and it's something that's going to come to a halt very soon because we recognize that it is not appropriate. The final point that I would like to make, a former speaker asked the question, did law enforcement officers cause this accident, well ladies and gentlemen, I think that's the wrong question we need to ask here, the question that we need to ask is, did the law enforcement officers take all of the necessary steps to prevent the accident? Clearly the answer is no they did not. Thank you, Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Northport, Representative Lindahl.

Representative LINDAHL: Mr. Speaker, Men and Women of the House. I think we are trying to set a very disturbing precedent. How can we say that this would not have happened if the officers had done something differently? Are we saying that all police officers have to be trained to the level of the state police as being a drug recognition technician, if they're not, anything that happens after that is their fault? A lot of towns, coastal communities, island communities don't have full time police officers, they can't afford full time police officers. They have these people taking a 100 hour course and normally they are just handling domestic complaints, barking dogs, serving court process. They are not out there as full time police officers doing this as their livelihood, but they are performing a very important function. I think these Rockport police officers, I've read this over, the information given out by Representative Powers of Rockport, and I tried to think as a full time professional police officer would I have done anything differently. I would like to have said, yes, I would have, but I don't know that because I don't have all of the facts, based on this limited information, I think these officers did act prudently, they didn't have probable cause to make an arrest. They did all they could do, they didn't have a drug recognition technician there. I think they acted properly and I would urge you to vote against the Minority Ought to Pass. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bath, Representative Mayo.

Representative MAYO: Mr. Speaker, Men and Women of the House. Not to prolong this a great deal more, but as a member of the Committee, I, too, have got to say something this afternoon. I am on the side of the Chair of the Committee and urge that you accept the Minority Ought to Pass. As has been stated previously, that Friday that we heard this case and a

number of others, some of which may come before you at a later time, was a very difficult situation, but I firmly believe, contrary to what we just heard from the good Representative from Northport, that we do not know all of the facts of this case and when the facts are not fully known that is when it is up to the court system to make that determination. And what a minority of the Committee, it was a 7 to 6 vote, 6 in the minority, what the minority 6 feel and feel very strongly is given the conflicting evidence, given the state police report, given the sheriff's report, given the fact that there were 2 reserve officers involved earlier in the day, with the situation that it is up to a court to make a determination in this case and I would urge you to let that situation take it's proper and due course. Thank you.

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

ROLL CALL NO. 143

YEA - Ahearne, Bagley, Baker, Berry DP, Berry RL, Bolduc, Cameron, Clark, Desmond, Dugay, Dunlap, Gerry, Gillis, Green, Heidrich, Joy, Lovett, Mack, Matthews, Mayo, McAlevey, McGlocklin, McKee, McKenney, McNeil, Mendros, Murphy E, Muse, O'Brien JA, O'Brien LL, O'Neal, Perry, Pinkham, Quint, Richard, Richardson J, Rosen, Savage C, Shiah, Sirois, Snowe-Mello, Stanley, Stanwood, Stedman, Sullivan, Tobin J, Tracy, Trahan, Tripp, True, Tuttle, Twomey, Usher, Watson, Williams.

NAY - Andrews, Belanger, Bouffard, Bowles, Brennan, Brooks, Bruno, Bryant, Buck, Bull, Bumps, Campbell, Chick, Chizmar, Cianchette, Clough, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Dudley, Duncan, Duplessie, Etnier, Fisher, Foster, Fuller, Gagne, Gagnon, Glynn, Gooley, Hatch, Honey, Jabar, Jacobs, Jodrey, Kane, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, MacDougall, Madore, Mailhot, Martin, Marvin, McDonough, Mitchell, Murphy T, Nass, Norbert, Nutting, O'Neil, Peavey, Perkins, Pieh, Plowman, Povich, Powers, Richardson E, Rines, Samson, Savage W, Saxl JW, Saxl MV, Schneider, Sherman, Shields, Skoglund, Stevens, Tessier, Thompson, Tobin D, Townsend, Treadwell, Volenik, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Mr. Speaker.

ABSENT - Bragdon, Carr, Frechette, Goodwin, Jones, Sanborn, Shorey.

Yes, 55; No, 89; Absent, 7; Excused, 0.

55 having voted in the affirmative and 89 voted in the negative, with 7 being absent, the **Minority Ought to Pass as Amended Report was NOT ACCEPTED.**

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

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.

JOINT ORDER - Relative to the Joint Standing Committee on Health and Human Services Reporting Out Legislation Regarding Mental Health Services

(H.P. 1569)

- In House, **READ and PASSED** on April 29, 1999.

- In Senate, **INDEFINITELY POSTPONED** in **NON-CONCURRENCE.**

TABLED - May 5, 1999 (Till Later Today) by Representative KANE of Saco.

PENDING - FURTHER CONSIDERATION.

On motion of Representative KANE of Saco, TABLED pending FURTHER CONSIDERATION and later today assigned.

Bill "An Act to Amend the Laws Regarding the Taxation of Certain Automotive Parts"

(H.P. 241) (L.D. 345)

- In House, Minority (5) **OUGHT TO PASS AS AMENDED** Report of the Committee on **TAXATION READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-204)** on May 3, 1999.

- In Senate, Majority (8) **OUGHT NOT TO PASS** Report of the Committee on **TAXATION READ** and **ACCEPTED** in **NON-CONCURRENCE**.

TABLED - May 5, 1999 (Till Later Today) by Representative GAGNON of Waterville.

PENDING - FURTHER CONSIDERATION.

Subsequently, the House voted to **ADHERE**.

SENATE DIVIDED REPORT - Majority (10) **Ought Not to Pass** - Minority (3) **Ought to Pass as Amended by Committee Amendment "A" (S-188)** - Committee on **LABOR** on Bill "An Act to Allow Minors to Work Over the Labor Day Weekend"

(S.P. 608) (L.D. 1731)

- In Senate, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

TABLED - May 5, 1999 (Till Later Today) by Representative SAMSON of Jay.

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

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

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. This bill is not a large change to the child labor laws. It would allow children to work for one weekend, give them a little extra time on one weekend a year. What it would do is by a few hours increase the amount of time they could work over the Labor Day weekend. For many businesses, especially in the tourist industry, where most of these kids are employed, this is the biggest weekend of the year. This is the weekend they've been working all summer for. They're preparing and getting ready for this weekend. But the laws of how many hours you can work change once school starts, some schools start before Labor Day, some schools start after Labor Day. If you happen to go to a school that starts before Labor Day, you are penalized. You can't work the full amount of hours on Labor Day weekend where someone whose school starts after Labor Day could work. Not only is this hard for these students because they can't work this weekend that they have been looking forward to and building up to, but this hurts the businesses as well. It's very hard to find the employees you need, especially for such a big rush on Labor Day weekend. I know of a major employer in Southern Maine who had to shut down on Labor Day weekend and lose a large part of their business, because a lot of their employees could not work that weekend. This is just a small change to the law and allows these kids to work a few extra hours on Labor Day weekend. The weekend they have been working all year to get to.

Representative **MACK** of Standish **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 PRO TEM: The Chair recognizes the Representative from Falmouth, Representative Davis.

Representative **DAVIS**: Mr. Speaker, Men and Women of the House. It seems in actuality we're weakening the child labor laws. If you continue to do this, you'll have children working more and more and at a younger age. I urge you not to accept this and to vote for the bill that will not allow child labor. Thank you.

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

Representative **HATCH**: Mr. Speaker, Ladies and Gentlemen of the House. This bill is another attempt to roll back the comprehensive reforms to the child labor laws. A 16 or 17 year old minor can now work 10 hours a day on any day school is not in session. LD 1731 changes the limit on the hours that these minors could work if Labor Day weekend falls during a period when school is in session, so if the Labor Day weekend fell between the first and second week of the school year, assuming a Sunday through Monday work week, a minor in this category could work 60 hours compared to 50 hours currently and 40 hours the second week compared to 20 normally. The Department recognizes the challenges of seasonal employers and maintaining operations through this particular weekend, at the same time we are concerned about further increasing the number of hours minors can work during a school week. The Department of Labor would be happy to work with employers to consider alternatives to increasing hours worked by minors including, assistance in recruiting and retaining older out of school workers. This is a letter posted to us by the Department of Labor, they attended the hearing. If this bill should pass, there is a fiscal note to cover the printing and distribution of the regulations of employment poster and it would be a major change in our child labor laws. I ask you to support the Majority **Ought Not to Pass**. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from North Berwick, Representative MacDougall.

Representative **MACDOUGALL**: Mr. Speaker, Men and Women of the House. Should this law pass today, it doesn't mean they have to work, it just means they can and take advantage of that opportunity on Labor Day weekend. What happens at the tail end of the season, particularly down, I live in Southern Maine, to the restaurants and those type of businesses is that a good part of their work force is no longer available for that, perhaps one of the busiest weekends of the season and with all deference to the Department of Labor, willing to try to work with employers to try to come up with some sort of strategy, I would just as soon they would be working in other areas for a couple of reasons. These students have learned their jobs presumably pretty well, rather it's serving food or running a ride perhaps at an amusement park and as these employees are no longer available people that will fill in will either have to fill in and work twice as much or try to do two things at once or in essence could cause a potential safety issue, particularly when it comes to rides at some of these amusement parks, or trying to do a job they haven't done. The quality of service could also suffer and the quality product that a restaurant is used to giving, perhaps the timely service, may suffer as well. This bill doesn't force anyone to work those particular hours, it just leaves that window

open for these students and I might add that one of the things on the Labor Day weekend that many people come from away and it gives another opportunity for our kids to meet people from away and be exposed to different points of view and different ways of life. I would urge your support of the bill and vote against the pending motion. Thank you.

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

Representative **SAMSON**: Mr. Speaker, Men and Women of the House. I stand in support of the Ought Not to Pass Report. I find it kind of ironic that we want to weaken the child labor laws so that children can work on Labor Day. Child labor laws were revamped 10 or 12 years ago for the benefit of the children and that's the way we should keep it. Please support the Ought Not to Pass.

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. I certainly would not advocate weakening the child labor laws, but I would without repeating the testimony that has already been given here, I'd like to reemphasis, remind the members of the House that we're talking about one weekend per year. A weekend that is the combination of the tourist season for the State of Maine, we're talking about a bill that affects primarily the tourist industry. We're talking about employees that have had this employment throughout the summer months. We're not doing anything that they haven't been doing through all of those other weeks during the summer. School has just started the previous week, they probably got anywhere from 3 to 5 days of school up until that weekend. I don't see a problem with passing the bill to allow them to work for this one weekend, also it only applies to 16 and 17 year olds. Thank you very much, Mr. Speaker.

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

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

The **SPEAKER PRO TEM**: The Representative may pose his question.

Representative **COWGER**: Thank you, Mr. Speaker, to anyone who may care to answer. Does this bill change any of the existing minimum age requirements in our labor laws or does it simply just adjust the hours that minors may work for this single weekend?

The **SPEAKER PRO TEM**: The Representative from Hallowell, Representative Cowger has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Standish, Representative Mack.

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. To answer the good Representative's question, it does not change any of the ages. It's just for 16 and 17 year olds, it lets them work up to 10 hours a day over the Labor Day weekend and normally for the weeks when school is not in session they are allowed a maximum of 50 hours. It just allows them to work 10 hours a day over Labor Day weekend.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Winslow, Representative Matthews.

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. I hope that you will vote as you did the other day on the other child labor extension to get kids more time to work. Labor Day weekend is that weekend, either the kids have started

school, or they are soon to start school and I don't know about all of your kids, they're probably similar to my kids, but they are starting their work and preparation work in early August getting ready for school. Most schools today, because we as a Legislature, and I'm proud to say, have emphasized the need to train our kids to get the best education possible, to study, to work hard on their education. Now we are going to extend an opportunity for these kids to work on Labor Day, young children, so that I assume, the proponents of this legislation, want to have the kids out of the house on Labor Day, on the holiday, working so that mom and dad that fought very hard to get a Labor Day holiday to be at home. And I thought, ladies and gentlemen, we wanted that family unit together, to be proud of their heritage as Maine workers, American workers, proud of that holiday that recognizes the fruits of their labor and that the family unit be together because there's enough attempts in our society today to pull the family unit apart and this one will pull it apart one more, maybe a little bit, but in a direction we don't need to go. Let's keep the family at home on Labor Day. Let's take pride in our children. Let's keep them with their family on that day and let's not further erode the child labor laws that we have established. Thank you, Mr. Speaker.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Hartland, Representative Stedman.

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

The **SPEAKER PRO TEM**: The Representative may pose his question.

Representative **STEDMAN**: To anyone who cares to answer. If a school system has chosen not to start until after Labor Day, does this have any affect on those children that want to work on the Labor Day weekend?

The **SPEAKER PRO TEM**: The Representative from Hartland, Representative Stedman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Skowhegan, Representative Hatch.

Representative **HATCH**: Thank you, Mr. Speaker. In answer to that question, those children could work any number of hours that they so choose, if they have not started school.

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

Representative **TRUE**: Mr. Speaker, Ladies and Gentlemen of the House. I am neither for nor against whatever the labor movement happens to be, but I am against interfering with the schools in Maine in adopting a calendar that is best in the best interest of the children and also in the geographical section that they live in. I can't say for sure, but I'm fairly certain, because there is movement afoot already to try to get schools all over Maine to start after Labor Day, except the exception, which I believe is in Aroostook County. I believe that it is wrong for us to try to do anything that is going to place our schools in jeopardy for starting whenever they deem it not only necessary, but proper.

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

ROLL CALL NO. 144

YEA - Ahearn, Bagley, Baker, Berry RL, Bolduc, Bouffard, Bowles, Brennan, Brooks, Bruno, Bryant, Bull, Cameron, Chick, Chizmar, Clark, Colwell, Cote, Davidson, Davis, Desmond,

Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gagnon, Gerry, Glynn, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemont, Madore, Mailhot, Martin, Matthews, McDonough, McGlocklin, McKee, McNeil, Mitchell, Murphy E, Muse, Norbert, Nutting, O'Brien LL, O'Neal, Pieh, Povich, Quint, Richard, Richardson J, Rosen, Samson, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Thompson, Tobin D, Townsend, Tracy, Tripp, True, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Belanger, Berry DP, Buck, Bumps, Campbell, Cianchette, Clough, Collins, Cowger, Cross, Daigle, Duncan, Foster, Gillis, Gooley, Heidrich, Honey, Jodrey, Joy, Kasprzak, Kneeland, Labrecque, Lemoine, Lindahl, Lovett, MacDougall, Mack, Marvin, Mayo, McAlevey, McKenney, Mendros, Murphy T, Nass, O'Neil, Peavey, Perkins, Perry, Pinkham, Plowman, Powers, Richardson E, Rines, Savage C, Sherman, Shields, Snowe-Mello, Stanwood, Stedman, Tessier, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Andrews, Bragdon, Carr, Frechette, Jones, O'Brien JA, Sanborn, Shorey.

Yes, 86; No, 57; Absent, 8; Excused, 0.

86 having voted in the affirmative and 57 voted in the negative, with 8 being absent, the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

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

HOUSE DIVIDED REPORT - Majority (8) Ought Not to Pass - Minority (5) Ought to Pass as Amended by Committee Amendment "A" (H-376) - Committee on EDUCATION AND CULTURAL AFFAIRS on Bill "An Act to Require Schools to Begin After Labor Day"

(H.P. 943) (L.D. 1340)

TABLED - May 5, 1999 (Till Later Today) by Representative BRENNAN of Portland.

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Holden, Representative Campbell.

Representative **CAMPBELL**: Mr. Speaker, Men and Women of the House. This is an issue that was brought to my attention probably about 12 years ago, when my son got his schedule for returning to school and it began before Labor Day. As many families in the summer months go about their business, they come to the last weekend of the summer and say, whoa, we haven't been on that family vacation. For 10 years I've been asking my superintendent why they do this and the response generally is, we need to get the kids settled down before they come back for a full week of school. So as you know, this is my last term, I've served 6 years going into my 4th term and it wasn't until this term that I was asked to put this bill in by some people in my district. They came to me and asked me to do this because they were in business and they were finding it hard to find employees through the summer, especially for that final, very important weekend at the end of the summer, Labor Day weekend. Well, education is more important than business issues, let's continue looking around to see if there is any support for this. I found that students were concerned and

actually were unable to get long-term jobs because they weren't able to commit to this and as we have heard in the debate before, once school opens we have the minimum child labor standards for which we are all supportive. There are many businesses who now, especially in the hotel business, are looking to other towns who start after Labor Day, other states who start after Labor Day and we're even hearing that other countries for employment for these businesses because of the Labor Day circumstance. So, in the case of this we're simply asking that there be one single window of start day. We're not asking that the laws determine when they conclude, just that there be a consistent after Labor Day start. We talk about local control and I'm finding that there doesn't seem to be the initiative on those that are controlling the start date to consider this, either from a family perspective, or a student income perspective, or from a business perspective. I was quite concerned when after several minutes of testimony, the Department got up and said to those of us left in the room, there is no compelling issue, there is no compelling reason to start after Labor Day. Now they had sat through all this testimony, which to me was compelling, and then proceeded to say, market forces should not impact education. Well, unfortunately, market forces do, taxes paid pays for education in this individual's salary, so I would hope that you would consider this issue and consider it seriously. We did exempt Aroostook County. I would appreciate your support on this bill. Thank you.

The SPEAKER PRO TEM: 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. Despite all the comments from the good Representative from Holden, there is one overriding issue that's involved with this bill and that's local control. We debate, over and over again, what's the responsibility of the state in terms of making educational policy and what's the role of the local school board in making policies. Clearly, and almost unequivocally in this particular case, local school districts should be deciding when their school district opens for classes. The state should not be mandated when every school district in this state should be opening its schools or closing its schools, that is a local control and a local issue. Forty-five other states in this country remain silent on this issue, only a handful of states dictate to their local school districts when they open or when they close. I think we should remain as one of those states that entrusts our local school boards with decisions of what is best for their community. This bill was opposed, not only by the Department of Education, but by Maine School Board Management Association, the Superintendent's Association and at a workshop session a representative from Maine Education Association, expressed his reservation. The Education Committee, in trying to be sensitive to some of the issues that were raised by the Representative from Holden, has drafted a letter and will be sending it to appropriate agencies and organizations asking them to try to work with their local communities and with their businesses, be it such as it is possible. But again, this issue is a local issue and should remain there. The state should not be mandating when schools open and close. Thank you.

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

Representative **BELANGER**: Mr. Speaker, Men and Women of the House. I rise to ask your support for the Majority **Ought Not to Pass** on LD 1340. Clearly, as the good Representative

from Portland has pointed out to you, it is a local issue, it is a local decision and further, it wouldn't advantage some vacation or some recreational industries over others. Why wouldn't it be logical next year for the ski industry to be in here asking us for a one month Christmas break, so that they could hire young people to work at their ski lodges? As many of you know, for years in Aroostook County we have started school in the middle of August, so that we can take the break for potato harvest. We appreciate the exemption that this sponsor has put in the amendment in the Minority Report, but this exception is made in Aroostook County by the decision of the local schools. In fact, the agriculture did impact the economy for such a point that the local school boards decided to start school early so that they could have a break for the children that were working in the harvest and if those conditions exist in other parts of the state, I trust that the local school boards will be able to make those decisions after weighing everything and make the proper decision. I would appreciate your support in the Ought Not to Pass. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Biddeford, Representative Sullivan.

Representative SULLIVAN: Mr. Speaker, Ladies and Gentlemen of the House. I rise to support this Ought Not to Pass. I agree with the local control, but I would like to take it one step further. You've heard me say, I am a teacher. Let me tell you, in the last 3 or 4 days we've been in session, I've heard people ask to suspend the rules so that men may remove their jackets. Let me tell you about a classroom late in June, or even at the beginning of June. They are not air conditioned, you have several small bodies that have been running around all day. Parents have opened their camps and their pools, they have checked out of school Memorial Day weekend and if we happen to get warm weather during that time, the windows can't remain open at night because they don't have screens on them and the bugs come in, black flies. We aren't accomplishing anything. Our kids are ready to go back to school in August, they are bored, they want to see their friends. I went into teaching to educate children. We need to look at what is best for academic success. A hot day in June, because the state mandates 175 and some local control issues more than that, days for a year. We need to think about those children and I ask you to support this and allow the school boards to decide what is best academically for their children. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative O'NEIL: Mr. Speaker, Men and Women of the House. I know this isn't a partisan issue, but I rise to oppose the Ought Not to Pass Report and I'll tell you a little bit about why. Many of you know about some of my wild entrepreneurial ventures before I became a Legislator, among that was a business in Old Orchard Beach, where we had a 10 week season to make money. Get two or three extra days of rain in that summer and you could really lose it, lose it all, you pay exorbitant rent, you'll be dealing with volatile markets and you'll be dealing with largely student workforce, high school and college kids. It always used to fry me that kids would get out of school, from say the university system, 1st week of May and I would try to hire the best kids I could to provide good service to the customers and I'd get those good kids. Pay them a little bit more than what the average people were paying, but I'd get them and I couldn't give them any work until it was closer to 4th of July so sometime around mid May I was scrambling to keep those

good kids. And I said, you know it's odd to me why I have to front load the summer like that and then the week before Labor Day they're taking off on me. Well, I understand the 175 days and I understand the constraints that are on the university system, but what we have done effectively is shrink a 10 week season to a 9 week season and I used to have a bench mark about August 15th, if I hadn't made enough money by a certain point, August 15th, I wasn't going to make any money, so I made my profit if I was lucky the last 2 weeks of August. By taking away the Labor Day weekend, largely, that takes a bite out of one week of those 2 weeks and just so you know, it's not a leap of faith for me to say you're taking away a lot of the profit.

What happens is, a couple of things, it's on both ends of the equation, we send a message in Maine that Labor Day weekend is kind of an after thought now and a lot of folks will just forego the traditional vacations that they were taking as families and they don't. We don't get a lot of the local trade anymore. I don't know what the other states are doing, the Representative says 45 other states don't do it, but Labor Day weekend was traditionally a big shot in the arm financially. You take away a big chunk of the local trade, the people who would go out for that last vacation, and then you take away your valuable employees that have worked all summer and have gained a level of skill and you're working with a skeleton staff, if you are lucky to have that skeleton staff. What happens is you are providing less than adequate service, you're providing less than adequate service to those people from Pennsylvania, New Jersey, Rhode Island who might come here and say, you know the hospitality in Maine isn't quite what it used to be. That's not the message I want to send. Your losing kids midway through August, double sessions for football, and soccer and that sort of thing, you tend to try to scrape it up and coming from where I come from, there are a lot of folks who depend upon these kids for work and these kids depend a lot upon the dough. You know they're paying \$20,000, \$25,000 a year to go to college and they want to work and on that last bill that we talked about, you understand why I voted on that too. But this is vacationland and that's why I oppose the Majority Report.

I'll give you one example, in the City of Saco, I appreciate local control, but of all places, you know here's the way it's going to work this upcoming year. The week before Labor Day weekend, the schools are going to start on Wednesday, half a day. They'll go in Thursday, half a day, and they are off on Friday, and then they will start up again Tuesday after Labor Day. In essence you loose your two half days of school for these kids just so you can take a big bite out of Labor Day. I know there is a tight school schedule in the fall semester, but to my way of thinking you are really talking about one day to blow the weekend of Labor Day weekend and I have a lot of employers in my district who actually talked to me about this issue and even called and wrote letters and all those good old things that you are suppose to do. I think about this bill and I wonder what you folks think about when you think about summer and I know it's coming. One of the things I think about is the Beach Boys, you know that song, wouldn't it be nice and it would be really nice if every district in this whole state adhered to a policy whereby Labor Day was honored, people could continue to work and have the options to keep their businesses fully open, but the fact of the matter, it doesn't happen that way, not even in good old Saco, where I appreciate our superintendent and I appreciate our schools, but if it can't happen there, Lord knows I can't see it happening in a lot of other places, so I vote red on this bill,

because I want to send a statement that I think it's important in the land of vacations to be good for kids, businesses and families. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Madison, Representative Richard.

Representative **RICHARD**: Mr. Speaker, Men and Women of the House. I would like to assure the good Representative from Saco that we all received letters from his area also, and very strong testimony from his area. Therefore, I took it upon myself to speak with the superintendent of schools in his area and said we feel very strongly, the majority of the committee that this is a local issue and it's the local school board that these people should be going to, not the Maine State Legislature. There was an arrangement made one of the businessmen who was being effected to have a meeting with the superintendent of schools. The last I knew the school board of that community was not interested in changing. It is my feeling that people who have a problem with this issue, should go to the school board, not the superintendent, it's the school board that makes these decisions. Should go to the school board of that area and talk to them to make a change rather than coming to the Maine State Legislature. I do not feel that we, as a Legislature, should be dictating to the communities what day they should school and what day they should stop school. We do dictate the number of days they must go to school, but that is up to the local community the day that they start, the day that they stop and the good Representative from Holden had some excellent examples of family and I think the schedule you just heard would allow the family to have a long weekend that weekend. I would urge you to support the Majority Ought Not to Pass Report.

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

Representative **GOODWIN**: Mr. Speaker, Men and Women of the House. Last week I testified here and I told you that in my other life I was on a school board. Before I left Pembroke Sunday, I read a notice for a school board meeting which will occur tomorrow night 7:00 and one of items in a 10 item agenda is a review of the calendar for the next year. The school board in Pembroke tomorrow night with most of the town in attendance will vote on a 175 day calendar, a complete calendar for the year including the Christmas holidays, the spring break and everything that goes with it. Now with that comes a review because in our area of the State, we send our students to two high schools, one being in Washington Academy, which is only 27 miles one way and another one in Eastport which is 16 miles away so we have to coordinate our calendar with their calendar. That goes on all over Washington County as well as all over the State of Maine and it is nothing more than a total local issue. It's been set prior to my getting up, if you have a problem with the school year calendar, attend your local school board meeting and make your wishes known and you will get it done. I thank the body for listening and I urge you to accept the Majority Ought Not to Pass Report.

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

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

The SPEAKER PRO TEM: The Representative may pose his question.

Representative **MCALLEVEY**: Do you believe the Legislature will be adjourned by Labor Day?

The SPEAKER PRO TEM: The Representative from Waterboro, Representative McAlevey has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Pembroke, Representative Goodwin.

Representative **GOODWIN**: Mr. Speaker, Men and Women of the House. No, I don't think we are going to get out of here by Labor Day. When it comes time for school funding as a school board member, I'm liable to talk here for 3 days.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

Representative **CHICK**: Mr. Speaker, Ladies and Gentlemen of the House. I have had considerable experience with school committees, school calendars and as a individual member of this body, I would not want to send a mandate back to the towns. The school boards, if its a district or a city or whatever, they all have different conditions and I believe that they still, unless they have changed the statutes have control of the school calendar and I believe that's where it should rest and I would recommend that you follow the recommendation of Ought Not to Pass.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative O'Brien.

Representative **O'BRIEN**: Mr. Speaker, Ladies and Gentlemen of the House. I rise to speak on this motion with an Ought Not to Pass. Hopefully, you would follow that. At this present time, I would say that I have a past history of knowing Old Orchard and I would recognize that it is a problem in that area, however, perhaps one of the things that Old Orchard could consider, even though they get an excellent crop of young people there every summer is maybe to find a way to extend to the able people who are not young a chance to work over that Labor Day weekend by maybe bringing them in earlier in the year. On our local school board in Lewiston, this is a big problem to set the calendar because we have sending schools as other people have mentioned and we have to take that into consideration. Please would you also take that into consideration and vote Ought Not to Pass. Thank you.

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

Representative **CAMPBELL**: Mr. Speaker, Men and Women of the House. I won't prolong this debate. The good Representative from Madison, Representative Richard, did mention that this particular individual took this to the local school department and they decided that they had no interest and I think after 11 years and discussions with people such as those who teach at the Brewer High School and said we didn't want to start until after Labor Day, but that was the last thing that we gave up in our negotiations. There are more people out there that think there is some significance to this so I hope you consider that when you vote.

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

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

A vote of the House was taken. 93 voted in favor of the same and 30 against, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

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

SENATE PAPERS

The following Joint Order: (S.P. 822)

ORDERED, the House concurring, that Bill, "An Act to Allow the Town of Cornville to Receive its 1997 Tree Growth Tax Reimbursement," H.P. 867, L.D. 1224, and all its accompanying papers be recalled from the Engrossing Division to the Senate.

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

READ and **PASSED** in concurrence.

CONSENT CALENDAR

First Day

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

(S.P. 282) (L.D. 800) Bill "An Act to Create a Tax Credit for Licensing Fees Paid for the Use of University Patents on Wood Fiber Reinforced Products" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A"** (S-238)

(S.P. 320) (L.D. 954) Bill "An Act to Improve Alcohol Server Education Courses" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A"** (S-228)

(S.P. 359) (L.D. 1063) Bill "An Act to Create Quality Child Care Investment Incentives" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A"** (S-237)

(S.P. 380) (L.D. 1081) Bill "An Act to Enact the Uniform Foreign Money-judgments Recognition Act" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A"** (S-226)

(S.P. 438) (L.D. 1275) Bill "An Act to Implement the Recommendations of the Wage Fairness Task Force" Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A"** (S-229)

(S.P. 679) (L.D. 1929) Bill "An Act Concerning Damage to Lands and Natural Resources Caused by Natural Gas Pipelines" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A"** (S-224)

(H.P. 554) (L.D. 775) Bill "An Act to Revise Hunting and Fishing License Revocation Laws" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass**

(H.P. 1086) (L.D. 1533) Bill "An Act to Preserve the Medicaid Home Health Benefit" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass**

(H.P. 16) (L.D. 26) Bill "An Act to Clarify the Responsibility of a Municipality in Enforcing Personal Watercraft Regulations" Committee on **INLAND FISHERIES AND WILDLIFE** reporting

Ought to Pass as Amended by Committee Amendment "A" (H-510)

(H.P. 97) (L.D. 110) Bill "An Act to Allow the Use of All-terrain Vehicles on the Extreme Right of a Public Way" (EMERGENCY) Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-511)

(H.P. 181) (L.D. 259) Bill "An Act to Secure Wounded Deer" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-512)

(H.P. 530) (L.D. 737) Bill "An Act to Extend the Open Water Fishing Season" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-513)

(H.P. 561) (L.D. 782) Bill "An Act to Amend the Laws Governing Commercial Shooting Area Hunting Licenses" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-514)

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

COMMUNICATIONS

The Following Communication: (H.C. 174)

STATE OF MAINE

**ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND FORESTRY**

May 4, 1999

Honorable Mark W. Lawrence, President of the Senate

Honorable G. Steven Rowe, Speaker of the House

119th Maine Legislature

State House

Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Agriculture, Conservation and Forestry has voted unanimously to report the following bills out "Ought Not to Pass":

- | | |
|-----------|--|
| L.D. 9 | An Act to Amend the Animal Trespass Definition |
| L.D. 51 | An Act to Amend the Forest Practices Laws |
| L.D. 538 | Resolve, to Ensure Equity in Public Land Acquisitions |
| L.D. 705 | An Act to Prevent an Aggressive Dog from Doing Harm to People |
| L.D. 1193 | An Act to Ensure that Land for Maine's Future Acquisitions Include Lands of Local or Regional Significance |
| L.D. 1310 | An Act to Reduce the Administrative Requirements of the Forest Practices Laws |
| L.D. 1844 | An Act to Protect Taxpayers Against Open-ended Maintenance Expenditures on Property Transferred to the State |
| L.D. 1854 | An Act to Require Posting of Regulations on Public Lands |
| L.D. 1987 | An Act to License Hikers, Canoeists, Kayakers and Off-road Bicyclists |

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. John M. Nutting
Senate Chair
S/Rep. Wendy Pieh
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 175)

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON APPROPRIATIONS AND FINANCIAL
AFFAIRS**

May 4, 1999
Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Appropriations and Financial Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 36 An Act to Appropriate Funds to Ensure Forestry Industry Training Education
- L.D. 1651 An Act to Ensure that Tobacco Settlement Funds Are Used for Health Purposes
- L.D. 1666 An Act to Ensure That Funds from Maine's Medicaid Settlement with Tobacco Product Manufacturers are used to Expand Access to Health Care for Maine People
- L.D. 1742 An Act to Create Fairness in Mental Health Funding for Southern York County

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Michael H. Michaud
Senate Chair
S/Rep. Elizabeth Townsend
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 176)

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON BANKING AND INSURANCE**

May 4, 1999
Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Banking and Insurance has voted unanimously to report the following bills out "Ought Not to Pass":

- S.P. 640 JOINT ORDER - Establishing the Joint Select Committee to Study 3rd-party Payments to HealthCare Providers
- L.D. 588 An Act to Facilitate the Use of Major Credit Cards to Pay Fines, Forfeitures and Fees
- L.D. 760 An Act to Clarify the Residency Requirements for Individual Health Insurance Coverage through a Maine-based Insurance Carrier
- L.D. 1241 An Act to Create a Single-payor System for Universal Health Care
- L.D. 1392 An Act Concerning the Lapse of Automobile Insurance
- L.D. 1424 An Act to Require Insurance Coverage for the Treatment of Infertility
- L.D. 1541 An Act to Extend Portability of Coverage to Persons Covered under College-sponsored Health Plans
- L.D. 1778 An Act to Make Corrections in the Mental Health Insurance Laws
- L.D. 1862 An Act Regarding Assignment of Benefits under a Health Insurance Policy
- L.D. 1893 An Act to Expand the State's Risk Management Responsibilities
- L.D. 1954 An Act to Categorize Pervasive Developmental Disorder as a Neurological Disorder rather than a Mental Illness under the Insurance Laws
- L.D. 2049 An Act Providing Recourse and Protection to Vendors Receiving Bad Checks
- L.D. 2096 An Act Requiring Timely Reimbursement of Health Insurance Claims

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Lloyd P. LaFountain III
Senate Chair
S/Rep. Jane W. Saxl
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 177)

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON BUSINESS AND ECONOMIC
DEVELOPMENT**

May 4, 1999
Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Business and Economic Development has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 306 Resolve, to Honor Farmers' Contributions to Maine's Agricultural Heritage and Promote Tourism
- L.D. 1828 An Act to Improve the Quality of Child Care

L.D. 1948 An Act Relating to Unfair Competition Between Nonprofit Organizations and Small Businesses BY REQUEST

L.D. 2001 An Act to Require All Businesses in the State to Obtain a License to Operate in the State

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Carol A. Kontos
Senate Chair
S/Rep. Gary O'Neal
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 178)

STATE OF MAINE

**ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON CRIMINAL JUSTICE**

May 4, 1999

Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Criminal Justice has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 300 An Act to Require Life Imprisonment for Habitual Violent Offenders

L.D. 338 An Act to Strengthen Manslaughter and Homicide Penalties When the Victim is Under 16 Years of Age

L.D. 550 An Act to Ensure a Continuum of Proper Medical Care for Prisoners with Mental Disabilities or Mental Illness

L.D. 562 An Act Concerning Consecutive Sentencing

L.D. 696 An Act to Provide for Sentence Reform

L.D. 1145 An Act to Increase the Penalties for Persons in Possession of Crack Cocaine in Conformity with the Penalties for Similarly Dangerous Drugs

L.D. 1892 An Act to Refine Certain Theft Provisions in the Law

L.D. 2003 An Act to Allow A Municipal Officer to Accept Forfeited Assets to Expedite the Administration of Drug Case Prosecution

L.D. 2093 An Act to Authorize the Disposition of Forfeited Firearms

L.D. 2160 An Act to Strengthen the Construction of the Prison at Warren

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Robert E. Murray, Jr.
Senate Chair
S/Rep. Edward J. Povich
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 179)

STATE OF MAINE

**ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

May 4, 1999

Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that

the Joint Standing Committee on Education and Cultural Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1834 An Act to Support Violence Prevention and Intervention Programs

L.D. 1863 An Act to Allow School Officials to Provide Information Regarding Certain Juveniles to Other Agencies

L.D. 1946 An Act to Provide for Safe and Orderly Schools

L.D. 2050 An Act to Permit the Establishment of the Kennebec Valley Center for Arts Education

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Georgette B. Berube
Senate Chair
S/Rep. Michael F. Brennan
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 180)

STATE OF MAINE

**ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES**

May 4, 1999

Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that

the Joint Standing Committee on Health and Human Services has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1472 An Act to Clarify Reimbursement for Cognitive Services

L.D. 1950 An Act to Change the Membership of the Medicaid Advisory Committee and the Board of Directors of the Maine Health Data Organization

L.D. 2097 Resolve, Establishing the Commission on

Dental and Mental Health Services for Children

L.D. 2209 Resolve, Directing the Department of Human

Services to Include Asset Depreciation with

Respect to Commercial Fishing Vessels in

Establishing Eligibility for the Cub Care

Program

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Judy Paradis
Senate Chair
S/Rep. Thomas J. Kane
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 181)

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON INLAND FISHERIES AND WILDLIFE**

May 4, 1999
Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333
Dear President Lawrence and Speaker Rowe:
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Inland Fisheries and Wildlife has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 392	An Act to Allow Sunday Hunting on Land Subject to the Jurisdiction of the Maine Land Use Regulation Commission
L.D. 514	An Act to Restrict a Landowner's Right to Kill Nuisance Animals
L.D. 701	An Act to Repeal Prior Registration for Noncommercial Whitewater Rafting Trips
L.D. 728	An Act to Prohibit Closed Hunts
L.D. 771	An Act to Allow Deer Hunting on Sundays
L.D. 1419	An Act to Establish an Exemption from Horsepower Limitations on Lower Range Pond to Allow an Annual One-day Waterskiing Tournament
L.D. 1469	An Act to Increase Hunting Opportunities in the State
L.D. 1529	An Act Regarding the Affiliation Definition Test for Rafting Companies
L.D. 1686	An Act to Require the Inspection of Commercial Inland Vessels
L.D. 1756	An Act to Allow the Department of Inland Fisheries and Wildlife to Offer an Annual License Instead of a Lifetime License
L.D. 1968	An Act Concerning Recreational and Commercial Trapping
L.D. 2095	An Act to Stagger Registration for Watercraft, All-terrain Vehicles and Snowmobiles

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Marge L. Kilkelly
Senate Chair
S/Rep. Matthew Dunlap
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 182)

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON JUDICIARY**

May 4, 1999
Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Judiciary has voted unanimously to report the following bills out "Ought Not to Pass":

S.P. 767	JOINT ORDER – Relative to Establishing the Joint Select Committee to Review the Maine Tort Claims Act
H.P. 1487	JOINT ORDER – Relative to establishing The Task Force to Develop a Plan to Implement a Pilot Program for a Public Defender's Office
L.D. 426	An Act to Implement Recommendations of the Maine Indian Tribal-State Commission to Ensure Enforcement of Subpoenas by Tribal Courts
L.D. 571	An Act to Prohibit Partial-birth Abortion
L.D. 658	An Act to Require Notification of a Lien on Property to Be Done by Certified Mail
L.D. 917	An Act to Ban Partial Birth Abortion Except to Protect the Life or Health of the Mother
L.D. 1255	An Act Providing for Regulation of the Uses of Surface Waters within or Affecting Passamaquoddy Territory
L.D. 1427	An Act to Amend the Laws Regarding Domestic Violence Incidence Reports
L.D. 1449	Resolve, Directing Cooperation between the Department of Human Services and the Passamaquoddy Tribe in Providing Human Services Programs
L.D. 1549	An Act to Protect the Riparian Rights of Owners of Rockweed, Seaweed and Other Assets on Intertidal Land
L.D. 1753	An Act to Require Noncustodial Parents to Contribute to the Higher Education of Their Children
L.D. 1783	An Act to Clarify the Limited Liability for Recreational or Harvesting Activities
L.D. 1842	An Act to Require Disclosure of Vital Information When a Conservation Easement or Preservation Interest is Created
L.D. 1850	An Act to Amend the Laws Regarding Real Estate Transfers
L.D. 1914	An Act Concerning Tribal Jurisdiction over Rights-of-way Over or Abutting Tribal Lands and the Collection of Fines from Violations Occurring on Tribal Lands and Rights-of-way
L.D. 1969	An Act to Revise Certain Provisions of the Medical Examiner Act
L.D. 2117	An Act to Improve Responsible Check Writing
L.D. 2173	An Act to Create the Maine Surrogacy Law BY REQUEST

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Susan W. Longley
Senate Chair
S/Rep. Richard H. Thompson
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 183)

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON LABOR**

May 4, 1999

Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Labor has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 427 An Act to Raise the Minimum Wage
L.D. 555 Resolve, to Require the Department of Labor to Establish a Living Wage
L.D. 584 An Act to Eliminate the Requirement for an Independent Medical Examination under Certain Circumstances
L.D. 778 An Act to Require Insurance Companies to Pay Workers' Compensation Benefits until a Hearing is Called if Contesting Payments
L.D. 1571 An Act to Protect the Rights of Employees Who Volunteer Time As Firefighters
L.D. 1630 An Act to Fully Comply with the Requirements of the Older Workers Benefit Protection Act
L.D. 1648 An Act Restoring the Right to Sue to Workers Injured Due to Gross Negligence
L.D. 1747 An Act to Amend the Retirement Plan for Maine State Troopers
L.D. 1748 An Act to Correct Inconsistencies within the Maine State Retirement System
L.D. 1913 An Act to Ensure Fair Access under the Workers' Compensation Utilization and Review System
L.D. 1943 An Act to Ensure that Workers Are Informed about Their Employers' Cancellation of Workers' Compensation Insurance
L.D. 2041 An Act to Eliminate Legislative Pensions

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Neria R. Douglass
Senate Chair
S/Rep. Pamela H. Hatch
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 184)

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

May 4, 1999

Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Legal and Veterans Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 185 An Act to Enhance Enforcement of the Gambling Laws
L.D. 611 Resolve, to Allow Lawsuit Against the State of Maine BY REQUEST
L.D. 620 Resolve, to Allow James E. Segien of Eastport to Sue the State and the Town of Eastport
L.D. 679 An Act to Submit Legislative Term Limits to Referendum in November 1999
L.D. 773 An Act to Require the Missing-in-Action Flag to Be Flown on State-owned Flag Poles
L.D. 966 An Act to Allow Indian Gaming at Established Commercial Race Tracks
L.D. 985 An Act to Increase the Penalties for Providing Alcohol to a Minor, Possession of Alcohol by a Minor and Certain Other Offenses
L.D. 1036 An Act to Repeal Term Limits for Legislators and Constitutional Officers
L.D. 1043 An Act to Clarify the Guidelines for the Allocation of Tri-state Lottery Machines
L.D. 1124 Resolve, to Allow David Prentiss to Sue the State
L.D. 1466 An Act to Maintain Responsible Taste Testing
L.D. 1631 Resolve, Authorizing Richard Paradise to Sue the State
L.D. 1765 Resolve, Requiring the Director of Alcoholic Beverages and Lottery Operations to Investigate the Requirements for Maine to Join the PowerBall Lottery
L.D. 1801 An Act to Enable Small Wineries to Do Business in Maine
L.D. 1816 An Act to Revise the Harness Racing Laws Regarding Off-track Betting BY REQUEST
L.D. 1856 An Act Concerning the Distribution of Beer and Wine
L.D. 1869 An Act to Establish the Emergency Management Preparedness and Assistance Trust Fund
L.D. 1903 Resolve, to Study the Needs of Maine Veterans and Their Families
L.D. 1997 An Act to Amend the Election Laws to Prohibit Signing Nomination Papers for More than the Number of Seats Available
L.D. 2008 An Act to Amend the Maine Clean Election Act
L.D. 2134 An Act to Improve Maine's Ballot Access Law

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Beverly C. Daggett
Senate Chair
S/Rep. John L. Tuttle, Jr.
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 185)

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON MARINE RESOURCES**

May 4, 1999

Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Marine Resources has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 1495 Resolve, to Regulate the Use, Operation and Type of Watercraft on Coastal Waters
L.D. 2062 An Act to Require Fishing Boats Rather than Individuals to Be Licensed for Salt Water Commercial Ventures

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Jill M. Goldthwait
Senate Chair
S/Rep. David Etnier
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 186)

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON NATURAL RESOURCES**

May 4, 1999

Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Natural Resources has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 301 An Act to Amend the Open-burning Laws BY REQUEST
L.D. 342 An Act to Amend the Laws Regarding the Fee Paid When Purchasing a New Tire or Battery
L.D. 1049 An Act to Repeal the Enhanced Inspection Requirements for Motor Vehicles Registered in Cumberland County
L.D. 1537 An Act to Protect Maine Lakes and Ponds
L.D. 1669 An Act to Ensure Continuous Improvement in Pollution Prevention
L.D. 1691 An Act to Protect Maine's Lakes and Ponds from Camp Road Runoff
L.D. 1772 An Act to Require Tire Manufacturers to Accept Tires for Return
L.D. 1794 An Act to Encourage the Implementation of Pollution Prevention in Maine

- L.D. 1822 An Act Allowing Kelly Sanborn to Remain in Her Current Residence
L.D. 1835 An Act to Amend the Department of Environmental Protection Laws
L.D. 1859 An Act to Require Enhanced Emissions Testing for the Entire State

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Sharon Anglin Treat
Senate Chair
S/Rep. John L. Martin
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 187)

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

May 4, 1999

Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on State and Local Government has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 348 An Act Requiring Audits on State Agencies
L.D. 711 An Act to Require an Audit and Program Review of the Maine Governmental Facilities Authority
L.D. 2034 RESOLUTION, Proposing an Amendment to the Constitution of Maine to Set a Date for Submission of Legislation by the Governor

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Peggy A. Pendleton
Senate Chair
S/Rep. Douglas J. Ahearne
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 188)

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON TAXATION**

May 4, 1999

Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Taxation has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 115 An Act to Amend the Elderly Low Cost Drug Program
- L.D. 671 An Act to Exempt from State Income Tax Previously Taxed Contributions to an Individual Retirement Account
- L.D. 926 An Act to Exempt Watercraft That Are Not Used from the Watercraft Excise Tax
- L.D. 1061 An Act to Improve Access to Prescription Drugs for the Elderly
- L.D. 1123 An Act to Set Fees for Services for Tax-exempt Property in Municipalities
- L.D. 1167 An Act to Establish the Local Option Tax on Liquor, Meals and Lodging
- L.D. 1425 An Act to Encourage Jobs and Opportunities in Municipalities with Low Average Income and High Property Taxes
- L.D. 1556 An Act Relating to Property Tax Exemptions and Service Charges
- L.D. 1734 An Act to Offer Tax Credits for Certain Value-added Wood Products Produced in Maine
- L.D. 1773 An Act to Allow for a Prorated Application of Property Tax Exemptions for Charitable and Benevolent Institutions and Literary and Scientific Institutions
- L.D. 1953 An Act to Fully Fund Primary and Secondary Education in the State
- L.D. 1956 An Act to Limit the Number of Appeals Concerning a Property Tax Assessment
- L.D. 1959 An Act to Require Payment of the Excise Tax for First-time Vehicle Registration Only
- L.D. 2016 An Act to Provide a Reward for Certain Tax Information
- L.D. 2048 An Act to Eliminate the Sales Tax on Fuel Oil Used for Plant and Animal Husbandry
- L.D. 2055 An Act to Eliminate the Sales Tax on Labor for Installing Telephone, Telegraph and Related Equipment

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Richard P. Ruhlin
Senate Chair
S/Rep. Kenneth T. Gagnon
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 189)
STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON TRANSPORTATION

May 4, 1999
Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333
Dear President Lawrence and Speaker Rowe:
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Transportation has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 537 An Act to Appropriate Money to Extend Water Lines to Families in Gorham Whose Wells Were Polluted by Highway Construction Activity
- L.D. 685 An Act to Withhold Work-restricted Licenses from Habitual Offenders Newly Convicted of Operating under the Influence or Who are not in Treatment Program

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. William B. O'Gara
Senate Chair
S/Rep. Joseph M. Jabar, Sr.
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 190)
STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON UTILITIES AND ENERGY

May 4, 1999
Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Utilities and Energy has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 635 An Act to Amend the Electric Industry Restructuring Law
- L.D. 876 An Act to Amend the Renewable Portfolio Standard to Promote Maine's Renewable Energy Facilities
- L.D. 1396 An Act Relating to Contractual Obligations of Electric Utilities after Restructuring
- L.D. 1505 An Act to Require Performance-based Restoration by Public Utilities

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Richard J. Carey
Senate Chair
S/Rep. Thomas M. Davidson
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 191)
STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
JOINT SELECT COMMITTEE ON RESEARCH AND DEVELOPMENT

May 4, 1999
Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Research and Development has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 2125 An Act to Implement the Recommendations of the Target Industries Committee to Promote Research and Development Activities in Maine

We have also notified the sponsor and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Carol A. Kontos

Senate Chair

S/Rep. Scott W. Cowger

House Chair

READ and ORDERED PLACED ON FILE.

CONSENT CALENDAR

First Day

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

(H.P. 546) (L.D. 767) Resolve, Regarding Legislative Review of Chapter 311: Renewable Resource Portfolio Requirement, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY) Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass**

(H.P. 749) (L.D. 1039) Bill "An Act to Allow Horse Racing Commencing at Noon on Sundays" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-526)**

(H.P. 931) (L.D. 1308) Bill "An Act to Clarify Roles and Responsibilities in the Child Development Services System" (EMERGENCY) Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-525)**

(H.P. 1000) (L.D. 1398) Bill "An Act to Secure Environmental and Economic Benefits from Electric Utility Restructuring" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-522)**

(H.P. 1140) (L.D. 1625) Bill "An Act to Clarify Certain Laws Administered by the Department of Environmental Protection, Bureau of Remediation and Waste Management" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-519)**

(H.P. 1152) (L.D. 1649) Bill "An Act to Strengthen Maine's Research and Development Capacity in Renewable Energy Resources" **JOINT SELECT COMMITTEE ON RESEARCH AND DEVELOPMENT** and Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-523)**

(H.P. 1445) (L.D. 2066) Bill "An Act to Amend the Laws Relating to Slash Disposal along Highways and Railroad and Utility Corridors" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-524)**

(H.P. 1544) (L.D. 2198) Bill "An Act to Fund the Costs Associated with Determining Eligibility for Certain Marine Resources Licenses" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-517)**

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

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

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.

HOUSE DIVIDED REPORT - Majority (11) Ought to Pass as Amended by Committee Amendment "A" (H-370) - Minority (2) Ought Not to Pass - Committee on HEALTH AND HUMAN SERVICES on Bill "An Act to Control the Sale and Display of Tobacco Products"

(H.P. 1123) (L.D. 1582)

TABLED - May 5, 1999 (Till Later Today) by Representative KANE of Saco.

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

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

Representative **KANE:** Mr. Speaker, Men and Women of the House. This bill "An Act to Control the Sale and Display of Tobacco Products," would place tobacco products under the direct supervision and control of the storekeeper. It requires tobacco to be displayed, or offered for sale only in a manner that does not allow the purchaser direct access to the tobacco products. It exempts tobacco specialty stores and locations in which the presence of minors is generally prohibited. It further states that the provision does not preempt a municipal ordinance that provides for more restrictive regulations on the sale of tobacco products. I urge you to support the Majority Ought to Pass Report.

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

Representative **LOVETT:** Mr. Speaker, Ladies and Gentlemen of the House. This bill would eliminate the self service displays from all Maine stores that sell cigarettes, cigars and smokeless chewing gum. Self service displays do more to entice our children to smoke and to steal. All this bill does is to move the temptation of theft. I urge you to vote on the Majority Ought to Pass as Amended. Thank you.

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

Representative **BROOKS:** Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to this bill. I was in a store just over the weekend, a friend of mine, as a matter of fact, runs that store. I'm not going to tell you his name but he sits not far from me. I've given him a little bit of fun since that time because of the cigarette displays that he does have in his store, which are covered in plastic and inaccessible to the customer. Well that was fine for me because, I didn't want any anyway. I understand that there are some cigarette tobacco that may be redundant. There are companies that are willing to provide these cases for the displays in the store. I don't know but I guess probably, without charge, I don't know that. I say that's wonderful, if that's what they want to do. My concern about this

legislation is that it is further micro-managing. I'm not sure if we start doing things like this, how far we're going to go. I have a friend who runs a store right directly across the street from my home in Winterport and he approached me several times about this because he is very concerned about additional renovations that he is going to have to make to his store. He has made recent renovations to make it convenient for customers. He says to make the further renovations to take the cartons of cigarettes, or packages of cigarettes, off the aisle display, in the rearrange his store to accommodate them behind the counter or to accommodate them in a plastic case on the counter will cost him several hundred dollars. I don't dispute this, he's doing very, very well at this store, what I question is our reasoning as far as going in and attempting to rearrange his store.

I have heard in the testimony before the committee about shoplifting, and by the way, the fellow who testified before us and members of the committee have reminded me that this is not just shoplifting among the juveniles, but the elderly as well. I think that's pretty sad, it's an indictment of the elderly, but that too is not my job. If I was going to legislate in an effort to stop shoplifting, I suppose that then I would say, let's put chewing gum, and squirt guns, and aspirin products, and anything that is small that can be put in a pocket in plastic cases so they can't be. What about alcoholic beverages? There is a law in the State of Maine that you can't purchase cigarettes, nor have them in your possession if you are younger than 18 years of age. Why aren't we relying on those laws? What's next? Lighter fluid, white gas, charcoal lighter, these are all incendiary devices and dangerous. I'd say let the storeowners alone. Let them set up their displays, if they feel uncomfortable about putting cigarette packages out there and if they are losing them as some say they are, then let them do as my friend did in Ellsworth and get the company who provides the cigarettes to provide a plastic case in which you can't reach in and take out an individual pack. You have to be served.

Why do we need a law to do this? I hope that you will vote against the Majority Ought to Pass so we can get to that Minority Report. This is a bill we do not need turning into law. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Woolwich, Representative Peavey.

Representative **PEAVEY**: Mr. Speaker, Men and Women of the House. I rise today to urge you to support the Majority Report of LD 1582. This is my bill and please notice that the committee amendment replaces the bill. So if you are looking it up, look up the committee amendment. The Majority Report, as Representative Kane states, eliminates self-service of tobacco products. Maine is ranked number one in the entire nation in smoking among young adults, ages 18 to 30. It has one of the highest ratings for teen smoking. 90 percent of those young adults began smoking before they were 18 years old and half of all smokers began before they were 14. Clearly, we need to take some action to reduce those numbers. Police officers and sheriff's departments will tell you that the majority of their shoplifting calls that involve youth also involve shoplifting tobacco products. One study shows that half the kids grades 6, 7, and 8 who are addicted to tobacco products, use shoplifting to obtain their cigarettes. Eliminating self-service sales is a very important step in dealing with access and shoplifting.

For years, the American Lung Association and the American Cancer Society have led the campaign to reduce youth smoking. Now the whole process has changed, we have a true grass roots

effort, with town councils, parent teacher groups, community policing groups all over the state. The City of Portland, Freeport, Westbrook, Bath and Gardiner have all passed ordinances that eliminate self-service sales of tobacco products. This bill came out of a West Bath Community Policing Group, which I belong to, it's made up of parents, selectmen, the clam warden, retired people, teachers and the Sagadahoc County Sheriff's Department. They decided their number one goal was to find ways to reduce the access of their children and children all over the state had to tobacco products. The Majority Report is a vital step in reducing youth access. With this amendment stores will not be required to removed the counter displays of tobacco products that we often see on the counters beside the cash registers. It simply means that all the tobacco sales go through the clerk. Having sales go through the clerk is a great deterrent to under age youth attempting to purchase tobacco products, because storeowners are so careful to check the IDs.

The displays, which in stores hold the packs of cigarettes and containers of smokeless tobacco are most often provided by tobacco companies. In the towns and cities that have passed this ordinance, the five that I mentioned, the tobacco companies have provided the stores with counter displays, the stores that still want counter displays, that are made of clear Lucite. It's a Lucite box that sits on the counter. You can see the tobacco products through the front, but you can't reach in to get them, the clerk has to get them. Again the displays do not have to come off the counter, it just means that people can't reach in, the sale goes through the clerk. The tobacco industry is very supportive and very willing and able to provide stores with whatever needs they have to change their displays from self-service to clerk assisted sales. Shoplifting of tobacco products would be almost impossible if this amendment passes and we will have taken one more step to reduce youth access to this tremendously addictive product. I hope that you will support the Majority Report and I might add there is also an exemption in this, Representative Kane mentioned the exemption of the tobacco store. There is also an exemption for cartons. The amendment says units of 10 or more. Very few kids are going to get a carton of cigarettes in their pocket, it's single packs that we are trying to eliminate.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. I'm a little confused by all this discussion on this bill. If I recall correctly, in the 118th Legislature we passed a bill out of this Legislature that allowed municipalities to regulate tobacco displays and if we have done that, why are we doing this now? It seems that we are being inconsistent. The debate before we broke for dinner, we talked about local control and now we're talking about a statewide basis. I think we are being very inconsistent here and I will not be supporting this report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Buck.

Representative **BUCK**: Mr. Speaker, May I pose a series of questions through the Chair?

The SPEAKER: The Representative may pose his questions.

Representative **BUCK**: I have a series of questions for anyone who could answer. Picking up on what the speaker last said, as you know two years ago we passed legislation that placed this issue clearly in the hands of the cities and towns and my question is, why is this legislation before us today? Is it

because the cities and towns have opted not to do this for one reason or another?

My other question is, we hear a lot about teen smoking and the affects that shoplifting has had on it, is there any specific date that proves that teenagers are getting their cigarettes through shoplifting rather than through other means, like friends, parents and so forth, that have actually purchased it for them. As many of you know, I am a local merchant who sells cigarettes, where I work all of my employees are cautioned not to sell cigarettes to minors and I am absolutely sure, or reasonably sure, that that does not happen. I'm also reasonably sure that shoplifting does not take place because of the efforts that we've put in place in terms of training our employees, so my question is, what is the real effect of this legislation? Is it because the legislation 2 years ago didn't work? Can anyone answer those questions please?

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

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. As you know, I am the other person on the committee that opposes this piece of legislation and I stand here today to speak again this piece of legislation. First to answer the question, I think I'm correct, that was just asked. Yes, it is working in towns, local towns are putting in local options in regards to displays. In my opinion, I believe that we should keep the law exactly the way it is now. At first when I was working on this bill, I thought oh yea this is a great idea, this will keep the kids away from the cigarettes. The more we worked the bill, the more we changed it, the more we amended it, we kept looking at difference types of amendments, one was Texas, one was another type of amendment that another state did. I just got this feeling of uneasiness and feeling extremely uncomfortable with what we were doing in our committee. You know, we need to ask a few questions here. There is a Senator from the other body that always says to our committee, do we need this law? Is this law necessary? Well, I believe this law isn't necessary, we've already been told that the tobacco companies will supply these containers free of charge. The merchant asks to have it, they will give it to them. I'm concerned just like the good Representative from Winterport, who said they're already micro-managing these stores. I've gone into a lot of different stores lately and I already see that they're putting their cigarette products up and away from children's reach. I think the storeowners certainly do not want to have their products stolen. I think that's the last thing they want to do, but I also have had various store owners in my district call me and say, please let us be the ones to make that decision. You have to think there's all different size stores out there. Some stores just will not accommodate this container, so please I urge you to vote against the pending motion and vote Ought Not to Pass on this piece of legislation.

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

Representative **FULLER**: Mr. Speaker, Ladies and Gentlemen of the House. I am on the Majority Report of this Committee that we really ought to pass this bill. The reality is that kids still have access to tobacco products that make it easier for them to obtain the products. The study on shoplifting did show that 9 percent of juveniles use shoplifting as their primary way of procuring cigarettes. In response to the questions about the municipal ordinances, 5 towns have had ordinances relative to the display of tobacco products and they would like to see the

rest of the state do the same thing. They feel it has been effective and the products are still out there for display, but they are not accessible by simply lifting out a pack of cigarettes. I would note that the tobacco manufacturers have been paying stores to put their displays out on the counters and in front of the store. I can't help but feel that this is a promotion to help sell the product and they still will be displayed, but also to make them easier to access. They are on racks next to the door in some stores, where you can easily pick them up and that's what the tobacco manufacturers want. I would remind you of our high rate of youth smoking. We need to do everything we can to reduce access to cigarettes. I urge your support of the Majority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Bull.

Representative **BULL**: Mr. Speaker, Men and Women of the House. Very briefly, Freeport was one of the first communities in the state to enact an ordinance such as this and my understanding is that the committee report basically mirrors what they did in Freeport. Freeport passed this ordinance back in July and many of the arguments we're hearing here tonight that it would be costly for the stores, micro-management, were heard last July. None of the stores in Freeport have gone out of business, they're all thriving. I talked to the town manager of Freeport just today and there have been absolutely no complaints whatsoever with this ordinance in Freeport. There is one store that was not in compliance, the police chief went down and simply discussed the issue with the store manager and was resolved amicably. This has not been a problem in Freeport, everybody has been able to address the situation as the Representative from Woolwich, Representative Peavey said, they simply put the plexi-glass boxes on counters. It's still very visible, they just can't be reached. The problem they had in Freeport was that children were shoplifting and that was one way they were getting addicted. Is this going to solve the problem of abuse smoking here in Maine? Of course not, but in response to the Representative from Poland, Representative Snowe-Mello, if this bill prevents one child from starting to smoke than this is a success. Thank you.

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

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. Quite often we try to decide whether any issue should be a local issue or a statewide issue, it seems to me this is working. This is one of those, we already have 5 or 6 towns and cities that it's working. The testimony sounds like this is exactly one of those things, it should be and is being handled locally. I say that we ought to let that to be.

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

Representative **POVICH**: Mr. Speaker, Ladies and Gentlemen of the House. This legislation I support because it's legislation that benefits small businesses. It's not difficult to steal a package of cigarettes, you can get a package of cigarettes in the blink of an eye. Until recently, cigarette manufacturers were reluctant to offer the theft proof merchandisers, I can only suppose why. Finally, some started offering them, in my store it's been a saving of about a \$100 a week in lost cigarettes. Regarding local control, there's still the involuntary affect of youth access to cigarettes, which supersedes in my mind the interest of local control. In regarding the good Representative from Winterport, Representative Brooks, whom I did not have the

good fortune to greet last night, my clerks are still wondering exactly who was that man. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Buck.

Representative BUCK: Mr. Speaker, Ladies and Gentlemen of the House. First a little comment to my friend, the Representative from Ellsworth. As I mentioned before, if you sell cigarettes you should talk with me after the session and I can talk to you about inventory control, I can guarantee you that none of the cigarettes in my store are being shoplifted. I'm too cheap for that. I'd also like to respond to the Representative Fuller, who talked about the rebate we get from tobacco companies, and yes, we do and I take that money gladly. I take it from any distributor that wants to give it to me and I would also mention that I also receive money from the dairy farmers whose milk I place in my store and I'm wondering if perhaps we should prohibit the shoplifting of milk from these youngsters as well or perhaps even the sale of it. The point I'm trying to make is, this is not going to make a significant affect. This is not going to make a significant affect on you, the smoker. Youngsters who are determined to smoke, are going to smoke as I talked about last week, their friends and their parents are the ones that supply the cigarettes to them and because the question I asked earlier was not answered, I can assume correctly, I think, that youngsters that receive tobacco do not receive it from shoplifting, they receive it from their friends and their families. If we really want to attack this problem, perhaps we want to educate friends and families about the issue of smoking, instead of placing the burden on the merchant who is doing everything in his power to prevent it anywhere.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Matthews.

Representative MATTHEWS: Mr. Speaker, Men and Women of the House. I hope that we can exchange all of those signs for signs kids to drink milk. I think that's a great idea. Men and women of the House, I saw an ad the other day, a public health ad, against smoking, which kind of stayed with me and I think is applicable to the discussion today. That was from a gentleman who worked for the tobacco industry for many, many years in public relations. This public service announcement that this gentleman now is promoting anti-smoking because in his own words he wants to make amends for promoting a product, which has killed literally thousands of Americans, young and old across this country, but this gentleman's remarks were, I was the best in the business in public relations. I worked very, very hard in setting up those kinds of displays, in promotional campaigns in the media and in the press promoting smoking and believe me, he said, everything we did, everything we did, to promote smoking had an insidious message and plan to get kids hooked to smoking early, so they would smoke forever until they drop dead. Ladies and gentlemen, these kinds of displays by the tobacco industry, I don't blame the small businessman, but we need to nail the tobacco industry right where it hurts. They do this for a reason, ladies and gentlemen, to hook kids. I don't really care too much about the shoplifting, I hope it stops that, that isn't for me a big issue, seeing that display when I go to my store out of there so the kids won't see that display and see all those cigarettes, that's what's important. This campaign won't stop. We'll be back at every step to make smoking inaccessible to kids and to promote a healthy lifestyle for everybody, because smoking kills. That's the bottom line, we know that. The tobacco industry still doesn't accept it, but smoking and cancer kills and

ladies and gentlemen, I hope you will pass this. It's a good report and bring it on. Thank you.

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

Representative FULLER of Manchester REQUESTED a roll call on the motion to ACCEPT the Majority Ought to Pass as Amended Report.

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

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

Representative BROOKS: Mr. Speaker, Ladies and Gentlemen of the House. I want to reemphasis what the bill will do, it doesn't take away displays, if there is an insidious posture of tobacco companies behind displays, believe me they are going to be bigger, brighter, and more beautiful than ever in a plastic case. This doesn't affect that at all. In order to absolutely set the record straight, I want everybody in the House to know that I was not in my friend's store last night to buy a pack of cigarettes.

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

Representative MENDROS: Mr. Speaker, Men and Women of the House. I don't think there is anyone responding that hates cigarette smoking more than I do, I suffer from dry eyes, I suffer from bronchitis, and being around smoke really bothers me. Many members of my family smoke and it's bothered me quite a bit. I was very happy when my father finally quit. I have to oppose this, because I think we are going the wrong way in this state. I can give you some numbers, Maine has one of the highest taxes on cigarettes, we also have the strictest anti-smoking laws in the country and yet as we heard, we're number one in teen smoking. Now I don't have kids, but my sister and my brother have told me, the harder you try to stop a teenager from doing something, the more incentive it is for the teenager to do it. I truly believe the reason our smoking rate is going up is because we are telling these kids not to smoke. Kids want to be rebels. This is the easiest way to be a rebel, bum a cigarette off a friend and you become an instant rebel. That's what we are doing. We're pretending we want kids to stop smoking, but in reality, we're creating more teen smokers and I really believe we need to take a look at that. We're working against ourselves.

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

Representative SNOWE-MELLO: Mr. Speaker, Ladies and Gentlemen of the House. I must appear that I don't like kids. I must appear that I feel that kids should keep smoking. I've always hated this. I've always hated that children smoke, so ever since we started doing this thing on getting kids to kick smoking, I've gone out and when I see kids smoking I talk to them. I act like an adult, and I go up to them and I talk to them and ask them and say, you know I'm a legislator and did you know that it's against the law. I know everybody thinks I must be nuts for doing this, but I'll tell you, I think that it's each and everyone of our responsibility when we see children smoking to point it out to them. By telling a storeowner what to do with his product line, I don't believe is our responsibility, so please think about this twice, where are we going with this. You pass this law to tell somebody what to do all over the State of Maine in small stores. Think if you were an owner of a store. I know that the good Representative Povich said that he already does this, but I think that's another point, there are stores that can do this all on

their own. They don't need us to tell them to do it. The law is working, leave it up to the local towns to do this. Thank you.

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. 145

YEA - Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Brennan, Bruno, Bryant, Bull, Cameron, Chick, Clough, Collins, Colwell, Cowger, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Duplessie, Etnier, Fuller, Gagne, Gagnon, Glynn, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jacobs, Kane, Kneeland, LaVerdiere, Lemoine, Lovett, Mailhot, Martin, Marvin, Matthews, McDonough, McGlocklin, McKee, McNeil, Mitchell, Murphy E, Murphy T, Muse, Norbert, O'Brien LL, Peavey, Pieh, Povich, Powers, Quint, Richard, Richardson J, Samson, Savage C, Savage W, Saxl MV, Shiah, Shields, Sirois, Stanwood, Stedman, Stevens, Sullivan, Thompson, Tobin J, Townsend, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Weston, Williams, Mr. Speaker.

NAY - Ahearne, Bouffard, Bowles, Brooks, Buck, Bumps, Campbell, Chizmar, Cianchette, Clark, Cote, Cross, Dunlap, Fisher, Foster, Gerry, Gillis, Heidrich, Jodrey, Joy, Kasprzak, Labrecque, Lemont, Lindahl, MacDougall, Mack, Madore, McAlevey, McKenney, Mendros, Nass, Nutting, O'Neal, Perkins, Pinkham, Plowman, Richardson E, Rines, Rosen, Saxl JW, Schneider, Sherman, Skoglund, Snowe-Mello, Stanley, Tessier, Tobin D, Tracy, Trahan, Treadwell, True, Waterhouse, Wheeler EM, Wheeler GJ, Winsor.

ABSENT - Andrews, Bragdon, Carr, Frechette, Jones, Mayo, O'Brien JA, O'Neil, Perry, Sanborn, Shorey.

Yes, 85; No, 55; Absent, 11; Excused, 0.

85 having voted in the affirmative and 55 voted in the negative, with 11 being absent, the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. Committee Amendment "A" (H-370) was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Tuesday, May 11, 1999.

HOUSE DIVIDED REPORT - Majority (11) **Ought Not to Pass** - Minority (2) **Ought to Pass** - Committee on **JUDICIARY** on Bill "An Act to Change Reporting Requirements of Certain HIV Test Results"

(H.P. 43) (L.D. 57)

TABLED - May 5, 1999 (Till Later Today) by Representative THOMPSON of Naples.

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

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

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. I hope to do a better job at explaining this bill than I have done before. It should not be a partisan issue, because HIV doesn't care if you're a Democrat, Republican, Independent or what. Human Immune Deficiency Virus is a peculiar disease. When you get it, you don't know it, there's no sentinel event. There's no sore, there's no illness. It lasts 8 to 10 years, it's insidious and the first several years you don't know you have it, but that little virus is in your body gradually eating away your immune system. It's acquired by blood and semen basically, those are the two kinds of contacts.

Now in 1998, the Center of Disease Control in Atlanta, which is the high temple of contagious disease information, said that tracking HIV by using names is a more reliable and efficient reporting system than by using the unique identifier system, which is in code numbers for people that have it. In Texas which is one of the two states that had employed unique identifiers had recently concluded at that point that name based reporting was the best system to provide the accurate information on the epidemic and the ability to follow up on the reports. Contrary to the claims of HIV activist unique identifiers may not protect the patient's confidentiality any better than a name reporting system.

Furthermore, in Virginia in 1989, testing for HIV actually increased when they started name reporting. When they eliminated a anonymous testing in North Carolina, HIV testing increased by 45 percent. HIV is not a civil rights problem. It is not sexual preference problem. It's a disease. It doesn't care what age you are, it starts with newborns and works its way up as far up as you want to go. It doesn't care what your gender is, your race, or your sexual preference. Again, in 1999, the Center for Disease Control concluded that name based HIV surveillance systems are the most likely to met the necessary performance standards. Now, the Maine Bureau of Health, in its wisdom adopted a non-name identifier system, unique identifier system, in spite of all the information that was present. The spread of disease, particularly HIV, cannot be controlled unless you know who has it. I'm appealing to common sense and good judgment. Once you know who has it, you can counsel them, notify their contacts, and begin to contain the spread of this disease.

Many fewer people are dying of AIDS, which is the end stage of the HIV infection, but there is no decrease in the number of new cases. What we have now are these new drugs called protease inhibitors, which keep people alive longer. We don't know how long they are going to last and that little virus continues to mutate, so we have to keep developing new drugs to solve the problem. Now the state has anonymous testing sites, I hold that there is no benefit to the public health control of this disease. As an experiment, I posed myself as an anonymous person and went to an anonymous testing site. I was known as Joe. I made my appointment. I went in and filled out my questionnaire, was asked a lot of questions, had my blood drawn, was issued an identification, told to call back in a week and make an appointment to get my result, which I did. I went back for my appointment in a week, got my result and they didn't know who I was, and they'll never know who I was, because it was anonymous. Now if I was positive, I could keep right on going the way I was, as a number of social misfits have done in this country and decided since they're HIV positive, they're going to take people with them and they are going to spread it as much as they can. Now 26 states already require name reporting. The leaks from the system, which is what the HIV community fears, are basically from the people themselves, not from the system. In fact, there were well over 400,000 people who were registered as HIV registering system and all that confidentiality was maintained. All this bill does is very simple, it's very short and it says if you have an HIV positive test, your name will be reported to the health authorities so that you can get help, counseling, treatment and the disease can start to be controlled. I hope that you will for this.

Representative SHIELDS 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 Naples, Representative Thompson.

Representative THOMPSON: Mr. Speaker, Men and Women of the House. I agree with one thing with the good Representative from Auburn, that this certainly not a partisan issue, as the 11 to 2 report from the Judiciary Committee would indicate.

We've been dealing with the AIDS issue for a number of years now, starting in the mid 80s basically. The first case of AIDS wasn't reported in Maine until the mid 80s. We face these issues of trying to treat it like any other disease and try to say that there is no longer a stigma attached, well there is. There's still certainly a huge stigma attached being identified as someone with HIV or AIDS. Just think about it, you have a next door neighbor and you find out they have HIV or AIDS, are you going to treat them exactly the same as you treated them yesterday, even in your own mind. What about people who aren't as fair as you might be, how will they treat them. You can talk all about how the state will control the confidentiality if we require all the names to be gathered by the state, but how much do you trust the state. I hear debate in here every day complaining about how the state can't do anything right. We're going to say that the State of Maine will keep every one of these names confidential. In the State of Florida, a state employee released 20,000 names of people with AIDS. What were their lives like after that. Don't kid yourself, in the State of Maine, it could happen here. Right now, the state is instituting a system of coded reporting of HIV and AIDS to protect the privacy of those individuals that are afflicted with this horrible disease. There was no showing that this is not working. There was no public outcry for change in our law and there was an 11 to 2 report in the Judiciary Committee supporting the Ought Not to Pass and I ask that you support that report.

The SPEAKER: The Chair recognizes the Representative from Northport, Representative Lindahl.

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

The SPEAKER: The Representative may pose his question.

Representative LINDAHL: Thank you, Mr. Speaker. In reading the bill, it just says that a person who performs the test and finds somebody is positive, they have to give this name and test results to the state. What is the purpose of this, does the state put this in a shoebox someplace? It doesn't require the state to do anything. It doesn't require any treatment. I would just like to know what the net results reporting this to the state is going to do. That's very simple it's only one paragraph. Thank you.

The SPEAKER: The Representative from Northport, Representative Lindahl has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Manchester, Representative Fuller.

Representative FULLER: Mr. Speaker, Ladies and Gentlemen of the House. I rise to answer the question that was just raised. As a former public health nurse, I can tell you that we have been doing follow up on reportable diseases such as syphilis, gonorrhea, tuberculosis, to name just a few for many, many years. It's done by health professionals, the information is confidential and that information being shared would be just as devastating to people as HIV information. It is a public health issue as Dr. Shields noted and it is the follow up and to get

people under treatment before they reach the terminal stage of the disease. 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. 146

YEA - Ahearne, Bagley, Baker, Berry DP, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Cameron, Chick, Chizmar, Cianchette, Clark, Collins, Colwell, Cote, Cowger, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Gagne, Gagnon, Gerry, Goodwin, Green, Hatch, Jabar, Kane, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Madore, Mailhot, Martin, Matthews, McDonough, McGlocklin, McKee, Mitchell, Murphy E, Murphy T, Muse, Norbert, O'Brien LL, O'Neal, Peavey, Perkins, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Rosen, Samson, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Sirois, Skoglund, Stanley, Stanwood, Stevens, Sullivan, Tessier, Thompson, Tobin D, Townsend, Tracy, Trahan, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Belanger, Bowles, Buck, Campbell, Clough, Cross, Duncan, Foster, Fuller, Gillis, Glynn, Gooley, Heidrich, Honey, Jacobs, Jodrey, Joy, Kasprzak, Lovett, MacDougall, Mack, Marvin, McAlevey, McKenney, McNeil, Mendros, Nass, Nutting, Pinkham, Plowman, Richardson E, Sherman, Shields, Snowe-Mello, Stedman, Tobin J, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Andrews, Bragdon, Carr, Frechette, Jones, Mayo, O'Brien JA, O'Neil, Perry, Sanborn, Shorey.

Yes, 98; No, 42; Absent, 11; Excused, 0.

98 having voted in the affirmative and 42 voted in the negative, with 11 being absent, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (10) **Ought Not to Pass** - Minority (3) **Ought to Pass** - Committee on JUDICIARY on Bill "An Act Regarding the Composition of the Maine HIV Advisory Committee"

(H.P. 44) (L.D. 58)

TABLED - May 5, 1999 (Till Later Today) by Representative THOMPSON of Naples.

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

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

HOUSE DIVIDED REPORT - Majority (12) **Ought to Pass as Amended by Committee Amendment "A" (H-371)** - Minority (1) **Ought Not to Pass** - Committee on JUDICIARY on Bill "An Act to Amend the Laws Pertaining to the Maine HIV Advisory Committee"

(H.P. 806) (L.D. 1129)

TABLED - May 5, 1999 (Till Later Today) by Representative THOMPSON of Naples.

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

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

The Bill was **READ ONCE**. Committee Amendment "A" (H-371) was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Tuesday, May 11, 1999.

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

HOUSE DIVIDED REPORT - Majority (10) **Ought Not to Pass** - Minority (3) **Ought to Pass** - Committee on **JUDICIARY** on Bill "An Act Regarding the Composition of the Maine HIV Advisory Committee"

(H.P. 44) (L.D. 58)

Which was **TABLED** by Representative THOMPSON of Naples pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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.

HOUSE DIVIDED REPORT - Majority (12) **Ought Not to Pass** - Minority (1) **Ought to Pass** - Committee on **JUDICIARY** on Bill "An Act to Amend the Laws Concerning HIV Testing"

(H.P. 1132) (L.D. 1591)

TABLED - May 5, 1999 (Till Later Today) by Representative THOMPSON of Naples.

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

The **SPEAKER**: The Chair recognizes the Representative from Auburn, Representative Shields.

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. This bill attempts to do two things, it attempts to change our HIV statutes to get rid of anonymous testing and convert it to confidential testing and it attempts to get rid of some of the obstacles in testing. HIV is not like any other disease, there are numeral obstacles to testing. You have a special 3 page consent form. What other blood test do you have to take that requires that? It has special counseling before and after required by law. What other test has that? The rulemaking about HIV has been twisted and distorted over a number of years because of the fears of discrimination and stigma by the HIV community. Now there are a number of people that are HIV positive and who don't know it because of the many years of no symptoms before you finally start out with AIDS, therefore testing is very helpful and we should remove those obstacles from testing. Now informed consent remains in the bill, informed consent is in the bill and it had some change by this particular statute that I purpose. It says based on actual understanding by the person to be tested, that that person knows that the test is being performed, that once the nature of the test of the person to whom the results may be disclosed, the purpose for which the test results may be used and any reasonably foreseeable risk and benefits resulting from the test, now that should remain in the bill if this statute proposed does pass. Spread of this disease can only be controlled if you know who has the disease and can notify their contacts. Anonymous testing is of no benefit.

Pregnant females particularly should be tested if there is any risk at all, because there's a two-thirds chance the fetus could be saved from having HIV if it is known that the pregnant mother is positive. I urge you to vote no on the motion in front of you.

Representative **SHIELDS** 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 Naples, Representative Thompson.

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. This bill is a 12 to 1 report of the Judiciary Committee regarding the issue of anonymous testing versus confidential testing. Currently we have in the State of Maine a series of places where you can go in anonymously and obtain a HIV test and then get the results back. A bill would change that to make it so that they would collect your name, keep it confidential, allegedly, and then you would get your test result back. The bill would also remove the provisions, which we currently have in law, which provides for mandatory counseling regarding HIV both before you take the test and after you get your results. It is an informative help to people to be counseled on this disease. I would urge you to support the 12 to 1 committee report.

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. 147

YEA - Ahearne, Bagley, Baker, Berry DP, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Cameron, Chick, Chizmar, Cianchette, Clark, Collins, Colwell, Cote, Cowger, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gagnon, Gerry, Glynn, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, Kneeland, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, Madore, Mailhot, Martin, Matthews, McDonough, McGlocklin, McKee, McNeil, Mitchell, Murphy E, Murphy T, Muse, Norbert, O'Brien LL, O'Neal, Peavey, Perkins, Pieh, Plowman, Povich, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Rosen, Samson, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Sherman, Shiah, Sirois, Skoglund, Stanley, Stanwood, Stevens, Sullivan, Tessier, Thompson, Tobin D, Townsend, Tracy, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Belanger, Bowles, Buck, Campbell, Clough, Cross, Duncan, Foster, Gillis, Gooley, Heidrich, Honey, Jodrey, Joy, Kasprzak, Labrecque, MacDougall, Mack, Marvin, McAlevey, McKenney, Mendros, Nass, Nutting, Pinkham, Shields, Snowe-Mello, Stedman, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Andrews, Bragdon, Carr, Frechette, Jones, Mayo, O'Brien JA, O'Neil, Perry, Sanborn, Shorey.

Yes, 104; No, 36; Absent, 11; Excused, 0.

104 having voted in the affirmative and 36 voted in the negative, with 11 being absent, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (12) **Ought Not to Pass** - Minority (1) **Ought to Pass as Amended by Committee**

Amendment "A" (H-368) - Committee on **LEGAL AND VETERANS AFFAIRS** on Resolve, to Develop a Disaster Relief Food Assistance Program (EMERGENCY)

(H.P. 1246) (L.D. 1775)

TABLED - May 5, 1999 (Till Later Today) by Representative TUTTLE of Sanford.

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

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

Representative **GERRY**: Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the pending motion. What this bill originally intended to do was to put aside enough food for the whole State of Maine for 3 months to be given out in case of another disaster like what we had during the ice storm a year ago this January. I got the idea for this bill during the ice storm, if the City of Auburn had been totally without power, if we could not have had the crews coming in from out-of-state, we would have been in a lot of trouble. A lot of the residents in my town, especially the elderly, couldn't get out and get to the store. Those that did get out to the store, they saw a lot of the items that they needed for food to keep them going wasn't always there. This is the bill that you heard so much about. This is the one that the Executor of our State had said at the press conference, or it had been rumored that he had said, that this was an unnecessary bill and that if he was going to store something it would have been lobster and champagne. His remarks went around the country, I got many emails. If it hadn't been the same time that he was announcing his committee to look at the Y2K issue, I think more people would have took this bill serious. I care deeply for this state. I believe that we should have some form of food storage. During the ice storm, at the \$50 food vouchers our towns gave out, it rose to just a little under \$2 million, just for the \$50 vouchers they gave out. For emergency food stamps, it came to just a little bit more than \$2 million, for the extra food stamps for families that couldn't qualify for food stamps, they were given a special exemption, that was \$3 million. So together, if you lump it all together, what the state and the federal government during our 2 weeks of disaster was more than \$7 million and that didn't cover the whole state. My worst fear is that we will have some sort of disaster, like what we are seeing across the country, or another ice storm and our worst fear is the transportation industry and our stores will not be able to keep up with the demand for the food for our people. I'm also afraid that we won't have enough electrical power or the crews to come back up again, because let's face it, if we had told CMP that we were trying to recoup some of their \$40 million that they couldn't get back, I'm afraid that they might not after we couldn't pay them this time come back again and get our power back on as quick as necessary. What I humbly ask you to do is to consider some of the things for your constituents. I ask you to vote down this Ought Not to Pass so that we can go forward and look at a more realistic picture.

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 Sanford, Representative Tuttle.

Representative **TUTTLE**: Mr. Speaker, Men and Women of the House. As you heard from the Representative from Auburn, the Resolve to develop a disaster relief assistance program , the

Resolve would direct the Department of Defense Veterans and Emergency Management, in Maine, the Emergency Management Agency to establish a disaster relief food assistance program to be effective on August 1st, 1999, among other things. The Resolve directs the Department to work with the Department of Agriculture, Food and Rural Resource and other food agencies to develop a program that will provide food and other assistance to citizens of the state for up to 3 month period, in the event of a natural disaster or emergency to be declared by the Governor. It also directs the Department to purchase and store within 30 days of enactment rice and beans, or other food storage, for at least one year, sufficient to provide minimal subsistent for up to 3 months. It also allows the Department to replace the supply before it perishes, items to replace must be sold to citizens of the state. It also directs the department to submit legislation to develop a program and plan for food relocation. It allocates from the general fund \$50 million for the purpose of having the Department purchase items necessary to carry out this Resolve. I think while well intentioned, we did have testimony from the Department of Defense that estimated that the cost on top of the appropriation to implement this program for a 90 day period would be an additional charge of \$120 million to the general fund. The estimated cost for a 60 day supply would be an additional \$81 million and the 30 day period would be an additional \$41,149,000. It is also mentioned by the Department that the State of Maine would have no place to store the food or a means to get it there. I think while well intentioned I think the Majority Report and the fiscal note attached to this bill I would move we indefinitely postpone this bill.

Representative **TUTTLE** of Sanford moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

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

Representative **GERRY**: Mr. Speaker, Ladies and Gentlemen of the House. A gentleman from the Department spoke neither for nor against, he said he would bow to the wishes of the committee. It is true that he had testified the exorbitant price, I beg to differ, I don't think it will cost as much as he projects. I figure if he, with his connections with the Defense Department and Veterans Emergency, they could probably purchase food staples through the federal government. I know it's a novel concept, but if we can send food to Kosovo, then we could probably purchase some food from them. In regards to storage, if we could turn down this motion and go something else, there are places across the state that we could put this in. It was true the gentleman testified if we put it in one big location we wouldn't find a place big enough, but we could always divide up between the counties and I'm sure the county governments would help us. If we pass this bill, it will help prepare our county and our cities from having to fund it out of their limited resources.

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

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

The **SPEAKER**: A roll call has been ordered. The pending question before the House is the motion to Indefinitely Postpone this Bill and all its Accompanying Papers. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 148

YEA - Ahearne, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno,

Buck, Bull, Bumps, Cameron, Chizmar, Cianchette, Clark, Clough, Collins, Colwell, Cote, Cowger, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Dunlap, Etnier, Fisher, Foster, Fuller, Gagne, Gagnon, Glynn, Goodwin, Gooley, Green, Hatch, Heidrich, Honey, Jabar, Jacobs, Kane, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Matthews, McAlevey, McDonough, McGlocklin, McKee, McKenney, McNeil, Mitchell, Murphy E, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien LL, O'Neal, Peavey, Pieh, Pinkham, Plowman, Povich, Powers, Quint, Richard, Richardson E, Richardson J, Rosen, Samson, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Sherman, Shiah, Shields, Sirois, Skoglund, Stanley, Stanwood, Stevens, Sullivan, Tessier, Thompson, Tobin D, Townsend, Tripp, Tuttle, Usher, Volenik, Waterhouse, Watson, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Bowles, Bryant, Campbell, Chick, Cross, Duplessie, Gerry, Gillis, Jodrey, Joy, Kasprzak, Martin, Mendros, Perkins, Rines, Snowe-Mello, Stedman, Tobin J, Tracy, Trahan, Treadwell, Twomey.

ABSENT - Andrews, Carr, Frechette, Jones, Mayo, O'Brien JA, O'Neil, Perry, Sanborn, Shorey, True.

Yes, 118; No, 22; Absent, 11; Excused, 0.

118 having voted in the affirmative and 22 voted in the negative, with 11 being absent, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (7) **Ought to Pass as Amended by Committee Amendment "A" (H-374)** - Minority (6) **Ought Not to Pass** - Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Establish Procedures for the Awarding of Loans and Grants to Municipalities and Other Entities"

(H.P. 885) (L.D. 1242)

TABLED - May 5, 1999 (Till Later Today) 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 China, Representative Bumps.

Representative **BUMPS**: Mr. Speaker, Men and Women of the House. I'm going to ask you to reject the pending motion so that we can go on to accept the Majority Committee Report, Ought to Pass as Amended. I won't take much of your time, but I will at this late hour appeal to what I think is a fair amount of common sense and ask for your support of this bill.

The bill as it's amended would require that when any state agency or department administer funds on a discretionary or competitive basis, that is to say that when any state agency gives municipalities, or any other agency or entity, for that matter, funds to carry out some project that at a minimum that agency, or branch of state government maintain written criteria and an application process for administering those moneys. I'm going to explain to you from the bill, very briefly and quite simply, what this would require. Again, whenever discretionary or competitive grants or loans are made to communities, an agency would be required to establish and describe the objectives of the loan, or grant award program. They would be required to establish and describe eligible applicants and activities that are eligible for receipt of loan or grant awarded under each specific

program. They would be required to establish a schedule and procedures for applying for the loan or grant. They would be required to establish a written application process for each loan or grant and they would be required to inform applicants of the criteria for awarding the loan or grant. It seems quite simple. It seems quite straightforward. It seems quite appropriate.

Now if you go on to accept the Minority Ought Not to Pass Report, that's fine, until your community or the entity that you're striving for would have been eligible for grant or loan funds that they were never aware of, because those grant or loan funds were never publicized, no written criteria were ever prepared, no application process was ever developed or carried out. So, I would just suggest to you that if you are an agency administrator of a branch of state government and in a position to award discretionary or competitive funds, that it would be in your best interest and in the interest of the people that we serve that at a minimum criteria be established and application process be set forth and that those applications be received and reviewed so that the moneys are awarded on a fair competitive basis. I would ask that you consider your vote carefully and that you reject the pending motion so that we can go on to accept the Majority Committee Report. Thank you very much.

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

Representative **AHEARNE**: Mr. Speaker, Ladies and Gentlemen of the House. I urge you to accept the pending motion that is before the body. We shouldn't set one procedure or process that will fit most of these grants or loans, these programs. Currently, we have a less formal process used for many of these grants and loan programs. Many of these are grant and loan programs that this bill will affect are not as considered high in priority. Many of the priority grants, loan programs are exempted from this amended bill version, because they do have a set of criteria or process by which they are awarded. There is this issue that I think I'm concerned with is the time and the cost issue. If a grant were to be approved, it would now have to go through a process, possibly delay the whole project that the grant or loan was to be used for. Finally, we define what a grant and loan is. What implications could this have on a fellow who brought the whole process and put in those new definitions could have, as in terms of the programs and the statutes. I ask you to accept the Minority Ought Not to Pass Report.

Representative **SULLIVAN** of Biddeford **REQUESTED** that the Clerk **READ** the Committee Report.

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

The SPEAKER: The Chair recognizes the Representative from Hartland, Representative Stedman.

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

The SPEAKER: The Representative may pose his question.

Representative **STEDMAN**: Can I find out what the sources of these funds are that we are talking about? There is some question of whether we should have accountability for these funds and I'm wondering what the source of the fund is.

The SPEAKER: The Representative from Hartland, Representative Stedman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from China, Representative Bumps.

Representative **BUMPS**: Mr. Speaker, Men and Women of the House. If I understand the Representative's question

correctly, I think the answer is that these are state funds, moneys collected from the taxpayer and administered by state agencies.

I would like to just follow up on a comment that the Committee Chair made and after 3 years, I know better than to debate him vigorously on the floor, but this bill started actually as an attempt to require agencies to conduct rulemaking to develop these processes under which they would administer these grants and loans and I think that you will find if you look carefully at the amendment that we have removed the more bureaucratic or drawn out process of developing rules that could be time consuming and costly and simply require the agencies to put on paper the criteria and the process under which these grants and loans are awarded, so please don't allow yourselves to be misled, this is not an extensive or drawn out process, it's not a costly process, it simply requires the agency or bureau director to put on paper the process under which these moneys will be awarded.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Tuttle.

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

The SPEAKER: The Representative may pose his question.

Representative TUTTLE: I also have questions pertaining to the source of funds. Have we done a fiscal note on this bill? I pose a question on what that fiscal note would be.

The SPEAKER: The Representative from Sanford, Representative Tuttle has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Madawaska, Representative Ahearne.

Representative AHEARNE: Thank you, Mr. Speaker. There is a fiscal note, but it's going to be minor in terms of being absorbed into the departments, but I believe the Representative from China has answered the question regarding that it is state funds that would be affected.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Tuttle.

Representative TUTTLE: Mr. Speaker, Men and Women of the House. I thank the gentleman from Madawaska, Representative Ahearne, but speaking as one legislator, I think unless it's specifically given as to where the funds are coming from, how much it's going to be. It's my opinion that we're just creating another bureaucracy that we don't really need in state government. For that reason I will be opposing the motion to support the bill, supporting the Minority Ought Not to Pass.

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

Representative TWOMEY: Mr. Speaker, Men and Women of the House. I, too, like the Representative from the other side of the aisle, Representative Bumps, sat through the debate, but more importantly when I was on the city council in Biddeford, we put in for a grant for recycling and what this simply does is it simplifies and tells towns what is expected of your community so you can get these funds. We put in for a recycling grant and we received a letter from the state that said, oh sorry but you didn't qualify, blah, blah, blah. All this simply does is just simply state to every one of us, levels the playing field so that we know that when these grants are available that we can apply for them and we know what is expected of each town and that simply is what this does. Thank you very much.

Representative AHEARNE of Madawaska REQUESTED a roll call on his motion to ACCEPT the Minority 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 Newport, Representative Kasprzak.

Representative KASPRZAK: Mr. Speaker, Men and Women of the House. I ask you my fellow colleagues, is it logical that millions of dollars are distributed annually to certain entities without any accountability? This is an accountability bill, that's all it is. Simply stated, it says in the bill the procedures will establish and describe the objectives of the loan or grant award program. They will establish and describe the eligible applicants and activities that are eligible for receipt of the loan or grant award under each specific program. Establish a schedule and procedures for applying for the loan or grant. Establish a written application process for each loan and grant and inform the applicants of the criteria for awarding the loan or grant under the specific program. I'll remind you that these are taxpayer funds we're talking about, federal, state, wherever they are from, originally they come out of a taxpayers pocket. They're given to someone else, there needs to be criteria, there needs to be accountability for millions of dollars that are handed out. I think it's a logical bill. I think it's a common sense bill. I think it's a good accountability bill and I see no good reason why not to completely support the Majority Report and I would ask you to do that. Thank you.

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

Representative AHEARNE: Mr. Speaker, Men and Women of the House. Just very briefly in regards to the issue about federal funds, under the purposed amendment it would be exempted under on page 2, of paragraph 3, anything dealing with federal funds in terms of grants, loans would be all exempted. There would be no process.

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

ROLL CALL NO. 149

YEA - Ahearne, Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dunlap, Duplessie, Etnier, Fisher, Gagne, Gagnon, Goodwin, Green, Hatch, Jabar, Jacobs, LaVerdiere, Mailhot, Martin, McDonough, McKee, Mitchell, Muse, Norbert, O'Brien LL, O'Neal, Pieh, Povich, Powers, Richard, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Stevens, Sullivan, Thompson, Tuttle, Volenik, Watson, Mr. Speaker.

NAY - Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Cianchette, Clough, Collins, Cross, Daigle, Davis, Dugay, Duncan, Foster, Fuller, Gerry, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Joy, Kane, Kasprzak, Kneeland, Labrecque, Lemoine, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Matthews, McAlevey, McGlocklin, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, Peavey, Perkins, Pinkham, Plowman, Quint, Richardson E, Richardson J, Rines, Rosen, Samson, Savage C, Schneider, Sherman, Shields, Skoglund, Snowe-Mello, Stanley, Stanwood, Stedman, Tessier, Tobin D, Tobin J, Townsend, Tracy, Trahan, Treadwell, Tripp, Twomey, Usher, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor.

ABSENT - Andrews, Carr, Frechette, Jones, Mayo, O'Brien JA, O'Neil, Perry, Sanborn, Shorey, True.

Yes, 56; No, 84; Absent, 11; Excused, 0.

56 having voted in the affirmative and 84 voted in the negative, with 11 being absent, the Minority Ought Not to Pass Report was **NOT ACCEPTED**.

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

The Bill was **READ ONCE**. Committee Amendment "A" (H-374) was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Tuesday, May 11, 1999.

HOUSE DIVIDED REPORT - Majority (9) Ought to Pass as Amended by Committee Amendment "A" (H-378) - Minority (4) Ought Not to Pass - Committee on TRANSPORTATION on Bill "An Act to Create the Bicycle Safety Act"

(H.P. 1096) (L.D. 1543)

TABLED - May 5, 1999 (Till Later Today) by Representative JABAR of Waterville.

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

The **SPEAKER**: The Chair recognizes the Representative from Northport, Representative Lindahl.

Representative **LINDAHL**: Mr. Speaker, Men and Women of the House. I debated the unanimous committee report and was on the winning side the other day, so I really feel buoyed here and I'm ready to go again. I'm not opposed to bicycle helmets, I believe they do save injuries, but making them mandatory, I have a problem. Two years ago we had this same bill in Transportation Committee and the Maine Bicycle Coalition was there and they were opposed to the bill. They said an improperly fit helmet is more dangerous and gives a false sense of security and it can do more harm than good. If you read this bill, it's for people under 16 on public roads or public bike ways. If they're driving in a hot top driveway or riding on the lawn, they don't need to wear a helmet. There's another part of this, that the violation and enforcement, it says a law enforcement officer may provide bicycle safety information to a person whose in violation. That's all they can do. They can go up and say here's a brochure, read this over, or they can go tell the parent where they can buy helmets. They can't take any enforcement action. It's one more law that's not going to be enforced. I can just see it right now, little Johnny, or little Jill, is made to wear their helmet and they're riding down the street with the parents in the car someplace and they see another kid with no helmet and a police car going by. Look dad, he didn't have to wear his helmet, the police don't do anything about it. I think it's just sending the wrong message. I think parents can tell children you've got to wear your helmet. If you don't wear your helmet, you're not going to ride your bike. That's simple. The best argument I heard for this bill was saying that parents could say it's the law. You've got to wear it, the Legislature wrote a law and says you've got to wear your helmet, so you've got to wear it. You don't have to wear it in your driveway. You don't have to wear it riding in the woods. You don't have to wear it out on the lawn, out in the gravel pit, or down where they do their loop to loops, but if you get on the road you do have to wear it. I really have a problem with that. I ride a bicycle. I wear a helmet, my wife does, and my daughter when she could did. I think parents can still make that decision for themselves. I urge you to vote against this. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Buckfield, Representative Gagne.

Representative **GAGNE**: Mr. Speaker, Ladies and Gentlemen of the House. I rise also in opposition to this pending motion. I know it seems strange. You think what an easy bill, it will make everybody feel good about dreaming up this bill and get their sponsor happy, they got something through and suppose to be so great. I see it also as something mandatory. I also see it as something that is more a way that the law is going to creep up on us again, and I will tell you why I feel that way. The minute I read the title of the bill, it reminded me of the seat belt legislation. First we had one just for kids under 12, then we had it just for those under 19, now we've got it for everybody. Then it was not going to be enforced and then it was going to be enforced and then doubly enforced. By the time I'm 70, and I want to take my grandkids out for a ride, I do not want some exaggerated athletic cup on the top of my head going down the road on some summer night. I'd rather have the wind through my hair and make the decision what to do with my grandkids heads. I don't want anyone, especially the government, here I sit and dream up all these bills and we think we're making people happy and I'm thinking, what a waste of time. Well, where is the freedom going in all the things that we want to do? I think parents as the other Representative just said, can make that decision, better yet, let the kids do it. I went into the store the other day looking over bicycle helmets and they've got some pretty nice looking ones. They've got a few with star wars and some with racing designs and Barbie doll and you know if the kids start seeing other kids with these, they're going to buy one anyway, or they'll go home to the parents, get me one. The second part, parents can make those decisions and one of the arguments was well parents need that law, which we just heard before, but it's just like that father in the mall or down the street, and the kid is misbehaving and he looks at his kid and shakes him and you see the policeman over there, if you don't behave, I'm going to get him over here to talk to you. It's like making you afraid of someone in authority and here's the government hanging over us again. All it does is create more resistance, and anger, and resentment and we get the kinds of things we're seeing in our society more and more. I know I'm carrying it beyond, but that's how I look at it.

Not only that, parents aren't as safety conscience as they can be and I think that enforcement and police just talking to them is not going to work. I live in a rural area, the kids drive to school, maybe six, seven miles. They're going down the road and let's say 3 miles and the police stop by, not that they ever come by too much in our area, cause all we have is the county and they try to ignore us. Let's say they did and they stopped the kid and said, "Where is your bicycle helmet?" The kid said, well it's at home, and he said well don't you think you should have it. Yea, but it's three miles that way, and three miles to school and I've got to be in school in 15 minutes, so off he goes and that happens day after day, after day. Maybe the same policeman comes by. I think that all of this is just more feel good legislation, mandatory that we don't need and yea so some insurance company comes up with \$50,000, \$20 a hit for the helmet, what's that 2,500 helmets for the State of Maine, if for poor families. I don't know, the whole thing just seems to me like we don't need it.

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

Representative **TOBIN**: Mr. Speaker, Ladies and Gentlemen of the House. I think maybe we do our best work in the dark sometimes. We just had a long discussion about a bill regarding

putting cigarettes within the hands reach of a child and I know it's late, but to me it's very difficult to make light of this. This is a fairly serious subject in my mind. For the last 20 years, I've been a member of the Dexter Sunrise Kiwanis Club and each year for the last 20 years, we have a bikeathon in the spring for all the 4th graders in the district. We pay between \$10 and \$14 each for the helmets that we give away, usually on a Saturday in May to the successful completers of the bikeathon program, which is a little educational program regarding bicycle safety. We have safety seat laws for our children, no ones looking in the windows to see if those kids are locked in those safety seats. I presently have grandchildren and I can assure you that my sons and daughters are making absolutely sure that their kids are locked in their seats while they're in the car. This is preventive in nature. If it saves one life, it's worth having. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Jabar.

Representative **JABAR**: Mr. Speaker, Ladies and Gentlemen of the House. It is late and I'm sure there are other speakers that want to speak. Let me tell you that the hearing we had, we had very many and you have in front of you an orange sheet which was passed out, which sets out many of the groups that support this law. By the way, this is not an enforcement law, this is an education act. As a matter of fact, one of the changes from two years ago is that this was changed to bicycle safety education act, there is really no enforcement involved here, because no one is going to be summoned to court. Children and children's parents are not going to receive papers where they are going to have to go to court and pay fines. The purpose of this is to encourage the police to educate children, to educate their parents to the use of helmets. Now it is no accident that a lot of the groups that support this are medical groups. We have a great many doctors testify in front of us, I'm not going to bore you with all the statistics, but I think it's clear that helmets prevent injuries and saves lives. There is no question about it. This law rather it's going to be 100 percent compliance, which we know it's not, the compliance rate is going to go up significantly from what it is today. That's going to prevent injuries and going to save lives. The law has a good purpose, it will result in more kids wearing helmets and I urge you to support this, what is really a serious act with a focus on education rather than enforcement.

The SPEAKER: The Chair recognizes the Representative from Union, Representative Savage.

Representative **SAVAGE**: Mr. Speaker, Ladies and Gentlemen of the House. We've had this bill before, I was on the Transportation Committee last session and the bill we did not pass it. It didn't get as positive report from our Committee. I was one of those that had some problems with it because I was concerned about children not being able to afford the helmets. I'd just like to read the bottom of this one sheet that we've got. All schools and law enforcement agencies will be contacted immediately after the Legislature votes on LD 1543 with guidelines for accessing both the free and the low cost helmets by the people they serve. This is one of the reasons that I fully support this, because there should be no child in the State of Maine that goes without a helmet because they cannot afford one. We've been assured of this and I'll tell you that just as soon as this passes and I have faith in you that it will be passed, I'm going to contact these people and I'm going to set up a bikeathon up in my district and I'm going to see that all the kids in

my district who don't have helmets will have helmets, so when they are riding back and forth and I meet them every morning when I head out here. They're riding to school. Most of them have helmets, but they are all going to after this. Thank you.

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

Representative **BOUFFARD**: Mr. Speaker, Men and Women of the House. I'm glad that my good friend from Buckfield, Representative Gagne, spoke about the seat belt law. In the 117th Legislature, we heard these same arguments. Let me tell you from my own personal experience just last week, seat belts save lives and injury. I'm here today thanks to my seat belt. I can see that in the future bicycle helmets will save lives and also serious injuries. In this little article from the *Bangor Daily News*, that was passed on to you, if you read in the second column where it says, each year more than 200 children, two to four of them in Maine are killed in bike accidents. More than 2,000 kids a year, some 30 of them are Mainers' are disabled by nonfatal head injuries. I do think that just like seat belts save lives and prevent injuries, the bicycle helmets will also do the same. Thank you.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative Wheeler.

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. I rise in this late hour to support the Majority Ought to Pass Report. While we are hearing this testimony all I can think of was different things that we've addressed like the bicycle helmets have been shown to reduce the risks of head injury by 85 percent and the risk of brain injury by 88 percent and all I can see is some little kid lying in the hospital with a head injury because they didn't have a helmet on and by voting on a bill like this we can educate, just educate, not put them in jail or fine the parents, but just educate them on the seriousness of head injuries and what a helmet can do for you. I guess really until you've been there and you've sat in the hospital and waited for someone that you really feel close to, like I did my brother with a head injury and wondering if he was going to come out of it or not. You wouldn't look at this like this. Luckily, he did come out of it okay, course he was a little over 16 but he wasn't wearing a bicycle helmet, but he does wear one now and he always will. I know if he was here, he would support this wholeheartedly. I urge you to support the Majority Ought to Pass Report.

Representative **WHEELER** of Eliot **REQUESTED** that the Clerk **READ** the Committee Report.

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

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I ask your patience. I will be voting for this because Ariana who died Oct. 7th, 1997, being struck by a car on her bicycle. She died of a head injury. She was five years old. She had a helmet, but she didn't have it on. She was my granddaughter, but her mother had died 12 days before, my wife and I raised Ariana most of her life and we were expecting to do it for the rest of it. She had the helmet, she just didn't have it on and when she died there was nothing wrong with her to look at her, except she had brain damage. There are a lot of statistics in front of you, but I wish somebody had stopped her to tell her to put her helmet on and it would have changed everything in my life. My wife and I were at her grave yesterday and I thought of this bill. I want to urge you to pass this bill

because the education is important. It might have made a difference and it will make a difference to somebody else. There's a lot more I intended to say, but it's not going to come out right now. Thank you.

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

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. It's so sad to hear, my heart goes out to the family, but we have to take a real broad picture of things when we are making a state law here, with all deference to people who have been personally hurt by these tragedies.

If we talk about education, we believe in education, half our budget goes to education, my rhetorical question is, have we done everything we can to try to educate people? I kind of doubt that, that's a rhetorical question, you don't need to answer it, but myself I kind of doubt we have done everything. Do we see posters? Do we see signs on bicycles when children buy them? Do we see warnings? I just feel that we haven't done enough, that we'd like to mandate things to solve this problem and with all due respect when a child is small it seems to me that the parents have the most responsibility. Perhaps they shouldn't be on a public way anyway at five or six years old. I think bicycles on public ways are very dangerous, especially for small children. I guess I would like to mention the people on this orange sheet, these different coalitions, and these different groups would just pool a small percentage of their annual budget and buy helmets and posters and educate people, I think we could go a long ways towards this. I still don't even know how I'm going to vote for this myself. I do have to share this. I do have a couple specific questions if I might ask them through the Chair.

The SPEAKER: The Representative may pose his questions.

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. In the event here in section 2323 on the second page it says we hear when the good Representative said, this is not a mandate it's education. It says here a person under 16 who is an operator of a bicycle on a public way shall wear a helmet of good fit and that doesn't sound like just education to me. I'd like to ask somebody what that means? Than down in the middle here on line 30 it says a law enforcement officer may provide bicycle safety and I'm not sure what that means, if I could have an explanation? Thank you.

The SPEAKER: The Representative from Penobscot, Representative Perkins has posed a series of questions through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Eliot, Representative Wheeler.

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. In regards to line 30, changing the word to may was a compromise with the opponents of the bill, it doesn't say the officer shall, it says may. If I may proceed? What are we talking about here folks, we're talking about maybe even saving one child's life. Isn't this legislation worth it? Surely, it would be worth it, I'll be supporting be it because of that. If my vote saves one child it was well worth it.

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

Representative **HATCH**: Mr. Speaker, Ladies and Gentlemen of the House. I know there is a lot of emotionalism that goes with this thinking that we are taking someone's rights away. I currently belong to a group call Kiwanis, and every year they do a drive in my area to do a bicycle safety program. The

local police and the SAPPI mill go in on this. They buy bicycle helmets and we do a safety program for the kids. Last year was our first year and it's a take off from the program that was done in Rockland with the Kiwanis Club so it is happening in the state on a smaller scale. I have a four year old granddaughter who recently got a bike for her birthday and along with the bike she received a helmet. Not just one helmet, but two. I want you to know that I think it's important when my kids were growing up, we never got them any bicycle helmets, the kids just rode their bikes and we rode with them. But it's an important thing. I put in this bill two years ago for the Kiwanis Clubs in the state with the promise from them that they would do more bicycle programs throughout the state. I know there are a few Kiwanis members in here. After doing one last year, I can't wait until June, the first weekend in June when we do the program again. The words got out and I'm sure we'll have many more children that will attend. It's an important issue, we need to protect those youngsters. I know for Hannah's sake, I'm voting for this bill. I know two years ago it was unanimous Ought Not to Pass out of Transportation and a lot of education has gone on. On that orange sheet, you saw all the people that support this bill, I think it's a good bill. I think its time has come. I think parents are intelligent, I think they know it's a training program at this point, there are no fines involved. I say it's a good bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Northport, Representative Lindahl.

Representative **LINDAHL**: Mr. Speaker, Men and Women of the House. I want to see every child using his helmet also. This past Saturday I spoke welcoming a new Kiwanis Club to Belfast. I was invited there to welcome them and open up this new chapter and they had an excellent idea, I thought. It was to be a positive reinforcement by police, do their fund raising, do their bicycle rodeos, give the police officers certificates to hand out to kids they see riding their bicycles for free ice cream cones, or slice of pizza at the store, and that would be a positive reinforcement and that educational helmet would work and it would be a positive image for police officers. I hate to think of all the times that I was in a restaurant or a store and a kid was acting up and that the parent would say to that kid, and this happens more often than you would believe, the parent would say, "You stop that right now, or I'll have that police officer arrest you." It makes kids scared of police and you ask any full time law enforcement officer that's done this as a career that that happens an awful lot, that people think they're instilling the fear of the police into their children because they can't do the discipline themselves. That's a wrong negative message. I would rather see us handing out certificates and saying, "Here, I'm glad to see that you're wearing your helmet, or go get yourself a free ice cream." It's a positive reinforcement. Another thing I want to bring up, I don't know if I mentioned it before is the safety training officer for the Bicycle Coalition two years ago when we heard this bill, said if you drop a helmet you've got to throw it away, that it's no good to use again and that really surprised me. How do you know if these helmets are still good? Anybody else that is on the committee that can correct me if I'm wrong on that statement, those types of things worry me, giving them a false sense of security. I want to see every child wearing a helmet. I believe they do work. I had a lot of difficulty voting against this one, but it's just the way it is written that really bothered me. Thank you.

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

Representative **BRENNAN**: Mr. Speaker, Men and Women of the House. Almost every day we have a discussion in this House about legislation in the past, the effect that it has on children, on adults, on citizens in the State of Maine. We debate whether or not that legislation is going to have a positive effect or a negative effect and sometimes we make a leap of faith, because we are not really sure what the effect is going to be. Tonight, before us now, we have the opportunity to vote on something that we know will have a positive effect for children across the state. The evidence is overwhelming. There is no doubt that if this legislation passes, there will be children in this state that probably their lives will be saved and they will be saved from permanent injury for the rest of their lives. Doren Millis, the chief medical officer for this state said that between 1993 and 1997 there were 1,669 motor vehicle related bicycle crashes in Maine. The cost of that was \$16,660,000, \$16 million as a result of those crashes. The U.S. Department of Transportation showed in 1997, there were 808 bicycle deaths in the United States, 97 percent of the people in those deaths were not wearing a helmet. Again, the information, the research, the evidence is overwhelming. One part of the research that is overwhelming is simply by the fact that we have warrant that says that children have to wear a helmet. Usage goes up dramatically, regardless of what you have for enforcement by the simple fact that we have a law that says children have to wear it, utilization goes up tremendously. I think this is good public policy, I think this is good public health. Some people tonight have characterized this as feel good legislation and I agree. It is feel good legislation, because each of us tonight can go home and feel good about the fact that we passed this law and that we have increased the safety and public health for our children across the state. Thank you.

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

Representative **MCNEIL**: Mr. Speaker, Ladies and Gentlemen of the House. I, too, belong to the Kiwanis Club in my town and I was asked to sponsor a bicycle bill, which I did, and then when I saw Representative Brennan's, I dropped that bill in favor of his, because I feel it was a better bill. It is not a touchy, feel good bill, it is not big brother looking over your shoulder, it is an educational bill that is good for children, it's a safety bill. There are many groups throughout the State of Maine, such as the Kiwanis Clubs, that many of us here belong to that are very anxious to provide helmets for our children as a result of us passing this bill. I also believe that these same clubs would be happy to supply more than one helmet if that helmet should be dropped. I would ask you to please support this bill for the safety and the life of one child. Thank you.

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

Representative **PERKINS**: Mr. Speaker, Colleagues of the House. As far as children go, I have never spoken against the mandatory seat belt for children. The good Representative from Buckfield pointed out that starts this well meaning legislation that usually multiplies into mandates for all of us, but that's not to say that I still don't support this idea for children on public ways on bicycles, but please answer this question somebody. We hear almost every other speaker say that this is just an educational program, it says these children shall wear a helmet, will somebody please answer that question. What does that mean if that's just educational? Why doesn't it say should? Thank you.

The SPEAKER: The Chair recognizes the Representative from Northport, Representative Lindahl.

Representative **LINDAHL**: The law says shall, and it does mean shall, but the only enforcement for a violation is the education element where the police officer hands them information or they take the information to the parent. There is no other enforcement action on this, but the law does say shall. Thank you.

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. This idea should have been brought to us in some other form besides an Act. It's a piece of education, it should have been perhaps a Resolve, a Resolution or a statement saying we the Legislature believe. By not passing this, if one person or group on this sheet backs out of their education initiative because it's not a law, then this piece of paper is not worth the paper that they used. If you can't back it up with enforcement than the law means nothing. There is not anything in our law that says a police officer may not now approach a child without a bicycle helmet and say, do you know it would be safer if you wore a helmet, here's a pamphlet. He can even stop me at the shopping center and say, you know I saw your son riding without a helmet. Did you know it would be safer if he wore a helmet? That's education. You want to talk education, you don't need a law, you need education. Everyone of these people can continue with their education, with their efforts, with their Kiwanis drives, with their safety bike fairs and they can do education, but the worst thing you can do is tell 15 year olds that he has to do something, but you can't do anything about it. Anybody ever hear, whose going to make me, out of a 15 year old or a 12 year old, or an 11 year old, who said so, what are you going to do about it? That's how kids respond to a figure of authority. The figure of authority with no authority is even worst, yet the education should continue, but to paraphrase a gentleman in this House on a debate earlier in another session. Let's create a crime and get tough on it. We're creating a crime and not getting tough on it. Passing a law that has no back up to it, no teeth to it, so that you can say you passed a law will do nothing. It may raise your percentage a little for the time being, but you can do that with education and the law enforcement cooperation. It doesn't have to be shoved down people's throats with yet another law from the legislature of the State of Maine. I would ask that you oppose this Ought to Pass Report and go out and help with the education and encourage these groups to do what they say they are going to do, but we don't have to pass a law in order to do it. Thank you.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I agree with the previous speaker on this issue. It should be one of education. I ride a 10 speed bike and I always wear a helmet. If I had a child that had a bike, I would make sure they did. One of the best things a parent can do if they want to have their kid ride with a helmet is tell them they have to wear a helmet, the first they've heard that they don't have it, or the parent sees they don't have it. They take away the bike for a month. It used to work with me when I was a kid for certain things when you didn't do what your told you to, they took your bike away for a month and it was a good lesson to learn. The Lions Club in my town, and I'm sure Lions Clubs throughout the state have the same kind of program, we have

kids come down from the schools and we check their tires, and we check their brake linings and their mirrors and so forth and so on to make sure their bikes are safety inspected so they have a good bike on the road. It's always a tragedy when somebody dies, no matter what the situation is. We always think about the things we could do to have saved their life. Certainly, passing laws sometimes may help, but in this situation I don't think it will. We take things away from the parents when we decide to pass a law to make kids do things. We make it so the police have one more duty they have to do. I can see it now chasing the kids down a street, or a side street trying to get them to put their helmet on. One of the things that really bothers me when I have discussions like this, is what I refer to as the absolutist argument, if it saves one life it's worth it. Well, if we carried that argument to its logical conclusion we would reduce our speed limits on the highways to 5 MPH and I don't mean to be sarcastic when I say that, it certainly would save lives, quite a few I would imagine, but it's not practical. I don't think this piece of legislation is practical and I don't see how it is going to work. Knowing kids I think they'll just flaunt it anyway and I hope you will vote against the pending motion.

Representative DAIGLE of Arundel **REQUESTED** a roll call on the motion to **ACCEPT** the Majority Ought to Pass as Amended Report.

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

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

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I'm a cosponsor on this bill and most of you know me, I signed it because I faithfully really believe in this bill, but yet since I cosponsored there's so many areas I find problems with. You know many children are finding it hard, many low-income children are finding it hard to play in sports. Sports are becoming such an elitist type, it seems you have to have money to do any type of sports these days and that's always been my concern. How are we going to get these helmets to a kid that has no money? To the kids who build their own bicycles, I have a young man that built his own bicycle because his parents couldn't afford to buy him one. Now, can someone answer the question, I know that some of the people have said that the Kiwanas and other groups will help out, but what about the kids in Lewiston, in Portland, that are out there, who would like to ride bikes, but don't know anybody who is a member of one of these organizations? What are we going to do for those kids that want to take part in riding a bike? I know that we have a real problem with brain injuries and I have a nephew that was in a diving accident that has a brain injury so I understand about that. But what are we going to do about these children, they are probably going to fall through the cracks and they are not going to be able to bicycle ride because they simply don't know anybody that can get them a helmet or can afford a helmet. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Lewiston, Representative Bouffard.

Representative **BOUFFARD**: The answer to the question of the children having access to organizations, this is exactly why the words shall and may were put into this law. This way when policeman, or teacher, or your next door neighbor see a child not wearing a helmet, they can take it upon themselves to say, you know this is a law that you shall wear a helmet while riding a bicycle. The teachers, the policemen know whom to contact to

be able to get this person a helmet if they can't afford it. Unless we have some kind of vehicle that says that you must do this, in a sense, then the police they don't have any right to come up and tell your child, hey, you've got to put on a helmet, but as an educational tool, rather than a punitive tool, this is a reason why this law was manufactured this way. The word shall and may is so that the people in authority and the educators, what have you, can turn around and give the proper advise to those who don't have a way of getting a bike helmet.

The **SPEAKER**: The Chair recognizes the Representative from Belmont, Representative Berry.

Representative **BERRY**: Mr. Speaker, Men and Women of the House. I rise as the father of a professional motorcycle racer. Never from day one when he first crawled on a bike was there ever any question about wearing a helmet. I do have a concern, I support this bill, I want you to know that. The value of the helmet is so important, I've seen my son slide down the pavement on a helmet and get up and walk away, throw the helmet in the trashcan and go buy a new one. Because in professional motorcycle racing, if you do have a scratch on a helmet, you can't wear it. Being mother's day weekend, the opportunity arose and he and I talked about this yesterday, because now I have two grandchildren and his three year old rides his two wheel bicycle. He has a concern that the helmet that his son is wearing is not rated the way it should be rated. Representative Lindahl related to that just a short time ago. That bike helmet should be able to take more impact than that, I'll very honestly tell you nothing replaces full face helmet, but my concern here is also, and it's his concern that you can create a sense of false security by putting a helmet on someone's head and not also providing all the other education that goes with it. You will lose to a car. But you do stand a much better chance. So what does it mean, it means that you must instruct safety where you ride your bike, where you don't ride your bike, but you also must understand that there are certain parameters that are placed on that helmet, that you must understand the safety rating of that helmet. I would hope that any program that we're supporting here would provide a helmet to a young person, or an adult that it's a safe helmet. I think that is critical. I would hope that people that are sponsoring and supporting this system would look at the NC rating of those helmets and make sure they do suffice. Thank you.

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

Representative **MCALLEVEY**: Mr. Speaker, Ladies and Gentlemen of the House. Representative Plowman brought up a good point about passing law with no teeth. This is a slippery slope. Motorcycle helmets next year? You've got to wear them, but we won't do anything to you if you don't wear them. We went that route with seat belts, within two years it became a motor vehicle infraction, a direct offense because you weren't wearing a seat belt. Or are we going to criminalize our children next year because this law can't be enforced? I'm a policeman, I go up to a door of a parent and say, I'm warning the kid and I'm warning you he's suppose to have a helmet on. The parent says what are you going to do to me? What's the answer? Nothing. Slippery Slope, I want kids to be safe, but don't make a mockery of the law by passing thought feelings. It's a good idea, we're going to legislate it, and it's a good idea. We're going to tell you, you should do it, but we're not going to do anything to you if you don't. It's toothless, it's meaningless. If you are serious about saving children riding bicycles, you'd pass a law that was

legitimate that did something. I don't have to pass a law to go home to feel good tonight. I want to pass a law that will be effective. Not a half a loaf, what do we do next week, well we ought to pass a law that you ought to have your draws in your kitchen sealed up because more kids die from poisoning, getting underneath the kitchen sink than they do from motorcycle, or motor vehicle, or bicycle accidents. Well, we really don't want to throw somebody in jail for keeping their cabinets unlocked, but we'll tell them it's a law and they've got to do it, it's ludicrous. I'd ask you to rethink this, we should give it back to the committee, give it back to us with some teeth in it, because if you enact this tonight it doesn't do a thing. It doesn't make me feel good. I'd be embarrassed.

The SPEAKER: The Chair recognizes the Representative from Danforth, Representative Gillis.

Representative GILLIS: Mr. Speaker, Men and Women of the House. I have two children and I require them to wear helmets, but I don't need the Legislature to tell me to tell my children to wear helmets. I just want to ask you one thing. We could probably save a lot more lives if we legislated helmets in cars, is that where we are going next?

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Jabar.

Representative JABAR: Mr. Speaker, Ladies and Gentlemen of the House. Two years ago this law had teeth in it and it was defeated in the Transportation Committee unanimously Ought Not to Pass because it was an enforcement proceedings. It comes back this year as an educational bill rather than an enforcement bill. We have in the State of Maine mandatory education, everybody has to go to school. We don't put them in jail if they don't go to school, so what's the difference here. This is an educational bill. It's the same as mandatory education we're not going to put them in jail, but we're going to encourage them to wear their helmets.

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. 150

YEA - Ahearn, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Cameron, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagnon, Gooley, Green, Hatch, Jabar, Joy, Kane, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lovett, Madore, Mailhot, Martin, Marvin, Matthews, McDonough, McGlocklin, McKee, McNeil, Mitchell, Murphy E, Murphy T, Muse, Nass, Norbert, O'Brien LL, O'Neal, Peavey, Pieh, Pinkham, Povich, Powers, Quint, Richard, Richardson J, Rines, Rosen, Samson, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Shields, Sirois, Stanley, Stanwood, Stevens, Sullivan, Tessier, Thompson, Tobin D, Tobin J, Townsend, Treadwell, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Weston, Wheeler GJ, Williams, Mr. Speaker.

NAY - Buck, Campbell, Cianchette, Clough, Collins, Foster, Gagne, Gerry, Gillis, Glynn, Goodwin, Heidrich, Honey, Jacobs, Jodrey, Kasprzak, Lindahl, MacDougall, Mack, McAlevey, McKenney, Mendros, Nutting, Perkins, Plowman, Richardson E, Sherman, Skoglund, Snowe-Mello, Stedman, Tracy, Trahan, Waterhouse, Wheeler EM.

ABSENT - Andrews, Carr, Frechette, Jones, Mayo, O'Brien JA, O'Neil, Perry, Sanborn, Shorey, True, Winsor.

Yes, 105; No, 34; Absent, 12; Excused, 0.

105 having voted in the affirmative and 34 voted in the negative, with 12 being absent, the Majority Ought to Pass as Amended Report was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (H-378) was READ by the Clerk and ADOPTED. The Bill was assigned for SECOND READING Tuesday, May 11, 1999.

ENACTORS

Emergency Measure

An Act Relating to Governmental Aggregation Services

(H.P. 497) (L.D. 704)

(C. "A" H-331)

Reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 135 voted in favor of the same and 2 against, and accordingly the Bill was PASSED TO BE ENACTED, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act Confirming the Charter of the Addison Point Water District

(H.P. 1153) (L.D. 1650)

(C. "A" H-333)

Reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 137 voted in favor of the same and 0 against, and accordingly the Bill was PASSED TO BE ENACTED, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Restore the Distribution Formula Between Private and Public Colleges within the Maine Student Incentive Scholarship Program

(S.P. 635) (L.D. 1802)

(C. "A" S-158)

Reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 131 voted in favor of the same and 3 against, and accordingly the Bill was PASSED TO BE ENACTED, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Create the Farmington Falls Standard Water District

(S.P. 702) (L.D. 1977)

(C. "A" S-148)

Reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 138 voted in favor of the same and 0 against, and accordingly the Bill was PASSED TO BE ENACTED, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Study Standardized Periods of Military Service and Other Matters Related to the Award of State of Maine Veterans' Benefits

(H.P. 76) (L.D. 89)
(C. "A" H-312)

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

On motion of Representative SAXL of Portland, **TABLED** pending **FINAL PASSAGE** and specially assigned for Tuesday, May 11, 1999.

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 565: Nutrient Management Rules, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources

(H.P. 460) (L.D. 623)
(C. "A" H-334)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 131 voted in favor of the same and 6 against, and accordingly the Bill was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 301: Standard Offer Service, a Major Substantive Rule of the Public Utilities Commission

(H.P. 547) (L.D. 768)
(C. "A" H-328)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 129 voted in favor of the same and 5 against, and accordingly the Bill was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 304: Standard of Conduct for Transmission and Distribution Utilities and Affiliated Competitive Electricity Providers, a Major Substantive Rule of the Public Utilities Commission

(H.P. 548) (L.D. 769)
(C. "A" H-329)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 131 voted in favor of the same and 5 against, and accordingly the Bill was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 307: Sale of Capacity and Energy of Undivested Generation Assets,

Extension of Divestiture Deadline, a Major Substantive Rule of the Public Utilities Commission

(H.P. 1172) (L.D. 1683)
(C. "A" H-332)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 132 voted in favor of the same and 4 against, and accordingly the Bill was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Mandate

Resolve, to Authorize the Knox County Commissioners to Hold a Referendum Election in November 1999 to Borrow Not More than \$500,000 to Construct the Knox County Communications Center

(H.P. 40) (L.D. 54)
(C. "A" H-324)

Was 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. 131 voted in favor of the same and 5 against, and accordingly the Mandate was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Acts

An Act to Allow Former Employees of Head Start Credit in the Maine State Retirement System

(H.P. 743) (L.D. 1033)
(C. "A" H-360)

An Act to Bring Certain Maine Drug Test Levels into Conformity With Federal Standards

(S.P. 351) (L.D. 1055)
(C. "A" S-156)

An Act Authorizing the Release of Information to a Competitive Electricity Provider

(H.P. 857) (L.D. 1214)
(C. "A" H-330)

An Act to Amend the Liquor Licensing Laws Regarding Bed and Breakfasts

(H.P. 913) (L.D. 1291)
(C. "A" H-314)

An Act Promoting Technology in Business Recordkeeping

(H.P. 985) (L.D. 1383)
(C. "A" H-362)

An Act to Revise the Staffing and Resources of the Office of Public Advocate

(H.P. 1012) (L.D. 1423)
(C. "A" H-196)

An Act to Promote Maine's Family-friendly Business and Investment Strategies

(S.P. 487) (L.D. 1447)
(C. "A" S-147)

An Act to Amend the Qualifications for Appointment of the Adjutant General and Assistant Adjutant General

(S.P. 527) (L.D. 1560)
(C. "A" S-151)

An Act to Implement the Recommendations of the Commission to Study the Funding and Distribution of

Teletypewriters and Other Telecommunications Equipment for People with Disabilities

(S.P. 530) (L.D. 1563)

An Act to Amend the Maine Administrative Procedure Act

(H.P. 1195) (L.D. 1705)

(C. "A" H-364)

An Act to Allow Child-placing Agencies to License Preadoptive Homes as Foster Care Homes for a Child Placed in that Home Awaiting Adoption

(H.P. 1215) (L.D. 1744)

An Act Regarding Funding for Applied Technology Centers

(S.P. 628) (L.D. 1793)

(C. "A" S-159)

An Act to Establish a License for the Marine Shrimp Fishery

(S.P. 649) (L.D. 1829)

(C. "A" S-153)

An Act to Amend the Statutes Regarding Maine Veterans

(S.P. 672) (L.D. 1894)

(C. "A" S-150)

An Act to Support the Graduate Education of Speech Pathologists for Maine Schools

(S.P. 703) (L.D. 1978)

(C. "A" S-161)

An Act to Protect Customers of Nonbank Cash-dispensing Machines

(H.P. 1384) (L.D. 1991)

(C. "A" H-344)

An Act to Repeal the Charter of the Pleasant River Standard Water District

(S.P. 724) (L.D. 2044)

(C. "A" S-149)

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

Resolves

Resolve, That the Director of the Maine State Museum Shall include the Portraits of Outstanding Indians in the State House

(H.P. 1315) (L.D. 1898)

(C. "A" H-325)

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

An Act Requiring Labeling of Unpasteurized Milk Products

(S.P. 281) (L.D. 799)

(C. "A" S-162)

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

On motion of Representative PIEH of Bremen, was **SET ASIDE**.

On further motion of the same Representative, the Bill and all accompanying papers were **COMMITTED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and sent for concurrence.

An Act to Increase Fees for Civil Process of Filing State Papers

(H.P. 1212) (L.D. 1741)

(C. "A" H-291)

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

On motion of Representative TRACY of Rome, was **SET ASIDE**.

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

An Act to Provide Equity for Eviction Notification

(H.P. 1237) (L.D. 1766)

(C. "A" H-311)

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

On motion of Representative MARTIN of Eagle Lake, was **SET ASIDE**.

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

BILL HELD

Resolve, Authorizing the Commissioner of Administrative and Financial Services to Sell or Lease the Interests of the State in the Maine Criminal Justice Academy in Waterville; Part of the Kennebec Arsenal in Augusta; Part of the Maine Youth Center in South Portland; and 2 Parcels in Gray Near the Pineland Center

(H.P. 1203) (L.D. 1713)

(C. "A" H-413)

- In House, **PASSED TO BE ENGROSSED**.

HELD at the Request of Representative GERRY of Auburn.

Representative GERRY of Auburn moved that the House **RECONSIDER** its action whereby the Bill was **PASSED TO BE ENGROSSED**.

On further motion of the same Representative, **TABLED** pending her motion to **RECONSIDER PASSAGE TO BE ENGROSSED** and later today assigned.

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

On motion of Representative CROSS of Dover-Foxcroft, the House adjourned at 9:33 p.m., until 9:00 a.m., Tuesday, May 11, 1999.