

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
54th Legislative Day
Wednesday, May 19, 1999

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

Prayer by Reverend Ronald Morrell, China Baptist Church and Chaplain at Colby College.

National Anthem by Hermon High School Jazz Combo.

Pledge of Allegiance.

Doctor of the day, Steven I. Weisberger, D.O., Jonesport.

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

The Journal of yesterday was read and approved.

SENATE PAPERS

Non-Concurrent Matter

JOINT ORDER - Relative to Establishing the Committee on Sawmill Biomass

(H.P. 1583)

READ and PASSED in the House on May 17, 1999.

Came from the Senate **READ** and **REFERRED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** in **NON-CONCURRENCE**.

On motion of Representative DAVIDSON of Brunswick, the House voted to **INSIST**. Sent for concurrence.

Non-Concurrent Matter

JOINT ORDER - Relative to the Committees on Appropriations and Financial Affairs and Health and Human Services reporting out legislation establishing a fund to receive and use money received in settlement of the lawsuit State of Maine v. Philip Morris, et al.

(H.P. 1570)

READ and PASSED in the House on May 3, 1999.

Came from the Senate **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act to Create a State House Citizen Participation and Lobby Center"

(H.P. 1447) (L.D. 2068)

Bill and all accompanying papers **COMMITTED** to the Committee on **STATE AND LOCAL GOVERNMENT** in the House on May 17, 1999.

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

On motion of Representative AHEARNE of Madawaska, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

Non-Concurrent Matter

Bill "An Act to Promote Stability in Labor Management Relations in the Public Sector"

(H.P. 960) (L.D. 1358)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-433) in the House on May 6, 1999.

Came from the Senate with the Bill and all accompanying papers **RECOMMITTED** to the Committee on **LABOR** in **NON-CONCURRENCE**.

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

COMMUNICATIONS

The Following Communication: (S.C. 271)

SENATE OF MAINE

OFFICE OF THE SECRETARY

3 STATE HOUSE STATION

AUGUSTA, MAINE 04333

May 18, 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 Legal and Veterans Affairs on Bill "An Act to Clarify Referendum Wording" (H.P. 41) (L.D. 55), was accepted.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

ORDERS

On motion of Representative BRENNAN of Portland, the following Joint Order: (H.P. 1587) (Under suspension of the rules, cosponsored by Senator BERUBE of Androscoggin and Representatives: ANDREWS of York, BAKER of Bangor, BELANGER of Caribou, DESMOND of Mapleton, RICHARD of Madison, SKOGLUND of St. George, STEDMAN of Hartland, WATSON of Farmingdale, WESTON of Montville, Senators: MURRAY of Penobscot, SMALL of Sagadahoc)

WHEREAS, the Legislature finds that the Governor Baxter School for the Deaf is a unique institution in Maine, a state-funded school for the deaf and hard-of-hearing, with a statewide obligation and role to help local schools educate deaf and hard-of-hearing children and a critical role in the deaf culture of the State; and

WHEREAS, the Legislature finds that, to take best advantage of its unique features, the Governor Baxter School for the Deaf needs a governance system and management powers that reflect the school's unique status; and

WHEREAS, the Committee to Review the Governance Structure of the Governor Baxter School for the Deaf concluded that the current governance system of the Governor Baxter School for the Deaf does not fit the school's need for effective and efficient governance; and

WHEREAS, both the Department of Education's review committee report regarding the compliance of the Governor Baxter School for the Deaf with the basic school approval statutory requirements and the report of the Committee to Review the Governance Structure of the Governor Baxter School for the Deaf found the school's employment of certified and qualified school personnel and provisions for the security and welfare of residential students to be deficient, and the department's review committee also concluded that significant deficits in the current educational program at the school, including the lack of a cohesive curriculum, instruction and assessment program, warranted the Commissioner of Education to change the status of the Governor Baxter School for the Deaf from "approval" to "provisional approval" and further required the Governor Baxter School for the Deaf to file with the commissioner an acceptable written plan of action for addressing identified deficits, which includes addressing safety concerns at the facility; and

WHEREAS, the Legislature finds that it is necessary to review the efficiency and effectiveness of the educational program at the Governor Baxter School for the Deaf in the context of the range of alternative educational models and placements that are available to deliver appropriate educational programs and services that meet the unique educational needs of children and youth who are deaf and hard-of-hearing; and

WHEREAS, the Legislature finds that there is an urgent need for a task force to review the educational program and the governance system of the Governor Baxter School for the Deaf to ensure that the school is meeting its statewide obligation and role of helping local schools educate deaf and hard-of-hearing children in an efficient and effective manner; now, therefore, be it

ORDERED, the Senate concurring, that the Task Force to Review the Educational Program and the Governance System of the Governor Baxter School for the Deaf is established as follows.

1. Task force established. The Task Force to Review the Educational Program and the Governance System of the Governor Baxter School for the Deaf, referred to in this order as the "task force," is established.

2. Task force membership. The task force consists of 14 members as follows.

A. The President of the Senate shall appoint 4 members from the Senate, including one member who serves on the Joint Standing Committee on Education and Cultural Affairs, one member who serves on the Joint Standing Committee on Health and Human Services, one member who serves on the Joint Standing Committee on Judiciary and one member who serves on the Joint Standing Committee on Agriculture, Conservation and Forestry.

B. The Speaker of the House of Representatives shall appoint 4 members from the House of Representatives, including one member who serves on the Joint Standing Committee on Education and Cultural Affairs, one member who serves on the Joint Standing Committee on Health and Human Services, one member who serves on the Joint Standing Committee on Judiciary and one member who serves on the Joint Standing Committee on Agriculture, Conservation and Forestry.

C. The President of the Senate shall appoint 2 members from the Committee to Review the

Governance Structure of the Governor Baxter School for the Deaf who represent the deaf community.

D. The Speaker of the House shall appoint one member from the Committee to Review the Governance Structure of the Governor Baxter School for the Deaf who represents an interested party other than a state agency or the deaf community.

E. The Commissioner of Education or the commissioner's designee must be a member of the task force.

F. The Commissioner of Administrative and Financial Services or the commissioner's designee must be a member of the task force.

G. One of the cochairs of the School Board of the Governor Baxter School for the Deaf or the school board cochairs' designee must be a member of the task force.

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

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

5. Duties. The task force shall review the educational program of the Governor Baxter School for the Deaf to ensure that the school is meeting its statewide obligation and role in helping local schools educate deaf and hard-of-hearing children in an efficient and effective manner, and, if appropriate, the task force shall recommend a design for a new governance system for the Governor Baxter School for the Deaf and shall prepare a plan that will help the school develop the capacity to implement a system that is more efficient and effective than the current governance system. In conducting this review, the task force shall:

A. Request, as appropriate, the assistance of the Department of Education, the Department of Administrative and Financial Services, the Bureau of Parks and Lands within the Department of Conservation, the Department of the Attorney General, the School Board of the Governor Baxter School for the Deaf, the College of Education within the University of Southern Maine and other appropriate state agencies and educational institutions;

B. Invite the participation of experts and interested parties;

C. Hire an impartial consultant to help the school, the Department of Education and other state agencies to redefine their roles and realign responsibilities; and

D. Review the efficiency and effectiveness of the educational program at the Governor Baxter School for the

Deaf in the context of the range of alternative educational models and placements that are available in other states to deliver appropriate educational programs and services that meet the unique educational needs of children and youth who are deaf and hard-of-hearing and, if necessary:

(1) Redefine the basic structure of the governance system, including defining the

respective roles and responsibilities of the school board, school administrators and state agencies;

(2) Identify the resources needed for the school board to develop the capacity to perform functions that the school would take over from state agencies, such as personnel and budget management functions. If the School Board of the Governor Baxter School for the Deaf is to bargain directly with employee unions and is to address employee relations issues such as grievance proceedings, the school must build the capacity to undertake these functions as well. This may involve securing additional staff for the school to strengthen its personnel management capacity;

(3) Develop a plan to address the findings and recommendations from the Department of Education's basic school approval review conducted in December 1998, conduct any other necessary reviews, such as a comprehensive review of safety, security and welfare of students in the residential program at the school, and develop a plan to address the results of those reviews;

(4) Consult with Governor Baxter School for the Deaf employees and their representatives so that their interests can be taken into account in designing a new governance system. Employees have an interest in the potential for changes in salary, benefits and working conditions. The task force shall take into account existing employee rights under union contracts or state law that may affect the timing or scope of change that may occur at the school;

(5) Develop strategies for properly balancing the protection of and public access to the natural resources of the island with the need for managing the state-owned facilities under the provisions of the deed from Governor Baxter granting Mackworth Island to the State. The strategies must address what role, if any, state agencies play in managing school property and Mackworth Island, what improvements are needed in the school's physical plant and who should make those improvements and whether a state agency should continue to be involved in managing the island or only in overseeing the school's compliance with the deed; and

(6) Establish benchmarks to measure the school's progress toward a more efficient and effective governance system and require that the consultant, the school and the Department of Education make progress reports to interested parties, including the Joint Standing Committee on Education and Cultural Affairs.

6. Staff assistance; interpreter services; consultant. The task force may request staffing assistance from the Legislative Council. The task force, with the approval of the Legislative

Council, may contract with interpreter services to provide appropriate interpreting services for the deaf and hard-of-hearing and shall contract with a consultant to provide professional services for reviewing and analyzing the status of the governance system of the Governor Baxter School for the Deaf.

7. Expenses. Legislative members of the task force are entitled to receive the legislative per diem and reimbursement of necessary expenses for their attendance at authorized meetings of the task force. Public members not otherwise compensated by their employers or other entities whom they represent are entitled to receive reimbursement of necessary expenses and a per diem equal to the legislative per diem for their attendance at authorized meetings of the task force.

8. Report. No later than December 3, 1999, the task force shall submit a report that includes its findings together with any recommendations for legislation to the Joint Standing Committee on Education and Cultural Affairs or for supplemental budget appropriations to the Joint Standing Committee on Appropriations and Financial Affairs. The Joint Standing Committee on Education and Cultural Affairs is authorized to report out legislation during the Second Regular Session of the 119th Legislature concerning the findings and recommendations of the task force. If the task force requires an extension of the reporting deadline, it may apply to the Legislative Council, which may grant the extension.

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

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

READ.

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

Representative BRENNAN: Mr. Speaker, Men and Women of the House. What we have before you today is a Joint Order which creates a task force to examine the governance structure and the education and program issues at the Governor Baxter School for the Deaf. This Joint Order has the unanimous support, approval and co-sponsorship of the Education Committee. I hope that you will support this Joint Order. Thank you.

PASSED.

Sent for concurrence.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Lewis Vafiades, Esq., of Hampden, on the special occasion of his retirement after 48 years as an attorney. He began practicing law in Bangor in 1950 and has earned the respect and admiration from those he represented as well as from his colleagues. We acknowledge his many years of dedication and

we extend our congratulations and best wishes to him for a happy and healthy retirement;

(HLS 113)

Presented by Representative PLOWMAN of Hampden.
Cosponsored by Senator MITCHELL of Penobscot.

On **OBJECTION** of Representative PLOWMAN of Hampden, was **REMOVED** from the Special Sentiment Calendar.

READ

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. Mr. Vafiades is a constituent of mine. He is also a friend of mine. He has been an incredible member of the bar in Penobscot County for the last 48 years. He was well respected. People go to him, I have been told, after they lost a trial to ask what they did wrong. He will actually coach them through and let them know what they could have done differently. Mr. Vafiades is one of the most gentle, kind, considerate men that I have ever met. In fact, on a Saturday a couple of weeks ago, my phone rang and I didn't get to it in time. He left me a message. I am not calling on anything legislative. I want to make sure your baby is okay. Can you imagine a man like that, 48 year in one of the most prestigious practices in the State of Maine calling up just to make sure a neighbors child is okay?

Mr. Vafiades started out in the Jag Corp., he started out as a military lawyer. To hear Mrs. Vafiades talk, they were not one of the wealthy people. They lived very poorly. He made his way the hard way. He became known as one of the prominent attorneys in the State of Maine. He served for 48 years and finally, in order to retire, had to resign from the bar. He has retired several times, but without resigning from the bar he found himself drawn back into lawyering every single day. He is now resigned from the bar to make it official. I want to thank him for everything he has done for the people of the State of Maine by giving lawyers a good name. This is one lawyer that you could never, ever disparage. He has done nothing but bring honor to his profession. I would ask you to join me and any remarks, if you know Mr. Vafiades. If not, thank you for listening.

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

Representative **RICHARD**: Mr. Speaker, Men and Women of the House. I would like to add to what the Representative from Hampden has said. Through my late husband, I have known Lew Vafiades for a good many years. He is everything that she has just said. The Bar Association will miss him greatly. I, too, would like to add words of congratulation to him and also wish him the best in his retirement.

PASSED and sent for concurrence.

Recognizing:

the following students from Leavitt Area High School in Turner: Peter Jewett, Abigail Havener, Des Duguay, Samantha Plummer, Mark Gustafson, Joy Peterson and Brian Yocono; and Coach Ginnie Plummer, who are the regional winners of the EnvirOMental Challenge Problem, Division III, Odyssey of the Mind competition. We extend our congratulations to them on this accomplishment;

(HLS 409)

Presented by Representative JACOBS of Turner.
Cosponsored by Senator NUTTING of Androscoggin,
Representative BERRY of Livermore.

On **OBJECTION** of Representative JACOBS of Turner, was **REMOVED** from the Special Sentiment Calendar.

READ and **PASSED** and sent for concurrence.

Recognizing:

the following students from Leavitt Area High School in Turner: Elizabeth Havener, Mike Henderson, Sara Lemieux, Katy Barus, Kristy Joliceur, Brock Poulin and Matthew Maloney; and coach Dawne Havener, who are the regional winners of the O, My Fair Shakespeare Problem, Division III, Odyssey of the Mind competition. We extend our congratulations to them on this accomplishment;

(HLS 410)

Presented by Representative JACOBS of Turner.
Cosponsored by Senator NUTTING of Androscoggin,
Representative BERRY of Livermore.

On **OBJECTION** of Representative JACOBS of Turner, was **REMOVED** from the Special Sentiment Calendar.

READ and **PASSED** and sent for concurrence.

Recognizing:

the following students from Tripp Middle School in Turner: Samuel Leavitt, Crystal Ayotte, Alex Duguay, Max Havener, Cory White, Mariah Cassidy and Taylor Leavitt; and coach Cyndy Duguay, who are the regional winners of the EnvirOMental Challenge Problem, Division II, Odyssey of the Mind competition. We extend our congratulations to them on this accomplishment;

(HLS 411)

Presented by Representative JACOBS of Turner.
Cosponsored by Senator NUTTING of Androscoggin,
Representative BERRY of Livermore.

On **OBJECTION** of Representative JACOBS of Turner, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Turner, Representative Jacobs.

Representative **JACOBS**: Mr. Speaker, Men and Women of the House. I am so proud to stand here today and recognize the three OM teams from Tripp Middle School and Leavitt Area High School of Turner and their coaches Cindy Duguay, Dawne Havener and Ginnie Plummer. We have with us these three teams that placed first in the state competition. Odyssey of the Mind or OM teams consist of seven children per team. There are three different divisions and each division has five different problems. The problems vary from Technical to theatrical, which also includes structure problems. These three teams we have here today will be competing at the world competition held in Knoxville, Tennessee with other teams from every state in the union and numerous countries throughout the world. There are about 8,000 students. Special thanks to the coaches of OM who provide space, material, guidance and a tremendous amount of time. You must understand that they cannot help in any way with these problems. The solving of the problems is strictly by the students. The students must write their own script, music, build their own technical elements, vehicles and artistic props. They are limited only in how far their minds can take them. I wish them success at the world competition. Mr. Speaker, ladies and gentlemen of the House, I want you to look at these boys and girls and know that we will be in good hands and minds for the future. Thank you.

PASSED and sent for concurrence.

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **BANKING AND INSURANCE** reporting **Ought Not to Pass** on Bill "An Act to Prohibit Certain Bank Penalties" (EMERGENCY)

(S.P. 609) (L.D. 1732)

Signed:

Senators:

LaFOUNTAIN of York
ABROMSON of Cumberland

Representatives:

JONES of Pittsfield
RICHARDSON of Brunswick
NUTTING of Oakland
DUDLEY of Portland
O'NEIL of Saco
SAXL of Bangor
PERRY of Bangor
GLYNN of South Portland
MAYO of Bath

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-202)** on same Bill.

Signed:

Senator:

DOUGLASS of Androscoggin

Representative:

SULLIVAN of Biddeford

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

READ.

On motion of Representative SAXL of Bangor, the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-239)** on Bill "An Act to Eliminate the Requirement That the Employment Rehabilitation Fund Reimburse Employers and Insurers for Benefits Paid pursuant to the Benefits Adjustments"

(S.P. 269) (L.D. 762)

Signed:

Senators:

DOUGLASS of Androscoggin
LaFOUNTAIN of York
MILLS of Somerset

Representatives:

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

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-240)** on same Bill.

Signed:

Representatives:

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

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-239)**.

READ.

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

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

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. I urge you to vote against the pending motion so that we may then go to the Minority Ought to Pass Report. What this bill does is tinkers with the rehabilitation fund on the workers' comp system. I will try to briefly explain it to you. It is confusing even to myself being on the committee and sitting through everything. When the reforms were done, there was a set amount of time for the number of weeks that an injured worker would get benefits. Also, for the amount of your injury you would need to qualify for lifetime benefits. It is called the permanent impairment threshold. It was set at 15 percent. If you lost more than 15 percent of the use of your body, you would get lifetime workers' comp benefits. There a couple of self-adjusting triggers in the fund. One of them said that if we are below the national average on cost and number of injuries, then the amount of benefits the average worker gets would be extended by a year. We started at five years worth of benefits that you would get it you were injured on workers' comp. Last year the system was doing well. The trigger kicked in and we have gone from five years worth of benefits now to six years worth of benefits. That automatically kicked in and that has happened.

Also, there was an automatic adjustment for the percent of the loss of your body you needed to get the lifetime worth of benefits. That was set up so 75 percent would not get the lifetime worth of benefits and 25 percent would. The amount of injury you would need has now been lessened so there are some people who initially got injured thinking they would only get the limited amount of benefits and they now get the lifetime amount of benefits. That rate is set to change in the future.

After explaining it, I want to tell you what the two reports do. The Majority Report, which we are debating, would end the rehab fund for any injuries occurring after January 1, 2000. What the rehab fund is for reimbursements. The insurance companies have been charging people rates based on this is how much you will have to pay if you get injured. They have been calculating things. Because we increase the amount of time that you have to pay out and increase the number of people that are getting lifetime benefits, the cost to the insurance companies go up. A rehab reimbursement fund has been set up where that fund would reimburse the employers for the additional amount of benefits paid.

What the Majority Report would do on injuries done after January 1, the fund would no longer kick in and reimburse the insurance companies for those. The insurance companies would

have to pay it on their own. This is inevitable. This is going to happen eventually. The question is, how do we go about getting rid of the rehab fund? What the Majority Report and the bill in front of us does is impose a 6.7 percent cost increase to the workers' comp system. It is about a \$17 million cost. That is done because those increases are going to continue to increase and the benefits. We have gone from five to six years worth of benefits in the amount of time that a worker gets if they are injured. Under the Majority Report, those benefits are going to increase. We could go from five years worth of benefits, we are now at six and that could extend up to 10 years if everything does well. By eliminating the fund, by keeping the benefits going up, we are going to have a huge cost on the insurance companies, which means a large cost increase to the employers in the State of Maine because they have to now plan for paying 10 years worth of benefits instead of the six years worth of benefits.

The other report is very similar. We change the rehab fund and eliminate it through another mechanism, but with lower cost. What it does is says that the automatic increases and benefits for a number of years will not happen for any injuries after January 1, 2000. It is a confusing situation, but the question to ask yourself is, the injured worker is going to get his benefits. How much of an increase in future benefits will they get is the answer. No one is suggesting any cuts in benefits, just how much of an increase. After January 1, 2000, how do we treat those future injuries? The big question to ask yourself on this bill is not what is going to be done, but how we are going to do it.

This report, the pending motion, which I urge you to vote against, will have a 6.7 percent increase and a \$17 million cost to the system. The Minority Report will fix the system through a different way without the cost increase. Thank you. 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. For your information, I would like you to know that the Majority Report mirrors what the original bill was. The bill was put forth by the Workers' Compensation Commission pursuant to Title 39-A, Section 152, Subsection 11. Under current law, there are appraised to look at the system on a regular basis to see if it needs some adjustment. At this time it does. The permanent impairment went from 15 to 11 percent. The benefit levels in this bill include an additional 52 weeks on a 260 week limitation. I ask for your support in regards to this. It did come from the board. I am assured that they have much more knowledge on how to set up the benefits and the rates. I would ask that you follow my light. Thank you.

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

Representative MACDOUGALL: Mr. Speaker, Ladies and Gentlemen of the House. I would just like to remind the body before we go to vote that the duration of benefits in the State of Maine are among the best in the entire nation. Also, we are still about in the middle in terms of cost and premiums across the nation. We are still very expensive when you relate that to the benefit package of the workers' comp system. We have a very generous system. The Minority Report attempts to keep in balance that one of the goals of the reforms was to get Maine at a point of the average cost compared to the other states in the country. We are still working towards that goal. The Minority Report, I think, helps us to ensure that while maintaining very

generous benefits to the injured worker. I think on balance it is the better approach for all concerned, employers and employees and all that participate in making this system work. I would request a roll call, please.

Representative MacDOUGALL of North Berwick 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 Ellsworth, Representative Povich.

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

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

Representative POVICH: Mr. Speaker, Men and Women of the House. To the chair of the Labor Committee, I didn't quite understand the chair's comment that the Majority Report was a recommendation of the Workers' Comp Commission. Is that correct?

The SPEAKER PRO TEM: The Representative from Ellsworth, Representative Povich 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, Ladies and Gentlemen of the House. I would like to answer the good Representative from Ellsworth, it certainly does mirror in quite the same tradition, the Majority Report, as the bill itself. We did some clarification. It would extend the benefits for 52 weeks and that was also requested by the board.

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 good Representative from Ellsworth's question, the original bill was a Workers' Comp Board recommendation. The new bill, the amendment, strikes everything in the bill and adds some more. It is not the language the Workers' Comp Board had originally recommended to us. I also wanted to clarify that the existing increase of 52 weeks going from five to six years of benefits happened automatically and would still occur under existing laws with both plans. No one is suggesting that we don't go from five to six years worth of benefits. The question is, in the future for workers who were injured in the past and were expecting five years worth of benefits since the date of their injury. Are we going to let them go to six years of benefits, which we all want to do? Everyone wants them to go to six, that is in the law. The question is, do we pose the \$17 million cost on the system, extending that to 10 years worth of benefits? That is the big question. Thank you.

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

ROLL CALL NO. 247

YEA - Ahearn, Bagley, Baker, Berry RL, Bolduc, 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, Jacobs, Kane, LaVerdiere, Lemoine, Mailhot, Martin, Matthews, McDonough, McGlocklin, McKee, Mitchell, Muse, Norbert, O'Brien LL, O'Neal,

Perkins, Perry, Pieh, Povich, Powers, Quint, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

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

ABSENT - Cameron, O'Neil, Savage C, Tripp, Tuttle, Wheeler EM.

Yes, 77; No, 68; Absent, 6; Excused, 0.

77 having voted in the affirmative and 68 voted in the negative, with 6 being absent, the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (S-239) was READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Thursday, May 20, 1999.

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-282)** on Bill "An Act Relative to Freedom of Employment in the Broadcasting Industry"

(S.P. 616) (L.D. 1781)

Signed:

Senators:

DOUGLASS of Androscoggin
LaFOUNTAIN of York

Representatives:

HATCH of Skowhegan
MUSE of South Portland
GOODWIN of Pembroke
FRECHETTE of Biddeford
MATTHEWS of Winslow
SAMSON of Jay
DAVIS of Falmouth
MacDOUGALL of North Berwick
MACK of Standish
TREADWELL of Carmel

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

Signed:

Senator:

MILLS of Somerset

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED Report READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-282).**

READ.

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

The Bill was **READ ONCE. Committee Amendment "A" (S-282) was READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Thursday, May 20, 1999.

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-595)** on Bill "An Act to Increase Access to Cub Care for Children"

(H.P. 1255) (L.D. 1809)

Signed:

Senators:

PARADIS of Aroostook
BERUBE of Androscoggin

Representatives:

KANE of Saco
BROOKS of Winterport
FULLER of Manchester
QUINT of Portland
DUGAY of Cherryfield
WILLIAMS of Orono

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

Signed:

Senator:

MITCHELL of Penobscot

Representatives:

LOVETT of Scarborough
BRAGDON of Bangor
SNOWE-MELLO of Poland
SHIELDS of Auburn

READ.

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

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

Representative **KANE:** Mr. Speaker, Men and Women of the House. This is, "An Act to Increase Access to Cub Care for Children." It does two things. It increases eligibility for cub care to provide Medicaid coverage for children under 18 in families with incomes up to 200 percent of the federal poverty level, which is \$27,760 for a family of three. Current eligibility extends only to 185 percent of poverty. It further authorizes the department to collect the same pharmaceutical rebate for cub care that it collects for the current Medicaid program, producing a savings of 17 percent on drugs purchased in this program. It is anticipated that over 2,200 children, children in low-income working families, will be covered by this benefit.

Last summer we took the first important step toward providing access to health insurance for our nearly 35,000 uninsured children in Maine by expanding Medicaid and creating the Cub Care Program. Those of us who served in the 118th Legislature are proud of the good work we did together to create this program and the strong spirit of bipartisanship that marked its passage. Today well over 6,000 children have gained access to health care as a result of this work. More are enrolling each month. In fact, Maine has had one of the best records in enrolling children of any other state in the federally developed children's health insurance program in the country. We expect 15,000 children to be enrolled by the end of this biennium.

LD 1809 builds on the strength of the current health care program in two important ways. First, it makes cub care available to an additional group of children through a modest increase in program eligibility. It would increase income eligibility limit in cub care from 185 to 200 percent of the poverty level, as I

mentioned earlier, and expands the benefit to over 2,200 children. It is important to note that Maine is currently the only state in New England that does not cover children up to at least 200 percent of the poverty level. The only state in New England that does not provide this benefit up to this point. With this addition we would be able to reach over two-thirds of all of Maine children who were uninsured just one year ago.

We are already paying for health care for these kids. The most expensive health care through hospital emergency rooms, because most of the parents of these kids in the absence of a primary care physician, tend to bring these kids for their primary care to very expensive hospital emergency rooms. We see the cost of that in our insurance premiums through cost shifting. If we vote to provide health insurance to these kids, the federal government will pay 76 percent of the cost. As an incentive to provide coverage to uninsured kids, the federal government offers states what it calls an enhanced matching program. In Maine's case, 10 percent points higher than the match that we normally receive in our regular Medicaid program.

The second point is that the legislation also authorizes the Department of Human Services to collect the same pharmaceutical rebate in the Cub Care Program that it currently collects in the Medicaid program. This will reduce the cost of pharmaceuticals purchased for children in the program by 17 percent. Last year, by a nearly unanimous vote, this body created the Cub Care Program. That vote made a tremendous difference in the health and well being of up to 15,000 Maine children and their families. I ask you to join me this year in giving another 2,000 uninsured children that same opportunity.

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

Representative **BROOKS**: Mr. Speaker, Ladies and Gentlemen of the House. I will be very brief because the good Representative from Saco has already stated for you many of the points that I was going to make. We have heard many, many times before about legislation. This is a good bill. This is a bill that will return, over the course of just a very short period of time, a return on reduction of health care costs. Last year we did create the Cub Care Program. This year we have an opportunity to enhance that program. Take a look at the figures that Representative Kane spoke about. We are adding 2,200 children to the Cub Care Program. They are already insured. We are already paying for them. We are already paying for emergency room visits. We are already paying for a significant cost in drug care. We need to pass this legislation. This is going to be one of those pieces of legislation that we have heard a lot about returning on the dollar. Earlier this year for other programs we talked about in our committee and we will be talking about again under early childhood care, the return of \$7 to \$1. I wouldn't be a bit surprised if the ratio were even greater on this particular bill. I hope that you will join with Representative Kane and myself and vote Ought to Pass on this bill. Thank you.

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

Representative **BRAGDON**: Mr. Speaker, Ladies and Gentlemen of the House. I feel I must rise and give an explanation on why I am on the other side of this bill, as well as provide a couple of brief additional points of information in regards to cub care. Cub care, as you are aware and as you have heard from the last two Representatives, is a program which provides health insurance coverage to children 18 years or younger. Right now children whose family income is 150 percent

or below poverty level are covered by Medicaid. Children 150 percent to 185 percent are covered by cub care. Why cub care is different is the commissioner has the authority to alter eligibility requirements of cub care based on how many kids are enrolled in the program. So, if less kids enroll in the program than what they expected, the commissioner can increase eligibility automatically. It is not an entitlement like you would think of as an entitlement. The state allocates a certain amount of money for the program. The commissioner is authorized to expend that amount of money on as many kids as possible.

Why I am on the other side of this bill, and I would encourage you to vote against the report, is we have just begun or have been through in the last year a very aggressive enrollment process in trying to get kids enrolled in the Cub Care Program. We all recognize the importance of health insurance for our children. We are still going through that aggressive enrollment. We can't say right now whether or not, based on current funding, the commissioner may have the availability to expand the program automatically. I think it is more prudent for us to continue our aggressive enrollment, get kids enrolled in the program and then look at what our experience has been before we expand the program. Mr. Speaker, I request a division.

Representative **BRAGDON** of Bangor **REQUESTED** a division on the motion to **ACCEPT** the Majority Ought to Pass as Amended Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Livermore Falls, Representative Berry.

Representative **BERRY**: Mr. Speaker, Ladies and Gentlemen of the House. I just want to say that I served as the chair of the Children's Health Commission with the Representative from Raymond, Representative Bruno. As you have heard, there is flexibility built in the plan. There is flexibility within the existing resources. We have a chance. I think this program has been successful on other fronts that haven't been mentioned. I think that is on the employment side. It gives a lot. I think a lot of single mothers in the past have not gone back to work because they didn't have insurance for their children. They stayed on the Medicaid plan. If they had to risk losing that and having coverage for their children, they would stay out of work. This has been a chance. We have seen an increase in the employment numbers, individual income tax line is improving because people are working. It is in that effort, welfare to work, improvements that we have done, it is an important piece of that. I would ask you to support that. Mr. Speaker, when the vote is taken, it is taken by the yeas and nays.

Representative **BERRY** of Livermore **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 Manchester, Representative Fuller.

Representative **FULLER**: Mr. Speaker, Ladies and Gentlemen of the House. I just have one other point I would like to add to the comments that have already been made. It is true that health insurance is a big factor in whether or not moms go back to work. A study was done on that. We have the data on that. We talked about the return on dollars through prevention and outlying health care costs. What we haven't talked about is the prevention of long-term impairments of kids who do not get medical care. Hearing impairments because ear infections go untreated until too late. Other kinds of disabilities that result from

not getting medical care early on to prevent further complications, kids with asthma who need an ongoing management plan so they don't show up at the emergency room all the time. Prevention is such an important part of treating kids early, having them healthy so that when they go to school, they are ready to learn. You need healthy kids to be able to take advantage of the learning in the school environment. You need healthy kids to work with parents for healthy families. I urge your support of the pending motion.

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

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

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

Representative **STANWOOD**: Mr. Speaker, Men and Women of the House. I would like to know what the fiscal note of this amendment is?

The SPEAKER PRO TEM: The Representative from Southwest Harbor, Representative Stanwood has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Saco, Representative Kane.

Representative **KANE**: Mr. Speaker, Men and Women of the House. For the first year of the biennium it would be \$316,490 in the general fund. In the second year it would be \$496,383 in the general fund. The federal funds correspondingly would be \$971,821 for the first year of the biennium. It would be \$1.5 million roughly in the second year of the biennium. I appreciate the question because it gives me an opportunity to remind the men and women of the House that in the discussions taking place, this is one of the items in the health care agenda that is a prime candidate for tobacco money. As we debated, we discussed in our joint sessions with the Appropriations Committee, it is a likely candidate to support from that fund. Thank you Mr. Speaker.

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

Representative **O'BRIEN**: Madam Speaker, May I pose a question through the Chair?

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

Representative **O'BRIEN**: Mr. Speaker, Ladies and Gentlemen of the House. For anyone who may care to answer, this is not a rhetorical question, I would really like to know, how many more children will have access to the Cub Care Program should we enact this?

The SPEAKER PRO TEM: The Representative from Augusta, Representative O'Brien has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Saco, Representative Kane.

Representative **KANE**: Mr. Speaker, Men and Women of the House. I am happy to respond to the good Representative from Augusta. The number is 2,264 children. Thank you.

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

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

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

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. How many uninsured children do we have in the State of Maine?

The SPEAKER PRO TEM: The Representative from Eliot, Representative Wheeler has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Saco, Representative Kane.

Representative **KANE**: Mr. Speaker, Men and Women of the House. A year ago when we were first initiating the Cub Care Program, the estimate was that there were 35,000 children uninsured in the State of Maine. We know that the first phase of the Cub Care Program would cover about 15,000. This would bring it up to a little over 17,000, which is perhaps about 50 percent of the uninsured children in the state that would be covered. Thank you.

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

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

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. Actually it is two questions. The first question is, will this fiscal note cover all of the children that we anticipate will sign up in the next two years? The second question is, out of that 35,000, are any of these children covered under Medicaid or any other program or are they completely uninsured?

The SPEAKER PRO TEM: The Representative from Hampden, Representative Plowman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Manchester, Representative Fuller.

Representative **FULLER**: Mr. Speaker, Men and Women of the House. In response to the questions that were just asked, the fiscal note is predicated on the number of children that they do expect to enroll. That will cover the cost for those number of children. Relative to the question about whether or not these children are covered by other health insurance programs, the answer is no. These are children who do not have health insurance. They are not eligible for Medicaid at that income level. These are kids who absolutely do not have any health insurance right now. Thank you.

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

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

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

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. I have two questions. How many children are in the State of Maine? Where do people come up with these numbers about how many children are uninsured and how many will be added?

The SPEAKER PRO TEM: 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 Livermore, Representative Berry.

Representative **BERRY**: Mr. Speaker, Men and Women of the House. I don't know how many children there are in Maine. I guess I can't tell you that. I can tell you where the information came from that we used during the commission. It was collected

by Mathematica and through the Muskie Institute. We used the information that they put together. They did a survey through people that would qualify. It seems to match up with some other estimates. It seemed to be really confirmed that those numbers were accurate.

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

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I am also on the other side of the report. I know I was there two years ago when we passed this program. At that time, I was completely supportive of this program. I still am, but I am concerned about the cost of the program. I am also concerned that we are already the second highest per capita in the welfare spending and total spending in the country. I believe the state cannot afford this increase at this time. I also believe that this is going to be just one other thing that we are going to take from the tobacco money. I have always felt that tobacco money should be used for tobacco related diseases. We are putting too many different pieces of legislation and tacking that onto the tobacco money. I think we did a wonderful thing already. I believe we have to do what the good Representative Bragdon did, wait to see how the existing program works and go from there. Thank you.

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

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

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

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. I think the real tough question of the day is, what is the cost to all of us when kids go without health care coverage, when parents don't take their children for an examine because they can't afford it. They don't have insurance. That is the real cost that each and every one of us should ask ourselves today. Thank you.

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

ROLL CALL NO. 248

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

NAY - Andrews, Berry DP, Bowles, Bragdon, Bruno, Buck, Bumps, Campbell, Carr, Cianchette, Clough, Collins, Cross, Daigle, Davis, Duncan, Foster, Heidrich, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, Lindahl, Lovett, MacDougall, Mack, Marvin, McKenney, Murphy T, Nass, Nutting, Pinkham, Richardson E, Schneider, Shields, Snowe-Mello, Stanwood,

Stedman, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Winsor.

ABSENT - Cameron, Savage C, Tuttle, Wheeler EM.

Yes, 101; No, 46; Absent, 4; Excused, 0.

101 having voted in the affirmative and 46 voted in the negative, with 4 being absent, the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-595) 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.**

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-595)** and sent for concurrence.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

SENATE PAPERS

Bill "An Act to Allow the Cumberland County Domestic Violence Unit to Hire 2 New Assistant District Attorneys Immediately" (EMERGENCY)

(S.P. 832) (L.D. 2232)

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

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

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

Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass** on Bill "An Act to Define Paralegals and Legal Assistants"

(H.P. 517) (L.D. 724)

Signed:

Senators:

LONGLEY of Waldo

TREAT of Kennebec

BENOIT of Franklin

Representatives:

THOMPSON of Naples

BULL of Freeport

LaVERDIERE of Wilton

JACOBS of Turner

PLOWMAN of Hampden

MADORE of Augusta

SCHNEIDER of Durham

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

Signed:

Representatives:

NORBERT of Portland

MITCHELL of Vassalboro

WATERHOUSE of Bridgton

READ.

On motion of Representative THOMPSON of Naples, the Majority **Ought to Pass** Report was **ACCEPTED**.

The Bill was **READ ONCE**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED** and sent for concurrence.

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

CONSENT CALENDAR

First Day

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

(S.P. 332) (L.D. 986) Resolve, Establishing a Commission to Study the Feasibility of Reestablishing a Brook Trout and Landlocked Salmon Hatchery in Northern Maine Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-296)**

(S.P. 718) (L.D. 2040) Bill "An Act to Amend the Charter of the Norridgewock Water District" (EMERGENCY) Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-297)**

(S.P. 776) (L.D. 2175) Bill "An Act to Amend the Maine Residents Property Tax Program" (EMERGENCY) Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-293)**

(H.P. 763) (L.D. 1086) Bill "An Act to Improve Snowmobile Trail Grooming" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass**

(H.P. 361) (L.D. 486) Bill "An Act Regarding Fish Stocking" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-607)**

(H.P. 1410) (L.D. 2015) Bill "An Act to Amend the Health Care Receivership Laws" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-610)**

(H.P. 1549) (L.D. 2206) Bill "An Act to Implement an Atlantic Salmon Conservation Plan" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-606)**

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. 657) (L.D. 1879) Bill "An Act to Increase Access to Basic Needs for Low-income Maine Children and Families" (C. "A" S-290)

(H.P. 846) (L.D. 1180) Bill "An Act to Require Additional Vaccines for Employees of Health Care Facilities" (C. "A" H-603)

(H.P. 886) (L.D. 1243) Bill "An Act to Strengthen the Kinship Laws" (C. "A" H-599)

(H.P. 935) (L.D. 1312) Bill "An Act to Improve Consumers' Opportunities to Hire and Retain Personal Care Attendants" (C. "A" H-596)

(H.P. 1516) (L.D. 2164) Bill "An Act to Enhance Access to Technology for Maine Schools and Libraries" (C. "A" H-594)

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

(H.P. 1313) (L.D. 1896) Resolve, to Increase Reimbursement for Chiropractic Manipulation under the Medicaid Program (C. "A" H-602)

On motion of Representative SHIAH of Bowdoinham, was **REMOVED** from the Second Day Consent Calendar.

The Committee Report was **READ** and **ACCEPTED**. The Resolve was **READ ONCE**. **Committee Amendment "A" (H-602)** was **READ** by the Clerk.

On further motion of the same Representative, **TABLED** pending **ADOPTION** of **Committee Amendment "A" (H-602)** and later today assigned.

BILLS IN THE SECOND READING

Senate

Bill "An Act to Promote Community Mental Health Services" (S.P. 829) (L.D. 2230)

Senate As Amended

Bill "An Act to Improve the State's Democracy by Increasing Access to the Ballot and Other Election Processes"

(S.P. 217) (L.D. 639)
(C. "A" S-266)

House As Amended

Bill "An Act to Eliminate the Minimum Quota Requirement for a Store to Have a Lottery Machine"

(H.P. 78) (L.D. 91)
(C. "A" H-578)

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

ENACTORS

Emergency Measure

An Act to Clarify the Powers of Game Wardens When Stopping Motor Vehicles

(S.P. 241) (L.D. 663)
(C. "A" S-251)

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. 130 voted in favor of the same and 4 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

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.

Bill "An Act to Amend Maine's Boating Laws Pertaining to Noise Limits on Watercraft"

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

(C. "A" S-250)

TABLED - May 18, 1999 (Till Later Today) by Representative CLARK of Millinocket.

PENDING - **PASSAGE TO BE ENGROSSED**.

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-250)** in concurrence.

An Act to Improve Alcohol Server Education Courses

(S.P. 320) (L.D. 954)

(C. "A" S-228)

TABLED - May 14, 1999 (Till Later Today) by Representative CAMPBELL of Holden.

PENDING - **PASSAGE TO BE ENACTED**.

On motion of Representative MCKENNEY of Cumberland, 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**.

On further motion of the same Representative, the rules were **SUSPENDED** for the purpose of **FURTHER RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-228)** was **ADOPTED**.

The same Representative presented **House Amendment "A" (H-605)** to **Committee Amendment "A" (S-228)** which was **READ** by the Clerk.

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

Representative MCKENNEY: Mr. Speaker, Men and Women of the House. When I first saw LD 954 come before our committee, I thought here comes another one of those government programs, a feel good deal. The more I heard about it, the more I bought into the idea of alcohol server training, which has been around for quite some time. The courses that are offered by the state and by others are sparsely attended. The bill was intended to get more people to attend these courses. If you think it is a good idea for alcohol servers to be trained in recognizing people who have had too much to drink and how to shut them off diplomatically, then you can buy the idea of alcohol server training. The people that benefit from this are the restaurants, stores or anybody that handles alcohol. One of the provisions of that bill was to lower the fee of the course to \$10. from \$28. Special interest prevailed and in the committee

that was amended back to \$28, even though the department testified that they could offer these courses for nothing and were happy to do so. They could do so within their budget without any more money. Restaurants would benefit from this because their employees would be trained. Bars would benefit from it. Stores would benefit from it. It is kind of a win, win situation. This amendment lowers the fee to \$0, which is in the spirit of the original intent of the bill.

The intent was to get more people into training. What better way to get more people into training than not have a charge for it. The department even said they would go to the place where these employees were employed to offer this training. Everybody can benefit from this. There is another provision that I would like you to consider. It has been a long held belief of mine that people who have any kind of license at all should be entitled to some kind of services from that license. In other words, if you buy a hunting license, you should be entitled to services from that hunting license, like game management. That is a service. One could argue that the proper enforcement of game laws or liquor laws are a service to the licensee. If you buy a liquor license, why shouldn't you get alcohol server training. I urge you to accept this amendment. Thank you.

Representative CHIZMAR of Lisbon moved that **House Amendment "A" (H-605)** to **Committee Amendment "A" (S-228)** be **INDEFINITELY POSTPONED**.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Chizmar.

Representative CHIZMAR: Mr. Speaker, Men and Women of the House. I would like to give you a short lesson on the Maine Liquor Liability Act. This occurred a number of years ago. During the original debate, several provisions of this act mandatory education of alcohol services produced substantial discussion. Although there was, at the time, problems of improperly served alcohol, it needed to be addressed and reduced. The final bill, which received a unanimous Ought to Pass recommendation did not mandate the certification. Although insurance companies reported that premium rates for liquor liability insurance would, in part, be based on responsible training of servers.

As the Representative from Cumberland has indicated, this eliminates the costs of the course completely. At present, we have 11 programs that the service can enroll in which are on premises and nine which are off premises. I feel that the reinstatement of the fee would go to the course itself for promotional materials and instruction.

I would like to leave you with one final word. I only hope that the tragedy that happened in Westbrook is not repeated in any of the other cities in our state. Thank you.

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

Representative MCALEVEY: Mr. Speaker, Ladies and Gentlemen of the House. The issue of training alcohol servers can be very controversial. I am not an expert in this field, but I do know people are leaving bars and lounges drunk and they are driving. Statistically one out of every 10 vehicles you pass on the highway after 10 at night is a drunk driver. Many of them come from lounges and bars. I think training people on how to deal with shutting people off when they are intoxicated is a good idea. By the way, it is our law that you can't serve an intoxicated person. It is against the law, yet, we are still doing it. As I understand it, years ago when the liability threshold was established so that you can only sue for so much, part of the

equation was it would limit their liability on the civil side. They would work with the department and do alcohol server training. I submit to you that the alcohol server training that the department has offered has been a wink and nod. That is all it is. I don't believe they are serious about training. They are trained less than 400 or 500 people in the last few years and there are thousands of servers.

When you put a fee in and raise that fee, you throw up another obstacle for alcohol servers who voluntarily want to come forward and take the training. This is a way to make our highways one bit more safe. The department opposes mandatory training. The department is asking us to increase the fee. The department is not serious about increasing drunk driving. The department should be the leader in highway safety with public safety. They should be promoting highway safety and responsible drinking. Yet, they want to throw up an obstacle by increasing the fee to a program they barely acknowledge. I just say this to the department, if you don't use it, some day you may lose the alcohol server training program.

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

Representative **BUCK**: Mr. Speaker, Ladies and Gentlemen of the House. It is not often that I stand up and defend the democracy around here. However, I have to courteously disagree with my good friend Representative McAlevey. As a small store owner, I have used the services of the bureaucracy, if you will, for the Alcohol Server Program. It works very well. Indeed, I have found the department to be very responsive when we have new hires and want to ensure that those people are trained properly. The concern that I have is, are we increasing the fee only to help some special interest group that perhaps is conducting the course? It is my understanding that the department can provide this service at \$10, rather than the suggested \$28. I can tell you as a small employer that I would be much more inclined to have all of my employees take the course if it was \$10 a piece, as opposed to \$28. Thank you.

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

Representative **MCALLEVEY**: Mr. Speaker, Men and Women of the House. I wasn't going to bring this up, but I might as well now that the door has been opened. Lynn Cayford in the Bureau of Alcohol Control controls who offers these programs. They decide who is certified to teach these programs. The whisper campaign that he created in the hallway against my reputation and the reputation of one of my constituents was totally inappropriate. I spoke to the commissioner of Public Safety. We should argue the merits of the bill, not the rumors and innuendoes created by Lynn Cayford.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. I rise today to ask you not to Indefinitely Postpone this amendment. If we fail to Indefinitely Postpone the bill, we won't lose anything. I have worked in food service for about 15 years now. I have a fair amount of experience with this type of work. I have trained a lot of bartenders. We used to offer a certification course at the University of Maine campus for our bartenders. I know what the course consists of. I am pretty familiar with the laws. There are a couple of problems that you are not really foreseeing in this legislation.

One, food service tends to be a pretty big and fast revolving door. You hire somebody. They work one shift or two shifts and

quit on you. You got through this rigmarole of getting them trained in a course that probably you are going to have to pay for as a bar owner. I doubt they are going to pay for it. They come looking for a job or you ask them if they want to come work for you, because right now unemployment is 2 percent. It is a sellers market out there. How would you like to come work for me? By the way, you have to pay \$28 for a course before you can take the job. Forget it. Food service tends to have a lot of young people in it. People who are doing it for the summer, a year or two, a second job. Nobody goes to college for four years so they can have a lucrative career in a restaurant. It doesn't work that way. Some of us have done that almost be default because in our particular geographic areas there isn't much other employment. The pay isn't great. The hours are long. You make a lot of good friends, but I am not certain that this particular type of legislation is going to make that easier. The fact of the matter is, if you think about the practicality of what you have to do while serving alcohol, if you don't know when someone has had too much to drink and you don't know when that person should be cut off because it has been explained to you what your civil liability is if that person runs into a school bus and it has been explained to you and you don't understand what your civil and criminal liability is for serving people underage, too much to drink, failing to ask them for identification, then you are not going to last very long on the job anyway. Certification wouldn't help you.

The bill asks for certification within a year. A lot of people are going to fall through the cracks. What happens if I have four bars in my area and I start out in the world and I start employment in January at Pats Pizza. Three months later I get a better offer from Margarita's and work there for three months. I decide to go to Bar Harbor for the summer and work there for three months. Come back up and work at the Bear Brew Pub for three months. Is it cumulative? Is it the time that you actually work as a bartender, alcohol server, water or waitress that you have to have this training in or is it working in a single establishment. That is not clear to me. I think that this legislation makes a lot of suppositions about the serving of alcoholic beverages, which are factious at best. It assumes that people have no idea when someone has had too much to drink.

I am telling you if somebody is rocking back and forth and slurring and barking out like a dog randomly, you know they have had a little bit too much to drink. You can tell them that maybe it is time for you to have some pop corn and go home. I hope that you are walking, riding a bike, taking a cab or doing something else other than driving a car. I have gone so far as to walk out, follow people out into the parking lot, to make sure they weren't driving. That is because I understand what my responsibilities are as an alcohol server. Anybody who comes to work for me, I explain to them very explicitly that it can be very difficult to ask someone to not have another pitcher of beer. It can make for an unfriendly situation. If you are polite and you explain it to them, they generally understand. At the very worst, they will just go somewhere else and get out of your hair.

Remember the situation in Westbrook, the bartender said, "You have had enough. It is time for you to go home." The man didn't like the answer and went home, got a rifle and shot her. Would training have changed that? I don't think so. I ask you to oppose the Indefinite Postponement. If we are going to do this, I don't understand why we can do it for free now and then suddenly charge \$28. Oppose the Indefinite Postponement, but

I am opposing the bill. I hope that you will follow me on that. Thank you.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Labrecque.

Representative **LABRECQUE**: Mr. Speaker, Ladies and Gentlemen of the House. I would rise to perhaps address some of the concern with charging a fee. My good colleague, Representative McKenney, presents an interesting comment when he says that if we are going to issue licenses and if training is needed, then we should pay for that training. Just think about the number of licenses that we do issue. Electricians licenses, you have to have a course every two years in order to renew your electricians license. They are extremely costly. That is something that the electrician pays for. I think it is really important that individuals who serve alcohol have some sort of an understanding of the liquor laws and the responsibilities that come with that.

Having said that, there are, as the good Representative Chizmar said, a number of private individuals who offer these courses for right around \$28. If you have a big group come in, you can lower your fees. That is part of the Committee Amendment. We got into a hackle with regard to this particular issue. Were we infringing upon private business if we said, the state can charge \$10? Does this not create an unfair situation? In my humble opinion it does. It also sets up another whole little piece of government business that perhaps, from my philosophical point of view, ought to be out in the private sector anyway. Therein lies the need for the \$28 fee. As it was pointed out, this is used for supplies, handout materials and perhaps reimbursement for travel time for some individuals who helped put in the course.

These courses are not just put on by anybody. You are supposed to be certified. It is a process. The problem with making it mandatory that every single alcohol server have and receive a certified course and receive a certificate is that as Representative Dunlap just mentioned, the turnover. There are 22,000 individuals at any one given time who are in this business. That changes, particularly from season to season. I guess I would ask that you support the Indefinite Postponement of this particular amendment and go on to pass the bill. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Chizmar.

Representative **CHIZMAR**: Mr. Speaker, Men and Women of the House. I am sorry that personal innuendoes were brought into this debate. I am getting a mixed message. Last week you did not want alcohol served on golf courses. Now what I am hearing is you do not want to properly train your servers. I would like to ask the clerk to read the Committee Report.

Representative **CHIZMAR** of Lisbon **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 Berwick, Representative Murphy.

Representative **MURPHY**: Mr. Speaker, Ladies and Gentlemen of the House. I had the opportunity to serve on the committee that studied this and actually wrote the law back in the '80s. I can't tell you which year. Senator Trafton from Auburn was the on Legal Affairs. We worked all summer to bring an LD before this House. Why we were asked to do that was because the industry came in and they could not afford the insurance that was being put on them because if somebody left their

establishment and they were drunk and had an accident, they were being sued. It was thought of as a deep pocket. What we did is we wrote what is in law today. I still feel it is a very good law. We did not make it mandatory that they had to have their service have a certification because they said you don't have to, we will do it voluntarily. Having held a beer license in the State of New Hampshire for 23 years, I know what some of them is going through. It is a decision to make. It is how you handle a situation when someone wants to buy a six pack and you say you can't sell it to them. You have had too much.

What this class would do is teach these servers how to handle those people. There is a way you do it. It is a way that diffuses the situation. I think that if I was in the business today of selling beer or serving drinks, I would certainly insist that my servers had this course. I would hire them, but I would insist they had the certification, even if I had to pay for it myself. All you need is one lawsuit and you could be walking out the door with your suitcase. That actually happened to one business in this state at that time. That is what the problem was. I am not sure just what this bill does except that I think it makes it a little stricter, which I think is good. There is no way a business in this state can hire a server and not have he or she educated. These servers, true, they will stay three months here and three months there, but for the price that it is costing us, I think it could save somebody's life by getting a drunk off the road. I hope that you would vote against Indefinite Postponement. Thank you.

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

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. I guess I am a little confused. I thought we were discussing the amendment, which doesn't really have anything to do with the courses, just the fee. I believe I have it right here. As I recall in the debate, in the committee, the reason why a lot of us, myself included, were against going to zero for the department to teach this course for zero when somebody said it is free. It is not free. These people are on salary, benefits and all of those things. That is fine. I am for education and I don't mind the state doing it at taxpayers expense unless there is private industry that can do it. There are private industry teaching this course. If the department drops it to zero and saying it is doing it for nothing, the taxpayers fund is competing with private industry. As I recall, that was the issue. Why would they want it to go to zero?

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

Representative **MCKENNEY**: Mr. Speaker, Men and Women of the House. I take lightly my disagreement with my fellow Representative from Gorham. I don't like to do that. I need to clear up a couple of points. First of all, I never said that we should pay for training for all people who need licenses. I said we should offer services for people who need licenses. That is a different matter. The other point that I want to bring out is the issue of training companies. I would be the last person to suggest that government should offer services that are offered in the public sector. There is one person in this state that offers alcohol server training. All the other people that offer alcohol server training do it in house. They are companies that do other things, like Hannaford Brothers, Armatos and companies like that that offer training to their own employees. As a result of that, they offer it to the general public. They would be perfectly happy just to offer it to their own employees. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative MUSE: Mr. Speaker, Men and Women of the House. I am just wondering if the training that is offered by the department, if that training would train somebody who works for an establishment as a trainer so that that person would be able to train the people in house? For example, the bar manager who is certainly not as transient a population as the servers themselves or perhaps the bar owner could be certified as a trainer and then he or she could do the training themselves in house.

The Chair ordered a division on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-605) to Committee Amendment "A" (S-228)**.

Representative DUNLAP of Old Town **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-605) to Committee Amendment "A" (S-228)**.

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

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-605) to Committee Amendment "A" (S-228). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 249

YEA - Bagley, Baker, Berry RL, Bolduc, Bowles, Brooks, Bryant, Bull, Bumps, Chick, Chizmar, Clough, Colwell, Cross, Dudley, Duplessie, Fuller, Gagne, Gagnon, Green, Jabar, Jacobs, Kane, Kneeland, Labrecque, LaVerdiere, Matthews, Mayo, McDonough, McGlocklin, McKee, Norbert, Nutting, O'Brien JA, O'Brien LL, Perkins, Pieh, Pinkham, Powers, Richardson J, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Sullivan, Tessier, Townsend, True, Twomey, Usher, Volenik, Watson, Williams, Mr. Speaker.

NAY - Ahearne, Berry DP, Bouffard, Bragdon, Buck, Cameron, Campbell, Carr, Cianchette, Clark, Collins, Cote, Cowger, Daigle, Davidson, Davis, Desmond, Dugay, Duncan, Dunlap, Etnier, Fisher, Foster, Frechette, Gerry, Gillis, Glynn, Goodwin, Gooley, Hatch, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Lemoine, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Martin, Marvin, McAlevey, McKenney, McNeil, Mitchell, Murphy E, Murphy T, Muse, Nass, O'Neal, O'Neil, Peavey, Perry, Plowman, Povich, Quint, Richard, Richardson E, Rines, Rosen, Sherman, Shields, Shorey, Sirois, Skoglund, Snowe-Mello, Stanley, Stanwood, Stevens, Thompson, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tripp, Waterhouse, Wheeler GJ.

ABSENT - Andrews, Belanger, Brennan, Bruno, Mendros, Savage C, Stedman, Tuttle, Weston, Wheeler EM, Winsor.

Yes, 57; No, 83; Absent, 11; Excused, 0.

57 having voted in the affirmative and 83 voted in the negative, with 11 being absent, the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-605) to Committee Amendment "A" (S-228) FAILED**.

Subsequently, **House Amendment "A" (H-605) to Committee Amendment "A" (S-228) was ADOPTED**.

Committee Amendment "A" (S-228) as Amended by House Amendment "A" (H-605) thereto was ADOPTED.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-228) as Amended by House Amendment "A" (H-605) thereto in NON-CONCURRENCE** and sent for concurrence.

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

ORDERS

On motion of Representative KANE of Saco, the following Joint Order: (H.P. 1588)

ORDERED, the Senate concurring, that Bill, "An Act to Clarify the Standard for Cause in the Request for Proposal Process for the Department of Mental Health, Mental Retardation and Substance Abuse Services," H.P. 692, L.D. 959, and all its accompanying papers, be recalled from the Governor's Desk to the House.

READ.

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

Representative KANE: Mr. Speaker, Men and Women of the House. LD 959, "An Act to Clarify the Standard for Cause in the Request for Proposal Process for the Department of Mental Health, Mental Retardation and Substance Abuse Services." The Governor's Office in reviewing the language prior to his signing of it had some problems. Within the last half hour, he just requested us to bring it back to the committee to review, which is what the order will do. If we bring it back to the House and then recommit it to committee, for us to review any issue that the Governor has and to take action accordingly. Thank you Mr. Speaker.

Representative LOVETT of Scarborough moved that the Joint Order be **TABLED** until Thursday, May 20, 1999 pending **PASSAGE**.

The same Representative **WITHDREW** her motion.

Subsequently, the Joint Order was **PASSED**.

Sent for concurrence.

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

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (12) Ought Not to Pass - Minority (1) Ought to Pass as Amended by Committee Amendment "A" (H-480) - Committee on JUDICIARY on Bill "An Act to Require the Department of Human Services to Provide Disclosure in Child Protection Proceedings" (H.P. 764) (L.D. 1087)

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 Hampden, Representative Plowman.

Representative PLOWMAN: Mr. Speaker, Men and Women of the House. I would ask you to vote against this motion. This bill, is my bill, I brought it to my committee in order to rectify a problem that is happening in child protective cases in the State of Maine. Right now, and we heard it twice in our hearing, one from the Attorney General's Office and one from the Department of Human Services. The material that is provided to a parent in a child protective case as disclosure is the material that the department and the Attorney General intend to introduce to make their case. That means that there is information that is not introduced.

The bill itself was far too reaching. Upon the advice of several of the attorneys in the body, I have tried to narrow it down. Unfortunately, we can't talk about that narrow bill unless we defeat this pending motion. We do need to get to a way where if the department collects evidence that tends to help a parent and keeps it in his file and does not disclose it to the attorney for the parents or the parent, then justice is not being done at child protective hearings. I have been told that attorneys are bound by their code of ethics to turn over this information, which is called exculpatory. It would tend to help the person who is accused. However, the department is not bound by those rules. They are not attorneys. What they hand over to the Attorney General will be the information that they need to make the case and nothing more.

I say that if there is something in the file that is positive or helpful to a parent, then it should be put before the defense attorney for the accused. They are not really called defendants, for him to decide if it is going to be helpful and for the court to decide when they are making their decisions in child protective cases. It is simple. The bill is far reaching. I have worked on narrowing it down, but in order to reach the narrowed down version, which does what I need and what I think your constituents need, we need to defeat this motion. I would ask you to please vote red so that we can go on to accept the Minority Report and amend it. I appreciate your attention. Thank you. I request the yeas and nays.

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 acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 250

YEA - Ahearne, Bagley, Baker, Berry RL, Bolduc, Bouffard, Brooks, Bull, Cameron, Chick, Chizmar, Cianchette, Clark, Colwell, Cote, Davidson, Desmond, Dudley, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Green, Hatch, Honey, Jabar, Jacobs, Kane, Labrecque, LaVerdiere, Lemoine, Madore, Mailhot, Martin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, Mitchell, Murphy E, Muse, Norbert, O'Brien LL, O'Neal, O'Neil, Peavey, Perry, Pieh, Povich, Powers, Quint, Richard, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, True, Twomey, Volenik, Waterhouse, Watson, Williams, Mr. Speaker.

NAY - Berry DP, Bowles, Bragdon, Buck, Bumps, Campbell, Carr, Clough, Collins, Cowger, Cross, Daigle, Davis, Dugay, Duncan, Foster, Gerry, Gillis, Glynn, Goodwin, Gooley, Heidrich, Jodrey, Jones, Kasprzak, Kneeland, Lemont, Lindahl, Lovett, MacDougall, Mack, Marvin, McKenney, McNeil, Mendros, Murphy T, Nass, Nutting, O'Brien JA, Perkins, Pinkham, Plowman, Richardson E, Richardson J, Rosen, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stanwood, Tobin D, Tobin J, Trahan, Treadwell.

ABSENT - Andrews, Belanger, Brennan, Bruno, Bryant, Joy, Savage C, Sirois, Stedman, Tuttle, Usher, Weston, Wheeler EM, Wheeler GJ, Winsor.

Yes, 81; No, 55; Absent, 15; Excused, 0.

81 having voted in the affirmative and 55 voted in the negative, with 15 being absent, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

On motion of Representative **LOVETT** of Scarborough, the House adjourned at 12:23 p.m., until 9:00 a.m., Thursday, May 20, 1999.