

# MAINE STATE LEGISLATURE

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

**Volume II**

**First Regular Session**

May 13, 1999 – June 19, 1999

**Second Regular Session**

January 5, 2000 – March 22, 2000

ONE HUNDRED AND NINETEENTH LEGISLATURE  
FIRST REGULAR SESSION  
52nd Legislative Day  
Monday, May 17, 1999

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

Prayer by Honorable Howard A. Chick, Deacon, Lebanon and North Berwick Baptist Church.

Pledge of Allegiance.

Doctor of the day, Richard Stephenson, M.D., Auburn.

The Journal of Friday, May 14, 1999 was read and approved.

**SENATE PAPERS**

**Non-Concurrent Matter**

Bill "An Act to Amend the Prevailing Wage Laws"

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

Minority (6) **OUGHT TO PASS** Report of the Committee on **LABOR READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED** in the House on May 13, 1999.

Came from the Senate with the Majority (7) **OUGHT NOT TO PASS** Report of the Committee on **LABOR READ** and **ACCEPTED** in **NON-CONCURRENCE**.

Representative TREADWELL of Carmel moved that the House **RECEDE AND CONCUR**.

Representative HATCH of Skowhegan **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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

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

**ROLL CALL NO. 201**

**YEA** - Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carr, Chick, Cianchette, Clough, Collins, Cross, Daigle, Davis, Duncan, Foster, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, 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, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

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

**ABSENT** - Bolduc, Clark, Green, Labrecque, Lemont, McKee, Perry, Quint, Tuttle, Watson.

Yes, 70; No, 71; Absent, 10; Excused, 0.

70 having voted in the affirmative and 71 voted in the negative, with 10 being absent, the motion to **RECEDE AND CONCUR FAILED**.

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

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

**COMMUNICATIONS**

The Following Communication: (H.C. 201)

**STATE OF MAINE  
OFFICE OF THE GOVERNOR  
1 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0001**

May 14, 1999

To the Honorable Members of the 119th Legislature:

I am returning without my signature or approval H.P. 630, L.D. 880, "An Act to Extend the Jurisdiction of the Maine Labor Relations Board to Employees of Public Higher Education Institutions Who Have Been Employed for Less than 6 Months." This bill would amend the University System Labor Relations Act to make employees of the University of Maine System, the Technical College System, and the Maine Maritime Academy bargaining unit members on their first day of employment, rather than after six months as currently provided by the university act and all of Maine's other public employees labor acts. I believe that changing the University act in this manner would create bad policy and increase costs to taxpayers and students.

I am opposed to establishing collective bargaining procedures for employees of the University system, the Technical College system, and the Maine Maritime Academy that are significantly different from those that exist for all other public employees in Maine unless there is a compelling reason for doing so. In this case, there is no such justification.

The first six months of employment has historically been viewed as an important part of the selection process. All public employers in Maine should have the benefit of this six months period to see if a new employee is a good fit with the job and a time period in which to correct performance problems without the additional hurdles of the arbitration and Maine Labor Relations Board procedures. Eliminating the six-month exclusion in the university act would deprive three public employers of this important right.

Despite the fact that the applicable collective bargaining agreements exclude probationary employees from their just cause provisions, nevertheless, if this bill became law, an arbitrator could reinstate a terminated employee based upon some other provision of the collective bargaining agreement. Employers will likely face substantial grievance litigation costs when attempting to correct performance problems of probationary employees.

I am also concerned about the power that the elimination of the six month provision would give to an interest arbitrator if the parties were unable to negotiate a probationary period as part of a collective bargaining agreement. Since the subject of probationary periods is a mandatory subject of bargaining, if this bill becomes law an interest arbitrator could decide to eliminate probationary periods in a collective bargaining agreement, or to reduce the employer's discretion to terminate a probationary employee. Such decision of the arbitrator would be binding. In

the law's current state, however, the employer would have the initial six-month period to determine if the employee was a good fit for the position, and not have that decision subject to review by an arbitrator or the MLRB.

Finally, all employees in Maine are protected from unlawful discrimination or other unlawful action on the part of an employer. Any employee subjected to unlawful action during the first six months of employment with a public employer has the same legal protections as all other employees. For all the above-cited reasons, I believe that LD 880 is unnecessary, would create bad policy, and would increase costs for taxpayers and students. Accordingly, I respectfully urge you to sustain my veto.

Sincerely,  
S/Angus S. King, Jr.  
Governor

**READ and ORDERED PLACED ON FILE.**

The accompanying Bill "An Act to Extend the Jurisdiction of the Maine Labor Relations Board to Employees of Public Higher Education Institutions Who Have Been Employed for Less than 6 Months" (H.P. 630) (L.D. 880)

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

Representative **TREADWELL**: Mr. Speaker, Men and Women of the House. During the floor debate on this bill I think one of the most important points that was made was the fact that this bill would remove, not in fact remove from law, but remove the effectiveness of the six months probationary period for University, Maine Maritime and Tech College System employees. In that sense they would be eligible for grievance, all the benefits of the bargaining unit for grievance procedures and all the other benefits. At the outset it doesn't sound like that's very serious, but it's a major change in the labor law for the higher ed community in the State of Maine and I would encourage the House to support the Chief Executive's veto.

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

Representative **BAKER**: Mr. Speaker, Men and Women of the House. This bill merely extends union rights and protection to workers from the beginning of their time at the University. It has absolutely nothing to do with the probationary period which extends for faculty members for six years. This does not affect a faculty member's probationary rights, nor does it affect the right of professional and clerical employees. This merely extends the courtesy, the same courtesy of protection, to those workers as their colleagues and I urge you to vote against the Governor's veto. 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 uphold the Executive's veto. This bill effectively does away with the probationary period. As we have stated before on the floor debate, the probationary period allows during the first six months for one of the University's to fire somebody within that period. Many times there is someone who is hired that they initially think will fit for the job, but after further review, they do not fit the job at hand and when we talk about education and our children's future, we want to make sure that the people working with them are the most qualified for the job. This probationary period is essential to make sure that the best people are teaching and working with our children. The reason this does essentially do away with the

probationary period is because by putting them through the entire grievance process as of day one, it becomes virtually impossible to fire somebody. It's a long drawn out and costly process. Everyone still has the right to join a union after six months they get the full benefits, but during those first six months they are able to be fired and in the cases of someone who is not the best for the job and not fit to be working with children, that's something we need to have in place.

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

Representative **SAMSON**: Mr. Speaker, Men and Women of the House. Again we're confusing probationary period with the exclusionary period. The probationary period is still in tact, in fact it's in the contract. Probationary period means that anyone can be fired at any time for any reason, for no reason whatsoever, that's still in the contract. It has nothing to do with this bill. What this bill proposes to do is to allow these workers to be represented by a union in other matters. It has nothing to do with probationary period. Don't be confused with that.

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

Representative **WILLIAMS**: Mr. Speaker, Ladies and Gentlemen of the House. My colleague just clarified, I think, what this issue is. Let me just say once again, when I was hired at the University of Maine as a professional employee, I was on probation for 18 months before I came off probation. I elected to join the union sometime after that, but there are many people who are hired at the University who would like to be represented by the union earlier. This bill would allow them to do that. That does not mean that if they're not performing their job, they are going to somehow be unable to get fired. Again, 18 months I was on probation, whether I was in the union or not. 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. This law would just put an unnecessary hurdle in the higher education public employers in their ability to hire, attain and to keep the best and brightest for Maine students. I would urge you to uphold the Executive's veto. Thank you.

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

Representative **HATCH**: Mr. Speaker, Ladies and Gentlemen of the House. I ask that you overturn this veto. I think this is a bad policy move for the Executive. I see no reason why those who teach our children in college should not be allowed to join and have the benefits of a union. Most public employers offer this to their people, whose shops are unionized, to join the union after 30 days, sometimes 60. I cannot see how anyone can say that this would interfere with the probationary period. Anyone can be fired for just cause, anytime except, of course, us legislators who are put here by the people. I want you to know that I believe this is a good bill and its time has come and I'd ask for you to overturn this veto. Thank you.

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

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. This veto of the Governor, if we sustain it, and I hope you will not, simply will allow the University to fire individuals that really want to join the union and choose to collectively bargain and support those issues in the workplace

without some protection. We also have a situation where they may pay dues and not be represented. On many issues before this body on educational policy, we've talked about academic freedom, the ability to exercise ones mental faculties and do the best job that they can in teaching our children. We now have a situation, ladies and gentlemen, which I believe is a basic unfairness that simply does not allow educators in our University System, Technical College, Maine Maritime Academy to freely exercise their rights, join the union, pay dues and collectively bargain from the start of employment. I don't see that as a fairness at all and I would hope that you would vote to override. Thank you.

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

Representative TREADWELL: Mr. Speaker, Ladies and Gentlemen of the House. The good Representative from Winslow just eluded to the crux of the problem, I believe that allowing employees to access the power of the union during that first six months of their employment will give them protection, will allow them the use of the grievance procedure through the union and arbitrators if the University System decides or discovers that they've hired an employee who does not match the job that they were hired to perform. I would encourage everybody to read the letter that was transmitted from the Chief Executive regarding this veto and I think there is ample explanation in that letter as to what this bill would do. It's not good policy. It will not be good for the University or the other higher ed institutions that are effected by this bill. It's a major change in the state's education labor law and I would again encourage you to vote in favor of the veto.

The SPEAKER: A roll call has been ordered. The pending question before the House is, Shall this Bill become law notwithstanding the objections of the Governor? All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 202**

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

NAY - Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carr, Chick, Cianchette, Clough, Collins, Cross, Daigle, Davis, Duncan, Foster, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, 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, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Bolduc, Clark, Green, Lemont, Martin, McKee, Perry, Quint, Tuttle, Watson.

Yes, 71; No, 70; Absent, 10; Excused, 0.

71 having voted in the affirmative and 70 voted in the negative, with 10 being absent, and accordingly the Veto was Sustained.

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The Following Communication: (S.C. 255)

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

May 13, 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 Minority Ought Not To Pass Report from the 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), was accepted.

Sincerely,  
S/Joy J. O'Brien  
Secretary of the Senate

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (S.C. 256)

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

May 13, 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 Taxation on Bill "An Act to Protect Municipalities from Property Tax Loss when Land Is Acquired by the State" (H.P. 205) (L.D. 283), was accepted.

Sincerely,  
S/Joy J. O'Brien  
Secretary of the Senate

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (S.C. 257)

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

May 13, 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 Minority Ought Not To Pass Report from the Committee on Labor on Bill "An Act to Amend the Worker's Compensation Law as it Pertains to Employer-selected Health Care Providers" (H.P. 555) (L.D. 776), was accepted.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

**READ and ORDERED PLACED ON FILE.**

**ORDERS**

On motion of Representative DAVIDSON of Brunswick, the following Joint Order: (H.P. 1583) (Cosponsored by Senator KONTOS of Cumberland and Representatives: BERRY of Belmont, COLWELL of Gardiner, DESMOND of Mapleton, LaVERDIERE of Wilton, MARTIN of Eagle Lake, McGLOCKLIN of Embden, ROSEN of Bucksport, Senator: LONGLEY of Waldo)

ORDERED, the Senate concurring, that the Committee on Sawmill Biomass is established as follows.

**1. Establishment.** The Committee on Sawmill Biomass, referred to in this order as the "committee," is established.

**2. Membership.** The committee consists of 17 members as follows:

A. Three members of the Senate, appointed by the President of the Senate, each of whom serves on the Joint Standing Committee on Business and Economic Development, the Joint Standing Committee on Agriculture, Conservation and Forestry, the Joint Standing Committee on Taxation or the Joint Standing Committee on Utilities and Energy;

B. Six members of the House of Representatives, appointed by the Speaker of the House, each of whom serves on the Joint Standing Committee on Business and Economic Development, the Joint Standing Committee on Agriculture, Conservation and Forestry, the Joint Standing Committee on Taxation or the Joint Standing Committee on Utilities and Energy;

C. Two representatives of the forest products industry who have expertise in sawmill operations and sawmill biomass markets, appointed by the Speaker of the House;

D. One representative of the biomass electric energy generation industry, appointed by the President of the Senate;

E. Three members of the public who have expertise in forest resource utilization, sawmill biomass management or forest products research and development, appointed by the Governor;

F. The Public Advocate or the Public Advocate's designee; and

G. The chair of the Public Utilities Commission or the chair's designee.

**3. Appointments; chair; quorum; convening of committee.** All appointments must be made by July 1, 1999. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been made. The Speaker of the House and the President of the Senate shall jointly name the chair. The first meeting must be called by the chair no later than July 15, 1999 and the committee may meet no fewer than 5 times before issuing its report. A quorum exists when at least 8 members are present at a meeting.

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

**5. Duties.** The committee shall investigate opportunities for maintaining markets for the sawmill biomass industry that will enhance the sawmill industry in the State, maintain employment and strengthen rural economies. The committee shall also study barriers to sawmill biomass markets and identify appropriate activities to promote existing or new products.

**6. Staff assistance.** The State Planning Office shall provide staff assistance to the committee, and the Department of Conservation, the Department of Economic and Community Development, the Department of Environmental Protection and the Bureau of Revenue Services shall provide expertise upon request from the committee. The Public Utilities Commission may contract with an expert or commission studies to assist the committee.

**7. Report.** The committee shall submit a report and any recommended legislation to the Speaker of the House of Representatives, the President of the Senate and the Governor no later than December 15, 1999.

**READ.**

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

Representative DAVIDSON: Mr. Speaker, Men and Women of the House. This joint order actually comes out of discussions with regards to utility deregulation and the fate of the sawmill biomass industry after deregulation and we need this commission to get together and look at options that the biomass and sawmills will have after deregulation kicks in and make sure we're taking care of people in our communities. Thank you, Mr. Speaker.

The Joint Order was **PASSED.**

Sent for concurrence.

**SPECIAL SENTIMENT CALENDAR**

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

**Recognizing:**

Honorable Gary O'Neal, the Representative from Limestone, who has been named 1999 Citizen of the Year by the Limestone Chamber of Commerce. We extend our congratulations to him on receiving this recognition;

(HLS 401)

Presented by Representative WHEELER of Eliot.

Cosponsored by Senator KIEFFER of Aroostook, Speaker ROWE of Portland, Representative WHEELER of Bridgewater.

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. It gives me a great deal of pleasure to rise today and to recognize one of our colleagues who is named the citizen of the year in Limestone, Representative Gary O'Neal. I'm sure right now that I'm getting a lot of looks from the individual from behind because he didn't really want to be recognized at all, but I

think it's a great accomplishment. The only way, I understand, that they could get the Representative to this festivity was to ask him to be the MC of his own recognition, so please join me in recognizing Representative O'Neal in such a feat.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House. I, too, rise to congratulate my good seat mate and also a fabulous chef, Mr. Gary O'Neal. This award was just premature, he's done a lot for the community of Limestone and the people of Aroostook County, so congratulations again, Gary.

The Speaker: The Chair would also add his congratulations to Representative O'Neal.

Was **PASSED** and sent for concurrence.

**REPORTS OF COMMITTEE  
Divided Report**

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act to Eliminate the Minimum Quota Requirement for a Store to Have a Lottery Machine"

(H.P. 78) (L.D. 91)

Signed:

Senators:

DAGGETT of Kennebec  
CAREY of Kennebec  
FERGUSON of Oxford

Representatives:

LABRECQUE of Gorham  
TUTTLE of Sanford  
SHIAH of Bowdoinham  
HEIDRICH of Oxford  
GAGNE of Buckfield  
FISHER of Brewer

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-578)** on same Bill.

Signed:

Representatives:

CHIZMAR of Lisbon  
MAYO of Bath  
PERKINS of Penobscot  
McKENNEY of Cumberland

**READ.**

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

Ten Members of the Committee on **MARINE RESOURCES** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (H-579)** on Bill "An Act to Establish a Lobster Trap Tag Freeze to Limit Effort in the Lobster Fishery"

(H.P. 1385) (L.D. 1982)

Signed:

Senators:

GOLDTHWAIT of Hancock  
PENDLETON of Cumberland  
MackINNON of York

Representatives:

STANWOOD of Southwest Harbor

USHER of Westbrook

HONEY of Boothbay

ETNIER of Harpswell

PIEH of Bremen

LEMONT of Kittery

McNEIL of Rockland

Two Members of the same Committee report in Report "B" **Ought to Pass as Amended by Committee Amendment "B" (H-580)** on same Bill.

Signed:

Representatives:

VOLENIK of Brooklin

PINKHAM of Lamoine

One Member of the same Committee reports in Report "C" **Ought Not to Pass** on same Bill.

Signed:

Representatives:

BAGLEY of Machias

**READ.**

Representative ETNIER of Harpswell moved that the House **ACCEPT** Report "A" **Ought to Pass as Amended.**

The SPEAKER: The Chair recognizes the Representative from Brooklin, Representative Volenik.

Representative **VOLENIK**: Mr. Speaker, Men and Women of the House. I urge you to reject the Majority Report and move on to accept the Minority Report on this bill. The Majority Report is a direct assault on the fisherman who least impact the fishery. Fifty six percent of fishermen use less than 400 traps each. They fish only 19 percent of all the traps in the water. The other 44 percent of the fisherman fish between 400 and 1,200 traps and they have 81 percent of all the traps in the water. These are the fishermen who have too many traps. The little guys, as usual, are not the problem. Half of the little guys fish less than 100 traps each.

Now traditionally lobstermen fish in plateaus, that is they may fish 100 traps for five or ten years then they may buy a bigger boat and put in 200 traps in the water, later on they may upgrade again and add another couple hundred traps. Others are on a downward path. Some are aging, and there are quite a few aging licensees right now, some have changed their goals in life and may have gone from say 600 traps down to 200 traps and may be fishing only part time, or they're senior citizens who fish a little less every year. Others go up and down because of changing circumstances, marriage, kids, divorce, illness, economic catastrophe, changing in life's goals, etc. If we pass the majority report we disrupt this generations long tradition of fluid numbers of traps. We've already addressed the major problem, fishermen fishing too many traps, too many traps to be efficient and too many traps benefiting just a few fishermen. We did this by passing trap limits that go from 1,200 to 1,000 this year and from 1,000 down to 800 next year. This bill's Majority Report will freeze fishermen at the number of trap tags they had last year, yet new fishermen can instantly fish 300 to 400 traps, which is half the zone limit. Anyone who bought 800 trap tags in 1998 even if they only fished a few traps can continue to build up to 800 traps. If you pass this you will hear from angry fisherman locked in at only the number of traps they had last year fishing along side brand new fishermen with 300 to 400 traps and the big guys fishing their 800 traps.

Let's say lobsterman A and lobsterman B both fished 100 traps last year. Lobsterman A bought 100 trap tags for his 100

traps. Lobsterman B bought 800 trap tags for his 100 traps. Fisherman A will be limited to 100 traps next year. Fisherman B can fish up to 800 traps because he bought 800 trap tags. Then the brand new Fisherman C will be able to fish 400 traps while fisherman A is still limited to his 100. Is that fair? I have many constituents who will fall through the cracks. A young fisherman down my road fished 500 traps last year. This year he's putting in 600 traps because he just had a baby, he's adding on to his very tiny house and he needs to increase his income. If this Majority Report passes, next year he will have to cut back to 500 traps, neither he nor his wife nor the bank will be exactly happy. Another guy fishes with his dad, they each fish 200 traps, his father is retiring and he wants to take over his father's 200 traps. If this passes he will be limited to only the 200 traps he fished last year. He won't be able to fish his father's. I hope his dad isn't counting on any revenue from his son. Then there's the fisherwoman from Islesford, Cranberry Isles, she just started fishing and fished 100 traps last year. She likes fishing, she wants to expand it maybe into a full time business. This year she can fish as many traps as she wants, but if this Majority Report passes next year, she'll have to cut back to the 100 she had in 1998. She's a little upset at this. These are just a few examples.

If you pass this Majority Report, all of you from coastal districts will hear very similar tales from your constituents. Please look out for the little guys. The big fisherman will do quite well if this passes, they've lobbied very hard for it, but it will be a sad day for the small fisherman, for the tourist that come to Maine to see them, for the local mom and pop stores who are dependent on their income, for the tax base, for the school system, and for a way of life that is increasingly threatened by decisions made in Washington by the National Marine Fisheries Service, by the Atlantic States Fisheries Management Council, by the lobbying power of the biggest fisherman and by us here in this body. Please reject this motion so I can tell you about our compromise, the Minority Report which doesn't absolutely freeze tags and you can look that up, it's (H-580), but this Minority Report allows a reasonable buildup that would fair for everyone.

Representative **VOLENIK** of Brooklin **REQUESTED** a roll call on the motion to **ACCEPT** Report "A" **Ought to Pass as Amended**.

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 Machias, Representative Bagley.

Representative **BAGLEY**: Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to LD 1982. Passage of this legislation will shut a number of people out of an industry that in many cases is their only means of providing for themselves and their families. Washington County's unemployment rate is usually in double digits. Jobs are limited and the opportunities for a person to find other employment are few and far between. This legislation would limit lobstermen to the number of trap tags they had purchased as of November 20, 1998, as adjusted by either the Majority or Minority Report. Let us consider the case of a lobsterman who due to circumstances beyond his control did not purchase any trap tags in 1998. He may have fished for one year or ten years before, but if he had not purchased tags for 1998, he may be limited to 100 trap tags. Consider also the young man who has worked a number of years with his father, held a lobster license each year but did not have his own traps. In the summer of 1998 he is ready to go out on

his own. He builds 200 traps and negotiates a bank loan for a boat, then he is told in December that if he did not have trap tags in November of 1998, he also may be limited to 100 trap tags. This young man is bankrupt before he has put a trap in the water. We are told this trap tag freeze is being imposed to conserve the resource. I would argue that lobstermen for the most part are the strongest conservationist the industry could have. Why wouldn't they be, they are attempting to preserve their livelihood and their way of living, not only for themselves, but for future generation.

An informal poll in early December showed that the lobsterman in Washington County were unanimous in their opposition to the trap tag freeze. I believe we must allow our fishermen a voice in their own destiny. Please vote no on LD1982. Thank you.

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

Representative **ETNIER**: Mr. Speaker, Men and Women of the House. I urge you to support Report A, the Majority Report, that is before you at the moment. This report emerged is one of the four requests that emerged from the Lobster Advisory Council, one of which we discussed the other day. They reported back to the Marine Resources Committee this year on a number of items that we requested that they look into and this is one of those items that they chose to report back on and was their request. It was not a unanimous request, there are seven zones represented on the Lobster Advisory Council, as you have heard before, from one end of the coast to the other, and there are fisherman from each of those zones who are representatives. As in Representative Bagley's case, the eastern most zone, which is Zone A, they did chose not to go along with this particular request and they were the only ones out of the entire Lobster Advisory Council, who is comprised of fisherman, who chose not to go along with this, and I want that to be clear. The rest of them certainly did and it was their request to us, and the Majority Report largely takes their language and goes with it for a number of reasons. One thing that hasn't been mentioned here today is that this is a temporary freeze. The Majority Report, and in fact the Minority Report, both sunset in the year 2001, at the end of calendar year 2001, this temporary trap tag freeze is legislated, if passed, to go away. Another thing you should note, and this has been brought up before, that every lobster license holder in the state did receive a letter last December letting them know that the Lobster Advisory Council was considering this freeze and that they should be forewarned, that this is something that was in the wind as a means for holding down the effort on a temporary basis. Both reports include an appeals process for those people who had no trap tags in 1998 and there are approximately 400 people, maybe a little less, who had zero trap tags in 1998 as of the date of this freeze. There's an appeals process for those who have medical reasons, for not just themselves, but for a member of their family. It also has an appeals process for people who are in military service at that time. It is also in both reports that the Lobster Advisory Council is slated to report back to the Marine Resources Committee this coming February with further information on what they feel are appropriate means to limit the effort and those things are detailed in the committee amendments, so this is something that will be reviewed with information from the industry next February and the Marine Resources Committee is authorized to report out legislation at that point in time.



Where the two reports differ is the Majority Report does freeze your number of trap tags for the calendar years 2000 and the year 2001 at what you had in November of 1998, no doubt about that. The Minority Report, which isn't before us at the moment, does allow build up, which I won't get into the details of, but the build up, if you run the number on the potential build up which is allowed under the Minority Report, it's 1.6 million potential, I want to stress that word potential, just based on the sheer numbers that we have. There's a potential for 1.6 million new traps in the water just in the year 2000, not counting the next year, which I guess would be the same number again. That is a potential, it's probably not going to happen, but anywhere near that number is a serious amount of gear to go into the water.

Since 1995, when the state supported and passed a trap limit and Representative Volenik and I were in the Majority in that case of 1,200, the individual fisherman in the state by two-thirds vote in each of their seven zones have gone along with a further reduction down to 800 commencing next year. These are substantial reductions in the amount of gear that fishermen can fish for a lot of fishermen in the State of Maine. Largely and in many cases the full time fisherman, the year round lobster fishermen are the ones that are taking the hit, based on the trap limits that we passed in 1995 and the further reductions that have implemented. These are substantial reductions. I've got fishermen in my area who fish 3,500 traps, a lot who fish 1,500, 1,600, 1,200. They are having to take 400, 500, hundreds of traps out of the water to meet the new requirements effective next year. In the interest of fairness, if for no other reason alone, I feel that this temporary trap tag freeze is a reasonable thing to do. These men and women have had to take huge amounts of gear out of the water, a lot of them have purchased new boats, a lot of them have had new houses built, a lot of them have had good reasons to fish large amounts of gear, but yet they are still having to take hundreds of traps out of the water. In the interest of fairness, to have this new gear come in fishing right next to them, by either new entrance into the fishery, or people who have been building up from the levels of gear is to add insult to injury. I suppose you might say and that's largely what's been happening. The trap limit has reduced the star wars mentality that we had as a state in terms of the build up, but there has been a tremendous build up from down below and it's time to put a temporary break on that, to look into the situation and see if there is a way that we can continue to allow people to make a living from this fishery on a year round basis.

There are serious concerns about the level of effort in this fishery, despite some of the graphs and whatnot that you have seen. There are very high landings of lobster at the moment, 45 million pounds for the last few years, plus or minus. That's as opposed to 20 million pound hundred year average for the fishery. There's deep concern about the effort at this point. There's been extremely progressive strides made in terms of the technology that's used by this fishery in the last decade, including the almost universal acceptance of wire traps, which are very, very efficient. The wide spread use of extremely intelligent electronics, much bigger boats being used, much faster boats being used. The effort increase has been quite large and this is a humble attempt to put a temporary break on to allow things to cool down while we have a chance to look at this issue. I want to stress that I think this is largely a fairness issue. It was supported by the Department of Marine Resources at our public hearing and I want to stress that a lot of these people who

do fish in the lower levels of gear, the zero to 500 or so, had no problems imposing trap limits and voting for lower trap limits for the upper level of people who fish in the fishery, people who fish more gear. They have no problems imposing those trap limits on those people making them take gear out of the water. This would affect those people who fish less gear if they chose to build up, they would not be able to for two years, but I think in the interest of fairness, that's the least we can ask. Thank you very much for your attention.

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

Representative **PINKHAM**: Mr. Speaker, Men and Women of the House. I'd like to just rebut a little bit my good friend from Harpswell. When the trap tag freeze was put on back in, well the letters came out in December that there was going to be a trap tag freeze, the letters came out in December, but the freeze was put on in November. Nobody knew anything about it until they got the letter and it had already happened so it's a little late for anybody to try to correct their situation, once they find out a month after it's already happened.

As far as the big fishermen being forced to take traps out of the water and having to cut down while the little fisherman can build up, four years ago in committee we heard testimony from most of the committee that that's what they wanted, that's why it passed. I don't see where it's a hardship, it's something they wanted in the first place and a lot of them were fishing 2,000 traps and they had to come down to 1,200 at the time, which we heard testimony that it wouldn't be a hardship because they were not tending 1,200 traps a day anyway. There's no way to do it. The effort in the fishery, what we're trying to do is cut down the effort, since 1995 the effort's been cut down a lot. The trap limit freeze when it was put on in 1995 there was 366,269 traps taken out of the water the next year. Also going by the department report, which is available to everybody, which I have right here, there was another 182,000 traps that were never fished because people were getting six and a half percent more tags than they had traps. The larger fishermen, if they were fishing 600 traps, they would buy 800 tags so there is quite a discrepancy there. That would be another 182,000 traps that never were put in the water. The small guy that was honest, that was fishing a couple hundred traps and only bought 200 tags, he is shut down at 200. You know, they're having new boats built, a lot of them are just young people just starting families and if this Majority Report passes it freezes them, they can't make any more money and a lot of them are just starting families and having boats built and building houses and things and there's nothing in this Report A that would allow these people fishing 100 or 200 traps to build up any. The Minority Report does allow them to build up a certain amount. Anybody that didn't have a license last year and gets their license on appeal that's never fished can start right out with 400 or 500 traps. Never had any tags but they can start out with 400 or 500 traps, that's not fair to these guys, the young guys that's fishing 200 that are stuck for two years and as far as this only being for two years, we only have to go back and look at the other moratoriums and freezes that have been put on, one that comes to mind is the urchin moratorium that was put on in 1992 for two years, well it's 1999 and that's still on and there's several other ones that's taken the same route, so this may only be on paper right now for two years but you can bet it will last a lot longer than that. An apprentice or student starting out can start right in as soon as they get their license at a higher limit, at 400 or 500 traps with no questions asked. It truly is a fairness issue.

It allows the big guy to continue to fish 1,000 traps, but it's got the little guy stuck at the bottom where he can't make any more money to support a family, so I would recommend that you not vote for Report A and vote for Report B. Thank you.

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

Representative **PIEH**: Mr. Speaker, Ladies and Gentlemen of the House. The purpose of the original trap limit that was imposed on the fisherman was to take traps out of the water. You might be interested to know that in 1998 fewer people bought licenses but over 100,000 more tags were sold than had been sold previously. The Lobster Advisory Council, which is made up of a cross section of the industry is the strongest advocate you can get for the industry and this is their recommendation. They agonized, they worked hard, they anguished over this decision and then the only thing that caused them more anguish was that as our committee began working this bill, because we kept saying, well can't we this, or can't we that, the same thing they had been saying and they said at one point if you go forward with any of the things you're considering right now we will not support it, we will not back it, because it does not represent trying to get a hold on the total number of traps that are in the water. It's a short term moratorium. They're coming back to us next year with recommendations and we feel, those of us that are on the Majority Report, that it is important to support the effort that this group is making. As you know, we are working more and more towards the industry making its own decisions about how it works and this is to support the industry and the Lobster Advisory Council coming forward. No, it's not easy, no it's not easy to have had two sternmen and 1,500 traps and have to come down and let one of them go and maybe lose your house, or your truck, or your boat, because you can't afford to make the payments. People who can't build up at this point, in a way take less of a sacrifice because they are not yet committed to the number of traps, where the people who had to come down. So I encourage you and urge you to please support Report A Out to Pass as Amended. Thank you.

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

Representative **PERKINS**: Mr. Speaker, Members of the House. When we imposed the first trap limit five years ago or so, along with the tags to enforce it and know how many people were fishing. People were applying at first for the number of tags that they had traps for. A lot of people questioned though should be we buying more because some day maybe there will be a freeze. It was my understanding that usually the answer from the Department was, oh no, don't worry, just buy the number you are using, besides if you buy more than you are actually using it will skew our data, we won't know then how many traps are being fished, it will just really fowl us up. So a lot of people went along with that and bought just exactly the number of tags as they had traps and those people are being penalized by this Majority Report. A constituent of mine, new family, new baby, had been fishing for several years, but he's had 400 tags, 400 traps, he just bought about 300 new traps and he heard about this freeze and he is really upset. The Minority Report is a very reasonable compromise. It would allow build up of 100 per year and on the other side, the Majority people are complaining that they wouldn't have a handle on the trap tags, that sounds like a very reasonable handle. The people down below could build up 100 per year. Thank you.

The SPEAKER: The Chair recognizes the Representative from Boothbay, Representative Honey.

Representative **HONEY**: Mr. Speaker, Men and Women of the House. Here we are again talking something in the lobster industry that probably most people in the House, it doesn't concern them, they don't live where lobstering takes place. I'd just like to say that both reports make an attempt to address the problem of proliferation of lobster gear in coastal waters. Escalation of gear is very high and of great concern within the lobster industry and also by those who boat along the coast of Maine. If any of you people have boated along the coast of Maine in the summertime you realize that there's an awful lot of gear in the water and it is ever escalating. I urge my colleagues to support the pending motion. Both of these reports, as has been mentioned earlier, address the appeal process for those lobstermen who are denied lobster trap tags. I might mention that a lobster trap tag is a little plastic tag that is attached to each lobster trap that's lowered into the water in the State of Maine. They are required by law and people buy these tags from the Department of Marine Resources, these are numbered so it gives the enforcement people to know whose gear is being fished here. As has been mentioned earlier, the trap tag freeze is a temporary measure that remains in effect until December 31st, 2001. While other management issues are explored by the Lobster Advisory Council and also by the Marine Resources Legislative Committee. I want to remind this body that the Majority Report is endorsed by the Lobster Advisory Council except for the representative from Washington County, by the Maine Lobstermen's Association, and by most responsible Maine lobstermen along the coast of Maine. Thank you.

The SPEAKER: The Chair recognizes the Representative from Brooklin, Representative Volenik.

Representative **VOLENIK**: Mr. Speaker, Men and Women of the House. I hate to get up a second time but I just want to clarify a few points. One point that has been made several times is that the Lobster Advisory Council, except for the down east zone supports this measure. Gerald Reeve, who is the chair of Zone C which is in my district, testified against this bill at the public hearing saying that the majority of the members, fishermen of Zone C, opposed this bill. I just wanted to make that clear. Also, as far as the number of traps going up or down in the water, both the Representatives from Bremen and the Representative from Lamoine are correct, the number of trap tags may have gone up by 100,000 but the number of actual traps in the water has gone down by about 200,000 and what that means is that we have a system in which there has been a potential build up for the last five years since we passed legislation in 1995, but the vast majority of fishermen have not built up and especially the smallest fishermen have not built up. They've stayed at their 100 traps, 300 traps it's mainly the larger fishermen who have built up to the maximum. I think there's some reference to 3,500 traps being legal at one point. That was way too many traps, getting down to 800 traps is a reasonable amount for a fisherman to fish.

One other point and that's the committee originally showed a little bit of heart in restraint and came up with a little bit better compromise, the majority of the committee, but they called to reconsider that vote and go to a much stricter zero tolerance, no build up policy when the majority of the Lobster Advisory Council said that they couldn't go along with what had been the Majority Report, so I just wanted to stress that the majority of the committee did have some heart at one point. I would just urge

you again to reject this Majority Report so we can go on to accept the Minority Report. Thank you.

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

Representative **PINKHAM**: Mr. Speaker, Men and Women of the House. I'll be brief. When you make a statement that this doesn't affect most Maine people, it affects all of the State of Maine. The lobster fishery in the State of Maine is a big fishery and it affects the whole economy in the State of Maine when people can't make the money that they usually make, and can't build up to make more money. It does affect the whole state. When we talked about the vent law a few weeks ago, here, it showed that it affects the whole state by the number of letters we had. We had one letter from Madawaska that was concerned about the impact on the economy. We had some 28, 29 letters from different communities all around the state, so it does affect the whole state. This build up would only affect a few. It wouldn't put a lot more traps in the water and we have taken some half million traps out of the water since 1995, plus the fishing effort is down by 1,600 licenses. There are 1,600 less lobster licenses right now than there was in 1995 and there's 250,000 more tags bought each year than there are licenses to fish, so that's quite an impact right there. Thank you very much.

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

Representative **GOODWIN**: Mr. Speaker, Men and Women of the House. I live in Pembroke, Maine, which is on Cobsecook Bay. I represent lobstermen in Cobsecook Bay and Passamaquoddy Bay. As a former member of the Marine Resources Committee in the 118th, I continue to receive informational packets, mailings. In mid December, around the 15th of December, I received a letter that was spoken of by many members of this body today, the only problem with the letter was, they back dated back to November 20th, 1998 as being the final date by which you could have trap tags and that's the number that they were going to use. This was three and a half weeks after the deadline. The frugal people in Washington County in my zone only bought tags, they're \$25 a hundred, they bought tags that they were going to put on traps to use so they had lower numbers and this letter effectively shut them out and I will be supporting the fishermen in my area and I'll go against the Ought to Pass as Amended and let's do it the right way. I thank the Speaker.

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

**ROLL CALL NO. 203**

YEA - Andrews, Belanger, Berry RL, Bouffard, Bowles, Brennan, Bruno, Bryant, Bull, Clough, Collins, Colwell, Cote, Cowger, Daigle, Davidson, Dudley, Dunlap, Etnier, Fisher, Fuller, Gagnon, Glynn, Gooley, Green, Hatch, Honey, Jabar, Kane, Labrecque, Lemoine, Lindahl, Lovett, Mailhot, Martin, Marvin, Mayo, McDonough, McGlocklin, McKenney, McNeil, Mitchell, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien LL, O'Neal, O'Neil, Perry, Pieh, Quint, Richard, Richardson J, Savage C, Saxl JW, Saxl MV, Schneider, Shiah, Stanwood, Stevens, Thompson, Townsend, Tripp, True, Twomey, Usher, Williams, Mr. Speaker.

NAY - Ahearn, Bagley, Baker, Berry DP, Bragdon, Brooks, Buck, Bumps, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Cross, Davis, Desmond, Dugay, Duncan,

Duplessie, Foster, Frechette, Gagne, Gerry, Gillis, Goodwin, Heidrich, Jacobs, Jodrey, Jones, Joy, Kasprzak, Kneeland, LaVerdiere, MacDougall, Mack, Madore, Matthews, McAlevey, McKee, Mendros, Murphy E, O'Brien JA, Peavey, Perkins, Pinkham, Plowman, Povich, Powers, Richardson E, Rines, Rosen, Samson, Sanborn, Savage W, Sherman, Shields, Shorey, Sirois, Skoglund, Snowe-Mello, Stanley, Stedman, Sullivan, Tessier, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Volenik, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor.

ABSENT - Bolduc, Lemont, Tuttle, Watson.

Yes, 70; No, 77; Absent, 4; Excused, 0.

70 having voted in the affirmative and 77 voted in the negative, with 4 being absent, Report "A" Ought to Pass as Amended was **NOT ACCEPTED**.

On motion of Representative **VOLENIK** of Brooklin, the Report "B" Ought to Pass as Amended was **ACCEPTED**.

The Bill was **READ ONCE**. Committee Amendment "B" (H-580) was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Tuesday, May 18, 1999.

**CONSENT CALENDAR**

**First Day**

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

(S.P. 39) (L.D. 49) Bill "An Act to Amend the Drug Laws Related to Possession of a Firearm" Committee on **CRIMINAL JUSTICE** reporting Ought to Pass as Amended by Committee Amendment "A" (S-278)

(S.P. 111) (L.D. 308) Bill "An Act to Implement the Recommendations of the 118th Legislative Joint Select Committee to Implement a Program for the Control, Care and Treatment of Sexually Violent Predators" Committee on **CRIMINAL JUSTICE** reporting Ought to Pass as Amended by Committee Amendment "A" (S-279)

(S.P. 515) (L.D. 1516) Bill "An Act Concerning Disposal of Solid Waste from Decommissioning Activities" Committee on **NATURAL RESOURCES** reporting Ought to Pass as Amended by Committee Amendment "A" (S-285)

(S.P. 578) (L.D. 1658) Bill "An Act to Release Juvenile Crime Records to School Personnel" Committee on **CRIMINAL JUSTICE** reporting Ought to Pass as Amended by Committee Amendment "A" (S-277)

(S.P. 641) (L.D. 1823) Bill "An Act to Increase Accessibility to the Department of Environmental Protection Clean-up Funds for Businesses" Committee on **NATURAL RESOURCES** reporting Ought to Pass as Amended by Committee Amendment "A" (S-286)

(H.P. 940) (L.D. 1337) Bill "An Act Regarding Taxation of Clean Vehicle Fuels" Committee on **TAXATION** reporting Ought to Pass as Amended by Committee Amendment "A" (H-592)

(H.P. 1264) (L.D. 1818) Bill "An Act to Create Statewide Smoking Cessation Services" Committee on **HEALTH AND HUMAN SERVICES** reporting Ought to Pass as Amended by Committee Amendment "A" (H-593)

There being no objections, the above items were 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. 667) (L.D. 1889) Bill "An Act to Amend the Maine Milk Laws" (C. "A" S-272)

(S.P. 780) (L.D. 2190) Bill "An Act to Reestablish the Maine Meat Inspection Act" (C. "A" S-274)

(S.P. 805) (L.D. 2218) Resolve, Authorizing Certain Land Transactions by the Department of Conservation, Bureau of Parks and Lands (C. "A" S-273)

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

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(S.P. 598) Joint Order - Relative to Establishing the Task Force to Study Implementation of Alternative Programs and Interventions for Violent and Chronically Disruptive Students (C. "A" S-276)

On motion of Representative SAXL of Portland, was **REMOVED** from the Second Day Consent Calendar.

The Committee Report was **READ** and **ACCEPTED**. The Bill was **READ ONCE**. **Committee Amendment "A" (H-276)** was **READ** by the Clerk and **ADOPTED**.

On motion of Representative Saxl of Portland, the Joint Order was placed on the **SPECIAL STUDY TABLE** pursuant to Joint Rule 353 pending **PASSAGE**.

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**BILLS IN THE SECOND READING**

**House**

Bill "An Act Regarding Long-term Care"

(H.P. 1582) (L.D. 2231)

**House As Amended**

Bill "An Act to Ensure a Fair Distribution of Hunting Permits"

(H.P. 970) (L.D. 1368)

(H. "A" H-585 to C. "A" H-567)

Bill "An Act to Amend the Liability Limit under the Maine Tort Claims Act"

(H.P. 1118) (L.D. 1577)

(C. "A" H-565)

Resolve, to Establish the Study Commission to Create and Submit a Master Plan for the Future Use of the Existing Land and Buildings at the Maine Youth Center

(H.P. 1478) (L.D. 2118)

(H. "A" H-587 to C. "A" H-558)

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

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Bill "An Act to Amend the Maine Workers' Compensation Act of 1992 as it Relates to Compensation for Amputation of a Body Part"

(H.P. 163) (L.D. 225)

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

On motion of Representative TREADWELL of Carmel, was **SET ASIDE**.

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

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**. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 204**

**YEA** - Ahearne, Bagley, Baker, Berry RL, Bouffard, Brennan, Brooks, Bryant, Bull, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagnon, Gerry, Goodwin, Green, Hatch, Jabar, Kane, LaVerdiere, Lemoine, 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, Tracy, Tripp, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

**NAY** - Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carr, Chick, Cianchette, Clough, Collins, Cross, Daigle, Davis, Desmond, Duncan, Foster, Gagne, Gillis, Glynn, Gooley, Heidrich, Honey, Jacobs, Jodrey, Jones, 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, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

**ABSENT** - Bolduc, Lemont, Tuttle.

Yes, 75; No, 73; Absent, 3; Excused, 0.

75 having voted in the affirmative and 73 voted in the negative, with 3 being absent, the Bill was **PASSED TO BE ENGROSSED** and sent for concurrence.

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

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Resolve, to Enhance Fire Protection Services throughout the State

(H.P. 1017) (L.D. 1428)

(H. "A" H-586 to C. "A" H-557)

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

On motion of Representative **POVICH** of Ellsworth, was **SET ASIDE**.

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

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Bill "An Act to Increase the Maximum Benefit Levels Provided for Injured Workers"

(H.P. 1314) (L.D. 1897)

(C. "A" H-548)

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

On motion of Representative TREADWELL of Carmel, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended**.

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. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 205**

**YEA** - Ahearne, Bagley, Baker, Berry RL, Bouffard, Brennan, Brooks, Bryant, Bull, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Goodwin, Green, Hatch, Jabar, Kane, LaVerdiere, Lemoine, 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, Tracy, Tripp, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

**NAY** - Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carr, Chick, Cianchette, Clough, Collins, Cross, Daigle, Davis, Duncan, Foster, Gillis, Glynn, Gooley, Heidrich, Honey, Jacobs, Jodrey, Jones, 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, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

**ABSENT** - Bolduc, Lemont, Tuttle.

Yes, 77; No, 71; Absent, 3; Excused, 0.

77 having voted in the affirmative and 71 voted in the negative, with 3 being absent, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-548)** and sent for concurrence.

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

**ENACTORS**

**Emergency Measure**

An Act to Reauthorize and Amend the Diesel-powered Motor Vehicle Emission Opacity Testing Program

(S.P. 381) (L.D. 1082)

(H. "A" H-546 to C. "A" S-184)

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. 134 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 to Establish Municipal Cost Components for Unorganized Territory Services to be Rendered in Fiscal Year 1999-00

(H.P. 1311) (L.D. 1872)

(S. "A" S-255 to C. "A" H-386; H. "A" H-545)

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. 136 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, Establishing a Task Force to Study the Need for an Agricultural Vitality Zone Program

(S.P. 393) (L.D. 1172)

(C. "A" S-196; H. "A" H-543)

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. 121 voted in favor of the same and 14 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

**Emergency Measure**

Resolve, to Create the Task Force to Explore Alternative Payment Mechanisms for Dental Health Care

(H.P. 918) (L.D. 1296)

(H. "C" H-541 to C. "A" H-146)

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. 115 voted in favor of the same and 17 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

**Emergency Measure**

Resolve, to Establish a Task Force to Study the Improvement of Public Water Supply Protection

(H.P. 1103) (L.D. 1550)

(C. "A" H-425; H. "A" H-540)

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. 114 voted in favor of the same and 17 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

**Resolve Pursuant to the Constitution  
Public Land**

Resolve, to Transfer a Parcel of State Land to the Town of Carrabassett Valley

(S.P. 699) (L.D. 1974)

(H. "A" H-538 to C. "A" S-210)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provision of Section 23 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was

taken. 139 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

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

**Acts**

An Act to Provide Opportunity for an Increase in Wine-tasting Locations for Farm Wineries

(S.P. 222) (L.D. 644)  
(C. "A" S-246)

An Act to Establish a Framework for Management of Emerging Fisheries

(S.P. 378) (L.D. 1079)  
(C. "A" S-264)

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)  
(C. "A" S-212)

An Act to Provide Funds for a New Historical Atlas of Maine

(H.P. 901) (L.D. 1279)

An Act to Establish a Fund to Promote Acadian Cultural Tourism for St. Croix Island

(H.P. 1029) (L.D. 1451)  
(C. "B" H-272)

An Act to Amend the Lobbyist Registration Fee Provisions

(S.P. 503) (L.D. 1504)  
(C. "A" S-263)

An Act to Include the Income of a Lessee for the Purpose of Determining Eligibility in Farm and Open Space Tax Laws

(H.P. 1077) (L.D. 1524)  
(S. "A" S-265)

An Act to Increase Health Insurance Benefits for Retired Educators

(S.P. 607) (L.D. 1730)  
(C. "A" S-187)

An Act to Amend the Victims' Compensation Fund Law

(H.P. 1229) (L.D. 1758)  
(H. "A" H-465 to C. "A" H-421)

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)  
(C. "A" S-211; H. "A" H-527)

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

An Act to Provide Adjustments to Accommodate Increases in the Cost of Living for Injured Workers

(S.P. 288) (L.D. 806)  
(C. "A" S-189)

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

On motion of Representative MACK of Standish, was **SET ASIDE**.

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

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

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

**ROLL CALL NO. 206**

YEA - Ahearne, Bagley, Baker, Berry RL, Bouffard, Brennan, Brooks, Bryant, Bull, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Mailhot, Martin, Matthews, 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, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Bumps, Cameron, Campbell, Carr, Cianchette, Clough, Collins, Cross, Daigle, Davis, Duncan, Foster, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, Peavey, Pinkham, Plowman, Richardson E, Rosen, Savage C, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Bolduc, Buck, Lemont, O'Brien JA, Tuttle.

Yes, 80; No, 66; Absent, 5; Excused, 0.

80 having voted in the affirmative and 66 voted in the negative, with 5 being absent, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**Resolves**

Resolve, to Direct the Department of Environmental Protection and the Department of Economic and Community Development to Devise a Proposal for Long-term Funding of the Removal of Tire Dumps

(S.P. 539) (L.D. 1601)  
(C. "A" S-186; H. "A" H-539)

Resolve, Regarding Results-based Certification for Teachers

(S.P. 568) (L.D. 1635)  
(H. "A" H-542 to C. "A" S-170)

An Act to Provide Paralegal Assistants to the Workers' Compensation Advocate Program and an Auditor to the Monitoring, Auditing and Enforcement Program

(H.P. 598) (L.D. 838)  
(C. "A" H-350)

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

On motion of Representative MACK of Standish, was **SET ASIDE**.

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

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

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

**ROLL CALL NO. 207**

YEA - Ahearne, Bagley, Baker, Belanger, Berry RL, Bouffard, Brennan, Brooks, Bryant, Bull, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Martin, Matthews, McDonough, McGlocklin, McKee, Mendros, Mitchell, Murphy E, 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, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Berry DP, Bowles, Bragdon, Bruno, Bumps, Cameron, Campbell, Carr, Cianchette, Clough, Collins, Cross, Daigle, Davis, Desmond, Duncan, Foster, Gillis, Glynn, Heidrich, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey, McKenney, McNeil, Murphy T, Nass, Nutting, Peavey, Pinkham, Plowman, Richardson E, Rosen, Savage C, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Bolduc, Buck, Lemont, Mailhot, O'Brien JA, Sirois, Tuttle.

Yes, 82; No, 62; Absent, 7; Excused, 0.

82 having voted in the affirmative and 62 voted in the negative, with 7 being absent, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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An Act to Amend the Workers' Compensation Laws

(S.P. 364) (L.D. 1067)

(C. "A" S-241)

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

On motion of Representative MACK of Standish, was **SET ASIDE**.

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

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An Act Regulating the Transportation of People in Pickup Trucks

(H.P. 1179) (L.D. 1690)

(H. "A" H-289 to C. "A" H-239)

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

On motion of Representative TRACY of Rome, was **SET ASIDE**.

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

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

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

**ROLL CALL NO. 208**

YEA - Ahearne, Andrews, Bagley, Baker, Belanger, Berry DP, Berry RL, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Cameron, Campbell, Chick, Chizmar, Cianchette, Collins, Colwell, Cote, Cross, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jacobs, Jodrey, Jones, Kane, Kneeland, Labrecque, LaVerdiere, Lemoine, Lindahl, Lovett, Madore, Mailhot, Marvin, Matthews, Mayo, McAlevey, McGlocklin, McKee, McNeil, Murphy E, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien LL, O'Neal, O'Neil, Peavey, Pieh, Plowman, Powers, Richard, Richardson J, Rosen, Sanborn, Savage C, Saxl JW, Saxl MV, Schneider, Sherman, Shiah, Shields, Stanwood, Stevens, Sullivan, Tessier, Tobin D, Townsend, Treadwell, Tripp, True, Twomey, Usher, Watson, Weston, Wheeler EM, Wheeler GJ, Williams, Mr. Speaker.

NAY - Bowles, Buck, Carr, Clark, Clough, Cowger, Dunlap, Foster, Gerry, Gillis, Glynn, Heidrich, Joy, Kasprzak, MacDougall, Mack, Martin, McDonough, McKenney, Mendros, Mitchell, Perkins, Perry, Pinkham, Povich, Quint, Richardson E, Rines, Samson, Savage W, Shorey, Skoglund, Snowe-Mello, Stanley, Stedman, Thompson, Tobin J, Tracy, Trahan, Volenik, Waterhouse, Winsor.

ABSENT - Bolduc, Lemont, O'Brien JA, Sirois, Tuttle.

Yes, 104; No, 42; Absent, 5; Excused, 0.

104 having voted in the affirmative and 42 voted in the negative, with 5 being absent, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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An Act to Establish the Birth Defects Program

(H.P. 1322) (L.D. 1905)

(C. "A" H-268; H. "A" H-544)

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

On motion of Representative KASPRZAK of Newport, was **SET ASIDE**.

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

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

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

**ROLL CALL NO. 209**

YEA - Ahearne, Bagley, Baker, Berry DP, Berry RL, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Cameron, Chick, Chizmar, Cianchette, Clark, Colwell, Cote, Cowger, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Goodwin, Green, Hatch, Honey, Jabar, Jacobs, Kane, Kneeland, Labrecque, Lemoine, Lindahl, Lovett, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, Mitchell, Murphy E, Murphy T, Muse, Norbert, Nutting, O'Brien LL, O'Neal, O'Neil, Peavey, Perry, Pieh, Plowman, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Shields, Shorey, Skoglund,



Stanley, Stanwood, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, True, Twomey, Usher, Volenik, Watson, Wheeler EM, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Belanger, Bowles, Buck, Bumps, Campbell, Carr, Clough, Collins, Cross, Duncan, Foster, Gillis, Glynn, Gooley, Heidrich, Jodrey, Jones, Joy, Kasprzak, LaVerdiere, MacDougall, Mack, McKenney, McNeil, Mendros, Nass, Perkins, Pinkham, Richardson E, Rosen, Schneider, Snowe-Mello, Stedman, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Winsor.

ABSENT - Bolduc, Lemont, O'Brien JA, Sirois, Tuttle.

Yes, 105; No, 41; Absent, 5; Excused, 0.

105 having voted in the affirmative and 41 voted in the negative, with 5 being absent, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act to Encourage Continuous Improvement in Pollution Prevention in Maine

(S.P. 820) (L.D. 2223)

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

On motion of Representative WATERHOUSE of Bridgton, was **SET ASIDE**.

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

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

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

Representative **MARTIN**: Mr. Speaker, Members of the House. I want to thank the Representative for setting it aside, because I think it is appropriate perhaps that a few words be said. When I came back to the Legislature this year, I heard the word TURA, I had absolutely no idea what it was, but it didn't take me long to figure it out, that it referred and I just frankly asked someone what do the letters stand for, because frankly it was not something that I focused upon in terms of words, but it is the Toxic Use Reduction and I assume the A stands for Act.

The point that I want to make here is that when we had the public hearing, we had two pieces of legislation. We had close to 100 people who spoke, no one spoke against both of the bills, in other words, they were for one or for the other, so we quickly realized that something was supported by everyone. The question was what and how much and I just want to thank the members of the committee, because this bill came out in this draft 100 percent with all members of the committee supporting it, 13 zip, which I think speaks well for the members of the committee.

I also want to take this opportunity to thank members of the industry and also the environmental groups who decided that it was time to do something and to come together. What you have here is a productive work of everyone, not only in this chamber, and the other chamber, but as well as everyone outside. I think it is a real step forward and I congratulate everyone for having achieved it.

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

**ROLL CALL NO. 210**

YEA - Ahearne, Andrews, Bagley, Baker, Belanger, Berry DP, Berry RL, Bouffard, Bowles, Bragdon, Brennan,

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

NAY - NONE.

ABSENT - Bolduc, Lemont, O'Brien JA, Tuttle.

Yes, 147; No, 0; Absent, 4; Excused, 0.

147 having voted in the affirmative and 0 voted in the negative, with 4 being absent, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Resolve, to Establish the Citizens' Advisory Committee to Secure the Future of Maine's Wildlife and Fish

(S.P. 725) (L.D. 2045)

(C. "A" S-254)

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

On motion of Representative SHIAH of Bowdoinham, was **SET ASIDE**.

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

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 Friday, May 14, 1999, have preference in the Orders of the Day and continue with such preference until disposed of as provided by House Rule 502.

An Act to Amend Law Enforcement Powers of Maine Forest Rangers

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

(H. "A" H-326)

PENDING - **PASSAGE TO BE ENACTED**.

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

HOUSE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (5) **Ought to Pass as Amended by Committee Amendment "A"** (H-495) - Committee on **TAXATION** on Bill "An



Act Regarding the Interest and Penalties on Unpaid Taxes when the Taxpayer Files for Bankruptcy"

(H.P. 1216) (L.D. 1745)

TABLED - May 11, 1999 (Till Later Today) by Representative GAGNON of Waterville.

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

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

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

Bill "An Act to Require that Members of the Workers' Compensation Board be Subject to Review by the Joint Standing Committee on Labor"

(H.P. 953) (L.D. 1351)

- In House, Bill and accompanying papers **COMMITTED** to the Committee on **STATE AND LOCAL GOVERNMENT** on April 15, 1999.

- In Senate, Majority (9) **OUGHT TO PASS** Report of the Committee on **LABOR READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED** in **NON-CONCURRENCE**.

TABLED - May 11, 1999 (Till Later Today) by Representative TUTTLE of Sanford.

PENDING - Motion of Representative HATCH of Skowhegan to **RECEDE** and **CONCUR**.

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

Representative **AHEARNE**: Mr. Speaker, Ladies and Gentlemen of the House. Just some background on the issue of the Workers' Compensation Board and State and Local Government and its part on labor. As part of the reforms of 1992 the confirmation of the Workers' Comp Board members was moved to State and Local Government. During that period, because workers' comp was such a contentious issue and the Labor Committee seemed so polarized, it was felt that the Committee on State and Local Government would be better able to provide a calm discussion of the nominations. The whole issue of workers' comp is still, in my opinion, a volatile issue. We need an impartial committee to review who is on the Workers' Comp Board. In the past seven years since I have served on State and Local Government, with the exception of this year, I have yet to hear one complaint or concern of the current process by which State and Local Government reviews the Workers' Comp Board members. As has been said constantly in this body, if it isn't broken, don't fix it, well it ain't broke so I ask you to vote against the pending motion. Thank you.

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

Representative **HATCH**: Mr. Speaker, Ladies and Gentlemen of the House. I brought forth this issue and I brought it forth for good reason. Currently, the nominations for the Workers' Comp Board are handled by State and Local Government and I believe they have been doing a good job. That having been said, I also believe that the Committee of jurisdiction should be doing the confirmation process. Yes, at times the Labor Committee is polarized, it would be and is, because you have two distinct parties serving on the same committee and we come at it from different perspectives. I'm not saying that the State and Local Government has not done a

good job in the past and I don't want anyone in this chamber to think that this was directed at the Chair or the Committee, because I believe that all the members of their committees do what's necessary, but I do believe as the committee of jurisdiction and we do have the confirmation process over the unemployment, the retirement system, and many other divisions under the labor umbrella. I realize that the passions ran high in 1992 and believe me the injured workers in this state have felt just what happened to them in 1992. This last weekend, as I was thinking about legislation coming before us and how many things we'd like to change and knowing that probably not much would happen. I want you to know folks my phone rang and it was an injured worker. I don't know how we could muddy up the process in Labor over confirmation, most of it is done by the Governor. He picks from two lists, there's four labor and four management. Those lists are supplied by appropriate agencies. The labor list from the AFLCIO and the business list from the Chamber. I really do think it's time to put the past behind us. I believe it's time for the appropriate committee who has jurisdiction over the Workers' Comp Board and system should again do the confirmation process. I ask for your support. This is not a I want to get them contentious whatever anyone may say, it's not a contentious idea, it's only that we do everything. We know about the program. We know how it works and I think it's appropriately placed with the Labor Committee. Thank you.

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

Representative **BUMPS**: Mr. Speaker, Men and Women of the House. I stand this morning and ask you to vote against the pending motion for many of the same reasons that Representative Ahearne, the Chair of the State and Local Government has asked, but I'd also add a couple of other points. Over the last couple of years it's become trendy to try to remove responsibilities from the State and Local Government Committee, or at least that seems. I can't help but imagine that perhaps all of you are so interested in our work that you each want your own part of it and I would suggest that our work is very interesting and I can understand why that might be the case. With regard to this specific issue, I want to attract your attention to the responsibilities laid out by the Legislative Council and by both the House and the other body for the Joint Standing Committees. With regard to the State and Local Government Committee the charge is very clear. It says that the State and Local Government Committee will have oversight for state contracts and fiscal procedures, state government organization, oversight of state officials, state employees and property, administrative procedures, boards and commissions, capitol area planning, constitutional amendments and so on. The motion before you this morning is to Recede and Concur, which would accept the action of the other body. Setting all of the politics aside, and whether of not it's more partisan in one committee or another, whether or not the debate is more contentious in one committee or another, I'm simply going to ask that you consider the action Recede and Concur simply goes along with the action that's been taken in the other body. On April 15th this Chamber, the House, voted to commit this legislation to the Committee on State and Local Government so that that committee could consider it's merits and could vote on it accordingly. That would be the appropriate action. It would be the appropriate action at this juncture, because at the very least whenever you're about to remove the responsibilities of one committee and give them to another, at least give the committee that you are removing those

responsibilities from an opportunity to debate the issue and to send out a report. I would simply ask that you vote against the pending motion, stand by our previous action which would commit this bill to the Committee on State and Local Government, give that committee an opportunity to hear the merits of the legislation, to make a recommendation, bring that bill back here and if it's a divided report, some of you will contend that it will be if it's coming from State and Local, if it's a divided report, we'll debate it. We'll have the debate. We'll vote and we'll live with the consequences, but at least give the committee that currently has jurisdiction the courtesy of debating the merits of the bill. I'd ask that you vote against the pending motion. Thank you.

The Chair ordered a division on the motion to **RECEDE AND CONCUR**.

Representative STEDMAN of Hartland **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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

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

**ROLL CALL NO. 211**

**YEA** - Baker, Berry RL, Bouffard, Brennan, Brooks, Bryant, Bull, Clark, Colwell, Cote, Cowger, Dudley, Dunlap, Duplessie, Fisher, Frechette, Fuller, Gagne, Gagnon, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, Mailhot, Martin, Matthews, McGlocklin, Muse, O'Brien LL, Perry, Pieh, Powers, Quint, Richardson J, Rines, Samson, Saxl JW, Saxl MV, Shiah, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tracy, Usher, Volenik, Watson, Mr. Speaker.

**NAY** - Ahearne, Andrews, Bagley, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clough, Collins, Cross, Daigle, Davidson, Davis, Desmond, Dugay, Duncan, Etnier, Foster, Gerry, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey, McDonough, McKee, McKenney, McNeil, Mendros, Mitchell, Murphy E, Murphy T, Nass, Norbert, Nutting, O'Neal, O'Neil, Peavey, Perkins, Pinkham, Plowman, Povich, Richard, Richardson E, Rosen, Sanborn, Savage C, Savage W, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Sullivan, Tobin D, Tobin J, Trahan, Treadwell, Tripp, True, Twomey, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor.

**ABSENT** - Bolduc, Lemont, O'Brien JA, Sirois, Tuttle.

Yes, 52; No, 94; Absent, 5; Excused, 0.

52 having voted in the affirmative and 94 voted in the negative, with 5 being absent, the motion to **RECEDE AND CONCUR FAILED**.

Subsequently the House voted to **ADHERE**.

Bill "An Act to Allow Horse Racing Commencing at Noon on Sundays"

(H.P. 749) (L.D. 1039)

**TABLED** - May 11, 1999 (Till Later Today) by Representative TUTTLE of Sanford.

**PENDING** - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-526)**.

Representative ETNIER of Harpswell asked the Chair to **RULE** if **Committee Amendment "A" (H-526)** was germane to the Bill.

Subsequently, the Bill was **TABLED** by the Speaker pending a ruling of the Chair.

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

Bill "An Act to Revise the Fact-finding Process under the Public Employees Labor Relations Laws"

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

- In House, Minority (4) **OUGHT TO PASS AS AMENDED** Report of the Committee on **LABOR READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-352)** on May 11, 1999.

- In Senate, Majority (7) **OUGHT NOT TO PASS** Report of the Committee on **LABOR READ** and **ACCEPTED** in **NON-CONCURRENCE**.

**TABLED** - May 12, 1999 (Till Later Today) by Representative SAXL of Portland.

**PENDING** - Motion of Representative TREADWELL of Carmel to **RECEDE** and **CONCUR**. (Roll Call Requested)

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

**ROLL CALL NO. 212**

**YEA** - Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carr, Chick, Cianchette, Clough, Collins, Cross, Daigle, Davis, Desmond, Duncan, Foster, Gagne, Gerry, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, Peavey, Pinkham, Plowman, Richard, Richardson E, Rosen, Savage C, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

**NAY** - Ahearne, Andrews, Bagley, Baker, Berry RL, Bouffard, Brennan, Brooks, Bryant, Bull, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagnon, 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, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

**ABSENT** - Bolduc, Lemont, O'Brien JA, Sirois, Tuttle.

Yes, 70; No, 76; Absent, 5; Excused, 0.

70 having voted in the affirmative and 76 voted in the negative, with 5 being absent, the motion to **RECEDE AND CONCUR FAILED**.

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

Bill "An Act to Provide Binding Arbitration for Police Departments, Sheriff Departments and Professional Fire Departments"

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

- In House, Minority (6) **OUGHT TO PASS AS AMENDED** Report of the Committee on **LABOR READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-351) on May 11, 1999.

- In Senate, Majority (7) **OUGHT NOT TO PASS** Report of the Committee on **LABOR READ** and **ACCEPTED** in **NON-CONCURRENCE**.

TABLED - May 12, 1999 (Till Later Today) by Representative SAXL of Portland.

PENDING - Motion of Representative TREADWELL of Carmel to **RECEDE** and **CONCUR**.

Representative HATCH of Skowhegan **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. Very briefly, I'd just like to point out that this bill is a major change to the labor relations in the State of Maine in that it will implement binding arbitration on monetary matters as it relates to labor issues with all of our state, county and local municipalities. It's a very serious bill and I urge you to consider the Recede and Concur motion.

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

**ROLL CALL NO. 213**

**YEA** - Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carr, Chick, Cianchette, Clough, Collins, Cross, Daigle, Davis, Duncan, Foster, Gerry, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, Peavey, Perkins, Pinkham, Plowman, Richard, Richardson E, Rines, Rosen, Savage C, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

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

**ABSENT** - Bolduc, Lemont, O'Brien JA, Sirois, Tuttle.

Yes, 72; No, 74; Absent, 5; Excused, 0.

72 having voted in the affirmative and 74 voted in the negative, with 5 being absent, the motion to **RECEDE AND CONCUR FAILED**.

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

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

**HOUSE DIVIDED REPORT** - Majority (10) **Ought Not to Pass** - Minority (3) **Ought to Pass** - Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Exempt Donnell Pond and Tunk Lake from Personal Watercraft Prohibition"

(H.P. 422) (L.D. 564)

TABLED - May 12, 1999 (Till Later Today) by Representative DUNLAP of Old Town.

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

The **SPEAKER**: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. I rise this morning as I do almost all the time on the other side of the report. These two lakes and ponds are exceptions to what we had in the Great Ponds Task Force. I'll bring you back with a little bit of history. Last year on this floor there was an amendment to add these two ponds and lakes and also another one, which didn't have any public hearing whatsoever. Now when we had this bill coming in front of our committee this year, there were a lot of people that were in favor of the Great Ponds Task Force which took place last year, which is 245 lakes and ponds to be outlawed in LURC jurisdiction in one, two and six. Over the course of the summer, there were LURC hearings throughout the state, Rangeley, Ellsworth, Houlton and other places, where people could come and testify for or against or whatever they believe in jet skis.

In my neck of the woods up in Northern Maine, our public hearing was very congested with the people that were very unhappy with the regulation that was placed upon them. I understand that some of these lakes and ponds are very remote ponds and have water quality and things of this nature, but when you have jet skis, which people use for enjoyment just like any other boat, just like you use for your transportation with vehicles, motorcycles, ATVs and whatever, that is their right to have those where they have their camps. It's like saying that you go out and buy a \$20,000 car and you won't be able to park it in your own driveway because there is some limitation on the amount of exhaust it brings out.

Now with these two lakes and ponds Tunk and Donnell, the people came and testified and said there is only two jet skis that are on that pond, or lake, permanently that have camps already there. The only way that they met was when they went to one of those LURC public hearings and the people that was complaining of the noise and things was the sea plane owner that had a camp right next to them. Now let me tell you, ladies and gentlemen, a sea plane makes a lot more noise than a jet ski does, yes, you only hear it maybe five or ten minutes then it's gone, but when that comes around and gets ready to land, you still hear the noise. People say the noise limitations and things of this, well the manufacturers are making these jet skis a lot quieter and a lot safer. I remember a couple, I believe it was last week, that we passed a bill in here to do an education for bike safety helmets. Education is the key element. I think the jet ski proposal went one step too far, it should have had education before we went with this regulation. When we vote today, I hope you will join me to go against the pending motion, just simply

because of those people on those two lakes and ponds. A lot of people have gone out and bought jet skis and a lot of dealerships are losing a lot of money because of this, a lot of money. I hope you will join me against this. There's going to be some other speakers here today that are going to stand up for this.

Representative CLARK of Millinocket **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 Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. I'd like to clarify the record a little bit on what happened in the 118th Legislature. The assertion that Donnell and Tunk were added on as floor amendments is inaccurate to say the least. They were brought to the committee as an amendment, yes, but this is during the Second Regular Session, Second Special Session, when they were brought forward by a group of lake preservation people and who had significant interest in the state owned lands around those lakes and the preservation of the shore line, so these were brought in as a committee amendment, which to be sure was not a public hearing in the work session. We had about, I think, five work sessions on this bill, however, there was a public hearing on the bill and in the original bill, there was a prohibition on personal watercraft use in all the unorganized territories, which would have affected at least in part these bodies of water which lie partly in unorganized territory. The people that were affected by this prohibition did have the opportunity to appear at a public hearing at the initial hearing of the bill in the First Regular Session of the 118th Legislature. To say that this got no public hearing is a bit inaccurate and I would like to correct the record on that point.

Furthermore, one of the elements of LD 1730 of the 118th called for a fair amount of local control. It allowed municipalities to petition the Department of Inland Fisheries and Wildlife for surface water use enforcement and regulation and that came about as an amendment offered by the Representative from Penobscot, Representative Perkins, and people had a lot of questions about that at the time and as we have already seen, it was an excellent idea and it has worked very, very well. This week hopefully we'll be dealing with some of those recommendations from some of those municipalities that have come in later on. This component of it would allow those residents around Donnell and around Tunk to actually petition to allow jet skis to be on there. They have not done this. I would maintain that the legislation has worked fairly well. It will continue to work fairly well, and in terms of the statement by my good friend from Millinocket, Representative Clark, about the differences between the sea plane and the personal watercraft in terms of noise, the great complaint about personal watercraft has come from the sustained use in an isolated area of a personal watercraft for hours, not simply taking off and landing of a sea plane. I agree, sea planes are very, very noisy, but as he himself has said, five or ten minutes and then they are gone, whereas a personal watercraft in a cove may do circle, jumping, and wake jumping and moving around in an isolated area at times for hours and this is one of the major complaints that we received in the 118th Legislature about personal watercraft. I would urge you to accept the Majority Ought Not to Pass Report

and let's give this law a chance to work and allow these municipalities if they truly have a beef with what we have done to come back with recommendations to remove this prohibition. That's completely within their rights to do. Again, I urge you to vote to support the Majority of the Committee on this particular piece of legislation. Thank you.

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

Representative **PINKHAM**: Mr. Speaker, Men and Women of the House. Just to clarify a little bit on this, these ponds are in Hancock County. The initial public hearing on the Great Ponds Task Force was 242 ponds, bodies of water in the State of Maine. At the initial public hearing, these ponds were not mentioned, people didn't know that people lived on these ponds, they didn't come to the public hearing because they weren't on the list, so they had no concern. It was added on at the work sessions, a committee amendment, then it came to the floor. These three ponds that were added, like I said, two of them are in Hancock County, Donnell Pond and Tunk Lake, those two ponds are both class four lakes, which I'm not sure what the different classes are, but I understand that class four lakes are large bodies of water. Tunk pond is 2,010 acres and there's two jet skis on that body and that's the one with the sea plane on it. Donnell Pond is 11,020 acres and there's four jet skis on that pond, like I said, there was no public hearing here in Augusta on those ponds, but they did hold one after the fact in the Ellsworth area taking information. I went to that meeting and there was a couple of people that voiced their opinion for the ban but there was many, many more that used those two bodies of water that was concerned about the ban, plus the jet ski dealers in that area, of course concerned, because it's a living for some of them. At that hearing in Ellsworth after the hearing was over, I was approached by a couple of my constituents that own property on those ponds and some from other places in Hancock County, Mount Desert Island, for instance, there's several people down there that own camps up in that area that were very concerned about it. They expressed their concern by saying that most of them are working families and the only time that they have to have any kind of recreational time with their family and kids is to go to one of those ponds and use jet skis, so those two ponds, they're out of the way a little bit, they're not on Route One or a major highway, they're off the beaten path a little bit, so you don't get a lot of jet skis just stopping in and raising havoc on those ponds. There is an enforcement problem. Most of the things that they do on those ponds, when there's complaints, is against the law to do anyways, so it's more of an enforcement problem than it is a real jet ski problem. As far as I could tell there were not complaints from either one of those ponds to the state of a jet ski problem. There may be now that this bill has come out, but before this bill came out there was no complaints of any problems on either one of those bodies of water of any problems with jet skis. Thanks.

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

Representative **CHICK**: Mr. Speaker, Ladies and Gentlemen of the House. I noted here by some of the previous speakers that self evaluation usually receives a high score, however, I believe all the ingredients for this situation that prevails about personal watercraft and local control exists on these two bodies of water and having served on that committee and voted on this subject in committee, I'd recommend that we follow the majority of the vote by the Committee. Thank you.

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

Representative **PINKHAM**: Mr. Speaker, Men and Women of the House. Just to add a little bit about the local control there. I understand if these bodies of water are surrounded by municipalities plus LURC property, both the state and municipalities would have to approve of whatever the petition wanted. They'd have to agree before a law could be passed by the Inland Fisheries and Wildlife. LURC has already reviewed this and said no on it, so a petition of that type would be kind of useless, because both bodies wouldn't be in agreement.

In December of last year, December 17, 1998, LURC held a meeting here in Augusta what the proposal was to add 47 more class four lakes to that ban. I attended that meeting and they voted at the meeting not to include those other 47 class four lakes because what their agreement was that there was no class four lakes under the original recommendation so they weren't about to add any class four lakes until more study could be done and then I pointed out to them what the amendment did, add the three class four lakes and I asked if they would consider taking those, Donnell Pond and Tunk Lake off the list and putting them with the other 47 that they was going to consider and let it go that way. They'd have their public hearings, everybody would know and do it that way, so they voted that day, the LURC Commission voted that day with me there to reconsider these Donnell Pond and Tunk Lake and the vote came out 3 to 3, so it didn't pass, so it does show that LURC is 50 percent unsure of whether the ban should be there or not. Thank you.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I'll be voting with my good friend from Millinocket, Representative Clark, to defeat this current motion, because I believe that there's a problem here the way jet skis have been stigmatized unfairly, actually personal watercraft is the correct term, as a vehicle, and instead of us properly legislating the behavior, which is causing the problem, and helping out the residents of these two ponds is the first step in getting some common sense back into the way we are passing laws regarding this problem.

I was talking with my father over the weekend and he'll be coming up shortly to spend his summer in Maine, from where he's retired in Florida and one activity I hope to enjoy again with my dad, is that he and I will ride the two personal watercraft that I own and go out in the lake as we have done in the past. I think people are forgetting what personal watercraft bring to our state, especially to our senior citizens, they are a remarkably effective vehicle for people to drive around on the water, people who will not ride boats are far more comfortable in these things. The problems that we're seeing are due to behavior, typically younger crowds, driving to excessively with the noise and the circling, I understand that, it bothers me also, but by passing a law that says if you drive this type of vehicle you are somehow creating a widespread problem that we need to prohibit is ineffective and in this particular case, I am very sympathetic to these people who I have not met, but I can sympathize with, were unaware that we were up here in Augusta deciding a fate for them, did not come before us to speak to their issue, because their lakes were not on the list. I do not have the time to make excess trips to Augusta, before getting elected anyway, just to see what might be discussed in a committee meeting somewhere, so they stayed home and all of a sudden the activity that they like to

pursue is being denied them. I don't think it is appropriate that we should say, that we should reverse this and say it is denied until you make an appeal to accept it. That's putting it backwards, that's not our place. If there is enough justification to deny these two ponds the use of these personal watercraft, that should be the subject of the legislation, that should be the public hearing. Let the people testify and rule on that, and in the mean time, there's an injustice here that we need to undo.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. When this bill passed, this provision at the time, really bothered me and I put myself in his shoes, and I think it was Representative Layton who was the one who was most upset, I think it affected his area, maybe these lakes were in his area, but I put myself in the shoes of the people up there and how would we like it if when we passed this legislation we'd set aside a couple of lakes that are in our towns and said we couldn't decide the way the rest of the towns were doing as far as setting up the water surface use of vehicles on them. I didn't think it was fair then, and I don't think it is fair now. Mr. Chair can I pose a question through the Chair.

The SPEAKER: The Representative may pose his question.

Representative **WATERHOUSE**: To any of the committee members, what was the prime reason we decided to not allow these people to go through the process that the rest of the state did? I understand that LURC wasn't a municipality, but these lakes were somewhat in a municipality, was that because primarily there was some state owned land involved?

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 Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. I'd like to try to answer the question if I could, the answer to the question is basically yes, there was a significant amount of state owned land. Some of it had been bought with private funds and been turned over to the state and it was felt that in order to best maintain and preserve the habitat, the shoreline zone, it might be best to regulate some of the surface water use in ways that it had not been regulated before and while there are only two residents that own jet skis on those bodies of water, there are a significant number of visitors who have brought jet skis in, or have rented them in the past and that's been where the bulk of the problem has come. So, to answer the Representative from Bridgton's question, yes. Thank you.

The SPEAKER: The Chair recognizes the Representative from Hodgton, Representative Sherman.

Representative **SHERMAN**: Mr. Speaker, Ladies and Gentlemen of the House. I, too, am one of those who didn't plan to rise on this, a phrase you hear quite often, but the good Representative who made the last comment around the private funds buying this land and then in effect regulating that land in some way, because they didn't think jet skis should be on there raises a red flag to me as we go forth on buying public lands. The other issue that Representative Pinkham mentioned was the public hearing and rather confused about what the public hearing was there and the Board itself voting 3 to 3, so it's like flipping a coin as to whether or not these should be allowed. I'm

supporting Representative Clark's position. Thank you, Mr. Speaker.

Representative BULL of Freeport **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 Penobscot, Representative Perkins.

Representative **PERKINS**: Mr. Speaker, Members of the House. Really, we're not debating jet skis, here or personal watercraft whether they're worse or better than landing or taking off of aircraft, but what we're talking about here is the process. We labored hard and got a process in place, that I think is working, most of us on the committee think it's working. I have to admit that these two ponds got a little short shrift in the last Legislature for some of the reasons that Representative Dunlap pointed out, but now that the system's in place, there is a system whereby they can appeal. They can petition LURC and the Commissioner of Fish and Wildlife, so the systems in place. What I'm afraid of is if we do now pass this exemption for these two lakes, then it's going to open the flood gates and it could weaken this very, I think a very, profound and well working system that we have.

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. 214**

**YEA** - Andrews, Bagley, Baker, Bolduc, Bouffard, Bowles, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Chick, Chizmar, Colwell, Cote, Cowger, Davidson, Davis, Desmond, Dudley, Dunlap, Duplessie, Etnier, Frechette, Fuller, Gagne, Gagnon, Gooley, Green, Hatch, Honey, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Lindahl, Lovett, Madore, Mailhot, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, Mitchell, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien LL, O'Neil, Peavey, Perkins, Pieh, Povich, Powers, Quint, Richard, Richardson J, Samson, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Sirois, Skoglund, Stevens, Sullivan, Thompson, Townsend, Tripp, True, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

**NAY** - Ahearn, Belanger, Berry DP, Berry RL, Bragdon, Buck, Cameron, Campbell, Carr, Cianchette, Clark, Clough, Collins, Cross, Daigle, Duncan, Fisher, Foster, Gerry, Gillis, Glynn, Goodwin, Heidrich, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, MacDougall, Mack, McKenney, McNeil, Mendros, Murphy E, O'Neal, Perry, Pinkham, Plowman, Richardson E, Rines, Rosen, Sanborn, Savage C, Sherman, Shields, Shorey, Snowe-Mello, Stanley, Stanwood, Stedman, Tessier, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor.

**ABSENT** - Dugay, Lemont, Martin, O'Brien JA, Tuttle.

Yes, 85; No, 61; Absent, 5; Excused, 0.

85 having voted in the affirmative and 61 voted in the negative, with 5 being absent, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

**SENATE REPORT - Ought to Pass as Amended by Committee Amendment "A" (S-250) - Committee on INLAND FISHERIES AND WILDLIFE on Bill "An Act to Amend Maine's Boating Laws Pertaining to Noise Limits on Watercraft"**

(S.P. 240) (L.D. 662)

**TABLED** - May 12, 1999 (Till Later Today) by Representative DUNLAP of Old Town.

**PENDING - ACCEPTANCE OF COMMITTEE REPORT.**

Subsequently, the Committee Report was **ACCEPTED**. The Bill was **READ ONCE**. **Committee Amendment "A" (S-250)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Tuesday, May 18, 1999.

**HOUSE DIVIDED REPORT - Majority (9) Ought Not to Pass - Minority (4) Ought to Pass as Amended by Committee Amendment "A" (H-478) - Committee on JUDICIARY 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)

**TABLED** - May 12, 1999 (Till Later Today) by Representative BULL of Freeport.

**PENDING** - Motion of Representative THOMPSON of Naples 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 is a very straight forward simple bill. It proposes testing of all our adult prisoners in our correctional system for hepatitis and HIV. This is not currently being done. It's a health issue. I don't think it is a partisan issue, unless we can figure out which party has the most inmates. The documented facts are that prisoners are six times more likely to have HIV than the general population. Now the Center for Disease Control and the National Justice Academy went together and made a study and they found that 20 percent or more of the prisoners are also infected with hepatitis C, they also found that the northeast quadrant of this country had a greater incidence of infected prisoners than any other part. The federal prisons have had mandatory HIV testing for all prisoners on admission and upon release and three state prison systems also do the same. Eighteen state prison systems test only on admission. The Attorney General has instructed the federal prison system that if a prisoner refers that he will be assisted. Hepatitis B along with another note is also transmitted similarly to HIV and is actually more infectious. Rape and needle induced disease in prisons is not unknown. This bill proposes that all the prisoners will be checked on admission for all three diseases Hepatitis B, Hepatitis C, and HIV and prior to discharge check again for HIV. These diseases cannot be treated unless we know who has them. This program will initiate treatment and education about these diseases, which are apparently rampant through our prison systems. Upon discharge our prisoners will tend to return to their old habits and practices. Perhaps with some treatment and education, this can be lessened. Our *correctional system in* Maine houses between 1,600 and 1,700 adult prisoners at any one time. Each year roughly 700 are discharged and admitted. Now it is up to us to decide whether or not they're going to be sent out in society with knowledge and treatment or without knowledge and treatment. Our correctional system does a general health screening test on admission, but these tests do not identify HIV or Hepatitis.

The fiscal note attached to this bill is exorbitant, it is based on the corrections system calculation of the costs of these tests. I think they must shop retail rather than wholesale and they must go to Sak's Fifth Avenue or Nieman Marcus. They calculated the three tests to cost \$150 per person, plus expenses for



counseling time. A few calls to a central Maine area medical facility showed that when you do a large number of these tests, you can usually get them for \$50 or less per person. That would put the total cost down to \$160,000 for the first year and \$60,000 per year thereafter.

Now the Arm Forces require HIV testing on all recruits and their bulk rate is \$3.00 for an HIV test, so ladies and gentlemen the data is present. Shall we take responsible action or shall we put on our blinders, put our head in a hole and hope all these goes away? It's our responsibility. Thank you.

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

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. I would ask that you join with me in voting for the Ought Not to Pass Report. It still was not presented to the Committee, or I don't believe on the debate here, why should we test them, for what purpose? Who are we protecting? In the United States there's never been a jail guard that's been found to have contracted HIV from a prisoner. Who are we protecting? What public policy does it further to test everyone? We're going to test them just because they are prisoners and we can do it. We can't use the information. We can't publicize the information, so what is the purpose of testing. Should we test people who could be infected with HIV and have a negative test result and give them a sense of security that I don't have HIV.

It depends on your starting point, I guess, you look at people and say should we test them, should we make it mandatory testing. Most people would say, that's easy, no. Then we say now they're prisoners in the correctional system and we should test them all. Well, personally I don't agree with that. Right now the prisoners undergo routine physicals when they are admitted, they're screened for all of their vital signs and all of that, and if there is any indications that they may have some type of disease, they are given the appropriate testing and treatment. So instead we're going to spend a half million dollars, that's the fiscal note on this bill, to test all the prisoners in the correctional system. I don't see the need, nor do I understand the public policy behind it and I would ask that you vote Ought Not to Pass.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. The good Representative from Naples asks what's the purpose of doing this? Is it because people are in prison and we can do it, I would say, no, that's not the reason we should be doing it. We should be doing it to protect the inmates who are in a confined area and in a population who has been statistically known to have a very high incidence of HIV. These people, it's for the very opposite reason we should be doing this, it's not because we can do it, it's because we probably should, because these people cannot leave the situation that they are in. They're stuck in that situation. The Representative from Auburn is correct. The federal prison system has such a testing, 15 state prison systems have an entrance testing upon admissions for HIV, 23 states test prisoners for HIV when they're involved in an incident.

The other reason we should be doing it is because some prisoners have echoed calls for mandatory testing, since 1988 HIV negative prisoners in Arkansas, Indiana, Maryland, Pennsylvania, and Tennessee have filed suits charging that the absence of mandatory testing and segregation of infected inmates constitutes civil rights violations under federal law

because they place non-infected inmates at risk from contracting the disease while in prison. I would dare say that that might drift up in this area. You could call this a preempted measure to decrease possible litigation in those areas, but my prime reason for doing it and I hope you will oppose the pending motion. The primary reason for doing it is because these people are in a situation they can't get out of and we should make sure the spread of AIDs or HIV is restricted and protect the people who are not infected in those situations. Thank you.

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

Representative **MCALLEVEY**: Mr. Speaker, Ladies and Gentlemen of the House. The question was asked earlier about who do we protect. I think we protect the inmate who may be potentially ill. It's interesting that when they come in, we screen them for heart trouble and if they have heart trouble we prescribe, of course they have a right to refuse treatment, but in most cases they accept medical treatment. They accept medicine for this. If they're diabetic, 30 percent of the population of the United States is diabetic and doesn't even know it. That means 30 of us in this room could be type two diabetics and not even know it. It's for their health. When you screen people for non-contagious diseases upon admission, you provide medical care for them, but to turn your back on contagious diseases, especially in a closed security system, I think, is irresponsible.

Set aside the HIV discussion and debate dealing with confidentiality, how many people should know, should be the unfortunate individual who might test positive plus the medical people who may provide treatment for them. Dollars and cents, it makes more sense now to find out who's got what and to treat them, especially when it comes to hepatitis. What are we going to do if we have a virulent outbreak of hepatitis at one of our prisons. You want to believe someone will file a lawsuit at some point and we'll be under a federal consent decree to separate these people, temporarily until the disease could be controlled, but here's the issue. We screen for most other illnesses and we provide medical treatment. The inmate has the right to accept or deny that treatment, but we have two potentially contagious diseases and I'm more concerned about the hepatitis. We don't want to screen them, because we don't want to know. That's irresponsible, our duty to these inmates is care, custody and control. We're controlling them, but we don't want to know about potential illnesses they might have, because, gee, we might have to do something to help them. I think it's our responsibility to require that these people be screened. I think because they are in a closed security area, we have to be even more diligent about protecting their rights of confidentiality, especially when it comes to HIV. But whether you like it or not, people in prison have sex. A person who goes in should come out healthier, or just as healthy as they were when they went in and not be exposed to a potential environment where they could become seriously ill. I think the threat that's posed by hepatitis is much more greater than anything else, because that's so easily transmitted. Thank you.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Bull.

Representative **BULL**: Mr. Speaker, Men and Women of the House. I rise in support of the pending motion. Briefly for me the issue here is that the good Representative from Waterboro, Representative McAlevey, mentioned that they should have the right to be tested when they go into these prisons. That already exists, if a prisoner goes into the system and wants to get

screened, wants to have a test, they can request that. The problem here is again getting back to the whole issue of confidentiality and also I feel that the bill is fundamentally flawed in that it requires the testing, but then has nothing in terms of follow up. There's nothing in here about counseling. There's nothing in here about what do we do with the prisoners who do test positive. It was mentioned that there is problems with sex in prisons, so are we suggesting that all those who test positive should be quarantined and sanctioned away from the general prison population. Some of you may support that, but I'm not sure we have the facilities to do that right now, so we need to look at this in the big picture and find out, okay we test these prisoners for these diseases, but what do we do after they might test positive. Again, the test is not always accurate. Someone can be tested but will not show up positive, so we haven't necessarily done anything to decrease the risk of transmission in prison. I just want you to think about this issue and what we are planning to do here. What is the ultimate goal here, because this bill doesn't do it. All this bill does is require testing, there's nothing after that, no follow up whatsoever. I urge you to support the pending motion. Thank you.

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. First of all, state law says if you are going to do a HIV test, there must be informed consent and there must be counseling. These tests will not be done in a vacuum. Second of all, morality says that if someone tests positive the State of Maine who has a prisoner incarcerated with this disease must provide treatment, so therefore I do not buy the argument that there is nothing that follows an HIV treatment. Second of all, we have a population that's six times more likely to have AIDs than the general population and when AIDs is the cause of 34 percent of all inmate deaths, you ought to be thinking about what's going on. When you talk about female inmates having a higher percentage of infection than male inmates and that is clustered in the east, I'm concerned. When we talk about that most inmates will return to the community where they may place themselves and others in danger, then testing and treatment becomes very important. We're talking about a population of people who probably didn't have a regular doctor before they came in to the prison system and are having one of their first physicals. Inmates who are tested never had a clue that they were infected, when they were found to be positive.

The other thing that helps us with testing the population is called discharge planning. Discharge planning used to be \$20 and a bus ticket. Good luck. Someone with HIV or someone who has progressed from HIV to AIDs needs better discharge planning than the State of Maine can offer at this point. Let me tell you a few of the arguments that were used against this bill that were not brought up. Other states that mandate testing of all prisoners have seen the necessity of extensive prerelease planning for infected inmates. Helping them to practice safe behaviors, take their medications correctly, and receive needed services after they are released. Goodness knows, we wouldn't want to encourage that. Another argument against this, if we pass this bill, it will multiply by an unknown factor the types and amounts of liability this state would face as a consequence of knowing that people in its custody are HIV positive. Goodness knows we wouldn't want to subject ourselves to more state liability by knowing what's going on in our prison systems. If that's the best arguments we can come up with for not testing,

that we want to see no evil, hear no evil, speak no evil, then please support the pending motion, but if you want to talk about identifying, treating, and helping inmates as they are released back into the population with a disease that will kill them and others then I ask you to vote against this motion. Thank you.

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

Representative **SAXL**: Mr. Speaker, May I pose a series of questions through the Chair?

The SPEAKER: The Representative may pose his questions.

Representative **SAXL**: Mr. Speaker, Men and Women of the House. First, is this a new program? Second, is there a fiscal note on this? Third, does the Department of Corrections itself support this testing program?

The SPEAKER: The Representative from Portland, Representative Saxl has posed a series of questions through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Waterboro, Representative McAlevey.

Representative **MCALLEVEY**: Mr. Speaker, Men and Women of the House. I'll try to answer the good Representative's questions. I don't believe the Department does support it, because of the cost. They are trying to do everything they can now to provide the best service with the limited resources they now have.

Secondly, there is a fiscal note. The Representative from Freeport, Representative Bull brings up a very, very good question that the bill doesn't deal with the medical side of it. I want to assure you that you don't need legislation to dictate medical protocol. People in our prisons get the same medical treatment that you and I get elsewhere, except there is usually a house call by a doctor, rather than going to an emergency room. You have a disease that's articulated, certified by a test, than there are certain medical protocols that are followed. You don't lose those medical protocols, nor do you lose access to the right to good medical treatment just because you are locked up. I don't think we need to specify that in the bill.

We have a Community Corrections Act that we instituted last year, which means no longer will an inmate when they're released on the last day, walk out the front door and the first decision is, do I go north or south on Route 1. The Community Corrections Act eases them back into the community so that we can try to get a wrap around system and this is in partnership with mental health, substance abuse, so that we can keep people from coming back in by keeping them connected once they get released. Whether it's mental health issues, or alcohol or drug use, keep them connected in a program in an out patient basis type thing. That would, I would imagine, be implacable here if an individual was unfortunate enough to be diagnosed with a disease. If those arrangements would be made for a person to follow up. Yes, for the first time in their lives, most of these people who come into prison, and I'm talking about the frequent flyers, who spend a career living in jails for many years before they finally make it to prison, this is the first time in their life they've seen a dentist. It's the first time in their life they've seen as an adult a doctor, so they need to adapt mental health, they need to adapt a whole new attitude about themselves, about getting medical treatment. Yes, it is very, very expensive, but it's our duty to provide for that care. Thank you.

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



Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I find it very ironic that we will pass legislation mandating helmets for children to protect against possible injuries and death, but yet we have a disease if contracted is incurable and can result in death and we are reluctant in protecting our society from it. Think about this, we need to do these tests for the protection of our inmates and citizens. In this case, confidentiality in this arena can be deadly, please vote against the pending motion. Thank you.

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

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. Reluctant to protect the other inmates and society, once we have these test results, how do we do that? We're going to spread the word around the prison who has been tested positive, we've going to spread it out to the world whose been tested positive. Maybe we'll do some notices like we do for pedophiles when they're released. Why not? There are people here that would do that, there are people here that say, if you have HIV your name should be able to be put in the newspaper. Tell the world that guy has HIV. Tell the world that woman has HIV. If we go in there, a lot of people are in for a lot of trouble. You can't protect the other inmates with the information unless you can give it to the other inmates and you can't do that. You can't protect society, if society isn't given the information and you can't do that under current law either. So how do you protect them? Do you have some of them tested that say I'm not infected and they go around telling people they're not infected and yet they are infected because there's a time delay often in when the test will show they're infected. We're going to grab all the intravenous drug users that we know of and make them get tested, whether they are in the prisons or not, because they're a higher risk than the people in the prisons. Are we going to take all the homosexuals, test them all, they have a higher rate than the general population? Where are we going with this folks? I would ask that you think about that before you vote on this issue. Thank you.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I think my voting record and my debates countless times really speaks to my libertarian beliefs, my beliefs in individual freedom and government not interfering, but I want to bring a few points up to everybody. Right now we test, right now to get into a university a person needs to have measles tests to go to one of our university systems, and you can't go and you can't be around other students if you haven't had a measles vaccine. Now a lot fewer people die of measles than die of HIV, but we're doing that to our college students. I urge you to vote against the pending motion. People would say who cares about the criminals? They go to jail, lock them up and throw away the key. I don't believe that, I'm an optimist and I believe people can be rehabilitated and they can get out and they can become good members of society, some people just make a mistake. That's what we're looking at, down the road we're going to be looking at a potential death penalty. We might be voting on bringing the death penalty back to the State of Maine. Well, let me tell you, we're passing a death penalty right now if we're too cheap and irresponsible to test our prisoners to find out if they have HIV and if they will be giving it to other prisoners. That's what we're doing and it's not just multi-murderers, it's anybody who gets into the prison system. We're

giving them the potential risk for a death penalty, because we don't want to spend the money, we're too irresponsible to look out for these people. These are people that are going to get out and I pray and I'm sure all the rest of us believe will get out and be responsible members of society again. Let's not put them at that risk.

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. I'd like to respond to some points raised by my good Chair, with all due respect. Where are we going with this bill? We're going into the prison to test. Who do we want to protect? The prisoner who is not aware that they may have HIV. Will they be relying on a test, not if the counseling is done correctly they'll know they are suppose to have another test. They'll understand with the counseling what brings them to the point where they would not be, faith. None of this bill, this bill does not do anything that the Chair said might happen. He didn't use the word slippery slope, but it was implied. We're not going there, we're saying test our current population. Find out who they are, educate them, treat them so when they are released they are healthier, they're safer and they're more able to deal with what's going on. The testing is not to be shared among prisoners. This is not to protect the guards, this is not to protect workers at the prison. This is to say if you're coming into a system where the people around you are six times more likely to be infected then wouldn't you want to know, wouldn't you want to start the treatment as soon as possible. Wouldn't you want to know you're entitled to another test? Wouldn't you want to just be safer? So we can use scare tactics, which is usually what happens when you talk about testing for HIV, or you can think on the safety side. I prefer to think that we're looking on the safety side. Thank you.

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

Representative **QUINT**: Mr. Speaker, Men and Women of the House. I rise to encourage you to support the pending motion. One of the things that we haven't talked anything about today is we talk about the safety of those people once they discover that they have HIV, but what we haven't talked a lot about today is protecting the safety of those who don't have HIV or any of those other forms of disease that they will be testing for. What's not in the bill is required education and prevention and as we all know the only way to prevent the spread of HIV or any of these diseases is through safe sex. Now what we heard in testimony before is that sex is occurring in our prisons and if that continues to be the trend and people are not practicing safe sex and having sex inappropriately, this bill does absolutely nothing to discourage the transmission of any of those diseases in our prisons, so if any of you think that this bill is going to reduce the incidence of HIV or any of these illnesses in our prisons, you are incorrect and as far as I know none of our prisons distribute condoms and as you all know the only sort of real true method of safe sex is with the use of condoms. So until the state and the Department of Corrections and we believe as a Legislature that we're going to distribute condoms to every and all of our prisoners in order to prevent the transmission of HIV, then this bill will do nothing. I would encourage you to support the current motion.

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

Representative **MUSE**: Mr. Speaker, Men and Women of the House. I think that a lot of the members here are relying on a television mentality that we all grew up on watching movies and shows about prisons and these evil and bad inmates banging metal cuffs on the bars and that sex is running rampant in our correctional systems and if you go to jail you're going to get raped and this will happen and quite frankly, men and women of the House, having spent 22 years working in the corrections system. It is not the case. That is not the case here in the State of Maine. The statistics that are being kicked around in this room are statistics from a national average. When you start talking about Miami Dade and you start talking about Los Angeles County, yes there rates are high and they certainly go a long way in inflating the numbers that we're hearing here. If we want to get to the heart of the HIV population here in the State of Maine it's a fact that the fastest growing HIV population in the State of Maine are young heterosexual women, girls, that's the fastest growing HIV population in the State of Maine, not prisoners. I would strongly urge us to accept the motion. Thank you, Mr. Speaker.

Representative **STEDMAN** of Hartland **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 Auburn, Representative Shields.

Representative **SHIELDS**: Mr. Speaker, Men and Women of the House. One of the factors that needs to be considered again is that 700 or so of these people are being discharged into society every year. If they are counseled about their disease and under treatment that's the best we are going to do, they are going to be followed up like anybody else is when they have HIV or hepatitis and have treatment. Now this bill does not cover every ramification of disease in prison, but the laws are very clear that when you have a HIV test it will be confidential and you will be counseled and the prison health system has insisted on that. Thank you.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. A brief comment on some of the things that my good chair mentioned earlier, it's very emotional sometimes and I think we fall into the trap of throwing up emotional situations when we are dealing with life and death. Rather we would be releasing information on HIV for women and men in the homosexual community. I think basically it comes down to a basic health issue and a deadly disease that we are trying to prevent from spreading and from those that have it trying to give them what they need to cope with that, whether it is medication or counseling, whatever. One of the speakers also said that this legislation doesn't do the thing necessary as far as promoting safe sex, I would dare say that we don't create legislation to educate people in the prison system about that, I would think that would be prison policy, if it isn't it certainly should be. We don't need legislation for that. The other comment that was made by a previous speaker was that we could teach safe sex by distributing condoms, I'm not sure but in my reading of some of the literature of the HIV virus, it's too small for that to be a real safe mechanism for safe sex and anybody who believes that is putting themselves at risk also. The basic thing we have to decide, ladies and gentlemen, is we

have a federal system that's doing it, we have 23 other states that are doing it in some form or another, should we do it for our inmates, who probably want it done. Would you want somebody in your family, God forbid they were imprisoned, to be exposed to this unnecessarily, if it can be prevented. I'm sure that we can come up with a way of doing that safely for everybody concerned in the prison system, to protect everybody from this scourge health issue, something that kills people.

The **SPEAKER**: The Chair recognizes the Representative from Bangor, Representative Baker.

Representative **BAKER**: Mr. Speaker, Men and Women of the House. Should our incarcerated citizens be tested for HIV, hepatitis B, hepatitis C, I believe so. Incarcerated offenders are six times more likely to carry the HIV virus than the general population. In Maine 700 offenders are released each year. Inmates who carry these viruses in prison deserve treatment for the sake of their health and for the protection of others inside and outside prison. To know about the disproportionate rate of likely HIV carriers in prison and yet do nothing is tantamount to a mandatory death sentence for those who unknowingly carry and those who receive. Testing in a controlled population is essential and treatment for those who test positive is essential.

We know that rape is a serious problem in prison. We cannot prevent it. A new \$63 million facility may help by relieving double bunking, but it will not stop in prison rape, nor will it stop in prison sex, nor will it stop drug or needles getting in. If one case of AIDS is transmitted in prison, just as if one case of rape occurs in prison that one case is too much. I'm told that passage of this bill will put HIV carriers at risk because they will be killed by their fellow inmates or by the guards. If this is true, I'd say we need to educate the inmates, they are, after all, a captive population ripe for education and we need to change the guards. To do less is irresponsible.

What about the prisoner to whom AIDS may be transmitted, is he not at risk and has she no rights. I've been cautioned that this is a slippery slope, if one group can be singled out for testing other groups will follow. Yes, AIDS has carried with it a terrible stigma and although we have made advances in this area those advances are not enough, but I also know that we don't remove the stigma by remaining silent and fearful. Fear and ignorance are the ultimate oppressors and silent allows both fear and ignorance to flourish. We know this because of the stigma once associated with cancer.

I, myself, have been tested for AIDS at a public health clinic, because of a blood transfusion I received in a hospital. I believe this simple procedure should be routine for any of our population who are at risk. Some say this is not a good bill because it lacks a follow up plan, in other words what will we do with the prisoners who test positive. My answer is, first we begin treatment, as for the next step, if we can get to the moon, we can figure this out. If we can spend \$63 million on a new prison, we can set aside some money for education and treatment.

I understand the Department of Corrections is against this bill, I'm waiting for the DOC to show real leadership in instituting treatment programs for incarcerated substance abuse offenders and sex offenders, and to institute literacy programs, coupled with educational and vocational offerings so that when offenders leave prison they can enter the legal workforce and start paying into the tax base. I have no interest in supporting a prison industrial complex that fails to meet the serious needs of its inmates and thereby the needs of the general population who is

footing the bill to the tune of \$30,000 a year for the general offender and \$50,000 for the offender in maximum security.

One other reason compels me to support this bill, sometimes in this body we are moved to speak and support a cause because of our deep down personal knowledge. This issue hit tragically close to home for me in 1996 after my daughter and two other women in her DC neighborhood were raped by a young man who had been out of prison only one month. These women were forced into repeated testing for HIV because of this young man's criminal acts. It was a full six months before we knew that the rapist had not transmitted the AIDS virus to my daughter and to her nursing infant. HIV testing for these victims was not a choice. Not all victims outside prison are so fortunate. Not all victims within prison are so fortunate either. One case of AIDS transmitted in the general population is too much. One case of AIDS transmitted in prison is too much. Please support in prison testing for the viruses indicated in this bill. Thank you.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House. I would urge you to vote against the prevailing motion so we can get to a very good bill. I'm sorry that a little farther back in the debate we began to hear about our votes or our feelings being based upon television or movies mentality.

Where I'm coming from on this is a personal vow to fight AIDS, not from watching TV, but spending the last two weeks of his life, my kid brother, at his bedside, as he died of AIDS. If you have ever looked in the face of the disease and passed that point of no return, you would fight every opportunity, every fiber in your body to prevent any other human being ever being inflicted with that scourge. Ten years ago there was no hope, you took treatment and died. Today, if you're identified the treatment begins and you can buy time. Someone dying from AIDS is hoping, reading the paper every day, that that following morning in the newspaper, they'll see a big headline that a cure has been found. Not just a vaccine, but a treatment, a life saver. The treatment now allows AIDS victims to continue to survive and extend that hope.

I cannot believe that there would be support in this House for a policy that shuts your eyes as someone moves into an institution that we have control to shut your eyes and pretend, and based upon that risk, that a killer disease is entering the walls of that institution. If you shut your eyes, you don't have to treat, you don't have to provide medical support. If you shut your eyes, you don't have to provide counseling. The cheap road is shut your eyes, don't test pretend it's not there.

There are questions that have risen from the good Chairman of the committee, that I can't answer, in terms of security, or what happens once you identify and those questions may have to come down the road, but we know that with this bill, if we get to this bill, we can identify and the individual that has been identified can seek treatment. You can't start the fight for your life unless you know you have the disease. I would predict that if we defeat this motion and get to the bill, we will see future costs, because we will finally become informed as to what is the need within those walls. If you want to continue to shut your eyes, and pretend there isn't a problem and allow people that are sentenced maybe five to ten, begin a death treatment or a death sentence because you haven't allowed that treatment to begin and you can't treat unless you identify, then I guess you probably ought to vote for the Ought Not to Pass, but if you want to reduce

family members and friends looking into the face of AIDS, I would suggest that we get to the Ought to Pass Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Farmingdale, Representative Watson.

Representative WATSON: Mr. Speaker, Men and Women of the House. I rise today in support of the Judiciary's Committee recommendation of Ought Not to Pass on LD 914. As some of you in this Chamber may know or remember, when I first came here in the 117th, I was on the Judiciary Committee and again in the 118th, so I had four years exposure and judicial experience around issues involving HIV and AIDS. In my personal life before I arrived here, as a legislator, I served as an active volunteer for Hospice of Kennebec Valley, specializing in spending time with families who were dealing with a loved one who was dying of AIDS. I've also, aside from that professional experience, and I considered it a professional job, I've had personal experiences with friends of mine who have died, and fortunately not a family member at this point in time. In listening to the testimonies today, and the rebuttals, by various members of this body, there are lots of things that have been said that I have agreed with wholeheartedly, and especially in regards to my colleague, Representative Baker. I was privileged to live through personally some of those experiences that she shared with me through her family's tragedy and I understand full well as a parent the agony that she went through, and I agree also with Representative Baker in all of the fine points that she made about what we should as a state, as a society, in caring for those who are perhaps inflicted with HIV and AIDS, but there are some I would adamantly disagree with in regards to what we do about this problem. Where we put our resources as a state, where it would be most useful to target those populations that can and should have all the knowledge at their disposal to protect themselves from not just HIV and AIDS, but all sexually transmitted diseases. I had the experience also of being appointed by Governor King in 1993 to the HIV AIDS Advisory Committee to the Department of Health and Human Services and in the few years that I served in that capacity, I was exposed to points of view by the large membership of that advisory committee and in particular those that were working with the Department of Corrections, as advocates, as educators, as physicians, as medical support people, for all those that were incarcerated in this state, whether it was at the state prison or at the county level. This state has addressed the issue of HIV AIDS and incarcerated populations. I do not like to dispute some comments that were made by the good Representative Murphy, but in fact the Corrections Department has not put their head in the sand, to my knowledge, in addressing the real needs of the inmates who are inflicted. With the resources that they have at hand, they are doing the best that they can and for this legislature to ask of the state and of the Corrections Department to spend those limited resources on a testing program, that to my mind has no beneficial purposes at all, I cannot support that. I will continue to support and fight for increased education and awareness with all populations in the State of Maine, and in particular, because I was representing the National Organization for Women, when Governor Angus King appointed me to the advisory committee. I will continue to fight for that population that you heard today was the most at risk at this point in time, the young woman of the State of Maine. Thank you.

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

now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative **MCALVEY**: Mr. Speaker, Ladies and Gentlemen of the House. Briefly, a person doesn't give up their right of confidentiality when they go into a correctional institution. You can't treat a person, you can't provide them programming, you can't provide them counseling, if you don't know they are ill. The last comment I will say on this issue is this, by accepting the Majority Ought Not to Pass, you are by implication enacting a death penalty in the State of Maine, because people who go in who are ill and don't know it and who are denied that opportunity to be screened for that, yes, they can be protected and it's not going to be a tell the world and post everything even though some members may wish to have that happen. An inmate doesn't lose their responsibility or their rights of confidentiality, but if you don't screen them, especially the people that may be ill, and are going in for five, to six, to seven years, you're sentencing them to death, so you're enacting by implication a death penalty.

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

Representative **FULLER**: Mr. Speaker, Ladies and Gentlemen of the House. You've all heard all the data and the information that has been shared with you, I just want to add one comment. What hasn't been addressed is the importance of follow up for somebody, if they find that they are positive for either HIV or hepatitis B, or C, but one of the public health measures that has dealt with the spread of these kinds of communicable diseases is follow up of contacts. When somebody goes into the prison, they turn out they are positive for either of these things and they weren't aware of it before, it gives the people who are working with them, health professionals, who respect confidentiality an opportunity to alert people that they may have exposed previously to know that they need to be followed up and tested and receive treatment if they too are positive. The same applies when somebody is released from a correctional facility that if they were positive upon release and using the example of Representative Baker's daughter, then they know then and there if they get into trouble again, that they need to follow up on that with the contact. Thank you.

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

Representative **TOBIN**: Mr. Speaker, Ladies and Gentlemen of the House. My wife has been an operating room nurse for over 22 years. Somewhat like a prison guard, she has been responsible for those patients that were being operated on, on the table, in the operating room, with latex gloves on. Three times in the last 12 years, twice she was stabbed with a needle, once she was cut with a scalpel, on all three occasions she had to undergo testing for AIDS and only once of the three times was the patient willing to take the blood test to let her know, and her family know what she had been exposed to. You can get AIDS without having sex, ladies and gentlemen. I ask you to vote against the pending motion. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Southwest Harbor, Representative Stanwood.

Representative **STANWOOD**: Mr. Speaker, Men and Women of the House. I've heard a lot of testimony and I can subscribe to some of it. It's easy to do the mandatory testing, but I doubt if you can mandate treatment. You can't, it's against the law. People have a right to refuse medical treatment and I don't think this body or any other body can mandate that they take

those handfuls of pills if they chose not to. This is a civil rights thing, the way to combat this as we have been doing, and fairly successful is more training, more training, more training and get people to do what is right. It's not mandatory testing because you can't follow it up with mandatory treatment. Thank you very much.

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

Representative **TRAHAN**: Mr. Speaker, Men and Women of the House. First to say that it's not beneficial to have the knowledge, I think is quite irresponsible. I would like to also address something that Representative Thompson said earlier. I suggest to you that it's not what we will do with the information, but what the inmate will do with the information. If we do this testing and an inmate, I think it's irresponsible on our part to suggest that that inmate will do nothing with that information. If that inmate uses that information to restrict his contact with other people, than that will have saved a life and to me that's an important thing to do. I suggest that we all vote against this pending motion and do what is right for the citizens of our state. 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. 215**

**YEA** - Berry RL, Bolduc, Bouffard, Brennan, Bryant, Bull, Bumps, Chizmar, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dunlap, Duplessie, Etnier, Fisher, Frechette, Gagne, Gagnon, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Mailhot, McDonough, McGlocklin, Mitchell, Muse, Norbert, O'Brien LL, O'Neal, O'Neil, Peavey, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Savage W, Saxl JW, Saxl MV, Shiah, Stanley, Stanwood, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, Twomey, Usher, Volenik, Watson, Williams, Mr. Speaker.

**NAY** - Ahearne, Andrews, Bagley, Baker, Belanger, Berry DP, Bowles, Bragdon, Brooks, Bruno, Buck, Cameron, Campbell, Carr, Chick, Cianchette, Clough, Collins, Cross, Daigle, Davis, Dugay, Duncan, Foster, Fuller, Gerry, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, Lindahl, Lovett, MacDougall, Mack, Madore, Martin, Marvin, Matthews, Mayo, McAlevey, McKee, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, Perkins, Pinkham, Plowman, Richardson E, Rosen, Sanborn, Savage C, Schneider, Sherman, Shields, Shorey, Sirois, Skoglund, Snowe-Mello, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor.

**ABSENT** - Clark, Goodwin, Lemont, Stevens, Tuttle.

Yes, 65; No, 81; Absent, 5; Excused, 0.

65 having voted in the affirmative and 81 voted in the negative, with 5 being absent, the Majority **Ought Not to Pass** Report was **NOT ACCEPTED**.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-478)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Tuesday, May 18, 1999.

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

**ORDERS**

On motion of Representative DUNLAP of Old Town, the following Joint Order: (H.P. 1585)

ORDERED, the Senate concurring, that the Joint Standing Committee on Inland Fisheries and Wildlife report out, to the House, a bill implementing the recommendations of the Department of Inland Fisheries and Wildlife regarding surface use on great ponds.

**READ and PASSED.**

Sent for concurrence.

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

**ENACTORS**

**Emergency Measure**

An Act Concerning the Review of State Solid Waste Management Policies

(S.P. 391) (L.D. 1170)  
(C. "A" S-185; H. "A" H-550)

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. 123 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 Mandate**

Resolve, Authorizing the Knox County Commissioners to Borrow Not More than \$1,000,000 for Construction or Renovation of a District Court and Office Areas in Knox County

(H.P. 703) (L.D. 970)  
(H. "A" H-569 to C. "A" H-407)

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. 128 voted in favor of the same and 3 against, and accordingly the Mandate was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

**Acts**

An Act to Amend the Local Highway Laws

(S.P. 418) (L.D. 1207)  
(C. "A" S-169; H. "A" H-573)

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, Regarding the Conveyance of a Right-of-way Across the Elizabeth Levinson Center in Bangor

(S.P. 620) (L.D. 1785)  
(H. "A" H-556 to C. "A" S-160)

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 to Create a Bicycle Safety Education Act

(H.P. 1096) (L.D. 1543)  
(C. "A" H-378)

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

On motion of Representative TRACY of Rome, was **SET ASIDE.**

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

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

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

**ROLL CALL NO. 216**

YEA - Ahearne, Andrews, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Brennan, Brooks, Bruno, Bryant, Buck, Bull, Bumps, Cameron, Chick, Chizmar, Clark, Cote, Cowger, Cross, Daigle, Davidson, Davis, Desmond, Dudley, Duncan, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagnon, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jacobs, Jodrey, Jones, Kane, Kneeland, Labrecque, LaVerdiere, Lemoine, Lovett, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McNeil, Mitchell, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Perry, Pieh, Pinkham, Povich, Powers, Quint, Richard, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Shields, Sirois, Skoglund, Snowe-Mello, Stanley, Stanwood, Stevens, Sullivan, Thompson, Tobin D, Tobin J, Townsend, Tripp, True, Twomey, Usher, Volenik, Watson, Weston, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Campbell, Carr, Cianchette, Clough, Collins, Foster, Gagne, Gerry, Gillis, Glynn, Heidrich, Joy, Kasprzak, Lindahl, MacDougall, Mack, McKenney, Mendros, Perkins, Plowman, Richardson E, Sherman, Shorey, Stedman, Tracy, Trahan, Treadwell, Waterhouse, Wheeler EM.

**ABSENT** - Colwell, Dugay, Lemont, Murphy E, Tessier, Tuttle.

Yes, 116; No, 29; Absent, 6; Excused, 0.

116 having voted in the affirmative and 29 voted in the negative, with 6 being absent, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**ORDERS**

On motion of Representative GAGNON of Waterville, the following Joint Order: (H.P. 1584)

ORDERED, the Senate concurring, that the Joint Standing Committee on Taxation report out a bill to provide assistance for the City of Westbrook for education funding for fiscal year 1999-00 calculated to reflect the reduced valuation of the Sappi Plant at \$140,000,000.

**READ and PASSED.**

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:

**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 (7) Ought Not to Pass - Minority (6) Ought to Pass as Amended by Committee Amendment "A" (H-479) - Committee on JUDICIARY on Bill "An Act to Amend the Freedom of Access Laws"**

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

**TABLED - May 12, 1999 (Till Later Today) by Representative BULL of Freeport.**

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

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

**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 12, 1999 (Till Later Today) by Representative KANE of Saco.**

**PENDING - FURTHER CONSIDERATION.**

Subsequently, the House voted to **RECEDE AND CONCUR**.

**SENATE DIVIDED REPORT - Majority (8) Ought to Pass as Amended by Committee Amendment "A" (S-217) - Minority (5) Ought Not to Pass - Committee on LABOR on Bill "An Act to Amend Maine's Family and Medical Leave Law"**

(S.P. 511) (L.D. 1512)

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

**TABLED - May 12, 1999 (Till Later Today) by Representative HATCH of Skowhegan.**

**PENDING - Motion of same Representative to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report. (Roll Call Ordered)**

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

**Representative TREADWELL**: Mr. Speaker, Men and Women of the House. Before we vote on this bill, I would like to remind the members of the House that the Family Medical Leave Act, the federal base for businesses that must comply with the Act is 50 employees. The State of Maine had a limit of 25 employees until the last Legislature where it was lowered to 15 employees. The expansion of the Family Medical Leave Act that would occur with this bill is going to be difficult at the very best for small employers, small companies to lose the services of

those people who invoked the Family Medical Leave Act. I would submit to you that we're seeing businesses leave our state now and if we continue passing these labor bills that make doing business in Maine harder and harder all the time, we're going to see more of these jobs leaving the state and I don't think we can afford that personally. I would urge you to vote against the Ought to Pass motion.

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

**Representative HATCH**: Mr. Speaker, Ladies and Gentlemen of the House. Yes, we do have a Family Medical Leave Act here in the state and yes, I'm sure that there are a lot of people out there that are currently using it. This bill, as presented, would allow people to take time off for their child's medical and dental appointments and to attend a parent teacher's conference. I don't know how many families in the state are currently two parent working families, but I also know that they have to balance the well being of their families and their jobs. If you accept this report, I do have an amendment that will be coming up that will limit that time to 24 hour period in a year's time to be taken in increments of one or two hours when needed. I don't know of anything that would be any worse than working and knowing that you couldn't take your child to the dentist and they had a toothache, and maybe your child care provider doesn't even have a car so they can't get them there. I urge you, and I encourage you, this is a family bill, it's pertaining to family ideals and values to let people out there make a decision to keep their jobs and also be able to attend to their family needs. I thank you and I ask for your support.

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 defeat this bill. We already have one of the most costly family and medical leave laws in the nation. As the Right Honorable Representative from Carmel had said, the federal limit for family and medical leave is 50 employees, in Maine the cut off is 15 employees, so it affects a lot more businesses than in other states. If you look at what the bill does, at what is going to be added to the Family and Medical Leave Law, it's confusing on what it does. Already in the Family and Medical Leave Law you're allowed to have the leave for a serious health condition of the employee, now we are adding a bona fide medical problem, neither which have exactly been defined. You are also adding to attend necessary medical and dental appointments of a child and parent teacher conferences at the child's school. Well most of the time when parent teacher conferences occur the teachers would be willing to hold those in the evening or sometime in the school day to accommodate one of the parents. I don't think it needs to be in law. Also, I don't know many employers who would not give you time off to go to a medical or dental appointment or to do something for your family if you needed to. This is just adding more and more exemptions onto what was a good law. We're opening a Pandora's box, who knows what's going to be next. Also a possible problem with this law is for the parent teacher conferences and the medical appointments and all the other things, you need to give a 30 day notice to your employer that you are going to use the Family and Medical Leave. Well if the emergency comes up for your family a 30 day notice won't do too much to attend the emergency and you could be denied the leave. Most employers would do it, because they are good people and they want to help their



employees and keep them happy, but it doesn't need to be in the law. I would also draw your attention to a handout being passed around by Representative Treadwell that talks about some of the costs this would put on Maine's already overburdened small business. Thank you and I urge you to vote against the pending motion.

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

Representative **MCKENNEY**: Mr. Speaker, Men and Women of the House. In today's world with employers facing the severe shortage of employees, and it's happening they're bending over backwards to make sure they are well taken care of. Flex hours, personal time, shortened work weeks, time off for the asking. As an employer for almost 30 years, I learned a long time ago what many thousands of my fellow employers learned. Contented employees are productive employees. We had a hand out a week or so ago come across our desk. Let me read from that. Parents who work at jobs without paid leave or flexibility to take time off to care for a sick child face losing a day's wages at best and at worse can lose their job. Any employer who would fire somebody for taking time off to be with a sick child would be a very stupid employer indeed. It's far more expense and time consuming to train new people. Business owners do not want to be continually turning over employees. In short, this bill is a solution in search of a problem, I urge you not to accept this report. Thank you.

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

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. Having been a member of the other body when we debated family and medical leave and the Act, the arguments against this bill today remind me of those arguments against the Family and Medical Leave Act back when we tried to pass legislation at that time. The same arguments have been used in the Congress. We have a work force today, ladies and gentlemen, of two, men and women that are working, a lot of homes have single parent families, a mother or father at home with children to take care of. This is an extension of the kind of good government policy, which recognizes the changing work force. You know we don't live in a static society, that's correct, government is here to do good things, good works, and this is one of them and I shall be supporting my good Chair of the committee because this is a good bill and these old arguments, throw them back in the closet. We've heard them before. Thank you.

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

Representative **MACDOUGALL**: Mr. Speaker, Ladies and Gentlemen of the House. Maine is one of only 11 states with a Family and Medical Leave Law and with coverage extending to establishments having 15 or more employees. Maine and Vermont have the lowest thresholds for application of the law and it is estimated that more than three-quarters of Maine workers are covered. We have a very generous Family and Medical Leave Law. What this bill attempts to do is take the focus in the Family Medical Leave Act, which is a focus on long term issues such as a recuperating family member from an illness, or some other continuing treatment to the focus on a very term, very minute issue, which wasn't really covered under the Family Medical Leave Act, so this puts a different focus on that Leave Law and I would suggest to you that with the good employers of Maine, that is what the earlier Representative

eluded to, Representative McKenney, that employers do not need a law passed against them presuming that they will do the most vilest of things to their own employees. I urge you to vote against the pending motion. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **DAIGLE**: Mr. Speaker, Men and Women of the House. In the bill, which is very short, it states in section three that this applies to a child with bona fide medical problem, and in paragraph F, attending necessary medical and dental appointments seems very vague to me, a bona fide medical problem, certainly something that can be subjectively judged to warrant the immediate attention or being rather not life threatening. I wonder if there is definition in another law that helps understand what a bona fide medical problem is so we can isolate this to something that is immediate in nature, or something with more latitude on the part of the caregiver.

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

Representative **SAMSON**: Mr. Speaker, Men and Women of the House. Well I can give you one bona fide medical reason why parents need to take care of their kids. My grandson, a couple of weeks ago was very ill, he was vomiting, diarrhea and all kinds of problems, sick, wouldn't eat, both parents happen to work, just like throughout the State of Maine. It isn't like it was 30 years ago where one parent worked, they both worked. Somebody had to take him to the doctors. My daughter took two days off from work to take him to the doctor's and to care for him. She felt even though she has a good employer, she felt she couldn't take another day off, so my son-in-law took a day off to take care of him. This bill is to help these people, like my daughter and son in law that have a child that is occasionally sick and needs medical attention. Now why should my grandson's parents, father and mother be fired or terminated from work because they chose to care for their child. This bill and, hopefully the amendment that follows, would put a time limit on how much time a parent can take off for this kind of a problem. Now have we become a society that puts the business ahead of family or are we a society that puts the family ahead of businesses? I don't think you're going to find too many people that are going to abuse this, that's been proven under the federal Medical Leave Act. I think it's necessary in today's climate where most of the adults are working, both parents. They need some time to take care of the family and I urge you to vote Ought to Pass.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Buck.

Representative **BUCK**: Mr. Speaker, May I pose two questions through the Chair?

The SPEAKER: The Representative may pose his questions.

Representative **BUCK**: Mr. Speaker, Men and Women of the House. Question number one is how many employees who work for businesses under 15 have been fired in the last year or two because of taking their children for medical attention and the

second question is how many employees have been threatened with being dismissed for doing this.

The SPEAKER: The Representative from Yarmouth, Representative Buck has posed two questions through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Skowhegan, Representative Hatch.

Representative HATCH: Mr. Speaker, Ladies and Gentlemen of the House. We would have no way of knowing those facts and figures, simply because they are not kept. Any employer who has less than 15 employees, there would be no reason for the employees to call the Labor Department, how would we keep those facts.

The SPEAKER: 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 from Yarmouth question, at the public hearing there have been no employees that we know of that came to testify that had been fired for bring their child to a doctor, or medical appointment and for that matter there have been no employees fired that we know of bring their child to a medical appointment in companies over 15 employees either.

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

Representative MUSE: Mr. Speaker, Men and Women of the House. I know of two coworkers who were threatened with termination because they had to leave work to take their children to a doctor's appointment. Two in less than one year, so although they didn't show up to testify on this, yes, we know that it does in fact happen. Thank you.

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

#### ROLL CALL NO. 217

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

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

ABSENT - Dugay, Etnier, Lemont, Tessier, Tuttle.

Yes, 79; No, 67; Absent, 5; Excused, 0.

79 having voted in the affirmative and 67 voted in the negative, with 5 being absent, the Majority Ought to Pass as Amended Report was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (S-217) was READ by the Clerk and 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 HATCH of Skowhegan PRESENTED House Amendment "A" (H-576), which was READ by the Clerk.

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

Representative HATCH: Mr. Speaker, Ladies and Gentlemen of the House. This amendment will clarify some of the problems that we found in the original bill, it does designate a special time period of 24 hours in a year, it was our intention when we had the amendment drafted to allow that to be taken in incremental two hour periods, or an hour period, during the workday if that's the way the parents would like to do it. I think it makes sense. I don't think that we should say 24 hours for any dental appointment or medical appointment and I think it could be worked with the employer. Also on the bill, bona fide medical problem that was deleted in the amendment, we thought that that was addresses in the previous section so that's no longer in there. Today's workers are finding it increasing hard to balance the demands of work and family, it's bad enough that economic realities put stress on all the families. Parents shouldn't be forced to choose between job security and important family responsibilities. I think that this is an important statement to make to the families in the state. I think it is an important statement to make to the businesses in the state. Yes, we do value our businesses and I would say probably 80 percent of them, there's never ever a problem, they work with the families, but I think it's important that we give families a priority here and say your children are important too. As I look around the House Chamber and see the three young ones here, I can only imagine people's horror if they were parents and find out that one had strep throat or to be called in for a parent teacher conference because something had happened at school that had to be attended to right then or perhaps the child had done something, so I ask that you support this. Thank you.

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

Representative TREADWELL: Mr. Speaker, Ladies and Gentlemen of the House. I think in the handout that was passed around there's a point made that we should consider. Current law says that the leave may be granted for days, weeks or months in any given year. This bill will allow the leave to be activated for very short periods of time during any given day, during the year with a limit of 24 hours. There's no prior notice requirement. I think, although it does put some restrictions, I think it's still poor legislation.

Representative TREADWELL of Carmel REQUESTED a roll call on the motion to ADOPT House Amendment "A" (H-576).

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 Arundel, Representative Daigle.

Representative DAIGLE: Mr. Speaker, Ladies and Gentlemen of the House. I urge you to oppose the current motion to approve this amendment out of understanding of what



it's like, the reality of the workplace, and my experience in industry, especially in manufacturing, you have an assembly line operation where individual employees are uniquely part of the operation. You just can't go up to a company and say this employee can be gone for two hours without basically shutting the line down for two hours. It's very common to have an operation where everywhere from three or four employees to twenty or thirty employees can be involved in that and in large businesses you may have multiple operators where you have skills that can be replaced, but in the smaller ones it's absolutely not the situation. In many places where you are licensed for example, you just don't staff up that way. If you have a law on the books that requires an employer to not negotiate ahead of time when that person is going to leave the job site and basically comes to you and says, my kids got a dental appointment, I'm gone after lunch. He is shutting you down after lunch. Everybody sits in the cafeteria and waits for that guy to come back. That's a disastrous thing on our manufacturing economy. It is one level of problem when its the administrative person in a large office building, it is extremely different and more dangerous and damaging when you have an assembly line in manufacturing. I urge you to oppose this.

The SPEAKER: A roll call has been ordered. The pending question before the House is adoption of House Amendment "A" (H-576). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 218**

YEA - Ahearne, Bagley, Baker, Belanger, Berry RL, Bolduc, Bouffard, Brooks, Bryant, Bull, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dunlap, Duplessie, Etnier, Fisher, Frechette, 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 JA, O'Brien LL, O'Neal, O'Neil, Perry, Pieh, Plowman, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Thompson, Townsend, Tracy, Tripp, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Berry DP, Bowles, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carr, Chick, Cianchette, Clough, Collins, Cross, Daigle, Davis, Duncan, Foster, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, Peavey, Perkins, Pinkham, Richardson E, Rosen, Savage C, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Brennan, Dugay, Lemont, Tessier, Tuttle.

Yes, 81; No, 65; Absent, 5; Excused, 0.

81 having voted in the affirmative and 65 voted in the negative, with 5 being absent, **House Amendment "A" (H-576) was ADOPTED.**

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-217) and House Amendment "A" (H-576) in NON-CONCURRENCE** and sent for concurrence.

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

JOINT ORDER - Relative to the Joint Standing Committees on Appropriations and Financial Affairs and Health and Human Services jointly reporting out a bill

(S.P. 826)

- In Senate, **READ** and **PASSED.**

TABLED - May 13, 1999 (Till Later Today) by Representative SHIAH of Bowdoinham.

PENDING - **PASSAGE.**

Representative TOWNSEND of Portland **PRESENTED House Amendment "A" (H-597)**, which was **READ** by the Clerk.

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

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

The SPEAKER: The Representative may pose his question.

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. I just have a question about this. It says to report out a bill, do we have any idea what this bill might involve for subject matter. Thank you.

The SPEAKER: The Representative from Newport, Representative Kasprzak has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Townsend.

Representative **TOWNSEND**: Mr. Speaker, Men and Women of the House. Senate Paper 826 is a Joint Order allowing the two Committees on Health and Human Services and Appropriations and Financial Affairs to report out a bill having to do with the tobacco settlement. The amendment we have just put on allows us to report that bill to the House, which is the appropriate body.

**House Amendment "A" was ADOPTED**

The Joint Order was **PASSED as Amended by House Amendment "A" (H-597) in NON-CONCURRENCE** and sent for concurrence.

JOINT ORDER - Relative to Establishing the Committee to Address the Recognition of the Tribal Government Representatives of Maine's Native Sovereign Nations in the Legislature

(H.P. 1524)

- In House, **READ** and **REFERRED** to the Committee on **JUDICIARY** on April 8, 1999.

- In Senate, **READ** and **PASSED AS AMENDED BY SENATE AMENDMENT "A" (S-271) in NON-CONCURRENCE.**

TABLED - May 13, 1999 (Till Later Today) by Representative THOMPSON of Naples.

PENDING - **FURTHER CONSIDERATION.**

On motion of Representative SAXL of Portland, placed on the **SPECIAL STUDY TABLE**, pursuant to Joint Rule 353, pending further consideration.

Representative DAVIDSON of Brunswick assumed the Chair.

The House was called to order by the Speaker Pro Tem.

SENATE DIVIDED REPORT - Report "A" (10) Ought Not to Pass - Report "B" (2) Ought to Pass as Amended by Committee Amendment "A" (S-208) - Report "C" (1) Ought to Pass as Amended by Committee Amendment "B" (S-209) - Committee on **CRIMINAL JUSTICE** on Bill "An Act to Limit Children's Access to Firearms"

(S.P. 178) (L.D. 532)

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

TABLED - May 13, 1999 (Till Later Today) by Representative **POVICH** of Ellsworth.

PENDING - Motion of same Representative to **ACCEPT** Report "A" **OUGHT NOT TO PASS.**

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

Representative **POVICH**: Mr. Speaker, Men and Women of the House. I urge support of the Majority Ought Not to Pass Report. This bill amends the Endangering of the Welfare of a Child Law, which is a Class D crime. This bill adds to the types of endangerment, storing a firearm that is not in a locked container and does not have a trigger lock device in a place where a child is likely to gain access to the firearm. The bill would require adults to either store loaded guns in a place that is reasonable inaccessible to children or to use a device to lock the gun. The law would hold the adult owner criminally liable if a child obtains an improperly stored gun. This law would amend section 554 of the criminal code.

Current Maine Law in Chapter 23 of Title 17A, section 554, of the Maine Criminal Statutes defines the crime of endangering the welfare of a child. The law states a person is guilty of endangering the welfare of a child if that person otherwise recklessly endangers the health, safety or welfare of a child under 16 years of age by violating a duty of care or protection. Reckless conduct in keeping of a firearm may also currently be prosecuted under the general reckless conduct statute and this appears in Title 17A, section 211. It says, a person is guilty of reckless conduct if the person creates a substantial risk of serious bodily injury to another person. The sponsor of the bill wants to prevent accidents by locking up weapons, but will trigger locks prevent gun accidents? The Criminal Justice Committee took up this legislation two years ago that would have mandated trigger locks for guns, the Committee determined and this body agreed that trigger locks on loaded weapons could discharge and be fatal. Trigger locks, we determined, give a false sense of security. Now the occurrences of fatal firearm accidents in Maine are at an all time low, we would benefit by educating those people and their parents alike and the key to avoiding these horrible accidents is education through volunteers, schools and law enforcement. One of our committee members has an answer, I think, and it is my hope that she will bring forth her good idea later in the discussion.

A majority of the committee is opposed to special legislation addressing conduct already prohibited under general criminal law. Regarding current law no prosecutor in Maine has ever tested this law to punish a parent who left loaded weapons around. My question is, is this a failure of law, or is this a failure of law enforcement? Our legal eagles advise us this law in Section 554 and in Section 211 is durable, it will do the job. Now who are our legal eagles, well it's the Criminal Law Advisory Committee, which has as its membership Maine's district

attorneys, the defense bar, and our judges and one member of this organization literally wrote book on this law. Their opinion is consistent with the Majority Report, so are we right. Will existing law do the job? Well, we don't know for sure, because the law has never been tested. Ladies and gentlemen of the House, before we create a new law that tramples all over the rights and security interests of Maine's many responsible gun owners, let us do two things. One, use current Maine law the very next time and two, educate any uneducated gun owner about proper gun handling and storage. I urge this body to support the Ought Not to Pass motion. I thank you very much.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Augusta, Representative O'Brien.

Representative **O'BRIEN**: Mr. Speaker, Colleagues of the House. This bill was very difficult for our committee and very difficult for me personally. For those of you who have been around you know that I care very deeply about children's issues, especially when it comes to children's safety and well being. Our committee, as I said before, is very deliberative and we especially were very deliberative, I believe, on this issue.

We had to weigh the safety of children against the right to bear arms, which I also feel very strongly about and the right to feel safe in your own home and to have a gun, should you choose to do so. As an aside it really became quite humorous to find the dueling lobbyist brothers George Smith from SAM on one side of the aisle, and Gordon Smith from Maine Medical Association on the other side of the aisle. There are two points to this legislation as the sponsor and others who spoke on this bill came up. One was the punitive issue and the other was the educational issue. The punitive issue was one that the good Representative from Ellsworth spoke of where if there was an accident, let's give an example, and I have given this example in our committee. My grandfather used to have a loaded gun under his chair, I hated it, there will never be a gun in my house as far as I'm concerned, but my grandfather used to have one under his chair because he needed to feel safe and he felt that that was his way of feeling safe. If, God forbid, any of the grandchildren had gotten a hold of that gun and an accident had occurred and someone had been killed, he could be put away for many, many years. Isn't it enough that he would have the guilt, and the shame, and the remorse, and everything that went with it, that he may have been in some way responsible for that, for having a loaded gun. I was very uncomfortable with the punitive nature of it.

Also as the good Representative from Ellsworth pointed out, we feel that this can be taken care of in current law. The other side was the educational piece and I was not quite willing to let the educational piece go. This is not Eddie Eagle, this is not the education of our youth about guns, and safety of guns, and how to use guns, it was for the adults and about how important it was that they keep the guns locked up and they keep them away from children.

As you may notice, I have Amendment "C", I'm the only one on that, but at this point I withdraw my motion and withdraw that amendment and ask you to go with the Majority Ought Not to Pass. This amendment, I will say, what it says essentially is to have a year long mass media campaign television, newspaper ads, a very, very effective mass media campaign. I can see it, I've told people that I can actually see the commercial where you have a commercial where children are playing with guns and you hear a bang and then the screen goes blank and it says very pointedly and very emotionally and I think it would affect, it would

affect, if it affects one person and saves one child it's worth it. My amendment said that the Public Safety Department would pay for this, I now say on the record that the Maine Chiefs of Police and SAM caught wind of this amendment and very, very much loved it. They said we'll do it, no state money, we'll do it. We love it, we'll do and we'll pay for it and we'll work with the committee to put it together, so I now have their word and now you have their word that they will do this mass media campaign. So should this bill that I hope and believe that it will fail, at least we do have the educational component, which I feel will and can save several lives. So I would urge you to accept the Majority Ought Not to Pass Report. Thank you very much.

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

Representative MUSE: Mr. Speaker, Men and Women of the House. I would strongly urge you to vote against the pending motion so that we may move on to Committee Amendment "A" and I'd like to speak briefly, sort of. Mr. Speaker, Honorable Men and Women of the House, let me begin by saying emphatically that this is not a bill about Littleton, Colorado. This is not a knee jerk reaction to that horrific tragedy.

This bill was introduced months before that event took place. This is a bill that addresses a problem in our communities, not just our southern communities, not just our northern communities, not Northern Maine, not Southern Maine, but our society from coast to coast and it's a bill that addresses how much our society has changed. In fairness we can reflect that most of these changes have been for the better, some however, have been for the worst. I'm talking about changes in our family structure. Thirty years ago nobody knew or heard the phrase latch key kids. That's because it was so very rare to have both parents working and kids were able to go out and play without parents worrying that they'd never be seen again. Kids could and would go out and play. Their fabulous little imaginations would magically turn a stick and a piece of string into a pony and a rope. That pony and a rope would easily take that child into a wonderful world of freedom, fun and wide-eyed adventure. Sadly, however, this simply is not the case today, because today's kids are living in a world of Nintendo fed, shoot them up Power Rangers, Death Ray, video Arcade, bomb threat, I'll kill you dead because you made fun of me world. That's what our kids are living in, that's what we saw in Colorado and as parents and adults, we've allowed this to happen. Surely not intentionally, but simply because we are all just moving a little too fast and, ladies and gentlemen, the time has come to slow down. Slow down and look and understand and accept and embrace the responsibility, the responsibilities that we share as adults. It's far too easy to simply say, well that was then and this is now, Aunt Bee's dead and you can't go back home again. Ladies and gentlemen, that simply is not true, you can go back home again. We can easily go back, back to a time when parents were willing and ready to stand and at least share some of the responsibility for our children's actions, behaviors, and that ladies and gentlemen, is exactly what Amendment "A" is all about, accountability that's all. Plain and simple accountability and isn't that really what laws are all about. Isn't that exactly why we're here creating new laws, the very reason that we have laws are to create guidelines and to make sure that people are held accountable for their actions. I stand before you today, ready and prepared to argue any counter point to this amendment and I've got a little bit of material.

The two areas that have come up the most often opposing this are number one, the current laws of endangerment or endangering the welfare of a child, 554, that you hear the Chair of our Committee talk about. Number two, that we need to educate kids and parents more, education is the answer. I'll start with number two, education. Ladies and gentlemen, I worked as a training director for many years and several members of this body are, or were teachers, and I'll tell you as surely as any of them can tell you that nobody, nobody, has ever been able to write a lesson plan or teach a student common sense and judgment. You simply can't teach these things, but our friends who are so quick to recite verse after verse from the Constitution, and I'm speaking of course about the NRA, the gun lobby, SAM, whatever name they choose. These people will now tell us that education is the answer and that they, along with the police, are now going to start an education program. Let's teach people, make them smarter and none of this will happen. Let me point out that the two students that went on a killing spree in Colorado were honor roll students. The police were baffled at how smart kids, how this could have happened. One of the kid's parents were both professionals, one was an engineer, brilliant people, what are we going to teach them? Common sense, judgment, you can't, the police can't and the all powerful gun lobby can't. I'd like you to just think about this for a moment. Adult judgment versus kid judgment, as an adult knows, has the good judgment to know that if he or she puts his or her hand on a hot stove then he or she is going to get burned, so they simply don't do it. Kids, however, they're stuck with kid judgment. They're the ones who put their hand on the hot stove, because they suffer with kid judgment and they just don't know better. They don't really need to come in from the rain, they don't ever need or want to wear a raincoat, kid judgment. That tells them to go ahead and put their hand on the stove and see how hot it really is and it's kid judgment that tells them that the gun is empty and I can play with it, or worse yet it's kid judgment that tells them since you hurt my feelings, I'm going to load the gun and shoot you, or I'll load the gun and shoot myself and that will teach you. It's kid judgment that prevents them from understanding the finality of their actions. I could go on for the rest of the day about kid judgment and common sense and how impossible it is to teach it. I think you all get the point. I'll just move on and wait and see what is said after I sit down about kid judgment.

The other argument is that current law addresses this matter, 554. I also listened while one of the Senators, at the other end of the hall, debated this bill. He said repeatedly that the current statutes titled Endangering the Welfare of a Child, would do everything this bill seeks to do. It will allow for prosecution of an adult who and I'll quote, "554 says, a person is guilty of endangering the welfare of a child if he knowingly, sells, furnishes, gives away, or offers to sell, furnish or give away to such child any intoxicating liquor, cigarettes, tobacco, air rifles, firearms, or ammunition, or he otherwise knowingly endangers the child's health, safety, or mental welfare by violating a duty of care, or protection". And, I'll repeat, guilty of endangering, if he knowingly sells, furnishes, gives away air rifles or ammunition, which sounds great and it sounds like the good Senator was correct and it is covered, but they're not, because there's also a statute in the law books that's 554A, very recently the Cumberland County District Attorney thought the bases were covered when she considered charging a parent of a 15 year old boy who had shot his friend with a hand gun, however, we have

to do what she was forced to do. We have to read the rest of the endangerment statute, which goes on to say and I'll quote again, it is an affirmative defense, is it an affirmative defense to prosecution under this section that, the transfer of the firearm to the minor was approved by the parent and further goes on to say that it for the use in a supervised manner. Well, we can educate and we can talk about supervision and we're going to have rules in our household that say, you won't play with that gun unless you're supervised. Well, they're not going to shoot their friend if they are supervised, but if you have that rule in your household and your son or daughter takes that gun out, or worse yet, your son or daughter goes to play at a friend's house where they happen to have a gun and they have a house rule that says, you don't play with that gun unless I'm here with you. That's our house rule. That is an affirmative defense and that's what happened in Sebago and there was no prosecution.

Looking back at the case I mentioned, the 15 year old boy further admits, the father of the boy admits that he always knew that the boy had a gun, but he goes on to say that they had a house rule, as I said, and that was it. With a wave of the judicial wand, no accountability on the part of the parent. This is a kid who had several guns and rifles in his room as well as ammunition. He could clean and strip his own weapons effortlessly, but unfortunately he had the unavoidable kid judgment. Not his fault, that's simply what he is, a kid and no matter how much we educate them, kids will be kids, but the time has come for parents to be parents. I would ask you to oppose the pending motion so that we can move on to the amendment.

Representative MUSE of South Portland **REQUESTED** a roll call on the motion to **ACCEPT** Report "A" **Ought Not to Pass**.

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 Hodgdon, Representative Sherman.

Representative **SHERMAN**: Mr. Speaker, Men and Women of the House. I'm a member of the Criminal Justice Committee that agonized long and hard over this piece of legislation. I'd like to bring another little aspect of this. I like numbers and I wondered what the need for this was, so I asked how many, how many kids and the Department of Human Services, Bureau of Health, document dated 2/25/99, gave me more information of what I really wanted. They broke this problem out in a number of ways, they broke it out in a set of accidental deaths of kids from 1982 to 1996, and this you understand this bill operates for kids 16 and under, that period of time 1982 to 1996, in the accidental death by handgun, shotgun, hunting rifle, military rifle, other specified firearms, unspecified firearms, from age zero to 4, there is one, in a fourteen year period. From five through nine, there were two from handguns in fourteen years, one unspecified. Ten through fourteen, in the fourteen year period there was one from handguns, two from shotguns, three from unspecified, in a fourteen year period. The rate per thousand was one tenth of one percent per hundred thousand.

Self inflicted, and I see self inflicted shows up here and that is unfortunate, but that's someone that's desperate to take their life, they're probably not doing this in an accidental way, they're going after the pain and suffering that they're suffering in life. Zero through four, on self inflicted, none, five through nine, none, ten through fourteen, there's one from handgun, one from shotgun, one from hunting rifle, nine from other and unspecified. So the Bureau also took the same data and looked at it the last

smaller groups, in 1992 and 1996, there was one accidental death from hand gun, there was one from hunting rifle and one from unspecified. The self-inflicted rate unfortunately, was 30 people in 1992 through 1996, some from handguns, shotgun, some from others. So in looking at that, it seems to me again we have an answer in search of a question. Why do we need this, I think the prior speakers have stated why we don't. I think this is partly emotional. We know that with recent events, I think we tend to be scared of our children many times. I worked as a teacher for 30 years and I would disagree with Representative Muse. I think we have bright kids in our schools, who make good judgment. They don't need the degradation in a sense of what was said about them. I will end with this comment. We were handed a CAP Law fact sheet, and again the numbers, people do this to us in this building, in this hall, we had one on hunting where the numbers didn't support the contention. I don't believe that the CAP Law sheet, fact sheet itself supports what they are talking about. If you do the numbers with your calculator, they say 48 percent of households with children have guns, so half. Then 38 percent of those are kept unlocked, we'll take 38 percent of the 50, what's left. Then three percent of those are kept loaded. How many out of that group. It almost ties in with status that we got from the Bureau. Five percent say six through twelve graders who carried a handgun, so what, to where. Then at the end of this, they talk about kids, 25 percent thought it was easy, very easy to get a handgun, well so, did they get one? Did they do something with it? Nine percent considered it cool to do so, ask a high school kid, any number of things that he or she thinks it's cool to do and I think you would be astonished by what you are getting. I support the Criminal Justice Committee motion and hope you do also.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Woolwich, Representative Peavey.

Representative **PEAVEY**: Mr. Speaker, Men and Women of the House. I hope you will support the committee Ought Not to Pass Report. The Criminal Justice Committee devoted four or five work sessions to this bill. We came back to it over and over again, because safety of children is our top priority. The Committee, as a Committee, we needed to decide if the current law in our Criminal Code was sufficient. If we passed this bill, how would it be enforced and what needs to be done to truly keep children safe from accidents with guns. After hours of studying our criminal law, as Representative Povich stated, we decided that our current statutes were adequate to address this issue and they also give the flexibility to the prosecution to bring criminal action when it's warranted and not to bring criminal action when it is not warranted. All our bills are reviewed by the Criminal Law Advisory Commission, which is made up of Defense Attorneys, Prosecutors, and Judges and they look at all the bills that we look at and give us an opinion. Their advice on this bill was that truly reckless conduct in keeping a firearm may currently be prosecuted under general reckless conduct statutes and also under the endangering the welfare of a child statute. This law would be very difficult to enforce. We're talking about items stored in people's private homes. Who will make sure that the guns are locked up, enforcement would only occur after the tragedy occurs. Education is the key as Representative O'Brien stated. Education of children and education of their parents and gun owners. Guns are certainly not the only item in our homes that can be dangerous and fatal if handled by a child. What about the Drano under the kitchen sink, or the Clorox in the laundry room, both without childproof caps? What about the

rhubarb leaves from your garden, very, very poisonous. There is no law requiring us as adults to lock these items up and they are often more commonly found in homes than guns. Again, education of the children and of the parents is the key to keeping children safe from these potentially dangerous items. Our current laws on endangering the welfare of a child and reckless conduct are already in our criminal code. Education of gun owners, of gun safety and the importance of locking up guns is the way to keep our children safe. Please support the Ought Not to Pass Report.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Portland, Representative Norbert.

Representative **NORBERT**: Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of the bill and against the pending motion. I'm proud to be House sponsor of this bill. I realize it's a quixotic effort, but still it's a worthwhile one nonetheless and it is gun regulation, but it's necessary, reasonable, and even life saving. Indeed it's regulation that adults can live with and regrettably it's regulation that our children increasingly cannot live without. The good Representative from Hodgton, Representative Sherman, mentioned that he likes numbers, well I must confess to you, I have never liked numbers and I especially don't like numbers like the ones faced with this issue. The fact that the fourth leading cause of death amongst children in our country, ages 5 to 14 years of age, is due to gun related injuries and death. Or the fact that, as he pointed out, 48 percent of Maine's households store guns that have kids in them, but only 38 percent of them lock them up. I think that is a problem, even if it were one child, it would be a problem. Now I recognize we have a great tradition in this state of firearms ownership and hunting, but we also have a great tradition of caring for our children and being forward thinking and being a leader in this country. The fact of the matter is that 16 other states have seen fit to enact this legislation. Such radical states, such as Texas, Virginia, North Carolina, California, New Jersey, and in those states, many of them the NRA even got on board and publicly supported it, because they recognized, they saw the writing on the wall and I suggest to you that the American public is seeing the writing on the wall, even recently in our Capitol in Washington showed and as public surveys have showed. The fact is that the gun lobby is out of step, not the citizens. We must keep in mind, I realize there is a powerful lobby at work here, but there is another lobby, the children's lobby, which cannot speak for itself, which I came here to speak for. We must not forget them either.

If we are serious about doing something about youth violence in our culture, we're going to step on some toes and we have to be brave, we have to begin. Mainers' are scratching their heads increasingly in the wake of these recent tragedies and asking what are our leaders doing about this? To close, if I may paraphrase from the French writer Camus, perhaps we cannot make this a world in which children do not suffer, but we can reduce the number of suffering children and if you do not help us to do this, who will.

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

Representative **MCALVEY**: Mr. Speaker, Men and Women of the House. I look at this in a different perspective we're back to our motto, "We Lead." Before those 16 states enacted that legislation, we had legislation on the books called endangering the welfare of a minor, which prohibited adults, or anyone else, from providing firearms, liquor, drugs, or a couple

other things to minors. We've been there. We've done it. The law exists and the discretion in that law as to whether it is going to be applied in our courts or not rests with the District Attorneys where it's suppose to rest. It's an emotional issue, but if I had my rather and we were going to enact something, I would enact a bill that would require us to lock every cabinet that a toddler can reach and every drawer and every bathroom, bedroom and kitchen because there are far more dangers lurking in those cabinets, in those shelves, death from poisoning than our children face with firearms in our homes. I laud the people who bring this issue forward. It's a discussion that's important to have, regardless on what side of the issue, it is important to visit this and discuss it and analyze whether we are doing a good enough job or not and the facts presented, from the law that's already been on the books and been on the books long before these other 16 states adopted any laws, we lead, we led, and we're still in the fore front of protecting our children.

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

Representative **MUSE**: Mr. Speaker, Men and Women of the House. This is an emotional issue. I'd like to address a couple of things that have been said. First of all, this is not mandatory, if Representative O'Brien's grandfather is found to have a gun underneath his chair, the gun police are not going to come into the house and arrest him and drag him off to jail. It doesn't work that way. As far as current legislation addresses and District Attorneys utilizing it, I'll go back and point out that the District Attorney in Cumberland County tried to prosecute and could not. She was advised it would not work. I spoke with a representative from the Attorney General's Office who agreed and said no, it would not be applicable. All that this bill does is create an avenue for prosecution. We don't have to drive down that avenue. Representative Peavey said that enforcement would only occur after the event, correct, the same as operating under the influence, the same as aggravated assault, the same as murder, the same as, what other law do you want to poke a finger at, but this is a law that rather than like those, rather than being reactive has an opportunity to be proactive. It has an opportunity if we get this law on the books for parents to recognize that I can't keep my loaded gun laying on the top of the night stand any more and that's what this amendment says, ladies and gentlemen. Nobody has brought this forward yet, and I apologize, the amendment says knowingly stores or keeps a loaded firearm on the premises. Knowingly stores or keeps a loaded firearm, without a trigger lock or device in place, or in a locked container. That could be the lock on your nightstand. Knowingly stores or keeps a loaded firearm, there's a huge difference here, does any member of this body think that it's appropriate for anyone in the State of Maine to take a loaded firearm and leave it on their night stand or their kitchen table for kids to come in and play with. That's all this bill does. It's very simple. It's a very, very simple piece that will go a long way in closing a gap in existing statutes, that's all. Thank you, Mr. Speaker.

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. Besides the obvious questions on this bill about the Constitution and about freedom, there's another bigger issue involved and that's safety. It has been said that this bill will save lives, well I think just the opposite. This bill will cost lives. Millions of times every year violent criminals are

deterred, because the victim has a gun and can deter the criminal and can keep from becoming a victim. Where I live in Standish, often times my mother is alone. We live on a long dirt road, our driveway is off another dirt road and we're the last house down there. When my mother's alone, I know that there is a loaded gun available and that she's available to defend herself. If a criminal comes in, there's no greater equalizer for my mother, a little 5'3" lady, if a big criminal comes in, that she has a gun and she can defend herself. I'm glad it's there and I'm glad she knows how to use it. What's going to happen, she'll tell the criminal when he comes in, excuse me, don't rob me yet, excuse me while I fiddle with the trigger lock and load my gun. Well, that's not going to work. Education is important, there's the Eddie Eagle Safety Program and many other programs to train people and to train kids on the safe use of guns. We need to focus on education and we need to focus on the existing laws we have and in prosecuting them, like the good Representative from Waterboro mentioned. By putting more burdens on law abiding citizens won't save lives, but will cost lives and I urge you to vote for the pending motion.

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

Representative MCKEE: Mr. Speaker, Men and Women of the House. I rise in opposition to Report "A", Ought Not to Pass and wish to share with you my reasons why. There's nothing like the power of the words, it's against the law. It means something to children. Whether those laws are enforceable or unenforceable, enforced, or not enforced, it's against the law means something to children. We have truancy laws, seat belt laws, speeding laws, they're sometimes enforced and not enforced, but kids say, it's against the law, buckle up. It's against the law, you can't stay home and this weekend something we did last week made a difference for a family and a young boy. It's a law that has no enforcement. It was called the bicycle law that we just engrossed today. A young Portland mother had just purchased for her young boy a bicycle, but she had heard on the television that we had passed a law that said all children had to wear bicycle helmets and so before she would allow her young son to get on that bicycle, she went out and bought a helmet and said you have to wear this, because if you don't it's against the law. You have to wear a helmet. The boy took his first ride. He was struck by an automobile head on. He's alive this afternoon. The helmet was cracked somewhat, he was scraped horribly, but he's alive, because of a law that we began the passage of last week and someone heard that it would be against the law and I say that we may have a law on the books that talks about endangering the life of a minor, but it's a very cumbersome sounding law and it probably is used but let me tell you the power of saying you must lock up your firearms, because it's against the law will mean something to families, it'll mean something tonight when your child asks to spend the night this coming Friday night with someone and that parent may keep the firearms unlocked all week, but knowing your child is coming over and it's against the law and he could be sued, it means something. After Littleton, we all ask what can we do, we felt helpless. I say we start where we are, we do what we can do when we can do it and I praise the good Representative from Portland, Representative Norbert, for bringing this forward. We do what we can do where we are. Education is wonderful and it should continue, but this is so important to the nation, and to us, and to us in our own families that we should reject Report A and do what we can now and make it against the law. Thank you.

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

Representative PERKINS: Mr. Speaker, Members of the House. I'm sorry that I had to hear my good friend, Representative McKee, say that we had to pass a state law before a parent felt responsible for advising a child to put a helmet on. I've been advising mine to wear helmets without any state law, but I just don't think we need government telling us to be sensible. As far as the bill before us, on the yellow sheet that was handed out, two percent of whom, I'm not sure, but all the children, I guess in the school, all our school children had brought a handgun to school. That couldn't be the two percent of the entire population, a quarter of a million people, I don't believe, but at any rate, two percent of some group brought hand guns to school and I would ask rhetorically, how many had been prosecuted. It's my understanding that very, very few young people have been prosecuted for bringing guns to school. So we already have laws on the books that aren't being enforced. It seems to me that perhaps somebody should propose a Constitutional Amendment that we, nobody, Congress or the states can pass legislation within say 60 days of a national tragedy. I think we should all calm down a little after the Littleton thing and not react emotionally.

Everybody's trying to find out what causes young people to be violent, and I think we ought to say, what is different today than say 30 or 40 years ago. Some like to point out that maybe there's more accessibility to firearms. I say that's kind of hog wash, because those of us that grew up in rural Maine, there's guns behind almost every door in most rural homes and nobody ever heard of any violence with firearms in shooting up children in school and so forth, so what is different. It certainly isn't accessibility to guns. Two of the weapons that those fellows had in Littleton were common old shot guns and all it takes is a hack saw to make them so you can stick them under your coat and take them to school. I maintain with two people doing the shooting and no one else armed in the building, you can hold people hostage and pick them off with a sawed off shot gun or any shot gun just as easily as that automatic weapon, because you could reload while the other's standing guard, so it really hasn't got to do with that.

The yellow sheet also points out that 75 percent of the deaths from 92 to 96 were suicide. I'd like you to look at the handout that I passed around, the suicide rate in general since 1988 had been trending down, it certainly isn't due to less firearms in the homes, we have more than ever. As far as enforcement of this very law goes, would this be an appropriate place to use teenagers to send them into the home like we do for enforcing the cigarettes law on a sting operation.

As far as education goes, it's still my understanding that Eddie Eagle Program that comes out of the National Rifle Association has been turned down time and time, and time again in Maine by the schools, apparently they're afraid that it's promoting gun use. In my home, our kids were trained that all guns are loaded. Somebody comes in and ever says is that gun loaded, of course, they're all loaded. Every child is taught to know that that gun is loaded. The first thing you do is always point it away and always treat it as it's loaded. They're all loaded. As far as the gun law being a matter, how these gun bills come out, I think people should no longer say, oh that powerful gun lobby in Washington, D. C. The people are finding out that the gun lobby is your neighbor, I hope you are. I have to agree with Representative Mack on this, that perhaps more



people would die if this type of thing passes. The surveys that I've read, questioning criminals, hardened criminals in jail, what would be a deterrent to them to breaking into homes, gun ownership and knowing that people know how to use them. Second was a good big dog. I'd like to point out once again, you've heard it before, Maine has about the second highest per capita per family ownership, per household ownership, of firearms in the country. Second only to Alaska and we have virtually the lowest serious crime rate and one of the lowest problems with children with accidents. The last thing I'd like to point out is, when trying to find out what's the difference and why our kids are violent today, I think it's because there's a disconnect between reality and what they have in their minds. I'll never forget just a little antidote about one of our boys when he was about nine years old, he was always shooting his bee bee gun and we got him an air rifle that would actually kill something. He went out and he chose to shoot at a red squirrel, I was with him, and he killed that red squirrel. He went over and he picked that red squirrel up, he was responsible for that animal that was alive and now is dead. It changed his attitude. You could just see it. He studied that thing and I think if more children were allowed to go out and shoot cans with a bee bee gun, go hunting with their family. Learn that when you shoot something, it's dead. I don't think there's any connect now between the kids and making something dead with firearms. Thank you.

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

Representative TRUE: Mr. Speaker, Ladies and Gentlemen of the House. I'd like to perhaps change the subject a little bit and yet hopefully it will be meaningful. Many things have been said this afternoon. We get a lot of statistical information. A long time ago I learned, and I'm sure many people in this body have learned that you can take the same information juggle it around and make your point, whatever you want. So I don't want to go that way. The thing that we don't have, and somebody's talked about common sense and young people. Having been associated with young people for many, many years and not just on a eight hour day, seven days a week, 36 weeks out of the year, night and day. Young people can be taught to have common sense, but what we're dealing with in my opinion in our society today is dysfunctional families and you might not think that that is causing our problems even with guns, but I say to you that I believe that it does. I heard some people today that say it's because that two members of the family are working, well I was born in the 20's and I grew up in the 30's and both of my parents worked and there were nine of us, but I'll tell you there were guns in my home that I can't ever remember any of the nine ever touching them and it wasn't for fear, but rather that we were taught and when someone says that you don't touch it, you don't touch it. Loaded or not loaded, but what I find in young people is not so much that they lack common sense, and I'd like to have you, if you can remember back when you were in your youth, you probably had common sense, but you didn't have any fear. You don't fear some of the things that can harm you and you have a great deal of curiosity and mark my words if you're going to lock up all the guns and put locks on the individual guns, the young people are going to say, I wonder why they're locked up. I don't know whether going one way or another is going to work, but I do know this, that we already have the laws on the books, if we want to make sure that we do something when they are broken, but we hesitate for some reason. I still believe in education, not just in school, outside of

school. I still believe in respect, not just in school, but outside of school, and my idea of education is what you get from the time you're awake until the time you go to sleep and young people will thrive on education, will thrive on people if they know they are really interested in them and that's what I think that we have got to do. I urge you to go along with the Majority of this Committee and let's see if we can't find something, certainly to have the District Attorney, or those people that have within their jurisdiction the right to do something about those people that do not carry out the laws, which we have in this state or in our land.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Augusta, Representative O'Brien.

Representative O'BRIEN: Mr. Speaker, Ladies and Gentlemen of the House. As we're winding down, hopefully this debate, I just would like to make a couple points on things I've heard here this afternoon. One, a few people have mentioned the suicide rate, and I would tell you that guns locked or not are not going to prevent teen suicide, I don't believe. If a teen is determined to end his or her life, it's going to happen unfortunately. I also take issue to the comments made about the gun lobby and the influence that they seem to have over those of us who feel strongly that this bill Ought Not to Pass. I, for one, have never been contacted by the gun lobby, whomever they may be and I agree with the good Representative Perkins, that they are our neighbors. I'm not taking my stand because of any lobby, I'm taking my stand because of my constituents and the people that we serve. I also would like to make a point to the good Representative from Winthrop, Representative McKee, and I think that she made our point exactly. Representative McKee talked about education being the key and this bill as I brought up earlier will be doing education to parents and I would venture, if I was a betting woman, I would say that the people that this is intended to serve, those who do, or may have guns in their home are much more likely to watch TV, to read a newspaper, to listen to the radio than they are to read a law book.

The SPEAKER PRO TEM: The Chair recognizes the Representative from South Portland, Representative Muse. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative MUSE: Mr. Speaker, Men and Women of the House. I'd just like to make a couple of very quick points. Somebody made a comment earlier that we don't need laws to regulate sensible behavior. I don't quite understand that, because I don't think that a sensible person drinks and drives. I don't think that a sensible person robs a bank. I don't think that a sensible person murders somebody and I don't think that a sensible person leaves a loaded firearm in arms reach of a child. Very simple, a sensible person doesn't do that. That's why we have laws. I also heard it stated about, we need this firearm so that when someone breaks into my house, I can grab my firearm and protect myself. I know personally three law enforcement officers who have been involved in very serious armed confrontations where guns were drawn and bullets flew. Shots fired, one of them the perpetrator was less than five feet away and when this officer drew his gun and fired, a trained professional drew his gun and fired, he missed and he said it was the scariest thing he had done in his entire life and he never, ever again wanted to have to deal with that and men and women in the House if you think for a moment that your grandmother, or grandfather are going to take that gun out from the nightstand

and shoot somebody breaking into the house, you're off base. Thank you, Mr. Speaker.

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

**ROLL CALL NO. 219**

YEA - Ahearne, Andrews, Bagley, Belanger, Berry DP, Berry RL, Bouffard, Bowles, Bragdon, Bruno, Bryant, Buck, Bumps, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Dugay, Duncan, Dunlap, Duplessie, Fisher, Foster, Frechette, Gagne, Gerry, Gillis, Glynn, Goodwin, Gooley, Hatch, Heidrich, Honey, Jacobs, Jodrey, Jones, Joy, Kane, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, O'Neal, Peavey, Perkins, Perry, Pinkham, Plowman, Povich, Richard, Richardson E, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Schneider, Sherman, Shields, Shorey, Sirois, Snowe-Mello, Stanley, Stanwood, Stedman, Sullivan, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tripp, True, Usher, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor.

NAY - Baker, Bolduc, Brennan, Bull, Desmond, Dudley, Etnier, Fuller, Gagnon, Green, Jabar, McKee, Mitchell, Muse, Norbert, O'Neil, Pieh, Powers, Quint, Saxl MV, Shiah, Skoglund, Stevens, Thompson, Townsend, Twomey, Volenik, Watson, Williams, Mr. Speaker.

ABSENT - Brooks, Lemont, O'Brien LL, Tessier, Tuttle.

Yes, 116; No, 30; Absent, 5; Excused, 0.

116 having voted in the affirmative and 30 voted in the negative, with 5 being absent, Report "A" **Ought Not to Pass** was **ACCEPTED** in concurrence.

SENATE DIVIDED REPORT - Majority (9) **Ought to Pass as Amended by Committee Amendment "A" (S-218)** - Minority (2) **Ought Not to Pass** - Committee on **LABOR** on Bill "An Act Requiring Doctors Giving 2nd Opinions in Workers' Compensation Cases to be Certified"

(S.P. 350) (L.D. 1054)

- In Senate, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-275)**.

**TABLED** - May 13, 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 PRO TEM: The Chair recognizes the Representative from North Berwick, Representative MacDougall.

Representative **MACDOUGALL**: Mr. Speaker, Men and Women of the House. Unlike the earlier bill, this will be short, but I just wanted to point out a few things on this bill and why I was on the Ought Not to Pass side. It seems to me to be a shame a physician who has a lifetime of experience in the State of Maine would after two years of his practice would no longer be utilized for second opinions. I think that, of course people are living longer, and it just seems to me that folks who are going into semi retirement are going into a different phrase of their lives

still have an awful lot to offer, particularly when you consider the lifetime of acquiring the skills they have as a physician. In rural areas often times there's a shortage of doctors. Availability is often difficult no matter what part of Maine you're from. It depends where you're from, sometimes there is a shortage of doctors. Last session in the 118th, the Business and Economic Development Committee, we fought and were successful with the Appropriations Committee in continuing the funding that we have for physicians in the State of Maine that when they come back they work a portion of their loan off for every year they come back to Maine and provide services as a doctor. So it is an issue that I haven't forgotten and when we talk about two Maines or three Maines or whatever, it just seems to me that that's a vital resource that this bill, I think in some way circumvents. These doctors are an excellent resource. A full time doctor in an active practicing situation, of course, is busy, if they're good they are very busy and it's very hard to get an appointment at times. I think we'd be leaving out the semi retired, or less than full time practicing doctors out of the very important picture of the workers' comp system.

Number two, the system determines overall scope of evidence. There are hearing officers who will look at the reports involving medical disputes. A physician earns a reputation, he doesn't operate in a vacuum. Certainly a lifetime of practice shouldn't go by the way side and the hearing officer is trained to determine how much weight to assign to the opinion of a doctor. It was brought to our attention during public hearing that the proposed bill is in the section of the workers' compensation law where the employer selects the examination, where there is another section of the law that is done by a neutral provider selected by the workers' compensation board and is binding on all parties. The particular section that this bill deals with is that the employer selected examination, and the examinations opinion carries no more weight in the litigation of the case than the opinion of the employees health care provider. The hearing officer is free to accept or reject, that's the system.

Also a public hearing MEMI, Maine Employers Mutual Insurance Company, suggested that the effect of this bill would be to shorten the already short list of doctors who are able and willing to perform second opinion exams. Many do not want to perform permanent impairment assessments because they can be tedious and financially unrewarding. It isn't like there's a long list of doctors available, so it is with these reasons that I fell on the side that couldn't support the bill and I would ask you to vote against the pending motion. 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 amends section 139A, MRSA, subsection 207, 1st, what it does, it says that in order to do second opinions you have to be certified in the field of practice that treats the type of injury complained of by the employee. Certification must be obtained from a board recognized by the American Board of Medical Specialties, or its successor, or by the American Osteopathic Specialties, or its successor or by the American Osteopathic Association, or its successors, in addition the physician or surgeon must have an active practice of treating patients, which may be demonstrated by having treating privileges at a hospital. All this bill does is make sure that the physician who is doing a second opinion actually has some knowledge of the fields of practice. I don't find that this is an over reaction, but I do know of people who have been sent for



second opinions to doctors who might have been ear, nose and throat and to find out that someone had a back injury. All this bill does is just clarify the law it's a second opinion, something of great value in lots of medical cases. Yes it does limit them to having active practice in the bill, but the following amendment will take care of part of that, because it will be within the last two years.

Upon looking at the bill as it was reported out of committee, I see that there was some doctoring of who was on the Ought to Pass and who was on the Ought Not to Pass Report, matter of fact the amendment was requested by one member to lengthen it to two years and after the bill was passed in committee they changed their vote, I find that very appalling. I just would like to let you know that this is a very good bill. It's something that's long due, it just clarifies who will do the second opinions and I thank you for your time.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Falmouth, Representative Davis.

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

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

Representative DAVIS: Mr. Speaker, Men and Women of the House. The Labor Committee has voted out nearly a dozen bills recommending changes to the Workers' Compensation Law in Maine. These bills include prevail, which will bring back an old law requiring employers to pay the attorney fees of workers. If the bills recommended by the majority of the Labor Committee become law, it is estimated the annual cost of compensation in Maine Employers will be 59 to 85 million dollars, 22 to 32 percent increase. The actual cost could be higher as some of the bills have costs that cannot be determined. My question is, to anybody who would like to answer it, everybody in the Chamber says they're for small business, but how can you be for small business and then pass an \$85 million tax, that small business will have to pay. Can anybody answer that question. Thank you.

The SPEAKER PRO TEM: The Representative from Falmouth, Representative Davis has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Winslow, Representative Matthews.

Representative MATTHEWS: Mr. Speaker, Men and Women of the House. I'm not going to attempt to answer that question, but I'm going to just share one thing, a couple of things here on the floor today. The opposition in our committee to this bill and other bills that have been supported by the majority members of the committee to benefit and help injured workers, it's been mentioned by the opposition that they could support some of these bills, but accumulatively put together its just too much, so my question would be to the opposition, which one of these bill would you like to support and you may have that opportunity when some of these bills come back up from the Governor's Office to do so.

We also debated another issue in this body which dealt with having employees go to company doctors and it was mentioned by the Minority, here and members of the Labor Committee on the other side of the issue that it's good to go to those doctors that have the experience, the knowledge, and the training and the practice of occupational health. Well if it's good to go to those professionals in that instance when there's injury isn't it good to go to a doctor that has some knowledge and

experience and bona fide practice for a second opinion. Thank you, Mr. Speaker.

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

Representative TREADWELL: Mr. Speaker, Men and Women of the House. At the current time there is no requirement, or no provision that doctors licensed to practice medicine in the State of Maine need to be board certified. What we are going to be doing with this bill is creating another type of certification for physicians and I think we are actually creating a big headache, a nightmare, for the workers' comp board and the hearing officers to try to manage a program where we are certifying additional physicians. Who's going to determine who's qualified and who isn't qualified to render decisions before the workers' comp board? I don't see the need for the bill and I think that we are opening up a Pandora's box.

Representative SAMSON of Jay REQUESTED that the Clerk READ the Committee Report.

The Clerk READ the Committee Report in its entirety.

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

Representative HATCH: Mr. Speaker, Ladies and Gentlemen of the House. You've heard a lot about what it's going to cost the system, and what it's going to cost business. Under the workers' comp law currently, there's a medical fee schedule and a cap. You can't go over that cap no matter what we do here today. If there's going to be second opinions, all we're saying is that we want them to be certified. I don't think that's too much to ask. They're certified by medical boards and we'll accept that certification. There are currently, in this state a few practicing physicians that are neither certified under the medical association law, and I just want you to take note of that that when you go to your physician's place that you look for that little document that says that they are certified. I don't know about you, but I value my family, I value all the people here and I would hope that you were being treating by a physician who is certified. Thank you.

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

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

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

Representative DAIGLE: Mr. Speaker, Men and Women of the House. Looking at the bill, I see that it requires certification by the American Board of Medical Specialties, or its successor, or by the American Osteopathic Association, or its successor, and I'm curious why there was no thought to the other medical fields which could be used in treating workers, for example, chiropractic care and others, why are we excluding them from being used in this way?

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

Representative HATCH: Mr. Speaker, Men and Women of the House. Actually, if you look at the bill there is also an amendment that we will get to that came over from the Senate that does include chiropractors.

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

Representative FULLER: Mr. Speaker, Ladies and Gentlemen of the House. I would just like to, in response to a comment from a Representative earlier on, concerning how you define board certified physicians, lists of board certified physicians and their specialties is readily available so that is not a problem. Thank you.

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

Representative TRACY of Rome **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 PRO TEM: The Chair recognizes the Representative from Skowhegan, Representative Hatch. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative HATCH: Mr. Speaker, Ladies and Gentlemen of the House. I just received a note and I'd like to read it to you. The Workers' Comp Board unanimously voted to support the bill and this includes all four labor and four management, the hearing officer said the bill would speed up the operation of the workers' comp system and lower costs. Thank you.

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

**ROLL CALL NO. 220**

YEA - Ahearne, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Brennan, Bruno, Bryant, Bull, Bumps, Cameron, Carr, Chick, Chizmar, Cianchette, Clark, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Desmond, Dudley, Duncan, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Gillis, Glynn, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jacobs, Jodrey, Kane, Kasprzak, LaVerdiere, Lemoine, Lindahl, Mack, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McNeil, Mendros, Mitchell, Murphy E, Muse, Norbert, Nutting, O'Brien JA, O'Neal, O'Neil, Peavey, Perkins, Perry, Pieh, Powers, Quint, Richard, Richardson J, Rines, Rosen, Samson, Sanborn, Savage W, Saxl MV, Sherman, Shiah, Shields, Sirois, Skoglund, Snowe-Mello, Stanley, Stanwood, Stevens, Sullivan, Thompson, Tobin D, Townsend, Tracy, Tripp, True, Twomey, Usher, Volenik, Watson, Wheeler EM, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Buck, Campbell, Clough, Collins, Davis, Foster, Heidrich, Jones, Joy, Kneeland, Labrecque, Lovett, MacDougall, McKenney, Murphy T, Nass, Pinkham, Plowman, Povich, Richardson E, Savage C, Schneider, Stedman, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Winsor.

ABSENT - Brooks, Dugay, Lemont, O'Brien LL, Saxl JW, Shorey, Tessier, Tuttle.

Yes, 113; No, 30; Absent, 8; Excused, 0.

113 having voted in the affirmative and 30 voted in the negative, with 8 being absent, the Majority **Ought to Pass as Amended Report was ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-218)** was **READ** by the Clerk.

Subsequently, **Committee Amendment "A" (S-218)** was **INDEFINITELY POSTPONED**.

**Senate Amendment "A" (S-275)** was **READ** by the Clerk and **ADOPTED**

The Bill was assigned for **SECOND READING** Tuesday, May 18, 1999.

SENATE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (S-242)** - Minority (5) **Ought Not to Pass** - Committee on **LABOR** on Bill "An Act to Ensure that Displaced Workers Have Access to Appropriate Job Training, Education and Employment Services through a Peer Support Program"

(S.P. 594) (L.D. 1718)

- In Senate, Majority **OUGHT TO PASS AS AMENDED Report READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-242)**.

**TABLED** - May 13, 1999 (Till Later Today) by Representative HATCH of Skowhegan.

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

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

Representative MACK: Mr. Speaker, Right Honorable Men and Women of the House. I urge your vote against the pending motion. This bill was opposed by the Department of Labor. What this bill would do is to require peer support programs with large lay off anywhere in the State of Maine. The Department of Labor does not have an opposition to peer support programs and neither do I. My opposition to this bill rests that we are mandating peer support programs at the expense of other programs. The Department of Labor only has a limited amount of funds, even with the very costly additional appropriation on this bill. When the Department is responding to a lay off each lay off has many different circumstances surrounding it. Some lay offs they may want more peer support counseling, other lay offs they may want more rapid response or job retraining, but by mandating the peer support it takes away the Department's flexibility to determine which cases additional staff will be used. To mandate it will have the unintended consequences of reducing the funds available to workers themselves and to other programs. It may end up curtailing lay off prevention activities and would weaken the Department's statewide rapid employment and training initiative network. The idea behind this bill is good, but the application of it would be a disaster for the other programs that help displaced workers. Thank you, and I urge you to vote against the pending motion.

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

Representative HATCH: Mr. Speaker, Ladies and Gentlemen of the House. Hopefully this won't take me long. The Department of Labor came out against this bill, mainly because there was an appropriation and they're required to stay within their budget, but currently MDOL uses and supports peer support workers when additional funds can be leveraged from USDOL for that purpose. Maine Department of Labor has used peer support workers in a variety of situations during the past six years MDOL

has used peer support workers in twelve plant closings or major dislocations. In all cases Maine Department of Labor relied on either volunteers or provided funding by applying for and receiving competitive grants from USDOL. The dislocations were at Portsmouth Naval Ship Yard, the fishing industry retraining project, Statler Tissue in Winslow, Eastland Woolen Mills, Great Northern Paper Company, Kimberly Clark, Bridgton Knitting Mills, SAPPI, Mead Paper, Carlton Woolen Mills, Eastland Shoe, and Robertson Manufacturing. Currently, it looks as if the USDOL funds on the grants will stop, but they have proved that this program works. Without a doubt it works. We have all kinds of programs there for when you're laid off and it's a plant closing of 100 or more employees, it's quite devastating not only to the employees and their families but to the community that they live in. I ask for your support on this bill. I can tell yes, that there is going to be a note on it somewhere in the vicinity of \$1.3 million, but I can guarantee you that it will be money well spent when these people find new jobs and are able to stay in their own communities.

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

Representative COLWELL: Mr. Speaker, Men and Women of the House. I want to speak on this bill, because I am the House Lead on this. Senator Treat and I have both worked on the Carleton Woolen Mills Dislocated Worker Task Force and this is one of the cornerstones that have come out of that very educational, although at times disheartening, but generally very productive task force. I say disheartening because reality is in the State of Maine our maturing industries and I love that phrase, maturing industries. These are the industries, and each of you probably has one in your district, these are the industries the shoe industries, the textile industries, some of the wood turning industries, our maturing industries have matured and they've matured right off shore, they're gone, they're leaving. They're not taking the workers with them. We're left with these hard working good Maine people that have no skills, not enough education and just not enough wherewithal to make it in the brave new world of global competition. What we've discovered in our task force and it's been collaborated in a very large grant application that has gone to the federal Department of Labor. It doesn't look optimistic for getting that funded in this cycle and that's why we brought this bill forward to insure that we'll be able to keep the successes we've already accomplished.

Reality is, and the Representative from Standish, Representative Mack, said he supports peer support workers but we'd be taking away resources from other Department of Labor employment and reeducation programs. Well what we discovered was during the typical mass layoff in the State of Maine, the departments retraining and reemployment numbers were the success rate in other words was below 50 percent. What we found in utilizing peer support workers, you can check it in this handout that was on the lovely yellow paper, is that we've increased those success statistics to 80 percent by using peer support workers. I think the reason is simple, these folks are members of the same work force that has been laid off. They're workers, they're fellow workers, trust them, they can speak the language to their fellow workers. They know how to interact with the Department of Labor. They know how to interact with all the various retraining programs and let's face it some of these workers are not the most sophisticated in our work force. Many of them are two or even three time losers in terms of the lay off game. They've bounced from one lay off to another lay off. The

simple fact is that in most of these cases we can draw down TRA and TAA federal training dollars, because of the global competition aspect. We can get those federal retraining dollars and we can get these folks a couple of years of intensive training in our technical college system or get them into truck driving school, whatever, but if we don't get them plugged on, if we don't get them registered, if they stay down below that 50 percent level, we've failed them. We've failed them miserably. That's how and why I lent my name to this piece of legislation so that we can give these dislocated workers the tools necessary to be a success and to get reemployed in the modern world. I urge you to support this fine piece of legislation. 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: Mr. Speaker, Men and Women of the House. Is it true that if this bill is not passed the Department of Labor it will no longer use peer support for dislocated workers? It's the implication of the note at the bottom of the yellow paper that this will no longer be in effect. Thanks.

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 Gardiner, Representative Colwell.

Representative COLWELL: Mr. Speaker, Men and Women of the House. That is the implication and that is the truth. There is no funding currently in the Department of Labor's budget before this body.

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

Representative TREADWELL: Mr. Speaker, Ladies and Gentlemen of the House. The Representative from Standish covered most of the points that I'd like to make and I don't wish to repeat what's already been said, but the Department of Labor did indicate that they already have a peer support program in place that they have been using money from a federal grant and they have an application for just over \$2 million in currently now whether or not that \$2 million is going to come through, I guess you'll probably hear from somebody to dispute that that money is available, but the Department does have a peer support program in place. They have been doing this work, what we'd be doing, I think in this case, is adding another expense upon the State of Maine, the \$1.2 million that the Representative from Skowhegan mentioned is the fiscal note on this bill. I think that we should let the Department of Labor do the job that they have been doing. I think they have been doing it quite well. They didn't seem to indicate that there was any major problem with the peer support program that they're running at this time. I would urge you to vote against the pending motion.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Westbrook, Representative Duplessie.

Representative DUPLESSIE: Mr. Speaker, Ladies and Gentlemen of the House. I rise to speak on some points that were just raised by the previous speaker, Representative Treadwell. The current system run by the Department of Labor is not a true peer support program. The current system is an ad hoc program of rapid response when there's a large lay off at a work site. Their program does not cover many of the things that

this peer support program covers. This peer support program, as the good Representative from Gardiner, Representative Colwell, said goes beyond what DOL gives to the community and to the workers. The peer support workers are non-managerial workers from a workforce impacted by a significant lay off who serve as worker advocates, information sources and connecting links between the workplaces where dislocated workers and Maine's workforce development system.

If I can just take a moment to read, we have many, many letters of testimony that was submitted at the labor hearing on this bill. This is one worker that was laid off from Carleton Woolen Mills and this worker happened to be chosen and was put through a quick counselor program 32 hours so it gives them the basics of how to be a peer support worker. This is some of her testimony. Helping people understand all the options available to them has only been a part of my assignment. I've also contacted the proper UI personnel to help people fix the benefit problems they have encountered along the way, which have been plentiful. I have also put people in contact with food banks, Thanksgiving and Christmas help and other agencies to help them through this transition. I believe it is necessary to reach out to displaced workers to pull them into the system and to assure their understanding of the opportunities that await them. These people have worked hard all their lives to help build the Maine economy and now it is time to help them. I thank you for your understanding and support for this bill. This was submitted by Christine Greenley and as I said we had many testimonials here from various workers. This is a vital program and if I must remind you within the last six weeks in the State of Maine over 1,000 more lay offs have been announced from one end to the other of this state, so it would be very important to try to continue this program through the Department of Labor. Thank you.

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

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. I have some questions that I think require an answer to anyone who might attempt to do that. This bill states that for each project the department shall employ one or more peer support workers who must be displaced non-managerial employees from the effective workforce. They shall attempt in all cases to hire one peer support worker and it goes on. My questions are, for how long will they hire this person? What wage will they be paid? Will there be benefits, as for all state employees including health, dental, vacation, retirement and etc.? What is to become of these state employees when the Department or whoever it might be, I can't find it in the bill, considers the job is done. I'm assuming as well that this will be a continuing program. How much will it cost taxpayers in the next budget, and the next, and the next? Further, this program doesn't guarantee anything except bigger, more expensive government. I urge you to vote against this bill. Thank you.

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

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

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

Representative **TRUE**: Mr. Speaker, Ladies and Gentlemen of the House. I need to have some answers, I believe at least 517 of these particular people that are shown on the back side have to do with the Fryeburg and Bridgton and my

understanding that there is already a peer program just as the good Representative from Westbrook had indicated and I understood at the time that it was put forth and I believe it's working now that it was for one year. Is that true or not?

The SPEAKER PRO TEM: The Representative from Fryeburg, Representative True 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 Right Honorable Representative from Fryeburg's question, yes. In Bridgton and the other lay offs, the peer support program is already in place. That is in place, I believe, for the one year time period he has stated and to answer the question from the Right Honorable Representative from Newport, Representative Kasprzak about the fees that will be paid to these workers. For purposes of the fiscal impact statement they have estimated a nine month period for each worker, 1,560 hours, the cost they will be paid is \$12.00 per hour, plus \$3.00 an hour worth of benefits and the net fiscal note on the bill is about \$1.3 million each year. Thank you.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I stand in support of the pending motion. Before I was a legislator, I served on Vista, for any of you that aren't familiar, it's domestic peace corp and in my duties there I worked hand and hand with the Department of Labor. I can tell you that the peer support program does work, it works very well. When you get laid off from a job going to somebody who works in the Department of Labor, they can explain the hoops to you and everything, but they haven't lived it. These people in the peer support group program have lived it or are living it and they can get you through it in ways that you understand and ways that you can relate to and it's important when you're going through something difficult like that to have someone you can relate to.

Also, as I understand it, there has been federal funding coming through to pay for this, in the past which isn't going to be there this year, or might not be. If federal funding does come in then it won't actually cost the state any money, but if it doesn't, this is a way to keep that program going and I can tell you, having seen it work, I know the program works and is effective and I urge you to support the pending motion.

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 you will support the peer support program. In my community in Winslow, yes, it worked very well, thank the good Lord above. It helped a lot of people that lost their jobs in a paper mill in my community, but ladies and gentlemen, I want to share with you just a little bit of history when we had this bill presented in our committee and we went through the same discussion. Should we rely on the federal funds, or should we take this project that has been proven, proven track record, and make it a commitment by the Maine State Legislature and the citizens, which I believe the general public and the citizens of this state and the good hearted Maine people that we support peer support. Ladies and gentlemen, the same questions came up and the discussion in the committee was to make a state commitment for this program. This program has proven to work and since the time that we discussed this

legislation in our Committee on Labor we've had a number of facilities, plants around the state have left. Just since the time we had the billing committee and ladies and gentlemen what a cruel hoax it would be to those displaced workers that because a federal grant didn't pan out that this program wasn't there, a proven program to help displaced workers. I am very, very proud of the effort of Representative Colwell, of Gardiner, and the good Senator from Kennebec putting this bill in. It means a great deal to workers that have lost their jobs to foreign competition and the kinds of things that happen in our new workplace of the year 2000. Ladies and gentlemen we should be there for those displaced workers. We should be there and this program will do it, it's worth every penny. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rome, Representative Tracy.

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

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

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House. This bill put in by the good Senator Treat and the good Representative from Gardiner, Representative Colwell, is this a partisan bill, or a nonpartisan bill, and could anybody answer that question for me?

The SPEAKER PRO TEM: The Representative from Rome, Representative Tracy has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Gardiner, Representative Colwell.

Representative COLWELL: Mr. Speaker, Men and Women of the House. I think that the tragic circumstances of these lay offs are certainly a nonpartisan issue. It wasn't my intention or I know the good Senator from Kennebec's intention, to make this a partisan issue. I don't think that it is. You look at the list of these closures and clearly some areas and clearly some areas are in Republican areas, some are in Democratic areas, more importantly they're all in the State of Maine. I think that's the important issue for this body.

As far as the funding, I do want to clear that up, because yes there is a current program it's cobbled together a bunch of funding, for example in the Fryeburg area, we've taken some very small discretionary pots of money, federal dollars that the Maine DOL has and more particularly when the Senator and I got involved in this and met with the Department and got them to try this new program there were some ice storm related job dislocation moneys that were federal dollars as well. The problem is there's no money for the next bunch of lay offs. I hope that there are no more lay offs in the State of Maine, as does everyone in this body, but I think if you look at the back of this sheet you'll see that in the two months since we actually submitted the grant and we talked to the fed's the other day and that grant is going to be denied. In the two months since we submitted the grant there was 1,017 additional lay offs, a total of 1,780 in the last six months. Thank you, Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House. I have the bill in front of me and it says presented by Senator Treat of Kennebec, cosponsored by Representative Colwell, of Gardiner, and Senators Bennett, of Oxford, Cassidy of Washington, Ferguson, of Oxford, Michaud, of Penobscot, O'Gara, of Cumberland, Representatives

Duplessie, of Westbrook, McKee, of Wayne, Stanley, of Medway, so apparently this is not a partisan issue. It's a nonpartisan and I would urge you to accept the Majority Ought to Pass as Amended. Thank you.

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

Representative MCKEE: Mr. Speaker, Men and Women of the House. I stand in support of the Majority Ought to Pass as Amended Report on behalf of the displaced workers of the Carleton Woolen Mills. The yellow sheet on the back shows only 20, but as any of you know who live in this area there have been numerous lay offs and I don't think that we, as mostly college educated, liberally educated, computer literate people, who will soon lose this job and may lose another one, I don't see how we can sit here and know that it's going to be very easy in most cases for us to find a job. We've had the benefit of a great education. We can't pick up the paper and read about these lay offs and praise what has happened for some of the workers and not wish that it could happen for any displaced workers. There are jobs, but workers must have training. Someone mentioned the phrase, no skill, these people have no skills, and in deference to the good Representative who used those words, I must say these people have enormous skills. I wish all of you could have been with me a few months ago when I was invited to tour the Carleton Woolen Mill in Winthrop. The manager, himself, took me on a personal four-hour tour. I have to tell you that it was one of the most profound experiences of my life. It brought back a lot of memories, my parents after being forced off the farm, worked in cotton mills and it was back before OSHA and we could walk through the mills and we knew when our mother changed from being a doffer to a weaver or from a battery filler, to a spinner and finally when she got old just inspecting the clothes. We could go find her anywhere, so we knew the cotton mill and no teacher, nobody could have ever told me that my parents were unskilled. I marveled at what they did and a few months ago, I marveled at what the workers at the Carleton Woolen Mill could do and can do. For decades we've worn what our woolen mills have done and they've kept us warm and not too many of us chose those old woolen mackinaws anymore. Not too many of us chose that over high tech fibers. We've walked in their shoes and we've used their paper and I had the good fortune to tour an International Paper Mill also and felt the same way. The skills that these people have, I respect them. I am proud of them and I feel that because they have given us so much through man's ingenuity to make those products that we owe them this. We owe them the opportunity for retraining. As I went through my district, certainly there were those who said, I'm too old, I can't learn anything new. It's time for me to retire and there are those who will retire, but there were those who said, what can I do, I have a family to support. I have this home to maintain. There was fear, there was anxiety, there was depression, but there were also those that I met who were in this peer support program who had excitement, who had hope, who had some belief in themselves. One of my former students who said, I didn't work very hard in high school, I wish I had, but now I'm getting the opportunity to try something new. My peer support counselor persuaded me that I could do this. If we truly care about what has happened, or is happening to our state, we can't just talk about attracting new jobs. We must assist the displaced workers who can access those new jobs. This is an investment in Maine, in Maine's citizens and their future and our economy. I urge you to join with me in support of those

displaced workers in your district and all over this state and to do our duty to do for them what we owe them in return for what they've given us over all these many decades. Thank you.

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

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

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

Representative **TRAHAN**: Mr. Speaker, Men and Women of the House. If somebody could answer this question for me. What happens if we pass this bill, we get it funded and we get our federal funds. Will we get double money?

The **SPEAKER PRO TEM**: The Representative from Waldoboro, Representative Trahan has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Winslow, Representative Matthews.

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. It doesn't look like we're going to get the federal funds, that's pretty much a forgone conclusion and I would address my own question through the Chair if I may, Mr. Speaker.

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

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. My question is this to those of the Minority Report. Since we know that federal funds will not be there, what is their alternative for the displaced workers and the peer support program of which they support and on record in this Chamber and in the Committee, what would they give as an alternative since the federal moneys are not there and they don't support the state stepping up to the plate. Thank you, Mr. Speaker.

The **SPEAKER PRO TEM**: The Representative from Winslow, Representative Matthews 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. First, to answer the Right Honorable Representative from Waldoboro, Representative Trahan's question, if we fund this ourselves, then we apply for the federal money we cannot get the federal money. Maine Department of Labor recently undertook a peer support initiative that required us to submit a grant for additional funding to the U.S. Department of Labor. One of the U.S. Department of Labor representatives, one of their requirements for funding is an assurance that Maine Department of Labor does not have the money to fund peer support worker activities. The application is for just over \$2 million which is more than the Department current year funds for all the statewide activities. In other words, if we fund this money, and then we become eligible for the federal program, we can't get the federal money. I would disagree with my Right Honorable Colleague from Winslow. It does look like we are going to get the federal money. It does look like we'll have it and we're going to short change ourselves that federal money, because if we pay for this out of the general fund, we are not eligible for the federal money and we are short changing other good programs at the Department of Labor and to answer the Right Honorable Representative from Winslow's question, we do want the peer support program and currently the peer support program exists. The Department of Labor has the ability to

decide when peer support is the best program, when job retraining is the best program, and when other things are the best program. It is in existence and the Department of Labor is doing a good job setting priorities. Each case is different and each displaced worker has a different need.

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

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. My sincere apology for getting up to answer the good gentleman from Standish's inquiries and comments, but I feel I must. Ladies and gentlemen of the House, one of the things that I've learned since I've come back here and I thank the good people from Winslow for sending me back here. It is a great honor. It is that ladies and gentlemen when we pass any legislation, or we support any endeavor, dog gone it, we put our money where our mouth is and if you have a program that works and it works for many, many throughout the state, all over the state, my town, your town, and we know dog gone well what's going to happen in the future. We put our money where our mouth is. You've got a program that works, let's fund it. Thank you.

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

Representative **SNOWE-MELLO**: Mr. Speaker, Men and Women of the House. I am so totally confused, ladies and gentlemen of the House, I'm getting conflicting stories, it seems here. On this gold sheet, it says if the federal government does not come through LD 1718 would fund the peer support program with general fund appropriations. You know I have always been a supporter of the peer support program and always thought it did a very good job. I would like to really vote for this piece of legislation, but I don't want to risk the chance of us getting federal funds. I really need someone to clear this quandary up with me, because I'm very concerned. I don't want to lose federal funds if there's any chance of getting federal funds. If we appropriate the money, or actually the question is, if we don't get the funding then we'll have to appropriate the money, is that the answer.

The **SPEAKER PRO TEM**: The Representative from Poland, Representative Snowe-Mello has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Jay, Representative Samson.

Representative **SAMSON**: Mr. Speaker, Men and Women of the House. The reason why this bill was put in is basically because the Department of Labor doesn't have the funding to carry out the peer support program that is needed in the State of Maine. I'm told by the Department of Labor folks that it's unlikely that we are going to get federal funds for this program, therefore this program run by the state is needed. I've got about 250 to 300 people that are going to be out of work very shortly in my home town of Jay, they work for Cole-Hann, Livermore, working in a shoe shop. I'm actually glad I never worked in a shoe shop, because I've seen the effects of people who have worked in a shoe shop for years and years and years. It's hard work. These people need a break. Some of them have worked in shoe shops for 20 or 30 years. They don't understand, as I didn't understand years ago, about unemployment benefits. What do I need for training so I can get another job outside of maybe working in a shoe shop? Peer support workers, the ones we have now, that have been working understand the system. They understand what the workers need for help. They're either going to point



them in the direction of a business that will hire them with the qualifications that they have, or they'll maybe steer them towards getting more education or better education, or different education. We're going to put them back in the workforce a lot quicker. They're going to become workers again, that are benefiting their families, and benefiting their communities, and benefiting the state. It's a good thing. It puts people back to work quicker. It points out what they need in order to survive in today's world. My God what's so difficult to understand. We're doing some good for some people that are facing some hardships in the State of Maine. I urge you to support this. Thank you.

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

Representative MENDROS: Mr. Speaker, Men and Women of the House. I believe that we are losing jobs and businesses in this state because our taxes are too high and we have too many regulations. That being said, do I think not spending \$1.3 million is going to make enough of an impact on our taxes to keep jobs in this state, no. Do I think this bill imposes any new regulations on our businesses, no. So we're running our businesses out of the state with our taxes and regulations, the least we can do is spend a little bit of money so those people that are losing those jobs can stay, can find other jobs, can get other work and go through this program. I think it's a very good idea to pass this bill and I urge you to vote yes.

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

Representative TREADWELL: Mr. Speaker, Ladies and Gentlemen of the House. The Representative from Standish, a few minutes ago, made the comment that if LD 1718 is approved or passes the House and the Senate and is enacted, the \$2 million that has been applied for we couldn't use that money because we've already funded the program with state dollars. We're in a situation where the program is working now, there is an application in for the \$2 million to continue the program, I agree with everybody that has stood up and said what a wonderful program this is. It is a good program. I'd like to also read on page 3 of the sponsor's testimony, Senator Treat, management and organization of the program. The Department would manage the peer support program and peer support workers would be hired either directly or through contracts with collective bargaining representatives. Now, I don't understand why we need to create another level of bureaucracy over and above what the state already has in place for peer support training, or peer support. We have the money on request from the federal government, we're asking to appropriate \$1.2 million of state money which is then going mean that we can't use the \$2 million of federal money. It will have to be turned back to the federal government if we get it. Thank you very much, Mr. Speaker.

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

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

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

Representative MCNEIL: Mr. Speaker, Men and Women of the House. Maybe someone could clarify for me, maybe Representative Townsend could help me with this. This bill if it's approved will still have to go to the Appropriations Table, am I correct and may not even end up with this much money? If this

federal money should come through are there different restrictions on it than what we would wish to use it for as opposed to if we fund this ourselves then we can do our own rules on it?

The SPEAKER PRO TEM: The Representative from Rockland, Representative McNeil has posed a question through the Chair to the Representative from Portland, Representative Townsend. The Chair recognizes that Representative.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House. I'm only qualified to speak to some of the questions the Representative has posed. I'm not able to speak to the restrictions put on this by the federal government, perhaps someone from the committee could speak to that.

This bill will compete at the Appropriations Table with all other spending issues. It is certainly possible to put restrictions on the bill, which would have to do with what should happen should the federal funds come in, nevertheless, the amount of money attached to this bill would thus be spoken for and not available for other pieces of legislation for the near future.

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. To answer the Right Honorable Representative's question, yes there are red tape and restrictions on the federal funds. There are many different Department of Labor federal programs, each one has their own restrictions as I have previously said, if we are spending for peer support, the peer support program will not let us have peer support money from the federal government. There is another federal program called the EDWAA, that program has specific percentages that you must spend in different areas for displaced workers. 50 percent on training, up to 20 percent on support services, up to 30 percent on readjustment services, and up to 15 percent on administration bureaucracy and overhead. By spending more than we are allowed on peer support, we could be in jeopardy of getting the federal funds, because our ratios are not in order. It does not make sense, but then again everything from the federal government does not make a lot of sense and to apply and receive their funds we need to follow their red tape. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House. We're talking about displaced workers. They're not only displaced workers, ladies and gentlemen, they are your neighbors, your relatives, probably your close friends, people that have toiled worked hard for businesses for 20 some odd years, 40 years, that have lost their jobs through no fault of their own, that have paid taxes, mind you, paid taxes to make this very institution we are standing in now, and sitting and listening to debate work and just asking for a million or so dollars, what is so hard to give these people back what they have given so much to the State of Maine. Before you vote, stop and ask yourself that question. Thank you very much.

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

Representative HATCH: Mr. Speaker, Ladies and Gentlemen of the House. Although I do not have the information that the good Representative from Standish has, I do have a basic understanding of how this bill works. First of all, under the peer support program, there are guidelines. The Department has guidelines, they're not going to take and rewrite the



guidelines on peer support because the money happens to come from the state, rather than federal. Secondly, should the money mysteriously appear from the federal, I don't see any reason why the state money shouldn't be returned back to the general fund. The Department of Labor cannot, and I repeat not, for any of their programs use money just at will. They have to account for every penny and I'm sure that that money would be returned. As far as the statement that if we have our own money then this money would not be forthcoming from the feds, I have not seen that statement, nor have I talked to anyone that has told me that this is so. I'm sure that they would have knowing that we were thinking about appropriating this and yes, we are talking about dislocated workers, peer support does more than just try to find them a job. We have cases in our briefs that we heard in the Labor Committee, where sometimes there's something as important as your child is diabetic, you have no health insurance and finding an agency that you can get that child's medicine through while you're trying to draw your unemployment benefits and pay all your payments. Maybe you're facing a bankruptcy and these people will actually help to provide some support. Several of the organizations throughout this state funnel some money and resources into these dislocated programs through the peer support group, including money, sometimes food, sometimes Christmas gifts. So this peer support group is very important to dislocated workers. It might even mean going to an unemployment hearing with an employee. This is a very important thing for the people in this state and it is my understanding that we need to fund this. Maybe we won't need it, I hope there's not another layoff in this state for the next 15 years, if so that money would be returned to the general fund, because they can't spend it anywhere else, it has to be for peer support.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Standish, Representative Mack. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative MACK: Mr. Speaker, Right Honorable Men and Women of the House. I wanted to answer some of the statements made by the Right Honorable Representative from Skowhegan, she had said that she did not have the facts in front of her and gave her understanding of the bill. Her understanding of the bill is partially accurate, but I would like to qualify a couple of the Right Honorable Representative's statements of her understand, which are not accurate with the facts. Currently we do provide peer support money. The Department of Labor does do peer support. They do not do peer support in every single lay off. They have some flexibility and the ability to prioritize. Where peer support is the best program, they do it and they've been doing it well. In other cases, job retraining or other initiatives are more important and that's where they do them. What this bill would do is mandate peer support in every situation, even when the Department of Labor has determined it is not the best program for the situation. What it would do is fund peer support at the expense of other programs, also I do believe that we are in line to get the federal money, but if we spend money from ourselves the Federal Department of Labor needs an assurance that Maine Department of Labor does not have the money to do it. If we fund the program, obviously, the Maine Department of Labor cannot give that assurance and we would not get the federal money. Yes, there is a lot of federal red tape, I don't like it, you may not like it, but the bureaucrats in Washington like it

and they're the ones we're asking for money from so we have to follow their rules to get their money.

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

**ROLL CALL NO. 221**

YEA - Ahearne, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bragdon, Brennan, Bryant, Bull, Bumps, Cameron, Carr, Chick, Chizmar, Clark, Collins, Colwell, Cote, Cowger, Cross, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Gillis, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Madore, Mailhot, Martin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McNeil, Mendros, Mitchell, Muse, Norbert, O'Brien JA, O'Neal, O'Neil, Peavey, Perkins, Perry, Pieh, Plowman, Povich, Powers, Quint, Richard, Richardson J, Rines, Rosen, Samson, Sanborn, Savage W, Saxl MV, Sherman, Shiah, Shorey, Sirois, Skoglund, Snowe-Mello, Stanley, Stevens, Sullivan, Tessier, Thompson, Tobin D, Tobin J, Townsend, Tracy, Tripp, True, Twomey, Usher, Volenik, Waterhouse, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Bowles, Bruno, Buck, Campbell, Cianchette, Clough, Daigle, Davis, Duncan, Foster, Glynn, Heidrich, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, Lindahl, Lovett, MacDougall, Mack, Marvin, McKenney, Murphy E, Murphy T, Nass, Nutting, Pinkham, Richardson E, Savage C, Schneider, Shields, Stanwood, Stedman, Trahan, Treadwell, Weston, Wheeler EM, Winsor.

ABSENT - Brooks, Lemont, O'Brien LL, Saxl JW, Tuttle.

Yes, 105; No, 41; Absent, 5; Excused, 0.

105 having voted in the affirmative and 41 voted in the negative, with 5 being absent, the Majority Ought to Pass as Amended Report was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (S-242) was READ by the Clerk and ADOPTED. The Bill was assigned for SECOND READING Tuesday, May 18, 1999.

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

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The Speaker resumed the Chair.  
The House was called to order by the Speaker.

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An Act to Criminalize Internet Dissemination of Child Pornography

(H.P. 1116) (L.D. 1575)

(C. "A" H-418)

TABLED - May 12, 1999 (Till Later Today) by Representative SAXL of Portland.

PENDING - PASSAGE TO BE ENACTED.

On motion of Representative POVICH of Ellsworth, 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-600) which was **READ** by the Clerk.

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

Representative **POVICH**: Mr. Speaker, Men and Women of the House. What this Amendment H-600 says that if you disseminate this ugly stuff on the Internet we're going to snatch your computer and all its accompanying papers, diskettes.

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

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-418) and House Amendment "A" (H-600) in NON-CONCURRENCE** and sent for concurrence.

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

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**HOUSE DIVIDED REPORT** - Majority (9) **Ought Not to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (H-531)** - Committee on **JUDICIARY** on Bill "An Act to Require Consistency When Interviewing Children in Criminal and Civil Cases"

(H.P. 778) (L.D. 1101)

**TABLED** - May 13, 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 Hampden, Representative Plowman.

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. I would ask you to oppose the pending motion and to go on and pass the Committee Amendment. The Committee Amendment provides that for all criminal interviews with children regarding criminal matters that they be limited to as few as possible. We're not the first state to consider this, in fact there are 10 others who have already passed such legislation that says to keep a child from being re-victimized through the criminal process by repeated interviews, to protect the victim from psychological damage, the best thing you can do is to minimize the number of times a child is interviewed by law enforcement personnel. The original bill did not say this, the Committee Report does. Basically this is just asking DA's and state police, sheriffs, local municipal police departments, to coordinate their interviews as carefully as possible so that the child is interviewed as few times as possible in order not to traumatize the child. It's very simple, very straightforward, not breaking new ground, but it is keeping the delicate nature of a young child in mind when you're interviewing them in criminal cases. I'd ask you to please defeat the pending motion and go on to accept the Committee Amendment "A". Thank you.

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

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. The issue here is whether we should put into law the Minority Report, which was opposed by the law enforcement community and by the Department of Human Services. The state police and the Human Services Department very often investigate matters together, allegations of child abuse and in their investigations they have developed protocol on how to handle these matters. Now clearly the police don't want to

interview children and put them in that position any more than they have to, but every allegation of child abuse and every child is different. There are some children where you can meet with them and they will tell you the story of their alleged abuse pretty much the first time you meet with them. There are others that will start out with being afraid of someone and will gradually tell you about the abuse. We have to rely on the law enforcement officers doing their jobs properly and I think it is for a goal to be to interview the fewest number of times, but I don't think it's something that we need to put into the statute. There were no people that came forward and said the police interviewed my child too many times, I don't believe, but I may be wrong on that, I see a member of my committee saying there might have been, but we do not, the people on the Majority Report did not perceive this as a wide spread problem. The original bill did another of other things, the Committee Report is down to one thing, the Minority Report, but we do not feel that we need this in the statute and ask you to support the Ought Not to Pass Report.

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

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

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

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

**ROLL CALL NO. 222**

**YEA** - Ahearne, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Brennan, Bruno, Bryant, Bull, Cameron, Chick, Chizmar, Clark, Collins, Colwell, Cote, Cowger, Daigle, Davidson, Desmond, Dudley, Duncan, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Lindahl, Mailhot, Martin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McKenney, Mitchell, Murphy E, Muse, Norbert, O'Neal, O'Neil, Peavey, Perry, Pih, Povich, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stanwood, Stevens, Sullivan, Thompson, Townsend, Tripp, Twomey, Usher, Volenik, Watson, Wheeler EM, Wheeler GJ, Williams, Mr. Speaker.

**NAY** - Andrews, Bowles, Bragdon, Buck, Bumps, Campbell, Carr, Cianchette, Clough, Cross, Davis, Dugay, Foster, Gerry, Gillis, Glynn, Heidrich, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, Lovett, MacDougall, Mack, Madore, Marvin, McNeil, Mendros, Murphy T, Nass, Nutting, O'Brien JA, Perkins, Pinkham, Plowman, Rosen, Savage C, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stedman, Tessier, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Waterhouse, Weston, Winsor.

**ABSENT** - Brooks, Lemont, O'Brien LL, Saxl JW, True, Tuttle.

Yes, 91; No, 54; Absent, 6; Excused, 0.

91 having voted in the affirmative and 54 voted in the negative, with 6 being absent, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

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HOUSE DIVIDED REPORT - Majority (9) **Ought Not to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (H-530)** - Committee on JUDICIARY on Bill "An Act to Bring Equity into Custodial Agreements"

(H.P. 1056) (L.D. 1487)

TABLED - May 13, 1999 (Till Later Today) by Representative THOMPSON of Naples.

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.

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HOUSE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (5) **Ought to Pass as Amended by Committee Amendment "A" (H-564)** - Committee on JUDICIARY on Bill "An Act to Encourage Joint Custody Practices"

(H.P. 1133) (L.D. 1592)

TABLED - May 14, 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 Hampden, Representative Plowman.

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. I ask that you not accept the Majority Report.

Representative **PLOWMAN** of Hampden **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.

On motion of Representative **SAXL** of Portland, **TABLED** pending the motion of Representative THOMPSON of Naples to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned. (Roll Call Ordered)

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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)

(H. "A" H-516 to C. "A" H-413)

TABLED - May 13, 1999 (Till Later Today) by Representative GAGNON of Waterville.

PENDING - **PASSAGE TO BE ENGROSSED.**

Subsequently, the Resolve was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-413) as Amended by House Amendment "A" (H-516)** thereto and sent for concurrence.

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

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HOUSE DIVIDED REPORT - Majority (12) **Ought Not to Pass** - Minority (1) **Ought to Pass** - Committee on INLAND

**FISHERIES AND WILDLIFE** on Bill "An Act to Repeal Certain Laws Relating to Personal Watercraft"

(H.P. 93) (L.D. 106)

TABLED - May 14, 1999 (Till Later Today) by Representative DUNLAP of Old Town.

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

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. I rise this evening as the only one on the other side of this bill to repeal certain provisions that were passed last year by the Great Ponds Task Force, last year's bill was LD 1730. The reason why I put it in this year is because what I said in previous bills to do with jet skis, I have a lot of constituents that are upset with the laws that were passed last year.

When LURC had its recommendations for hearing throughout the state last summer, they went to different communities. The one up in Houlton, where I attended was the closest to my home town, there was a lot of people there that were in opposition to the ban. As I said earlier 245 lakes and ponds were ban throughout the state, mostly in Northern Maine. A lot of correspondence from over the summer to last session, we got a lot of letters, phone call, emails, things of this nature, from people from out of state and from Southern Maine.

I would just like to read one article I received, that I cut out of a magazine. It was dated back in 1971 of a major news article, which was *Life Magazine*, stating that these machines were very noisy, they're gas guzzlers, and things of this nature. That article was talking about snow sleds back in 1971. A look at the snow sled industry now, they're very competitive throughout the state, they bring in lots of money for my area and for the people up north, I'm not saying jet skis will do this, but they are a business. A lot of people that sell jet skis have taken a lot of hits because of the ban. One dealer in my area two years ago sold 60 jet skis in one summer. Last year he only sold two. That's a big decrease. When people pay \$5,000-\$6,000 for a machine, seeing that you can't ride it at your camp anymore, because of the law that we passed. I just don't think it's fair for everybody who owns one of these that has a camp on one of these restricted ponds or lakes. If we open it up to 245 lakes and ponds Tunk Lake or whatever, people aren't going to come all over the state from Portland or wherever to ride on one of those lakes. I mean right now we have Sebago Lake, one of the biggest lakes in the state, jet skis and everybody else riding all over. We don't have people from Northern Maine driving down to Windham or whatever, putting their jet ski into Sebago Lake. Just because the people from the Southern part of the state and out of states want to come to the north where we have nice timberlands, beautiful scenes of the mountains and they want peace and quiet and when they want to be up that way, well what's wrong with us having fun too.

Now what LURC is coming about, they want to put restrictions on other things, size of horsepower in motors, size of motors. This just isn't fair, people. It's a fairness issue. We have a lot of people here that have these jet skis and they can't ride them unless they go to these other lakes and ponds that aren't restricted and that's going to make it more crowded. When this list first came out three years ago, they had a lot of lakes and ponds restricted, up in my area they had them all restricted except for one, which means in that one pond that wasn't

restricted had the biggest rocks in that lake and if you brought everybody up there it would make it more congested so we'd have more accidents.

Over the last year we passed a law to have to do with wake jumping nuisance, if you have a nuisance problem just call a game warden and they'll come up and take care of it. Under enforcement last year boating incidents were higher than personal watercrafts, and like I said earlier the industry is taking care of the noise on these machines, they're taking care of the safety aspect. Whenever someone goes in and buys a jet ski they get educated, they're given a video and also a pamphlet on what's going on. They do that with snow sleds now. Like the good Representative from Wayne, Representative McKee, said about the child having the safety with the bike helmets, safety is everything, education is everything, but I think we went way too far last year of putting this law on.

There's one pond on that list, the only way to get a jet ski in there or anything is to air drop it in by a helicopter. This issue really sits home with me because I have a lot of my constituents, and a lot of my friends who own jet skis. A lot of the people up in my area take their jet ski on a Saturday or Sunday, when they're off, because they work Monday through Friday, and they go up the river, up to one of the beaches to have a picnic with their families. They take party boats now, there's jet boats that go up there with 70 and 90 horsepower motors that go up there now and what we heard last year is that jet skis ruin the water ecology and let me tell you something, people, a motor boat does more damage than a jet ski does.

There's a lot of people, I had this one constituent that bought jet skis for her boys for their birthday, she bought them in May before this law went into effect and everything else, the age requirement is 16, she bought them for their 15th birthday. Now they can't use them. Their birthday was in July, so they can't use them until this July.

Like I said before, all it is is a fairness issue. Just reading some of the statistic from the 98 watercraft complaints, in 1998 boating complaints out of Warden Division A was 223, personal watercraft, 60, the previous year was 171. Boating has doubled, because in 1997 the boating was 146, now it's up to 223. I just hope that people will take into consideration when they go out and spend \$5,000, \$6,000 for an investment to be able to use it where they have a camp. You don't see these jet skis coming up the turnpike up I-95, all the way up to Mount Katahdin and into Baxter State Park, you don't see that, like you do with snow sleds every weekend coming up into the state. The average range for someone who owns a jet ski is about 30 to 40 miles. They don't take it along like a big bass boat, come down here to Cobbossee and do bass fishing, they just take them where they have their own camp. I hope that people will join me and defeat the pending motion.

Representative CLARK of Millinocket **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 Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. Very quickly, I'd like to bring some focus to the debate on this particular issue, what this bill does, LD 106, it essentially repeals everything that was done in 118th Legislature concerning personal watercraft and that an issue that

was worked for two years within the Natural Resource Committee, and in the Inland Fisheries and Wildlife Committee jointly in the second session, with several work sessions and hours of debate and that amount of work does not make that a good law. A lot more work has been done on laws that were not good laws. What makes this a good law is that it actually works very well. The number of complaints about personal watercraft have dropped by 50 percent since this was enacted, which I think does get us where we want to be and I'm very glad my good friend from Millinocket, Representative Clark, brought back that article from *Life Magazine* that he cited in the debate two years ago on this issue, because it does serve to illustrate a point about jet skis versus snowmobiles and that is snowmobiles are not restricted to a confined area. You can go away on snowmobile, but on a jet ski you are more or less confined to that body of water and given the nature of personal watercraft and the way they exclude other uses on a body of water and given the fact that this legislation has worked very well, the majority of the committee felt that it was best to leave it in place. So I urge you to support the pending motion. Thank you very much.

The **SPEAKER**: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative **JOY**: Mr. Speaker, Ladies and Gentlemen of the House. We continually hear down here that we are pro business that we're trying to do things to support business in this state. Over the weekend, I talked to some dealers that deal in selling of these personal watercraft, sales are down over 33 percent, in fact some of the dealers are selling them at below cost just to get them off their inventory because the restrictions that have been placed upon the bodies of water are forcing them out of business. People just are not buying the personal watercraft. Ladies and gentlemen, there are two things which can improve the use of these personal watercraft and make them safe for everyone, education and enforcement. Are we going to put a crimp on this particular business or are we going to use the education and the efforts that we've used, for example, with the snowmobiles or are we just going to say, no, we're not going to allow it. We don't want you to have any fun, close down all the lakes in Northern Maine and let's restrict what activities they have for recreation up there. I urge you to defeat the pending motion and go on to support the Ought to Pass. Thank you.

The **SPEAKER**: 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. 223**

**YEA** - Andrews, Bagley, Baker, Berry DP, Berry RL, Bouffard, Bowles, Brennan, Bruno, Bryant, Bull, Bumps, Chick, Chizmar, Clough, Cote, Cowger, Davidson, Davis, Desmond, Dudley, Dunlap, Duplessie, Etnier, Fisher, Frechette, Gagne, Gagnon, Gooley, Green, Hatch, Heidrich, Honey, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Lindahl, Lovett, Madore, Mailhot, Martin, Marvin, Matthews, McDonough, McGlocklin, McKee, Mitchell, Murphy T, Muse, Nass, Norbert, Nutting, O'Neil, Peavey, Perkins, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Rosen, Samson, Savage C, Savage W, Saxl MV, Schneider, Shiah, Shields, Sirois, Skoglund, Snowe-Mello, Stevens, Sullivan, Thompson, Tobin D, Townsend, Tracy, Trahan, Tripp, Twomey, Usher, Volenik, Waterhouse, Watson, Weston, Wheeler GJ, Williams, Winsor, Mr. Speaker.

**NAY** - Ahearne, Belanger, Bragdon, Buck, Cameron, Campbell, Carr, Clark, Collins, Daigle, Dugay, Duncan, Foster,

Gerry, Gillis, Glynn, Goodwin, Jodrey, Joy, Kasprzak, Kneeland, Labrecque, MacDougall, Mack, McKenney, McNeil, Mendros, Murphy E, O'Neal, Pinkham, Plowman, Richardson E, Sanborn, Sherman, Shorey, Stanley, Stanwood, Stedman, Tessier, Tobin J, Treadwell, Wheeler EM.

ABSENT - Bolduc, Brooks, Cianchette, Colwell, Cross, Fuller, Jones, Lemont, Mayo, McAlevey, O'Brien JA, O'Brien LL, Perry, Saxl JW, True, Tuttle.

Yes, 93; No, 42; Absent, 16; Excused, 0.

93 having voted in the affirmative and 42 voted in the negative, with 16 being absent, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

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**MATTER PENDING RULING**

Bill "An Act to Increase the Deer Hunting Day by 15 Minutes"

(H.P. 30) (L.D. 39)

TABLED - May 14, 1999 by Speaker ROWE of Portland.

PENDING - **RULING OF THE CHAIR**.

The SPEAKER: The question was whether Committee Amendment "A" (H-568) to LD 39 was germane to LD 39. The test the Chair uses is found in Mason's Manual section 402, section entitled Amendments Must be Germane. The Chair will read from Mason's Manual, in part, to determine whether an amendment is germane, the question to be answered is whether the question relevant, appropriate, and in a natural and logical sequence to the subject matter of the original proposal. To be germane the amendment is required only to relate to the same subject, it may entirely change the effect of, or be in conflict with the spirit of the original motion or measure and still be germane to the subject. With respect to the amendment to LD 39 with the filing number of (H-568) the Chair finds that the amendment is germane even though the amendment goes a little farther than the title of the bill indicates, the Chair finds it still relates to the same subject as the original bill, i.e. the length of the hunting day, further it is relevant, appropriate, and in a natural and logical sequence to the subject matter of the original proposal within the meaning of rule 402.

Subsequently, the Chair **RULED** that **Committee Amendment "A" (H-568)** was germane to the Bill.

On motion of Representative SHIAH of Bowdoinham, **TABLED** pending adoption of **Committee Amendment "A" (H-568)** and later today assigned.

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

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

**UNFINISHED BUSINESS**

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, 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 Not to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (H-489)** - Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Create a State House Citizen Participation and Lobby Center"

(H.P. 1447) (L.D. 2068)

TABLED - May 12, 1999 (Till Later Today) by Representative AHEARNE of Madawaska.

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

On motion of Representative AHEARNE of Madawaska, the Bill and all accompanying papers were **COMMITTED** to the Committee on **STATE AND LOCAL GOVERNMENT** and sent for concurrence.

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HOUSE DIVIDED REPORT - Majority (11) **Ought Not to Pass** - Minority (1) **Ought to Pass as Amended by Committee Amendment "A" (H-571)** - Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Remove the Prohibition against Carrying a Loaded Hunting Weapon in a Motor Vehicle"

(H.P. 230) (L.D. 334)

TABLED - May 14, 1999 (Till Later Today) by Representative DUNLAP of Old Town.

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

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

Representative PERKINS: Mr. Speaker, Colleagues of the House. I'm not going to try to turn this one around I do want to put on the record what it's about. The law that prohibits a person to have a loaded weapon in the car was implemented way back decades and decades ago and I figured it had to do with safety and I did some research and it didn't, it had to do with hunting laws, but in the 118th Legislature we changed the definition of hunting from a vehicle. It is no longer hunting from a vehicle just to be in there with the gun, you have to be shooting from the vehicle, which makes a rational good sense. It was a good bill, so I maintain that this is no longer needed. Most major hunting states you can carry a loaded weapon, but anyway I'm not going to try to fight it, I won't even ask for a division, but I did want to put it on the record. Thank you.

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

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Bill "An Act to Implement the Recommendations of the Task Force to Study Telecommunications Taxation"

(H.P. 807) (L.D. 1130)

TABLED - May 11, 1999 (Till Later Today) by Representative GAGNON of Waterville.

PENDING - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-391)**.

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

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

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

Representative GERRY: Mr. Speaker, Men and Women of the House. Could this amendment be explained to us, what it does?

The SPEAKER PRO TEM: The Representative from Auburn, Representative Gerry has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Waterville, Representative Gagnon.

Representative **GAGNON**: Mr. Speaker, Men and Women of the House. I thank the Representative for her question, I still have a question for her. I'm wondering is she's questioning the amendment that hasn't been presented yet or the Committee Amendment?

This amendment removes provisions from the bill exempting from sales tax the sale of machinery, equipment used to communication services and exempting from sales tax the first \$16 monthly of residential local exchange telecommunication service. The amendment also adds a fiscal note to the bill.

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

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

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

Representative **SHIELDS**: Mr. Speaker, Men and Women of the House. This amendment exempts a lot of money, several million dollars, which if passed I understand would not bring that tax money into our coffers. My question is why were these telecommunication things selected as something not to be taxed.

Representative **GERRY** of Auburn **REQUESTED** a roll call on the motion to **ADOPT Committee Amendment "A" (H-391)**.

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

On motion of Representative **DAVIDSON** of Brunswick, **TABLED** pending **ADOPTION of Committee Amendment "A" (H-391)** and later today assigned. (Roll Call Ordered)

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

**HOUSE DIVIDED REPORT - Majority (10) Ought to Pass - Minority (3) Ought Not to Pass - Committee on INLAND FISHERIES AND WILDLIFE on Bill "An Act to Allow Three Hunters to Hunt Deer Together"**

(H.P. 704) (L.D. 971)

**TABLED - May 14, 1999 (Till Later Today)** by Representative **DUNLAP** of Old Town.

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

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

On motion of Representative **TRACY** of Rome, the House **RECONSIDERED** its action whereby the **Minority Ought Not to Pass Report** was **ACCEPTED**.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative **TRACY**: Mr. Speaker, Ladies and Gentlemen of the House. I hope you oppose the pending motion and go on to accept the Majority Ought to Pass. I am on the Majority Ought to Pass on this and I foresee no problem with three individuals that want to go out together, getting back to the family tradition, of hunting. I hunt with my oldest son, Spencer, and my youngest son, Thomas, and we don't hunt per se as a group of three together. One will go off quite a distance, half mile or so, the other one will go cross country, and then I circle

up around, what I call the loop, and I meet them up on the side of the mountain on the Ricker Road. Then we decide to walk out down the Ricker and out towards the house and I see no problem with three individuals walking out of the woods together or being together and as far as the opponents going to say, you'll be able to drive deer, I don't believe that it will allow us to drive deer in the manner I just spoke to you about and I urge you not to accept this motion. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. I, too, rise and hope to overturn the pending motion. People right now when they go hunting, they go with their fathers, the mothers, whoever, as a family activity and right now, it could be used as a safety incentive, knowing you have three people which go sit up in the woods and you know where those three people are so you won't have to look for them all the time. I know when I was brought up hunting, like Representative Tracy said, from Rome, is that I went with my father and my grandfather. They used to sit me on a stump, one used to go one side of the road and one used to go on the other side of the road and they used to have you look up and down the road. We have people out there right now that have people driving deer, which is like five or ten people, they go in the woods and they try to bring everything back towards the road or whatever. Now if you have five people out there, that's one thing, but only three is another thing. They say that deer kind of roam in a one mile radius, three people with a one mile radius is pretty hard to cover and getting back, everybody wants to bring back the true tradition of hunting. We have people in this body that want to get rid of hunting. That's all fine and dandy, but what I'm saying is let's keep with the tradition that we were brought up with, with our fathers and our grandfathers, and mothers and daughters, there's a lot of people that like to go hunting and I don't think three people going hunting together is going to consider as driving deer. I could see if somebody's in a skidder and goes through the woods and drives them out towards the road, but all it is is mostly father and two sons and whatever. I don't feel that this is driving deer. I hope that you join with me and overturn the pending motion. Thank you.

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

Representative **TRUE**: Mr. Speaker, Ladies and Gentlemen of the House. I, too, hope that you will defeat the Minority Report and go forth with the Majority Report. What the two speakers before me have said, I think is very valuable, but there's something even more valuable and the reason that I voted for this is the fact that if any of you have young children or grandchildren and if you plan and that's very important, plan, a trip hunting with those two people than you can be given a ticket, or arrested or what have you for planning the activity to go with those people. It doesn't seem right to me, but that's the interpretation of the wardens. I feel strongly, and again we passed a bill that said that if you were in the woods with young people, junior hunters and so forth than you had to be within sight or hearing without using, let's say something that was mechanical to keep in touch with one another, which I feel personally is very unsafe. I urge you to defeat the Minority Report and vote for the Majority Report so we won't have these problems. There are, and there's going to be many problems if we don't do that.



Representative CLARK of Millinocket **REQUESTED** that the Clerk **READ** the Committee Report.

The Clerk **READ** the Committee Report in its entirety.

Representative STEDMAN of Hartland **REQUESTED** a roll call on the 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 PRO TEM**: The Chair recognizes the Representative from Dixfield, Representative Bryant.

Representative **BRYANT**: Mr. Speaker, Ladies and Gentlemen of the House. I would urge you to defeat the pending motion. Basically, the current law as it stands today would constitute a violation of a law if me and my father went out hunting together and if we planned that hunt before the time that we went. So let me lay a scenario out, if in fact my brother called me to go hunting tomorrow and I called my father and said that's a good idea let's get together and go hunting. If I told my father why don't you go up on the side hill and me and my brother will come down through the swamp and we'll try to drive something up there or get something moving, you'd be in violation of the law. What I do believe that this is a clarification, currently the Department testified that they wouldn't summons you because they don't believe in part of that law, so this is clarification and what it does do, as the good Representative from Fryeburg, Representative True, testified to that it allows families to hunt. It allows grandfathers to take their sons out, it allows that to happen. It allows you to show your kids the woods, it allows you to teach them how to do this. Without this current clarification in the law, you won't be allowed, I won't be allowed to show my daughters or my sons how to hunt properly or how to stay up there for a period of time and keep them so they are calm in the woods. This is really a good piece of legislation, it's clarification and I would urge you to vote against the pending motion. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Lewiston, Representative Cote.

Representative **COTE**: Mr. Speaker, Members of the House. I, too, urge you to reverse the Ought Not to Pass to Ought to Pass. I'm one of the ten that is for Ought to Pass. I, too, have family members that are hunters. My godson goes out with his father and his brother every year and it would be kind of foolish for them not being able to go out as a family like they have been for years. His father's brothers have done it for years, their father's done it with his kids for years. It's more or less like a family thing and we are here based on family values. We raise our kids on family values, so I urge you along with my fellow colleagues to reverse this and vote against Ought Not to Pass.

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

Representative **PERKINS**: Mr. Speaker, Colleagues of the House. I just wanted to remind you to take a peek at the green sheet that was passed out earlier, actually this is from the Sportman's Alliance of Maine and down to the bottom it points out that New Hampshire allows up to six people to hunt together and it also points out that Inland Fisheries and Wildlife Department here in Maine recommends that this be passed. Years and years ago people over did it with driving deer. They'd bark like dogs and ringing bells and there'd be twenty people in these drives and people go upset about it and we over reacted, but this is a very modest correction in that over reaction, I think. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. I suppose many of you are sitting there thinking now, here goes Representative Dunlap and another one of his tirades. I can assure you, I won't say anything I'll have to take back later on.

If you read the bill and if you listen to what has been said on floor today, you might be inclined to believe that it is currently against the law for me to go hunting with any of my friends and that is not true. The prohibition lies in one group of people trying to drive a deer or a group of deer to either another person or another group of people and that has been law for about 28 years now. I think that it is important to remember that we have also acted on another bill, which I won't talk about that deals with the twilight hunting. I was kind of hoping that we'd talk about this about 20 minutes ago when it actually was a half hour after sunset and you could picture yourself out there trying to fire a rifle with other people around you. That's the premise of my opposition to this legislation, is that you're going to have people around you and you may not be able to see them very well under the best of circumstances, even in the middle of the day.

I think the committee has worked very hard on this legislation and I think people can now appreciate after hearing a couple of our debates exactly what we go through in committee every day. I think the rationales are sound for supporting this legislation, however, I defer with my committee members and I do that respectfully. Some of the arguments that came out in favor of the legislation were that we have blaze orange now, we have hunter safety now, some of these other prescriptions are not necessary anymore so perhaps it's time to back away from them a little bit. I just have to reiterate what I said the other day to an extent that I believe that that is really gambling. It's gambling with people's lives. Two years ago a man was killed in this state participating in a deer drive and one person was trying to drive that deer and he was shot. When it gets to the end of the season and you haven't seen a deer and it's late in the day, the weather is poor and you're tired and you hear that crunch in the woods, it's very tempting to raise the rifle to your shoulder and squeeze off a shot. Let's remember the kind of firearms that we're dealing with here. It's interesting when you talk about what anti gun people call assault weapons the military calls small arms, but the 30-06, which is a very popular caliber in this state was designed to penetrate engine blocks. It's not a firearm to fool around with and you can kill somebody really easy with one of those things.

Now over the last couple weeks, we've debated an awful lot of safety legislation in this chamber and I have to remind you of a couple of those bills. May 6th we debated LD 2094, it's An Act to Change the Fine for Speeding in a School Zone, double the fines. My good friend from Millinocket, Representative Clark, posed a question has anybody been killed in a school zone, why do we need to do this, but the argument was made if it can save one life, it's worth doing. Now because no children have been run down in a school zone, nobody has come before this body and suggested that we raise the speed limit to 45 MPH, saying well gee we don't have a problem so why do we have a prohibition. So basically you're taking a piece of legislation that works, a law that works, and removing it because it's effective.

This particular activity was prohibited in 1971, in the 30 years prior to that year there were approximately 215 hunting fatalities in the State of Maine. That same year also twilight



hunting was prohibited. In the 28 years since then we've had 53 fatalities. Now I'm not great with math, but the way I figure it that's a 75 percent reduction in hunting fatalities, 75 percent. In 1942, we had 100,000 hunters in the Maine woods, last year we had 200,000, so you're doubling the number of hunters and reducing the number the fatalities by 75 percent, so let's repeal some of the safety laws and watch the mayhem start.

Also we just passed An Act to Create the Bicycle Safety Act, I believe the vote on that was 105 to 34 to save one life. You know, I've been thinking about this legislation for some time now, it's troubled me a great deal and I hate to use analogies, but I think this is a good one to bring forward. Operating under the influence, it's been a problem in this state for many decades. Well common sense would dictate that if people actually thought about what they were doing before they had five or six beers and got behind the wheel of a car, they wouldn't do it, because they wouldn't want to drive into a bridge abutment or broadside a van full of kids going to bible school, but they can't picture it, because it will never happen to them. That'll never happen to me. I'm never going to do something stupid like that, but they can picture themselves getting arrested for OUI, being embarrassed, being fined, being jailed, so they reframe, so you get the net affect. You get what you want to accomplish by that law. Yes, we still have people who drink and drive, but it's nowhere near the epidemic problem that it was even a few years ago. I can remember as a senior in high school reading the *Portland Sunday Telegram* before New Years Eve and there was a quarter page ad from the Gorham Police Department and they were stating very plainly that they knew that there were going to be a lot of people drunk on the roads and they wouldn't have time to stop them all, so just asked people to be careful. Think about that, now they have probably a dragnet out there, because it has become so socially unacceptable to do that and I think we've had these prohibitions in place for so many years and they're acceptable now.

Again it doesn't say that you can't go hunting with your friends. It says that you can't drive deer to each other, that's the statute. If you want to go work the same field, go work the same field. You want to go sit in a tree stand and somebody else want to work down by the railroad tracks, that's fine, but don't push the deer. It's a safety issue. Every year, we talk about other states that allow this, every year I read in the newspapers about someone in another state being killed in a deer drive and other states do have very liberal deer driving laws. Pennsylvania limits you to 25 in your driving party, Virginia 18, but then you'll read about the man who shoots his wife as she was driving a deer to him and that's an actual case, so I want you to ponder this very carefully and I know that I'm on the very narrow minority and we do have a very solid committee. These reports are tough to turn around out of Inland Fisheries and Wildlife and there's a reason for that, because they think these things through and I'm not saying they have not thought this bill through, but I have come out on a different end of the tunnel on this.

I've gotten very frustrated in the last few days trying to explain these things to people, because everybody I've talked to on the outside says, yea you're absolutely right, how can you do this. I've gotten a lot of punches in the arm about my past illusions to Greek mythology, but I'll use one more and this is how I feel about these bills. The Prophet of Apollo Cassandra, you remember Cassandra who at the gates of Troy who warned not to take the Trojan horse, well Asia who is blessed with the gift of prophesy, but also cursed at no one would ever believe

her and that's how I feel, like nobody believes me when I say that if you enact these bills, people are going to die. It's black and white to me. It's happened in the past. It'll happen again in the future. I've already told you about the number of fatalities we had in Maine with half the number of hunters. It's going to happen and one of the suggestions was in committee that we can try this for awhile. We can try this it'll be an experiment. I was dumbfounded by that, because we had this as an experiment for decades and the cemeteries are full as a results of those experiments, so be very careful and consider what I've said, please before you vote and please vote to accept the Minority Ought Not to Pass Report. Thank you.

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

Representative PERKINS: Mr. Speaker, Colleagues of the House. I commend my good friend from Old Town for not going on a tirade. I would like to just remind you that this is a 10 to 3 report and that the Department of Fish and Wildlife, our own state recommends this. New Hampshire has allowed six and they have at least as good a safety record as we do. I mentioned the other day that we're still trying to prevent those 19 deaths way back in the 50's and mandatory orange and all these other things and the ban on driving deer, people had already reduced without any state interference, if you look at your little graph down to four fatalities in 75 percent or more reduction. May I pose a question through the Chair?

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

Representative PERKINS: Mr. Speaker, Men and Women of the House. I'd like to pose a question to our good House Chair, my respected Colleague from Old Town, he sees this as driving deer and he sees this as dangerous. There are two aspects if you are going to drive deer and the people who have hunted here the most, I'll bet you can secretly say to yourselves, have you ever tried to drive deer with two or three people, they usually don't go where you want them to go and if you've done a lot of hunting you know that, but it is a nice tradition to get out with your friends and you don't want any question that you're doing anything wrong just by going through the woods together. My question to Representative Dunlap, my good friend, there are two aspects of driving deer. One you're either walking through the woods or you're on stand, would the good Representative tell me which of those is dangerous. Thank you.

The SPEAKER PRO TEM: The Representative from Penobscot, Representative Perkins has posed a question through the Chair to the Representative from Old Town, Representative Dunlap. The Chair recognizes that Representative.

Representative DUNLAP: Mr. Speaker, Men and Women of the House. My response is I have never driven deer. I have always obeyed the law.

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

Representative FISHER: Mr. Speaker, Men and Women of the House. I will be supporting the Majority Report tonight. I want to make you think about something. Perhaps the most endangered species in here is not the hunter who will be on the drive, but if we do this we've already extended the hunting hours, perhaps hunting itself will be placed in the greatest jeopardy. There are a lot of people out in our society today with petitions in their back pocket waiting for a rash of accidents so they can stop

hunting in the State of Maine. That would be the greatest tragedy of all. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House. The good Representative from Old Town talks about this bill as a driving bill. I want to cast myself back into the stone ages going up through the fields and forests of Rome across on the front 40 and having my two boys again going where they usually go and the good Representative going up around the loop which takes him approximately an hour and a half or an hour and forty five minutes to get up around that loop and, if in that interim time that I am driving deer walking in that period of time, it's a long, long drive to get those deer to my two boys which is virtually impossible because we're talking approximately about five and six hundred acres of land, ladies and gentlemen and I don't know why we keep having to bring up this as a bill to drive deer. This is a common sense family tradition, father, son, daughter, grandfather, grandmother or whoever, which by the way, my grandmother used to hunt. God bless her soul, she's 93 or 94 now and she can no longer hunt, but I urge you to vote against the pending motion and accept the Majority Ought to Pass. Thank you.

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

**ROLL CALL NO. 224**

YEA - Bagley, Brennan, Bull, Daigle, Dudley, Dunlap, Duplessie, Etnier, Fuller, Gagnon, Hatch, Jabar, Kane, Mitchell, Murphy E, Norbert, O'Brien LL, Pieh, Powers, Saxl JW, Saxl MV, Shiah, Stevens, Thompson, Townsend, Twomey, Watson, Mr. Speaker.

NAY - Ahearne, Andrews, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Bruno, Bryant, Buck, Bumps, Cameron, Campbell, Carr, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cowger, Cross, Davidson, Davis, Desmond, Dugay, Duncan, Fisher, Foster, Frechette, Gagne, Gerry, Gillis, Glynn, Goodwin, Gooley, Heidrich, Honey, Jacobs, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McKenney, McNeil, Mendros, Murphy T, Nass, Nutting, O'Neal, O'Neil, Peavey, Perkins, Pinkham, Plowman, Quint, Richard, Richardson E, Richardson J, Rosen, Samson, Sanborn, Savage C, Savage W, Schneider, Sherman, Shields, Shorey, Sirois, Skoglund, Snowe-Mello, Stanley, Stanwood, Stedman, Sullivan, Tessier, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tripp, True, Usher, Volenik, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor.

ABSENT - Brooks, Cianchette, Green, Lemont, Muse, O'Brien JA, Perry, Povich, Rines, Tuttle.

Yes, 28; No, 113; Absent, 10; Excused, 0.

28 having voted in the affirmative and 113 voted in the negative, with 10 being absent, the Minority Ought Not to Pass Report was **NOT ACCEPTED**.

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

The Bill was **READ ONCE** and was assigned for **SECOND READING** Tuesday, May 18, 1999.

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

HOUSE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (5) **Ought to Pass as Amended by Committee Amendment "A" (H-564)** - Committee on **JUDICIARY** on Bill "An Act to Encourage Joint Custody Practices"

(H.P. 1133) (L.D. 1592)

Which was **TABLED** by Representative SAXL of Portland pending the motion of Representative THOMPSON of Naples to **ACCEPT** the Majority **Ought Not to Pass** Report. (Roll Call Ordered)

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. I urge you not to accept the pending motion and we move on to accept the Minority Ought to Pass Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Turner, Representative Jacobs.

Representative **JACOBS**: Mr. Speaker, Ladies and Gentlemen of the House. I am standing to urge you to vote for the Minority, vote to pass this bill. I love kids and I think we all do. When there's a divorce in a family, it's the kids that suffer the most and those children that don't have equal access to both parents suffer greatly and I have seen it work when the mother and father have decided on joint responsibilities. The children that have gone through that kind of divorce come out with a healthy attitude. They have a chance to love both of their parents freely and see them half and half. Parents work together for the betterment of their children and we have productive kids. This is part of our problem in society today is the children need both parents, they need their care, they need to see both of them, they need to be loved by both of them. I urge you to vote against the Majority Ought Not to Pass.

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

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. It would be awful hard not to vote for this bill if you look at the title of it, An Act to Encourage Joint Custody Practices, but before you decide that you're going to vote for this bill, I really wish that you would have read the whole bill and look at what it does. Under current law the judge is to decide what is in the best interest of the child and in doing so under current law, the law quite specifically states that the judge cannot make a preference of one parent over the other based on the gender of that parent. In other words you can't choose the mother over the father because you think mothers are better generally speaking, or whatever. You can't do that. Now what does this bill do that's different? It changes the prime focus from what is in the best interest of the child to first the court has to say there is a presumption that exactly 50 percent of the time with the father and exactly 50 percent of the time with the mother is in the best interest of the child. Now in some cases that is in the best interest of the child, but in many cases 50 percent here and 50 percent there is not necessarily in the best interest of the child. It's not always best for the child to spend one week at the father's house and the next week at the mother's house and if you don't do it that way, do you do it a month at the mother's house and then a month at the father's house or do you count the hours when a child is in the custody of one parent during the school week and that's five days, even though they may be in

school for many of those hours, how do you count that against time with the child on the weekend with the other parent, so during the school year, at least, it would mean somehow you're splitting up the time between two parents that may live in different school districts. It's not always in the best interest of the child to spend exactly 50 percent of the time with each parent and that's what this bill says. It creates a presumption that that's the best interest of the child.

Now I can go through this bill and point to you under paragraph 2A, section A1, where it says the court has to agree to award shared parental rights and responsibility unless there's substantial evidence that it should not be ordered. Now that's an interesting phrase, substantial evidence, but it's really not a phrase that meets any of the standards that we have in current law, so it's a new standard that somehow we're going to define what substantial evidence is. Not the evidence, not 50 percent or over 50 percent, but substantial evidence, whatever that is. As a lawyer I can tell you I don't know what that is and there are a number of other technical issues that I have in the bill, but the biggest problem I have with the bill is this presumption that creates, it says 50 percent with each parent is always in the best interest of the child unless you prove otherwise and I urge you to vote for the Majority Ought Not to Pass. Thank you.

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

Representative **POWERS**: Mr. Speaker, Men and Women of the House. I am the prime sponsor of this bill and would like to explain a little bit of my position and it is never easy for me to argue against our good Representative from Naples, Representative Thompson. He is very experienced with this and he certainly knows the law better than I do, so as far as legal technicalities, I think some of those were addressed in the amendment, but I would just like to take a look at the substance of this bill with you. It's about the child's right to contact with both parents and the rights and responsibilities of separated parents and the bill's overt intention is clearly stated and it's a policy matter. The intention is to assure children a frequent and continuing contact with both parents, to encourage parents to share the rights and responsibilities of child rearing in the event of separation or disillusion of the parent's marriage. It's not the ideal situation that parents do not continue residing with one another when they have had children, but it happens and what our search for here is what will do best for the children in their growing up and a shared experience of both of their parents is what is searched for here. Research has shown, in fact, over and over that children in divided families fare better when they have two parents to enrich their lives and especially when both of those parents have been involved in making key decisions on the children's behalf, which is part of what is stated here. That there's joint agreement to this. It is not always achieved. I also know that this raises a lot of anxiety and red flags among many people and I approached or even taking on this bill with tremendous caution. When some dads in my district came to me and asked if I would do this. There are situations in which it is not safe for children to have contact with one or the other of their parents upon separation and we believe that we have guarded against those situations and to note them. Firstly, the order of preference for awarding parental rights and responsibilities is as Representative Thompson referred to, quote, in accordance with the best interest of the child. Second if there is an award of primary residential care to both parents, it is dependent on the court finding both parents as suitable parents and last in cases

involving domestic abuse, the conditions of parent child contact are as already in the statute and they are referenced specifically in this bill. The presumption of equally shared time with each parent is exactly what we were seeking in bringing this bill forward. I think that the claim that it will be an exactly 50, 50 division is not what is sort, but equally shared time to the degree possible is what is sort. Every situation of separation and divorce will be different, just as all our families take care of their children differently, day to day to day. Our united families, sometimes it's dad home during the day and mom home at night. Sometimes it's dad who takes the kids to school and mom picks them up. Every situation will be different, but starting from the presumption that there will be shared rights and responsibilities by both parents as long as it is in the best interest of the children is what is sort here, so I urge you to defeat the pending motion and go on to accept the Minority Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Turner, Representative Jacobs.

Representative **JACOBS**: Mr. Speaker, Ladies and Gentlemen of the House. I would just like to read to you this, it says the Legislature finds and declares that it is the public policy of this state to assure minor children of frequent and continuing contact with both parents after the parents have separated or dissolved their marriage and that it is in the public interest to encourage parents to share the rights and responsibilities of child rearing in order to affect this policy and then further, parental rights and responsibilities order, this subsection governs parental rights and responsibilities and court orders for parental rights and responsibilities. The court shall follow the following order of preference in accordance with the best interest of the child in ordering parental rights and responsibilities. Remember now, in the best interest of the child that is foremost. To both parents jointly, when the parents have agreed to an award of shared parental rights and responsibilities, also agree in open court the court shall make that award unless there is substantial evidence that it should not be ordered. The court shall state its decision in its decision the reasons for not ordering a shared parental rights and responsibilities award agreed to by the parents and there's some more, but that is the important part. Kids are so important and we've got to change society around and to do that we have to affect the kids, because they're going to be adults someday and I'm thinking about a family in Turner that went through a very difficult divorce between the parents. They loved their children very much. They loved their children so much that they decided to think about the children first. The mother let the children continue on in school where the father lived and where they had lived previously. They make an effort to pick the children up and the mother takes them home sometimes with her and they stay there weekends or whatever, but they share these children and those children are very well adjusted and that's what I want to see. Please vote against the Majority Ought Not to Pass.

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

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

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

Representative **CAMERON**: Mr. Speaker, Ladies and Gentlemen of the House. I guess what I'm curious about is how this could work in a couple of instances, one I'm thinking of particularly around school, if two parents live in separate but

adjacent communities, anyway communities that are not served by the same school district. How would that impact this? I don't see how this could possibly work, I think it's a laudable goal, but if somebody could help me understand how that could work and also I'd like to know, I know we're talking about parents, but does this have any impact on children that have actually been removed from the home even though there are parents still in the home, but they've been removed by the state. Is there any impact there. Thank you.

The **SPEAKER PRO TEM**: The Representative from Rumford, Representative Cameron has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Naples, Representative Thompson.

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. To answer the good Representative from Rumford's question, the last one first. This aspect of the law does not apply to children that have been removed from a home. This is purely in the case of a divorce situation, or a child custody fight, there may not be a divorce. It may be a post divorce situation so if that is the area where we are dealing with. Currently, under the current law hopefully the results wouldn't be too different, under current law when you're talking about sharing 50, 50 it happens occasionally it happens somewhat, when the court finds that the parents, that is both parents, can deal with it. Often it isn't the kids that can't deal with it, but it's not in their best interest to share 50, 50 because of the way the parents are getting along. That's always the problem in these situations. They're very emotional situations and they're not always getting along. The court has to look at all of these tough circumstances and make their best call on what is in the best interest of the child. Now if you start making a presumption what is in the best interest of the child by answering the question, by saying the best interest of the child is equal sharing, then you're not giving the judge the discretion they need.

Now the good Representative from Turner read a number of items from the bill, well, I could read to you from the current law as much of the same language. The current bill takes much of what is current law and restates it and deals with this presumption as a major change. I can tell you that the Legislature makes the following findings. It finds and declares a public policy that encourages mediated resolution of disputes between parents is in the best interest of minor children. When the parents have agreed to an order of shared parental rights and responsibilities, are so agreed in open court, the court shall make that award unless there is substantial evidence that it should not be ordered. Court should state in his decision reasons for not ordering a shared parental rights and responsibility award agreed to by the parents.

When considering what is in the best interest of the child in making an award of parental rights and responsibilities, with respect to a child, shall apply this standard of the best interest of the child. In making decisions regarding the child's residence and parent child contact, the court shall consider as primary, the safety and well being of the child. This is current law. In applying this standard the court shall consider the following factors, the age of the child, the relationship of the child with the child's parents and any other persons who may significantly affect the child's welfare, the preference of the child, if old enough to express a meaningful preference, the duration and adequacy of the child's current living arrangements and the desirability of maintaining continuity, the stability of any proposed

living arrangements for the child and a number of other issues including the ability of the parents to cooperate, the motivation of the parties and the capacity to give the child love, affection and guidance. In effect, the standards we're using now is to look at what is going to be best for that child, in to the circumstances that are presented to the judge. There are people that have complaints about a judge's decision and there probably have been some bad decisions made by judges. They're human. They look at cases as they see them. They don't always see them as one of the parties would like them to see them, but I believe that the standards that we have in our law to consider first and foremost the best interest of the child should remain as Maine's law and I ask you to accept the Majority Ought Not to Pass Report.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Southwest Harbor, Representative Stanwood.

Representative **STANWOOD**: Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition of the pending motion and ask that we consider the Minority Report. Having been a divorced parent, during the negotiations and mediation we sat an agreement in place that worked very well for us. I know other cases where indeed they do share 50, 50 parental rights. That works for some people. I know another instance where when school is out the father in this case gets the daughter for the summer so 50, 50 can be lots of things, but foremost and I agree with it 100 percent the child's best interest has to be taken first. I think there is always the case, I know people have a difficult time telling judges what to do and how to do it. That in itself is wrong. They are human. They do need to take all considerations when they are making their decisions. It's extremely important for children to have contact with both parents and their parents, if they are still living and other family members. It's part of the tradition, it's part of heritage, and it's part of working within families. These are tough times. Divorce rates are up, children are affected and we need to insure those kids that they are loved by both parents at all times, if at all possible and no one wants those kids in harms way, but that's the decision for the judge. He'll make the decision as he sees it. It's not tying his hands, but it's giving him a baseline to start from. He has to start at 50, 50 and work from there and I would ask you to reject this motion and to accept the Minority Ought to Pass. Thank you very much.

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The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. Everyone who has spoken in the last few minutes is entirely correct when they say that shared custody is always in the best interest of the child in normal circumstances. In divorce situations, you do not have normal circumstances. You have impaired relationships. You have a high degree of conflict and it's a conflict that goes on for a fairly lengthy period of time. In my previous life, I spent many years as a marriage counselor, therefore many years as a divorce counselor. Counseling parents through very difficult circumstances often attempting to help them work out shared custody arrangements. It is not easy

ladies and gentlemen. It is crucial for the judge to have complete discretion during this period of time in attempting to determine what is in fact in the best interest of the child. The judge can have available to him, in these circumstances, professional resources to do evaluations of the child and as previous speakers have identified mediation, all of these are valuable tools to help determine what kind of arrangement is in the best interest of the family. When we make a presumption that shared custody is in the best interest of the child, you tip the balance. You tip the balance away from the kind of discretion that the judge and those involved in the case, including the parents need to have. For many, many years, men and women of the House, we made a presumption that it was always in the best interest for a mother and father to stay together in a marriage very often long after the period when it had become mutually destructive both for them and the children. We learned from that. We learned that that presumption of keeping a family together was not always in the best interest. Let us not make the same mistake here in making a simplistic and I think ill-founded judgment that it's in the best interest of the child to always hold up a shared custody arrangement as the model and I urge your acceptance of the Majority Ought Not to Pass. Thank you.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I think one of the things we're forgetting as we listen to the previous speaker and the good Chair, the Representative from Naples, the Chair of the Judiciary Committee, when he was quoting from the present law. When in the Committee we had a side by side on the present law and the language of the LD that we have in front of us. I don't think we want to risk putting children in a place where they shouldn't be, but this bill doesn't do that. What this bill does is start from square one and I think it's a reasonable basis to start from with both parties start equally with custody of their child. We're not starting to say that the mother is this and the father is this, we're saying they're both equal before our courts as far as the custody with their children. This briefly, I hope you'll bear with me as some of this stuff was already said, I'm going to read from the current law and this is a side by side we had in the committee. It says the Legislature finds and declares as public policy that encouraging mediated resolutions of disputes between parents is in the best interest of the minor children. Nobody will dispute that, but that certainly comes no way near as far as my reading interpretation of the bill's language that would be inserted in current law that says, the Legislature finds and declares that it is the public policy of this state to assure minor children of frequent and continuing contact with both parents, after the parents have separated or dissolved their marriage and that it is in the public's interest to encourage parents to share the rights and responsibilities of child rearing in order to effect this policy. Nowhere in this bill does it say that if the evidence is contrary to that public policy that we're going to have children going into situations where they shouldn't be. There's numerous provisions within current law that stays in there plus language in the bill that allows discretion for the court to look at the minutia of that and decide one way or the other for the best interest of the child, but what we're saying is from day one, from that first day, when we take a look at this, it's a presumption that they're both good parents. They both should have equal time and shared custody of their children. That's a reasonable basis to start on and I hope you will consider that when you think of this piece of legislation.

There's all kinds of protections, the protections are still there for the child, if the court decides it not a good situation, but who among us here as parents wouldn't want to start from day one on an equal basis for access to their children, so I hope you will vote against the pending motion. Thank you.

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

Representative **COTE**: Mr. Speaker, Members of the House. I stand before you to oppose Ought Not to Pass. I, myself, have dealt with this situation. I am going through this situation. When I was growing up I never knew my father, because my father was kept from me because of custody battles. I didn't find my father until I was like 18, 19, but then it was too late, because I lost him a few years later. I never knew my father. Right now my 13 year old son is going through this. I hear everybody saying it's in the best interest of the child, what's the best interest for my son. He spends the week at his mother's then I have him on Fridays and Saturdays and Sundays, then he's back to his mother's again. That's not a life for my son. I'd like to have my son more, just like his mother does. I wish I'd had my father along with my mother, but I never did so I urge you to vote against Ought Not to Pass and go with the Minority Ought to Pass. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Lemoine.

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. During my other life, I am a practicing attorney and have for a number of years done a great deal of family court work. It is always a difficult situation when parents come to you and there's a child involved and the question is going to be, how will that child be raised. The legal question, the first one that you face, is will there be shared parental rights and responsibilities. We've heard a great deal about that this evening. The vast majority of cases are shared parental rights and responsibilities, not sole, that's where one parent has sole custody or allocated, where the mother can raise the child for religious purposes and the father does the education. The vast majority of Maine cases are done on a shared parental rights and responsibilities format. What we're talking about now is how do the children spend their time, do they spend it mostly with their mother, mostly with their father. I will tell you in my practice and as I see in the courts, day in, day out, that issue often comes up because it is closely linked with who pays child support, because under our statutes the parent who has the child the majority of the time is presumed to be the parent that receives child support. Therefore, the division of time for the child becomes a very contentious issue. We are starting down a path with this legislation that makes it even more contentious, that begins to dissolve the court's ability to see through the various and very deeply held emotional beliefs of each parent about what is in the best interest of their child and has the court start at a 50, 50 start, 50, 50 beginning point and that may or may not have any relevance to the case before it. By the time a case gets to the judge it has often been a long time since the parents were together and to then say to that judge, you're looking at a two year old, or four year old child who for the past three years has lived in a separate home with his mother, that he must automatically start out having a 50, 50 division of time is simply not going to be in the best interest of the children. The court may enter some phase in so that you arrive there or do other mechanisms, which on a case by case basis are justified, but to force a court to start from this position is

not going to be good public policy and I hope this body will join the Majority in an Ought Not to Pass Report. Thank you.

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. This bill as you look at it, as I'm looking at it, is current law versus proposed law and you've heard that a lot tonight. The first part of this bill adds a paragraph that says, are we going to change the public policy of the State of Maine to encourage joint custody, joint parental rights and responsibilities, that's number one. You've heard tonight that this takes away the judges power to decide, but in every paragraph the paragraph ends the court shall state in its decision the reasons for not ordering shared parental rights and responsibilities. You heard tonight that there is no such thing as a standard of substantial evidence, that's current law already. What this adds is a paragraph that says if the parents agree to this you can have shared parental rights and responsibilities unless the judge says no and he has to write it out, same thing. Same current perspective, same thing. It adds a paragraph which says, if the parents haven't reached this, the judge may order the parents to work out a plan, but only after he finds that both parents are suitable, okay, so not yet have we taken any discretion away from the judge, not yet have we put a child in jeopardy, because the judge still has the ability to decide if both parents are suitable. It then goes on to say that the judge upon looking at this can do three things, he can award the custody to both parents jointly, to either parent, or to a third person. All of this follows current law except that there's the continuing language that the court shall make the award based on whether each parent has been found to be appropriate. It does state that the court cannot apply a preference for one parent over the other in determining the child's primary residential care based on gender. That's going one step further than what we have now. Everywhere else that I look nothing changes unless the court declines to enter an award awarding joint primary residential care. If he doesn't do that, he must explain why, simple enough. We are to encourage parents to raise their children jointly. The judge is to look at the situation and decide whether the parents are suitable. He has every option available to him to make those decisions and then yes, comes the technical arrangements of how to divide it up, but do you know what, that's not our job, that's micro-managing. That's what the parents, the mediators and the judge work out. That's what happens as they consider situation by situation how families should be working together, but I don't think that it's a bad idea for the people of the State of Maine to know that the Legislature says, we believe both parents are important. We believe both parents should raise their children and we believe the judge should have discretion. It's all here. I ask you to please oppose the pending motion and go on to pass the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Bull.

Representative **BULL**: Mr. Speaker, Men and Women of the House. I am on the Majority Report here and one issue that has not been brought out yet that was raised at the public hearing is that there is a concern among some members in this state that passage of this bill could exasperate domestic abuse situations. That there is a concern that children in abusive relationships, that this bill could put them at further risk. I listened very carefully to the testimony and debate on this bill and I failed to hear the one thing that was paramount for me and

that is why are we needing to do this. Current law already says that both parents are important, because it says that the judge cannot give preference to one parent over the other. That to me is saying that both parents are important so why are we putting this burden on the judges telling them what they need to find is presumptive evidence, so I don't see a need for this bill. If both parents are good parents they'll get joint custody, but I think the Representative from Rumford, Representative Cameron, nailed it on the head. That there are situations that this would be unworkable and that we need to leave it up to the judge to decide what is the best interest of the child. I urge your support for the Majority 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.

A roll call having been previously ordered on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report was taken now:

**ROLL CALL NO. 225**

YEA - Ahearne, Bagley, Belanger, Berry RL, Bouffard, Bragdon, Brennan, Bryant, Bull, Bumps, Cameron, Chick, Collins, Colwell, Davidson, Desmond, Dudley, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Hatch, Honey, Jabar, Kane, Labrecque, LaVerdiere, Lemoine, Lovett, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McKenney, McNeil, Mitchell, Murphy E, Norbert, Nutting, O'Brien LL, O'Neal, O'Neil, Peavey, Pieh, Quint, Richard, Richardson E, Richardson J, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tripp, Twomey, Volenik, Watson, Williams, Mr. Speaker.

NAY - Andrews, Baker, Berry DP, Bolduc, Bowles, Buck, Campbell, Carr, Chizmar, Clark, Clough, Cote, Cowger, Cross, Daigle, Davis, Dugay, Duncan, Foster, Gerry, Gillis, Glynn, Gooley, Heidrich, Jacobs, Jodrey, Jones, Joy, Kasprzak, Lindahl, MacDougall, Mack, Madore, Mailhot, Martin, Marvin, Mendros, Murphy T, Nass, O'Brien JA, Perkins, Pinkham, Plowman, Powers, Rosen, Savage C, Schneider, Sherman, Shields, Shorey, Sirois, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Tracy, Trahan, Treadwell, True, Usher, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor.

ABSENT - Brooks, Bruno, Cianchette, Goodwin, Green, Kneeland, Lemont, Muse, Perry, Povich, Rines, Tuttle.

Yes, 73; No, 66; Absent, 12; Excused, 0.

73 having voted in the affirmative and 66 voted in the negative, with 12 being absent, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

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

Bill "An Act to Implement the Recommendations of the Task Force to Study Telecommunications Taxation"

(H.P. 807) (L.D. 1130)

Which was **TABLED** by Representative DAVIDSON of Brunswick pending **ADOPTION** of **Committee Amendment "A" (H-391)**. (Roll Call Ordered)



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

Representative **CLOUGH**: Mr. Speaker, Ladies and Gentlemen of the House. A few minutes ago when we talked a short time about this bill, the good Representative from Lewiston, Representative Gerry, asked what the bill was all about and I took a good look at it afterwards, because I didn't think that we got an answer. In the original bill, among other things, the bill provides sales tax exemptions for machinery and equipment used directly and primarily to provide communications service and for the first \$16 monthly for each residential telephone account. In the summary of the amendment, both of those provisions are taken away, so I would ask that you vote against the adoption of H-391.

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

Representative **GAGNON**: Mr. Speaker, Men and Women of the House. This was a fairly complex bill that was a result of a task force that had been meeting in the off season to look at the whole area of telecommunications, as all of you know, telecommunications is changing fairly dramatically and our tax code is pretty much out of date in relation to those changes. What we are moving through is the original bill, but we then realistically could do and what we couldn't do with a committee amendment and then there was a flaw in the committee amendment. So we took a confusing issue and made it a little more confusing with the committee amendment and what I was trying to get to and which is what caused my frustration a little bit, was that we are trying to get to the final floor amendment, which I would like to present if this committee amendment passes.

Basically what the bill will do is that it will change the definition of telecommunications, which has always been referred to as telephone and telegram services to a more accurate definition of telecommunication services. There are a number of items in the bill that we went through point by point and I'd be glad to go through those with the members at this time.

For example, the bill excludes from the sales tax the sale of cable television converter boxes. On the cable TV side, cable TV as you know, when you get extra services you get that cable box and as most of you know, you are taxed on that service. The services that come with that cable box and in fact, the rental of that cable box and we were taxing that cable box also at the point at purchase. In other words, the cable company had to pay the tax on the equipment and then we were taxing for the rental also, which is something we really tried to avoid in the code, we're either going to tax it one way or the other and we're moving more in the direction of taxing the rentals at this point.

There's also a problem with pre-paid calling cards, which probably all of you are familiar with, under the tax code there is a great deal of confusion because people are buying these cards or they're buying something of service on their phone bill and there was a confusion on what they had to pay tax on and what they didn't have to pay tax on in terms of those calls. Rather than having the telephone companies having to distinguish what calls were going where in terms of intrastate and instate calls, we simplified that whole process and just simply applied the sales tax to the calling card itself. If you buy a \$5 calling card then you'd be paying a sales tax on that then they wouldn't have to worry about the collection of a sales tax, figuring out where

you're calling and monitoring all that, which saves the industry a great deal of money to have to just track that.

Another point is that we're just simply requesting that the Bureau of Revenue Services continue to monitor the technological developments in the field of telecommunications and report back to the Legislature with this change in the law and to see what else needs to be done. There were a number of other items that we could not, the committee felt in their unanimous report, that we felt that we could just not afford because of the great fiscal note, but one of the things that did slip through, which was on the committee report, was an exemption for equipment used to provide certain telecommunication services. That was not the intent of the committee, in fact it wasn't even the intent of the task force, but the way the amendment was written, it created a huge fiscal note, which is what the good Representative from Auburn was referring to earlier on. For the fiscal note that you are looking at, you see on the committee amendment, which is \$3 million about \$4 million the first year and \$6 million the second year is very large because of a flaw in the bill and that is something that we are trying to correct in the floor amendment at this time to remove those items with a floor amendment. If the members would indulge me to get it passed the committee report, I can then present an amendment to that committee report. I hope I have answered everyone's questions, again I apologize for the confusion up front. If there are any questions, I will do my best to answer any more questions. Thank you.

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

Representative **BERRY**: Mr. Speaker, Men and Women of the House. I co-chaired this task force that did this work and I stand here this evening to tell you that what's left of this is truly the skin of simply a sausage, because this thing has been totally gutted. There is almost nothing here, which was part of the intent of that entire task force for the consumer of the State of Maine. The exemption has been stripped from this of the first \$16 of your bill. That seemed like a really good idea, it happened to have come out of the task force report as the unanimous statement. I find it interesting that people that work on a task force and support the proposals within the task force, therefore, find it quite easy to move away from that position. That bothers me. We looked and worked very hard on this report and at this point in time when you take the bill and you take the two proposed amendments to this bill and scratch out everything that's there, I don't know why we are passing this bill. I leave that, as many times I do, for you to think about. Look at the proposals and look what's left for the consumer of the State of Maine. \$16 untaxed is not a large amount of money, people and I think I'll close with that. Thank you, sir.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Buck.

Representative **BUCK**: Mr. Speaker, Ladies and Gentlemen of the House. I understand the frustration of the Representative from Belmont and there's no one in this House that would like to see more tax reductions than myself. That having been said, let me tell you that given the realities of the amount of money the Taxation Committee had to deal with in terms of tax reductions this year, all of us on the Committee realized that the bill as it was originally written would not realistically get beyond the Appropriations Table and so even though the bill has been stripped of most of its provisions, I would urge you to support it. It came out unanimously through



the Taxation Committee, it is a step in the right direction and I would urge all of you to support it and perhaps two years from now we can implement the rest of the bill when revenues pour in even greater than they have this year. Thank you.

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

Representative MENDROS: Mr. Speaker, Ladies and Gentlemen of the House. I don't know about the rest of you, but my phone bill is a lot more than \$16 a month and I pay the tax on it and I can afford it, but we do have a lot of elderly in this state that live on a very tight fixed income. They pinch their pennies, they keep their phone bills down. They are the ones that are going to be hit by this amendment that removes the way they're going to be taxed on the first \$16. People on very fixed incomes that little bit of money makes a big difference to them and I urge you to vote against the committee amendment.

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

A roll call having been previously ordered on the motion to **ADOPT Committee Amendment "A" (H-391)** was taken now:

**ROLL CALL NO. 226**

YEA - Ahearn, Andrews, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Brennan, Bruno, Buck, Bull, Bumps, Cameron, Campbell, Chick, Chizmar, Clark, Collins, Colwell, Cote, Cross, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Foster, Frechette, Fuller, Gagnon, Gillis, Gooley, Hatch, Heidrich, Honey, Jabar, Jodrey, Jones, Joy, Kane, Kneeland, LaVerdiere, Lemoine, Lindahl, MacDougall, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McNeil, Mitchell, Murphy E, Murphy T, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Pieh, Pinkham, Plowman, Powers, Quint, Richard, Richardson E, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Shields, Shorey, Sirois, Skoglund, Snowe-Mello, Stanley, Stanwood, Stedman, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Trahan, Treadwell, Tripp, True, Twomey, Usher, Volenik, Watson, Weston, Wheeler EM, Williams, Winsor, Mr. Speaker.

NAY - Bryant, Carr, Clough, Cowger, Gagne, Gerry, Glynn, Jacobs, Kasprzak, Labrecque, Lovett, Mack, McKenney, Mendros, Richardson J, Sherman, Tobin D, Tobin J, Waterhouse, Wheeler GJ.

ABSENT - Brooks, Cianchette, Goodwin, Green, Lemont, Muse, Perry, Povich, Rines, Tuttle.

Yes, 121; No, 20; Absent, 10; Excused, 0.

121 having voted in the affirmative and 20 voted in the negative, with 10 being absent, **Committee Amendment "A" (H-391)** 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 GAGNON of Waterville **PRESENTED House Amendment "A" (H-604)**, which was **READ** by the Clerk.

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

Representative GAGNON: Mr. Speaker, Men and Women of the House. This is the long promised House Amendment. What this amendment will do is it makes actually a technical correction to the committee amendment, which we've just

passed. It removes the facilities and equipment from the network elements that was in the bill and that's what will dramatically drop, that was not the intent of the bill and it was not the intent of the original bill that we would actually exempt all the equipment and actually the facilities that would provide a number of telecommunication services, such as call waiting, caller ID, and things like that, but to exempt those services instead. So the fiscal note that you saw in the original Committee Amendment, which was in the neighborhood of \$6 million per year will now be dramatically dropped and for the entire biennium we're looking at just under \$20,000 all together. Thank you, Mr. Speaker.

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

Representative GLYNN: Mr. Speaker, Ladies and Gentlemen of the House. I would request a division on this vote. I have taken a look at this bill and it seems as though its going to something that was going to be very consumer friendly, something that was going to provide some needed tax relief to the consumer and now what it appears to be is very much a very minor word technical change that doesn't appear to do much of anything and I do not see how this is going to give up some substantial rate reduction. I served several years in my town on a cable TV regulatory board and I also chaired the committee and one of the big things that we had noticed when we had gone through our contract negotiations with Time Warner was the fact that just about everybody was clinging on to the cable bill with some kind of a tax or fee. Literally these people pay a franchise fee to the municipalities that goes into the form of a general revenue. We have basically no acknowledgment of this high tax burden and the fact that in a lot of these communities the reason why they might choose to go, for instance, to cable television is based on the fact of poor reception in the city, you don't have a lot of choice and to a lot of people that resided in cities where they literally have no reception without going to some form of basic cable plan, they feel as though they are losing access to a very basic service, as basic as power and water and telephone service. So in essence I just don't believe this amendment is going to do anything and I would not support it. Thank you.

Representative GLYNN of South Portland **REQUESTED** a division on the motion to **ADOPT House Amendment "A" (H-604)**.

Representative GAGNON of Waterville **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-604)**.

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

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

**ROLL CALL NO. 227**

YEA - Ahearn, Bagley, Baker, Belanger, Berry RL, Bolduc, Bouffard, Bragdon, Brennan, Bruno, Bryant, Buck, Bull, Bumps, Cameron, Campbell, Carr, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Daigle, Davidson, Davis, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gillis, Gooley, Hatch, Heidrich, Honey, Jabar, Jacobs, Jodrey, Kane, Kneeland, LaVerdiere, Lemoine, MacDougall, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McKenney, Mitchell, Murphy E, Murphy T, Nass, Norbert, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Perkins, Pieh, Plowman, Powers, Quint, Richard, Richardson E, Richardson J, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Shields, Sirois, Skoglund, Stanley, Stanwood, Stevens,

Sullivan, Tessier, Thompson, Townsend, Treadwell, Tripp, Twomey, Usher, Volenik, Watson, Weston, Williams, Winsor, Mr. Speaker.

NAY - Andrews, Berry DP, Bowles, Clough, Collins, Cross, Desmond, Duncan, Gerry, Glynn, Jones, Joy, Kasprzak, Labrecque, Lindahl, Lovett, Mack, McNeil, Mendros, Nutting, Peavey, Pinkham, Rosen, Savage C, Schneider, Sherman, Shorey, Snowe-Mello, Stedman, Tobin D, Tobin J, Tracy, Trahan, True, Waterhouse, Wheeler GJ.

ABSENT - Brooks, Cianchette, Goodwin, Green, Lemont, Muse, Perry, Povich, Rines, Tuttle, Wheeler EM.

Yes, 104; No, 36; Absent, 11; Excused, 0.

104 having voted in the affirmative and 36 voted in the negative, with 11 being absent, **House Amendment "A" (H-604)** was **ADOPTED**.

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-391)** and **House Amendment "A" (H-604)** and sent for concurrence.

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

**REPORTS OF COMMITTEE**  
**Committee of Conference**

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

(H.P. 20) (L.D. 30)

has had the same under consideration, and asks leave to report: That the House **RECEDE** from Passage to be Engrossed as Amended by Committee Amendment "B" (H-97) as amended by House Amendment "A" (H-195) thereto; **INDEFINITELY POSTPONE** Committee Amendment "B" (H-97) as amended by House Amendment "A" (H-195) thereto; **READ** and **ADOPT** Committee of Conference Amendment "A" (H-601); and **PASS THE RESOLVE TO BE ENGROSSED AS AMENDED BY COMMITTEE OF CONFERENCE AMENDMENT "A" (H-601)** in **NON-CONCURRENCE**.

That the Senate **RECEDE** and **CONCUR** with the House.

Signed:

Representatives:

HATCH of Skowhegan

DUGAY of Cherryfield

CIANCHETTE of South Portland

Senators:

LONGLEY of Waldo

HARRIMAN of Cumberland

**READ.**

Subsequently, the Committee of Conference Report was **ACCEPTED**.

On motion of Representative HATCH of Skowhegan, the House **RECONSIDERED** its action whereby the Committee of Conference Report was **ACCEPTED**.

On further motion of the same Representative, **TABLED** pending **ACCEPTANCE** of the Committee of Conference Report later today assigned.

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On motion of Representative STEDMAN of Hartland, the House adjourned at 10:09 p.m., until 9:00 a.m., Tuesday, May 18, 1999.