

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
59th Legislative Day
Wednesday, May 26, 1999

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

Prayer by Mr. Everett McEachern, Restoration Branch of the Church of Jesus Christ, Poland.

National Anthem by Biddeford High School Chamber Singers.

Pledge of Allegiance.

Doctor of the day, David Massanari, M.D., Springvale.

The Journal of yesterday was read and approved.

COMMUNICATIONS

The Following Communication: (H.C. 213)

STATE OF MAINE

**ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON NATURAL RESOURCES**

May 25, 1999

Honorable Mark W. Lawrence, President of the Senate

Honorable G. Steven Rowe, Speaker of the House

119th Maine Legislature

State House

Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

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

L.D. 1924 An Act to Reduce Mercury in Products

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

Sincerely,

S/Sen. Sharon Anglin Treat

Senate Chair

S/Rep. John L. Martin

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.C. 304)

SENATE OF MAINE

OFFICE OF THE SECRETARY

3 STATE HOUSE STATION

AUGUSTA, MAINE 04333

May 25, 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 Taxation on Bill "An Act to Repeal the Snack Tax", (H.P. 42) (L.D. 56), was accepted.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

ORDERS

On motion of Representative SAXL of Portland, the following Joint Resolution: (H.P. 1070) (Cosponsored by Senator LONGLEY of Waldo and Representatives: JABAR of Waterville, MARTIN of Eagle Lake, NORBERT of Portland, Speaker ROWE of Portland, SAXL of Bangor, STEVENS of Orono, THOMPSON of Naples, Senator: PINGREE of Knox)

**JOINT RESOLUTION IN MEMORY OF
JUSTICE DAVID G. ROBERTS**

WHEREAS, the Legislature has learned with deep regret of the passing of the Honorable David G. Roberts; and

WHEREAS, David G. Roberts was raised in Aroostook County and graduated from Bowdoin College and Boston University Law School before starting in private practice in Caribou in 1956; and

WHEREAS, David G. Roberts worked as an assistant United States Attorney in Bangor and was appointed to the Maine Superior Court in 1967 at the young age of 38; and

WHEREAS, David G. Roberts, well-known for his thoughtfulness and enduring enthusiasm for the law, was named to the Maine Supreme Judicial Court, where he served until his retirement; and

WHEREAS, David G. Roberts' long tenure on the bench, with his powerful memory and his open-door policy for anyone needing help, made him a valuable resource for attorneys and his colleagues; and

WHEREAS, David G. Roberts is remembered as a genuinely kind person, a great colleague, a loving father of 7 children and a loving husband to his wife Bunny; now, therefore, be it

RESOLVED: That We, the members of the 119th Legislature, now assembled in the First Regular Session, take this time to honor David G. Roberts and to recognize his distinguished service as a member of the Maine judiciary for more than 30 years; and be it further

RESOLVED: That our membership pause in a moment of understanding and prayer to inscribe this token of sympathy and condolence to all who share our sorrow at the passing of Justice David G. Roberts and respectfully request that when the Legislature adjourns this date it do so in honor and tribute to the memory of Justice David G. Roberts; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be presented to Bunny Roberts and her family as an expression of our esteem and sympathy.

READ and ADOPTED.

Sent for concurrence.

SPECIAL SENTIMENT CALENDAR

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

In Memory of:

Laura P. Whitman, of Manchester, beloved wife of Carl Whitman, Sr., mother of 12 children, grandmother of 40 grandchildren and great grandmother of 34 children. Mrs. Whitman was a charter member of the Manchester Community Church where she was an organist, teacher and choir director. She also worked diligently on behalf of many organizations including the Manchester, Kennebec Pomona and Maine State Granges, the Manchester Extension Club, the Auxiliary of Maine

General Medical Center in Augusta, the Emblem Club and the Girl Scouts. She is remembered for her efforts to organize the first hot lunch program at the Manchester Elementary School and for her volunteer efforts at the Augusta Mental Health Institute. Mrs. Whitman was the recipient of the Manchester Outstanding Citizen Award and Spirit of America Award. She will be greatly missed by her family, friends and community;

(HLS 460)

Presented by Representative FULLER of Manchester.
Cosponsored by Senator TREAT of Kennebec, Representative MCKENNEY of Cumberland.

On **OBJECTION** of Representative FULLER of Manchester, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **FULLER**: Mr. Speaker, Ladies and Gentlemen of the House. It gives me great honor to be able to stand up to recognize Laura Whitman, who was a friend of mine through my many years of active membership in the Manchester Grange. There wasn't anybody, I don't think, in our community of Manchester who worked any harder to support the activities of the grange both of the State, Pomona and local levels. You will also note from her activities that she has been a very strong leader in the community. She was a charter member of the church and she organized the first hot lunch program at the Manchester Community School. She served both young and old. She worked on behalf of efforts for the children in our community as well as efforts on behalf of older people and certainly her volunteer efforts at the hospital and at the Augusta Mental Health Institute showed her compassion and caring for people of all ages. She was a very calm person, a steadying influence, but a let's get it done type of person. It was a pleasure and a great honor to know Laura Whitman and to work with her. I am pleased to be able to present this sentiment. Thank you.

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

Representative **MCKENNEY**: Mr. Speaker, Men and Women of the House. I want to thank the Representative from Manchester for bringing out this sentiment. I know Laura Whitman by another name. She was my Aunt Laura. A more remarkable woman would be hard to find. After raising 12 children, some of whom are here now, the whole family wouldn't fit into the balcony. My Aunt Laura had enough energy to hold every office in the Manchester Grange and every position in her church, including organist at least once. She was so busy in later life that her 12 children, 41 grandchildren and they are still counting the great grandchildren had a time finding her. I was very pleased that she could be here to witness the swearing in ceremonies back in December. I am sure she had to alter her schedule to attend. When I asked her if she would like someone to pick her up and bring her over here for that ceremony she said rather indignantly, "Why, I have a car you know." That was my Aunt Laura.

One of the events that made my aunt the happiest was Thanksgiving. The Whitman Family for many years has rented the Lions Club in Manchester for a Thanksgiving that included children, grandchildren, great grandchildren, other in laws, assorted outlaws and a few nephews. My Aunt Laura will be missed.

ADOPTED and sent for concurrence.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-681)** on Bill "An Act to Address the Solvency of the Unemployment Compensation Fund"

(H.P. 1372) (L.D. 1970)

Signed:

Senators:

DOUGLASS of Androscoggin

MILLS of Somerset

LaFOUNTAIN of York

Representatives:

HATCH of Skowhegan

MUSE of South Portland

GOODWIN of Pembroke

MATTHEWS of Winslow

SAMSON of Jay

DAVIS of Falmouth

TREADWELL of Carmel

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-682)** on same Bill.

Signed:

Representatives:

MacDOUGALL of North Berwick

MACK of Standish

READ.

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

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

Representative **HATCH**: Mr. Speaker, Ladies and Gentlemen of the House. LD 1970, "An Act to Address the Solvency of the Unemployment Compensation Fund" was submitted by the King Administration and developed by the Maine Department of Labor. The bill provides permanent solvency to the Unemployment Insurance Fund by combining increased taxes, benefit reductions and systemic change. As a result of negotiations with all interested parties, the Labor Committee will present a different version of the bill for the Legislature's consideration, which includes an increase in the taxable wage from \$7,000 to \$12,000, an adoption of an array system of taxation, a new method of calculating benefits that takes into account two quarters instead of one, a reworked and improved definition of misconduct and establishing what the unemployment systems so-called plan yield or how much money the solvency plan will eventually bring in at 1.1 percent of total wages earned for the next 12 months. It is expected that as a result of this cap, employer taxes under this new plan will be mitigated significantly. Even with passage of this bill, there will continue to be issues surrounding Maine's unemployment program.

The DOL, Department of Labor, will develop a proposal to develop a permanent cap on the plan yield later this year. A long-term cap mechanism ensures that only enough unemployment taxes are collected from employers to obtain a 12-month cushion benefits at the recession level payout. The DOL expects to present legislation to the 119th Legislature in the

year 2000 to achieve this goal. As amended, LD 1970, "An Act to Address the Solvency of the Unemployment Compensation Fund" is a significant step toward stabilizing the current Unemployment Fund. While it is true that a majority of Maine employers will pay higher taxes in the coming years, the chances of running out of money in the fund will be eliminated. I would like to note that those remarks were taken from the Maine Chamber Newsletter.

In the last five years serving on the Labor Committee this issue has been coming back to us year after year after year. The Maine Department of Labor did an extensive and exhaustive program this last year bringing in all parties concerned to bring us the original legislation. Yes, we did do some amending. As House Chair of the Labor Committee I feel that we did a very good job. I would like to thank the Labor Committee members who worked diligently on this issue with all parties. I would like to thank the AFL-CIO, the Chamber of Commerce, the Department of Labor and especially Gail Thayer at the Unemployment Division who worked tirelessly on this effort, Commissioner of Labor Landry for her input and help on all aspects of this and the Governor's Office for keeping the pressure on all of us to come out with a resolution to this issue. I hope each of you will support the Majority Report. Thank you.

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

Representative TREADWELL: Mr. Speaker, Ladies and Gentlemen of the House. I am also on the Majority Report of LD 1970 and I just wanted to add a few comments to what the good Representative from Skowhegan has just relayed to us. The solvency issue of the Unemployment Compensation Fund has been an issue before the Labor Committee for the last several years. The Department of Labor did do an excellent job in developing a very, very good piece of work that showed up to us in the form of a study that they did over the past summer. They brought in legislation to cure the solvency problem. Up until this year and they are still in effect now due to sunsets, there have been a lot of band aide approaches to solve the problems of the fund. Each comp check was reduced by \$3 and also reduced by 6 percent of the benefit amount. That amounted to on a typical comp check somewhere around a \$12 to \$15 reduction in benefits. The bill that is before us now, LD 1970, will remove those band aides. I would like to point out that there will be an increase in benefits as a result of that. There will be no decrease in employee benefits as a result of this legislation. There will be a net increase in benefits.

There were \$6 million worth of overpayments to the fund that is going to be cured by the bill that is before us today. In the past there has been no attempts made to collect those overpayments. That has been solved by the bill that is before us today. There were also another \$6 million of payments that were owed to the fund by employers that were not being collected. There is language in the bill that will ensure that those payments are collected. I am not in favor of any increase in the assessment on employers, but I think we all recognized that we had to do something to fix the fund. We have come up with a plan, although it does increase the assessment, I would like to see it less than it is, but I consider it to be better than it could have been. I would urge support of the Majority Report to LD 1970.

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

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

The SPEAKER: The Chair recognizes the Representative from 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 get to the Minority Ought to Pass Report. I would also, like the two previous speakers, like to thank the Department of Labor for their work in putting this together. We all realize that some changes must be done to the Unemployment Insurance System to make sure that the system works well, is easy to understand and can remain solvent for a long time. We all have the goal of keeping the fund solvent. Solvency has been measured by making sure that the fund has 12 months worth of benefits being able to be paid out so that when the economy gets bad we have a 12 month cushion to draw from so we don't have to borrow from the federal government. Another assumption I had is that we want to keep the fund solvent first and foremost, but at the same time we want to keep the taxes as low as possible doing that. There is no reason to raise the taxes unnecessarily if we don't have to. Both plans go into the solvency problem. Both plans make major changes to the Unemployment Insurance System. Both plans have a higher wage base. Ours is a little higher than the Majority Report. Both plans have an array system and change how people pay into the system. Both plans change the definition of misconduct on who is eligible for unemployment. Both plans change how benefits are calculated and get tougher on employees who don't pay unemployment insurance taxes. The major difference is in the assumptions.

The cost of going insolvent I would also like to explain. If the fund happens to become insolvent, the unemployed workers will still get their benefits. There is no way that if the fund becomes insolvent the unemployed workers will not get their unemployment benefits. We must borrow money from the federal government if the fund becomes insolvent. The cost of that for each \$10 million that we have to borrow from the federal government it will cost us about \$200,000 a year in interest plus repaying that initial \$10 million. The cost and what we are trying to stave off, is having to borrow money from the federal government.

I wanted to get into some of the assumptions that this plan was based on, which is very important. The reason we have to look at the assumptions is that tells us how much money we are going to be paying out in the future and how much we will have to put into the system. Obviously if the economy bottoms out and things get very bad, we will have more unemployed workers and we will need more money in the system. If things are rosy, spending more money for GPA and putting more money into research and development and all the things we are doing in this body, if those work and spur the economy and our great job growth continues in this state, we have less unemployed workers, then we need less money in the fund.

One of the sheets that came around has all these detailed numbers of where the numbers come from. I don't want to get too much into the technical numbers, but the Majority Report is based on numbers from the Department of Labor. There are two numbers there, total unemployment and insured unemployment. Not everybody who is unemployed can get benefits. Insured unemployment is always smaller than total unemployment. Based on the Department of Labor numbers, their numbers are based on what would happen if the three worst years out of the

last 20 were to occur again. If things get very bad, the three worst of the last 20 years would include the late '70s, early '80s and possibly one of the years in the early '90s. If things get really bad like that again, that is what their numbers are based on. Those numbers would have us going in 2008 to an insured unemployment of 6 percent, which would mean a total unemployment rate of about 9.8 percent. Right now our unemployment total 4.4 percent. They are expecting a major jump in unemployment almost doubling in the next three years.

We had some other assumptions that we used for the Minority Report. The two sets of numbers we used, first of all, were State Planning Office numbers. I was sent some numbers where what does the State Planning Office think the economy is going to be like in the next five or six years. Obviously from our budgets that we have, the State Planning Office has been predicting that things will be doing well in this state. Their numbers predict total unemployment ranging from between 4.4 and 4.5 percent in the next few years. I thought those numbers were a bit rosy. The State Planning Office predicted the economy a little better than it may be. I would point out that the State Planning Office their track record is no perfect. We would not have the state surpluses if their track record was perfect. Instead of a surplus, those would be anticipated revenues. They have always under predicted in the last few years how the economy would do. They have, in fact, predicted seven out of the last four recessions. Those numbers aren't great.

We had a numbers from WEFA, the Worton Economic Forecasting Association. Those numbers are used by Fortune 500 companies, the Office of Management and Budget in Washington, DC and the Congressional Budget Office. It is one of the four big companies in the country that do economic planning. Their total unemployment ranges from 4.4 to 4.9. You might think that I am blabbing on about numbers. Here is what it boils down to. Under the Majority Report assumptions, we could go broke in 2005 based on the way the fund is. Based on the assumptions from WEFA, the total unemployment rates with some calculations I got from the Department of Labor yesterday, if we did absolutely nothing to the fund, we are not going broke based on these accurate economic predictions. We have \$256 million in the fund at the end of 2005.

No one says we shouldn't do anything to the fund. Both plans change the fund. The Majority Report by the end of 2005 by extending the rate with a 13 percent tax like they have would have \$550 million extra in the fund taken out of the Maine economy. Those are real dollars to employers. We expect that we need about \$230 million now to keep the fund solvent at 12 months worth of benefits. They would have more than double that in the Majority Report based on good economic numbers. The Minority Report has a cap I would get into and sets the fund at 12 months worth of benefits. We would be at 12 months worth of benefits on our report. We do need 12 months worth of benefits. The assumptions of the Majority Report show doom and gloom for the economy. The insured unemployment, the people drawing from the fund, going up over 260 percent in the next few years. I don't think those are accurate numbers and I still do not know where they came up with those numbers. It even says on their report that this is not a prediction. The numbers the Majority Report are based on is not a prediction, but one of many possible scenarios that could occur. Another possible scenario in this body is that 30 people in the minority party die or resign and the Republicans take over the Legislature in the second session from special elections. It is a possible

scenario, but it is not very likely. In the same way the scenario used for the Majority Report is not very likely.

What if I am wrong? What if the Majority Report assumptions are correct? Many of you may think the WEFA numbers or the State Planning Office numbers are wrong and the Department of Labor numbers are correct. If I am wrong about which numbers are correct, the Minority Report has a stabilizer in there, a cap if you will. There is no cap existing in the Majority Report, but it is in the Minority Report. What that cap does is it would tell the Department of Labor on October 31st of every year that you are going to set the tax rate for the unemployment system for the next year. You will set the tax rate at whatever it needs to be to keep 12 months worth of benefits in the fund. That is the goal. Right now we have 10.7 months of benefits in the system. The goal is 12. It is estimated that we will hit 12 months of benefits by the end of the year. If that happens and the stabilizer is in place, the tax will automatically go down, but the fund would stay at 12 months of benefits. If I am wrong and the economy bottoms out like the Majority Report scenario alleges may happen, the cap would automatically keep the fund at 12 months worth of benefits and adjust the tax rates accordingly. I don't think we need a tax hike now.

I wanted to bring up a couple of other points. There are huge amounts of money that would be overflowing into the system as I mentioned if the Majority Report went through. What are the odds of us going broke? The Department of Labor said in the economic downturn of the early '90s of the states that had 12 months or less of benefits in their fund, 30 percent had to borrow from the federal government. No states with more than 12 months of benefits had to borrow. We are 10.7 months now. We are going to hit 12 months by the end of the year. I would say that the odds that we have to borrow from the federal government are very, very low. We have a cap in place to keep it at 12 months so that would not occur.

Also, the goal is to go up on the Majority Report based on their assumptions. We would go up to 12 months worth of benefits. When the economic downturn occurs, we would go down to 2 months worth of benefits. Some basic math, 10 minus 2 is 10 months worth of benefits. We need to be able to pay out and have a cushion there. We have 10.7 months of benefits now. If you take out 10 months worth of benefits, then we still have a cushion of .7 months. The debate is not really are we going broke, but how large the cushion should be. Also, if the Majority Report assumptions were correct, the economy went into a huge downturn unemployment more than doubled, that wouldn't happen and the fund wouldn't be in trouble until 2005. That is six years away and three new Legislatures away. There is plenty of time to fix that in the future and check to see whose set of numbers are correct. I don't think it is prudent to raise taxes now to fix something that is not going to be a problem. There probably will never be a problem, but wouldn't until 2005.

I just wanted to remind you of two things and then I will sit down. First, a vote against the pending motion, which I urge, is not a vote against fixing the Unemployment Insurance System. Both reports have the array system, the higher wage base and a lot of technical changes to shore up the Unemployment Insurance System. The Minority Report will do it and the Majority Report will do it. There are a few technical changes, but the big question is, do we want a cap in place to keep the fund a 12 months worth of benefits? Do we need a 12.5 percent tax hike this year? A vote against the Majority Report is a vote also to fix

the system and it is vote against the unneeded tax hike. I urge you to vote against the pending motion. Thank you.

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

Representative **MUSE**: Mr. Speaker, Men and Women of the House. I will be brief. It is unfortunate that so many members had constituent work to attend to and have left the chamber. I wanted to strongly encourage folks to follow along with the Majority Report. As the Right Honorable Representative Mack has just pointed out, both of the reports do make very serious changes. There is one dramatic difference however. One of the reports is supported by members on both sides of the aisle. One of the reports is supported by members of labor and by members of management. One of the reports is a good report and that would be the Majority Report. I would strongly recommend everyone to vote that way. Thank you Mr. Speaker.

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

Representative **POVICH**: Mr. Speaker, Ladies and Gentlemen of the House. I was going to ask a series of questions, but I tell my committee, don't ask a question if you know the answer. I may not know the answer, but I have a pretty good idea. I sat on the Unemployment Compensation Commission in the 118th Legislature and some questions linger in my minds. First of all, I found it very, very helpful to have some models in front of me to show how various companies around the state would be affected by this change. There are some companies that don't use the system and don't have layoffs and consequently keep paying into the system and don't use the system. There are some other companies that use the system every winter. That is their wintertime payroll. They are seasonal employees and they routinely lay off their employees for the winter. I guess that is the nature of certain businesses. What I found in the last Legislature on this commission was that these people who use the system a lot aren't paying their fair share. It would be really helpful for me to see how the array system addresses this situation. What percentages of companies are going to receive a 12 percent in their unemployment taxes? It is fair question to ask. If Maine's unemployment tax is 9th highest in the country, where will Maine be after we enact LD 1970? I think that is a fair question to ask. It escapes me, although I live in a part of the state that has a higher unemployment rate, why in this period of record low unemployment do we have a problem with the system? Where is the money going? These are the questions that I was going to ask, but I think I have the answer. I am really troubled with both reports and I am not sure we are getting to the fix in this situation. I can't urge you to vote in any particular way, but I have some questions. Thank you very much.

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

Representative **BUCK**: Mr. Speaker, Ladies and Gentlemen of the House. I certainly appreciate the remarks from the Representative from Ellsworth, Representative Povich, he is asking the same questions that I have asked as an employer for the last 14 or 15 years. It really troubles me that a certain segment of employers in this state traditionally use unemployment insurance to fund their payroll during the winter months or seasonal months when they lay their people off and businesses like Representative Povich and myself who never lay anyone off have to pay the burden so that those folks can collect their unemployment insurance, it seems pretty much unfair. The

other issue here I think is, I have three questions I would like to ask concerning the Majority Report that I really would like answered. The first one is, why are we raising taxes on employers when the only problem we are going to solve is add an additional month of unemployment for the entire fund? I simply do not understand that. The other question is if we really believe in the Majority Report's assumptions about the condition of our economy two years from now, why isn't that reflected in the budget we are about to pass this week? If we rely on those assumptions, we would have to do at least three things. We would have to be reducing GPA this week instead of increasing it. We would have to eliminate the tax cut that many of us on this side of the aisle are interested in seeing go through. In addition, we would have to eliminate, obviously, all new spending because it simply will not be there two years from now. If we are going to base the assumptions for this bill on that economic scenario, why aren't we basing our present budget on that?

Finally, another issue that always bothers small businesses that have to pay this thing is the issue of fraud. It may not seem significant in terms of the total amount of money that is spent each year, but for those of us that pay that quarterly bill, it really irritates us. What I could never understand is under the present system is if you are convicted of fraud, on the first offense you have to give back 25 percent of what you sold. On the second offense, you have to give back half of what you stole. If we really believe in that system, does that mean as an entrepreneur I love to make money. Can I go rob a bank and steal \$10,000, get caught and give them back \$2,500 and pocket the rest and on the second offense, keep \$5,000 and give back the other \$5,000? It really makes no sense at all to me that we have a system like this. Seriously, for those of us who have to pay the freight on this and I am not talking about big businesses in Maine, I am talking about the smaller businesses like Representative Povich and myself who have five or six employees. It just doesn't seem fair that we allow people to abuse the system at the expense of people who are providing most of the jobs in this state. Thank you.

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

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. To answer some of the questions from the Right Honorable Representatives from Ellsworth and Yarmouth, good convenience store owners, they had both asked about the array system and about how many employers would get a tax hike and how many would get a tax cut under both plans. Let me talk about the existing system. Under the existing system for unemployment compensation, there are a number of different rates employers pay based on their experience factor, based on how much they use the unemployment system. We have a lot of people in the very, very low rate and a large chunk in the very, very high rate. The new array system will take all the employers in the State of Maine every year put them into 20 categories so that the people in each category will pay out the same amount. The people who may get a small tax hike will be the people who have been laying off a lot of employees, the seasonal workers who have been taking advantage of things. If you don't use this system much, you don't lay your employees off and you will get a tax break.

The net affect under the Majority Report is a 12¼ percent tax hike. For most businesses there will be a tax hike. Under the Minority Report, we would keep the tax rate level for this year, but have the tax in place so that that tax rate will be floating

to keep us at 12 months worth of benefits. There is a high mark in the cap so they can't go above a certain point so they can't raise taxes way out of whack without coming back to the Legislature. To answer another question, yes, times are great in the State of Maine. We have the highest level of employment in our state's history. More Mainers are working now than ever before. Money is pouring into the fund. No, we don't need to raise taxes now to keep the fund solvent. We are going to hit 12 months worth of benefits by the end of the year. We need to make sure that we get up to 12 months worth of benefits and keep it there, but we don't need a tax hike that will continue to bring more and more and more money into the fund that is not needed by the system.

Also, as the good Representative from Yarmouth said, the assumptions used in this plan, the reason we are not using them for the budget and other things is because it is not a great scenario. I can't even say it is a prediction. The Department of Labor does not even say the numbers the plan is based on is a prediction of future unemployment. It is one of many possible scenarios that could occur. That possible scenario was very, very unlikely. That is why we are not using it for the budget or anything else. Again, I will just point you to the State Planning Office numbers, which I think are overly optimistic for the economy and the WEFA numbers, which are somewhere in between and they give a more accurate prediction. Those numbers show that we will have excess funds coming into the unemployment system and we don't need to raise taxes. Thank you.

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

Representative **SAMSON**: Mr. Speaker, Men and Women of the House. I stand in support of the Majority Ought to Pass Report. It is an 11 to 2 bipartisan report. I have to add that I have been on the Labor Committee for three terms now and for at least half that time we have been looking at the unemployment system because we know that it is in trouble. We tried to do some minor changes in the 118th and we were beaten down and promised that in the 119th we would do something substantive to the program. If I were 25 years old today, I would look at things always going up and up. Things are going to get better and better and better. I am more than twice that age and I realize that life isn't that way. Economics run in cycles and there is going to be a downturn and we are going to have a big problem. Currently in the State of Maine and in the country we have a very low unemployment rate. That is going to change. Even though we have a low unemployment rate, we are going to be running out of funds in a matter of years. Something needs to be done. The Majority Report does something about that. I have to remind everyone that if the fund runs out of money or when it does run out of money if we don't do what we should today, we can borrow money from the federal government. It is no longer interest free and we will now have to pay interest on that money and that interest is going to be paid by employers.

One of the previous speakers mentioned fraud in the system. Yes, there is fraud in the system. It is about 1 percent. When someone is caught fraudulently putting in for unemployment, they pay the price. They have to pay back the system. I have to remind you there is also 1 percent of the employers that are not paying the unemployment to the state as well. It is almost an even deal. Almost 1 percent of the employers are not paying in. As far as the seasonable aspect where workers work seasonally, I have to remind everyone that if

you are a seasonal worker and you are collecting work and if you do not seek work, then you will not get your benefits. I have to tell you once again it is a bipartisan report. I urge you to vote for the Majority Ought to Pass Report.

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

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

The SPEAKER: The Representative may pose his question.

Representative **WATERHOUSE**: Mr. Speaker, Men and Women of the House. I don't know if I heard it right, but the question is to the good Representative from Standish. Did I hear him correctly say that the State Planning Office had predicted seven of the last four recessions?

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

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. To answer the good Representative's question, yes, I am pointing out that the State Planning Office track record on economic predictions is not exactly rosy. They have predicted more recessions than have actually occurred in the past. In this case they are predicting a little bit more rosy scenario than I think will happen in the economy. If their scenario here was true, we would need even less money in the economy. If you trust the State Planning Office that is wonderful, it shows even less reason to have the tax increase. We also have the WEFA numbers that show no need for a tax increase, but a picture a little bit more accurate than the State Planning Office.

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

Representative **MACDOUGALL**: Mr. Speaker, Ladies and Gentlemen of the House. Good morning. Before I begin, I too want to point out that what we are debating this morning is really a good debate. This is not like some of the other Labor Committee debates where it is a real hard line such as workers' comp or some other issues. The Department of Labor did an outstanding job in their research and presenting the committee with something to work from. The Majority and the Minority Report are different in some important respects as has been debated thus far. When I approached this subject, I looked at a couple of facts that we are experiencing the highest employment level in state history and right now the highest level of job growth in the nation. The Chief Executive was on the news a week or two ago explaining that fact, the highest level of job growth in the nation. Also, we are the seventh highest wage replacement in the nation and the second highest in New England. We are the ninth highest employment insurance taxed state in the nation. The duration, the time spent on unemployment, is above the national average. The exhaustion rate, which is what we are all experiencing as we get to the closing days, but in terms of this issue, it is the highest rate in the nation in the number of people using the total benefit time. Those are facts that are before us as we entertain the current motion. Bear in mind that last year we had seven months in the fund and now we are at 10.7. I felt that as we approach that issue if we were going to ask our employers given all these facts that we are already the seventh highest wage replacement in the nation and ninth highest in tax

rate in the nation that if we are going to ask them to pay more that at least on balance we needed to have something that looked at the whole issue.

Something that the Majority Report does not include are things like random audits that would hit both sides, employers that cheat and employees that cheat. The idea of the randomness of it is just like going down the street on the expressway. If there is a police officer around the bend sometimes, then often times that will cause people to go the speed limit because of the fear of that officer being there. The rest of us go the speed limit anyway because it is the law. My point is having the randomness in there, I think will help strengthen both sides of those who cheat in the system. There needs to be tougher penalties for fraud. Fraud is not the inadvertent. I made an error. Fraud is the deliberate distortion of the truth to cheat the system, which robs the employer who pays into it through taxes and cheats the employees who are unemployed and need to take advantage of the system for themselves and their families. It doesn't hurt or affect the honest people.

Through savings of these tougher penalties and addressing that area, we were able to increase in the Minority Report by 20 percent the benefit to a dependent child in a family from \$10 to \$12 a week. I think that is a good thing for our families. In terms of benefits themselves, the Majority Report gets rid of a couple of the gimmicks that were done by other Legislatures before us by removing a \$3 reduction and a 6 percent reduction to get to a total of \$18 increase in benefits. The Minority Report also gets rid of that \$3 reduction, but only gets rid of the 3 percent reduction. Our increase is less than the majority, but it is still an increase. I think we need to look at the fact that if you are going to ask a very high taxed state, you are going to increase the tax or the assessment, whatever word you want to use on your employers, I think you have to show some restraint on the benefit side as well.

This doesn't affect the level of benefits for most of the people that would be in the system either. We have also asked the Department of Labor to look into investment options into the fund and see if we can improve in areas in that area that you think is important. We have also included a lower initial rate for brand new businesses until they get some criteria and some history just as an encouragement to begin a business here in Maine. I, too, hope the Department of Labor's figures are wrong, because if they are right, then we are headed for a major dip in the middle of the next decade. Our spending habits here at the state level are irresponsible then.

Something I have discussed in the workers' comp issues and I would just like to take the same concept here, I think we need to focus on employment opportunity, growth, job opportunities and we need to have a fair system that will help that to continue to grow. If you hamper businesses with increased taxes, you hurt the very people you are trying to help in the long run. I think the Minority Report has a long-term view, a very responsible view with a cap that allows for the varying changes from year to year. That is a very credible and responsible approach so that you maintain that balance with for the people out there and you don't unnecessarily hamper businesses that are going to impact all our families. I thank you for listening.

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

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. I would urge your strong support of this very strong Majority Report. I listen to some of the comments here with many good comments and questions. I guess the one which I would try to urge all of you to look at is within the committee and dealing with the Unemployment Insurance Fund and a problem, which looms on a horizon, not only did we have to look at the fairness issue, which is one of the main priorities, the impact on businesses, but I would submit to all of you, members of the House, that there is also another side of that equation. There is one side of the equation that I believe the Minority Report is drastically turning its back on and that is the unemployed worker. Not only did we have to look at the good work done by the Governor's proposal with respect to businesses, but also what it did to the unemployed worker. Ladies and gentlemen, I would urge all of you if you have a copy of Report "A" and Report "B" go to the statement of fact and compare the two proposals. I believe that Report "B" should we go to that report, which I believe sincerely that that would not happen. If you look at that report, it is draconian in the way it treats unemployed workers. Let's face facts.

That is why, ladies and gentlemen, when you look at these two proposals and all of the players, the business community, the Maine Municipal Association, advocacy groups of unemployed workers and folks that have to avail themselves of help during times of economic downturn that when all of the considerations are taken into play, they support the Majority Report. I would urge your strong support. It is a fair system. The array system begins to recognize the good questions and problems by the good gentleman from Ellsworth, Representative Povich, and begins to treat those employers that are not taking advantage of the unemployment system in a fairer way through the array system. It begins to raise the taxable wage base to where it should be and some of us in the committee agreed that maybe we should raise that higher at some point so it equitably reflects all businesses, employees and wages. Again, it does not and I would say the primary concern of the Unemployment Insurance Fund is that it helped those unemployed workers through times that are tough and through no fault of their own find themselves out of work and in need of a subsistence level of support to pay to put food on the table to pay the kinds of bills that all of us have to pay so that they don't have to think that the government and society has turned its back on those that, through no fault of their own, find themselves in times of trouble. I would urge all of you to remember that not too long ago in this body we were talking about the kinds of layoffs that we are seeing more and more of. This Unemployment Insurance Fund, these are the people that it goes to help get through the tough times.

The fair report is one that keeps all concerned fairly is Report "A." The other report, ladies and gentlemen, really does not cut the mustard. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **BERRY**: Mr. Speaker, Men and Women of the House. I am looking at sheet one and part of which is the Department of Labor sheet, there is table 3, with another sheet one table on the first page of it. My question relates to statistics.

In 2002, the Department of Labor shows a low of 2 and a high of 5.5 and a moderate of 6. How do you get a moderate of 6 from a low of 2 and a high of 5.5? The other statement that I would make here after my question is, the deviation that occurs within 2002, especially, on sheet one between the WEFA, the State Planning Office and the Department of Labor, why is there such a wide discrepancy in the formulas that produce a 5.1, 4.6 and a 9.8 respectively? I realize these are technical questions, but I just felt that I needed to ask those questions. Thank you sir.

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

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

The SPEAKER: The Representative may pose his question.

Representative **GLYNN**: Mr. Speaker, Men and Women of the House. I am very concerned that we are contemplating raising this tax by 12.24 percent with no cap. I would like to ask the Chair of the Labor Committee or a member of the Majority Report please explain to me the numbers to back up the economic assumptions used in their scenario to justify this tax increase in the Majority Report? Thank you.

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

Representative **HATCH**: Mr. Speaker, Men and Women of the House. I am not sure I can correctly notate why the assumptions were done this way or why the tax base is being raised to \$12,000. I will have you note that ours is \$12,000 on the Majority Report and it is \$14,000 on the Minority Report. It will reflect whether or not the rates for the smaller employers by adjusting that for the higher paid employers who may be in the \$50,000 or \$60,000 range and are only taxed on them a very small percentage of their payroll. As far as the assumptions, the DOL has run the assumptions according to the assumptions they have used with the federal DOL. This is a federal program that was instituted and by law we have to do it. We don't like it any better than anyone else that we have to raise this. We are one of the lowest. When the \$7,000 base was put in when the plan was originally set up and it has never changed. It is an effort to come along with the times and \$7,000 used to be just about all that people earned at a particular job in a year. I can remember a time in 1973 when my father said his greatest wish was to earn \$10,000 a year. Most of his wages were taxed at that time.

It is a sign of the times that broadens out the tax base. It should help the smaller employers who have part-time seasonal temporary help, but also these people. Some of them can put in for unemployment. It would be nice if we taxed on the whole of the wage base. I think the rates would flatten out for the smaller employers altogether. As far as assumptions, if you are looking for assumptions from me, you are going to have to look elsewhere because I have no idea how they ran the numbers, I just except those numbers as being bad. They worked on this issue a lot longer than I have and we have adjusted for the last five years that I know about by sending labor and management out to come back where management pays a little bit more and labor gets a little bit less. It is time that this was worked.

As far as who is on board, everybody is reluctantly on board. I will tell you that the chamber does support the Majority Report. Labor does support the Majority Report. If you have any of those questions, the DOL would be more than willing to

answer them. I know that the representative from the Department, Gail Thayer, nearly pulled all of her hair out trying to address every single question that we could possibly come up with in the time that worked this bill. I would ask that you would ask them. Believe me, it is a solid report. It has been worked on for a long, long time. Thank you.

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

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. To answer a couple of the questions that I have heard and to clarify some of the statements from the good Representative from Skowhegan about the assumptions, my degree was in economics when I was in college. One of the first things they teach you is don't just take things at face value. Read the footnotes in the asterisk and find out where they got their numbers and where their assumptions came from. When I got these numbers from the Department of Labor in front of me in the Labor Committee, I wanted to know what their assumptions were based on. All it was, the best I could figure, is the three worst years of the last 20 occurred again. There is no assumptions or predictions that this would actually happen. We went out and we had State Planning Office numbers and WEFA numbers, the good numbers. All the accurate predictions say we are going to be okay. The good Representative took these numbers at face value and was unable to tell you where they came from and what the basis was because there is no basis to these economic assumptions. It is not an assumption. It is a possible scenario. The whole plan is based on a very unlikely possible scenario. These are not the assumptions the federal government is using for what the economy will be in the future. The calculation of how many months of benefits we need is how you calculate what those 12 months of benefits will be. That is the federal guideline that we are following. The assumptions on the future of the economy are not what we are using. Seven or eight states including very recently the State of Florida just cut their unemployment insurance taxes. They are using more accurate assumptions like the State Planning Office has done or WEFA has done.

Also, I would like to bring up the concerns of the good Representative from Belmont. He had an excellent observation. I have a 10 year old baby sister. One of the things she has learned in school already is you have little and you have big and medium is somewhere in between. The possible scenario that the Majority Report is based on has the middle being larger than big. I hope I am not getting too complicated here. The middle should be in the middle and not bigger than the big. He also pointed out the problems in the standard deviation and how they come across with their moderate numbers. There are severe flaws in the numbers used for this possible scenario to come up with the alleged solvency problem. The solvency problem is not there based on real numbers and there is no real data to back up their assumptions. Like the good Representative from South Portland said, without no good data, we don't need to raise taxes now. I urge you to vote against the pending motion and if something does go wrong, we have six years at least to fix it. Thank you.

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

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

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

Representative **CLOUGH**: Mr. Speaker, Men and Women of the House. My question is, do I understand correctly that the Majority Report estimates that the system is going broke, yet, at the same time proposes an increase in benefits for most unemployed of 8 percent?

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

Representative **HATCH**: Mr. Speaker, Men and Women of the House. To the good Representative, the Labor Committee itself made no predictions that the fund was going broke. That came directly from the Department of Labor and the Unemployment Division. What we are doing is trying to make sure that that does not happen and that employers will not be affected in a time of an economic downturn of having to pay more into the fund when they can least afford it. The other case scenario is that benefits will stay the same and they will not rise. Currently out of 10 people who put into the system to draw unemployment, only four are allowed to draw. What you are saying by 8 percent is probably that they will receive the benefits that they should have been receiving without all these band aides. That is the case scenario. In no time did the Labor Committee ever say that it was going broke. That was directly from the Unemployment Division that kept telling us this and we kept putting these band aides on for a number of years. I think it went back as far as '91 or '92. We kept doing the same thing and we asked labor and management to get together. They would not get together and at least try to address the problem.

The Labor Committee itself asked the Department of Labor to do this study and to go out to the businesses to do workshops to try to find out what was wrong with the program and to come back with a report to the committee. It took us a long time and we did bring forth legislation in the 118th Legislature, which was not accepted and maybe rightly so, but many of these scenarios were in that 118th. I think it has been cleaned up and I think it has been adjusted. It has gone everywhere. We have had hearings on it. Anyone could have come and testified and listened. We had employers show up and employees show up. This is the work. As far as an 8 percent increase, I don't see an 8 percent increase. I see that employees will finally get what they would in the first place before we did the band aides, which was a cut back on the benefits and the employers had to have an adjustment of surcharge. No more surcharges. It will just be a certain rate and you will pay that and you will fall into the array system. If you are a good employer and you have a good track record and your employees are not laid off on a regular basis, you will probably be in the lower end. If you are one of those that is so-so, you are not going to end up in one end or the other, you are going to be somewhere in the middle. If you are a really bad employer who takes and uses the system like one of the Representative's alluded to, you are probably going to be in the high end. Believe me, you are going to pay higher rates. Thank you.

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

Representative **POVICH**: Mr. Speaker, Men and Women of the House. I am still very worried because both reports

anticipate raising the cap. The Majority Report would raise the cap 71 percent. That means that employers would be paying into the Unemployment Compensation Fund 71 percent longer and the Minority Report is going to raise the cap 100 percent. Let me tell you, ladies and gentlemen of the House, that I know what the model is for my business. I should support the Majority Report because my tax will go down. That is because my reserve ratio is very high. I never have a layoff. I guess people work with me for a little while and then they figure they are going to quit. Nevertheless my taxes for unemployment that I saw two years ago in the model would go down. I believe that both reports will raise the taxes for very good employers more than they will raise the taxes for those employers that drain the system. Two years ago I wasn't comfortable with what I saw. I didn't feel that those people who drained the system pay their fair share. It is a question of fairness, ladies and gentlemen, and I hope that both reports can get rid of my fears. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Standish, Representative Mack. Having spoken three times now requests unanimous consent to address the House a fourth time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. Actually it is my second time speaking, I was answering questions all the other times. First to respond to the good Representative from Scarborough, Representative Clough, yes, the Majority Report is saying that we need to raise taxes and the assumptions it is based on says the system is going broke yet increases benefits for most unemployed workers applying for unemployment by 8 percent. There is a net benefit savings on both reports. The benefit savings comes from changing the way the benefits are calculated. The majority of employees applying for unemployment insurance get the maximum weekly benefit amount. That amount goes up by 8 percent in the Majority Report. In times that the fund is in crisis and we are raising taxes, I don't think it is prudent to raise benefits by 8 percent. The Minority Report has more savings on the benefit side by changing how we calculate the benefits and only has an increase of about \$1 a week for most people on unemployment. Both reports have an increase. Do you want an 8 percent increase or a small \$1 increase keeping the fund stable?

Also, I wanted to respond to the good Representative from Ellsworth and anyone else who may be a bit confused on the higher wage base. The higher wage base does not mean that taxes will be higher. Both plans have a higher wage base so this is a concern with both the Majority and Minority Report. What it does is it changes the amount of wages that the unemployment insurance tax is put in. Rough numbers that are not accurate numbers, let's say the wage base is now \$7,000. Let's say you have a 10 percent rate on \$7,000. If we increase the wage base to \$14,000, that rate would go down to 5 percent. You would still be paying the same amount, but you would be paying a lower rate on a higher base. The big number is what the amount of revenue collected is and what the total tax is, not how you calculate what it is collected on. Both reports do that, but it would also point out that the Minority Report has a cap in place. What the cap does is keep the tax set to whatever is needed to keep the fund at 12 months worth of benefits. There is a cap put on that so we don't increase taxes through the roof. To increase taxes anymore, the department would have to come back to the Legislature for an okay to increase that cap. The Majority Report

sets that rate at a 1.1, which would be the 13 percent total tax increase and leaves it there with no cap or future adjusting mechanism. We are claiming that one may come next year, but it is not in there. I hope a cap does come next year, but even with the Minority Report, we have a cap. If it is not perfect, we can adjust it next year. Thank you and I urge you to vote against the pending motion.

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

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

The SPEAKER: The Representative may pose his question.

Representative MENDROS: Mr. Speaker, Men and Women of the House. I have heard in both reports about fraud and certainly more in the Minority Report. Which report deals with employer fraud? That is what I am concerned with. Employers who let people go and then make up a reason that fits into the system so you don't have to pay unemployment benefits or worse yet, the temp agencies who grind people out and they let them go and they get no unemployment. For example, I have a constituent, an issue I am working on, who kept getting assignments further and further away until finally he was expected to drive from Lewiston to Skowhegan for a four hour shift. When he said that is a long commute, can I take the next assignment? They said, sure, but then there was no more assignments. They didn't call him again and he tried to apply for unemployment and they said he refused the job. That is not how it is supposed to work, but that is what many employers do. They milk the system the other way. Do either of these deal with that kind of fraud? Isn't that why we have this system to begin with to help people who are unemployed?

The SPEAKER: The Representative from Lewiston, Representative Mendros has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Falmouth, Representative Davis.

Representative DAVIS: Mr. Speaker, Men and Women of the House. Neither report deals with that. We live in an imperfect world, men and women of the House, and I think we should support the Majority Report and maybe in the future do more for small business to alleviate any problems they have with this report. I would remind everybody that I have never been on unemployment, never collected unemployment insurance, but for those that have I understand it is not a very good place to be. Really we have to think of the entire people of Maine, those that are unemployed and those that are employed. We all did the best we could. It is a terribly difficult problem. It is the most difficult bill that I think we have worked on. I am sure the other people feel the same way. I urge you to vote for the Majority Report. Thank you.

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

ROLL CALL NO. 305

YEA - Ahearne, Bagley, Baker, Belanger, Berry RL, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Cameron, Chizmar, Cianchette, Clark, Colwell, Cote, Cross, Daigle, Davidson, Davis, Desmond, Dudley, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jacobs, Kane, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett,

Mailhot, Martin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, Mitchell, Murphy E, Murphy T, Muse, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Perry, Pieh, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Samson, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Treadwell, Tripp, True, Twomey, Usher, Volenik, Watson, Weston, Wheeler EM, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Berry DP, Bowles, Buck, Bumps, Campbell, Carr, Chick, Clough, Collins, Cowger, Dugay, Duncan, Foster, Gerry, Gillis, Glynn, Heidrich, Jodrey, Jones, Joy, Kasprzak, MacDougall, Mack, Madore, Marvin, McKenney, McNeil, Mendros, Nass, Peavey, Perkins, Pinkham, Plowman, Povich, Rosen, Sanborn, Sherman, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Waterhouse, Winsor.

ABSENT - Bolduc, Tuttle.

Yes, 101; No, 48; Absent, 2; Excused, 0.

101 having voted in the affirmative and 48 voted in the negative, with 2 being absent, the Majority Ought to Pass as Amended Report was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (H-681) was READ by the Clerk and ADOPTED.

Representative MACK of Standish OBJECTED to suspending the rules in order to give the Bill its SECOND READING without REFERENCE to the Committee on Bills in the Second Reading.

Pursuant to House Rule 516, the chair put the question to the House to ASSIGN the Bill for SECOND READING at this time.

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

The Chair ordered a division on the motion to ASSIGN the Bill for SECOND READING at this time.

Representative MENDROS of Lewiston REQUESTED a roll call on the motion to ASSIGN the Bill for SECOND READING at this time.

Less than one-fifth of the members present expressed a desire for a roll call, which was not ordered.

Representative MACK of Standish CHALLENGED the count of the Chair as to the number of members desiring a roll call.

The Chair ordered a division on the number of members present expressing a desire for a roll call.

A vote of the House was taken. 15 voted in favor of a roll call. 15 being less than one-fifth of the members present, a roll call was not ordered.

A division having been previously taken on the motion to ASSIGN the Bill for SECOND READING was announced at this time. 115 voted in favor of the same and 21 against, the Bill was given its SECOND READING without REFERENCE to the Committee on Bills in the Second Reading.

The Bill was PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-681) 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 item appeared on the Consent Calendar for the First Day:

(S.P. 732) (L.D. 2082) Bill "An Act to Reduce the Cost of Prescription Drugs to Residents of the State" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-351)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the Senate Paper was **PASSED TO BE ENGROSSED AS AMENDED** in concurrence. **ORDERED SENT FORTHWITH.**

ENACTORS

Emergency Measure

Resolve, to Establish the Blue Ribbon Commission to Establish a Comprehensive Internet Policy

(S.P. 763) (L.D. 2155)
(C. "A" S-303)

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

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

Confirmation Process

An Act to Require the State Planning Office to Report to the Committee on State and Local Government and the Committee on Natural Resources

(H.P. 619) (L.D. 859)
(H. "B" H-614)

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

On motion of Representative AHEARNE of Madawaska, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION.**

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

The same Representative **PRESENTED** House Amendment "C" (H-686) which was **READ** by the Clerk.

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

Representative AHEARNE: Mr. Speaker, Ladies and Gentlemen of the House. This is just a purely technical amendment. It removes the preamble required on bills relating to certain confirmation processes, which should have been removed on the other House Amendment.

House Amendment "C" (H-686) was ADOPTED.

The Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "B" (H-614) and House Amendment "C" (H-686)** in **NON-CONCURRENCE** and sent for concurrence.

Acts

An Act to Provide Access to Information Services in All Communities of the State

(S.P. 665) (L.D. 1887)
(S. "A" S-321 to C. "A" S-300)

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

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

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

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

The same Representative **PRESENTED** House Amendment "A" (H-683) which was **READ** by the Clerk.

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

Representative AHEARNE: Mr. Speaker, Men and Women of the House. This amendment merely clarifies under the appointed authority for the public members of the Maine Governmental Information Network Board. It is purely a clerical error that needs to be fixed.

House Amendment "A" (H-683) was ADOPTED.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-300) as Amended by Senate Amendment "A" (S-321)** thereto and **House Amendment "A" (H-683)** in **NON-CONCURRENCE** and sent for concurrence.

Resolves

Resolve, Establishing a Commission to Study the Needs and Opportunities Associated with the Production of Salmonid Sport Fish in Maine

(S.P. 332) (L.D. 986)
(H. "A" H-641 to C. "A" S-296)

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

On motion of Representative DUNLAP of Old Town, was **SET ASIDE.**

On further motion of the same Representative, 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-296) was ADOPTED.**

The same Representative presented **House Amendment "B" (H-685) to Committee Amendment "A" (S-296)** which was **READ** by the Clerk.

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

Representative DUNLAP: Mr. Speaker, Men and Women of the House. This amendment is a technical amendment, which clarifies the reimbursement of the members of this commission to study Salmonid fisheries in the State of Maine. It clarifies in that sense that you can't get paid twice under this reimbursement plan. It is basically a clerical clarification and I hope that you will support the adoption. Thank you.

House Amendment "B" (H-685) to Committee Amendment "A" (S-296) was ADOPTED.

Committee Amendment "A" (S-296) as Amended by House Amendment "A" (H-641) and House Amendment "B" (H-685) thereto was ADOPTED.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-296) as Amended by House Amendment "A" (H-641) and House Amendment "B" (H-685) thereto in NON-CONCURRENCE** and sent for concurrence.

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

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

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

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

**REPORTS OF COMMITTEE
Divided Report**

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-227)** on Bill "An Act to Exclude Claims for Intentional Criminal Acts from the Application of the Workers' Compensation Act of 1992"

(S.P. 47) (L.D. 118)

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 Not to Pass** on same Bill.

Signed:

Representatives:

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

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

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 Skowhegan, Representative Hatch.

Representative **HATCH:** Mr. Speaker, Men and Women of the House. This particular bill authorizes a civil suit against an

employer outside of the Workers' Compensation Act of 1992 in limited circumstances. These circumstances would deal with gross sexual assault and the intentional act, which causes an injury or death. The Workers' Compensation Act is not the exclusive remedy in as an exclusive remedy in a separate suit for damages against the employers is not prohibited if this is passed. We amended the bill to say that under the workers' comp law your employer could pretty much do whatever they wanted to do to you and your only remedy is the workers' comp law or you could take them to court, but you couldn't sue them, but you have them put in jail. This would give the insurance companies some relief in that if you did seek under these circumstances very narrow, it would have to be a direct assault on you. We had one gentleman who came before us and proceeded to take off the top part of his shirt and show us where his employer had battered his shoulder on several different occasions when he came in thinking he would be really funny and drew off and nailed him in the shoulder and the gentleman had to go and have surgery to have the shoulder put back together. To me, that seems a little above and beyond the employer/employee relationship. The gentleman did leave the employment and seek employment elsewhere. I guess his boss who is a foreman is still employed by that company. I am a glad I am not an employee there.

To get back to the Workers' Comp System and the insurance company, if they should go to court and they should seek some type of justice and they were successful and received some type of award due to the case monetarily, the insurance company would be refunded any amount that they had already paid this employee. It is something that bears looking at. We had testimony that day and it was quite striking. I understand that there are other circumstances that have happened throughout the state although I am not familiar with them. It would at least give the employees some rights outside of the Workers' Comp System. I ask that you pass this. I thank you very much for your time.

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

Representative **TREADWELL:** Mr. Speaker, Ladies and Gentlemen of the House. This bill was a back door entrance for attorneys to get the prevail situation to workers' comp cases. Under the current law, workers' comp is the exclusive remedy for any injuries that occur on the job. With this bill in spite of what the good Representative from Skowhegan said about it being limited to gross sexual assault, I believe were the words that were used. I will read you the section of the bill that says, "This section does not bar a separate tort action against the employer for injury or death caused by the employers intentional acts that are punishable under Title 17A, Chapter 9 or Title 17A, Section 253." I am sure there are a lot of dispute about what are intentional acts if this bill becomes law. The reckless conduct that is referred to in the bill is also an area that I think is open to broad interpretation. I would urge you to vote against the bill. I guess that is all I have to say right now.

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

Representative **WATERHOUSE:** Mr. Speaker, Ladies and Gentlemen of the House. In the words of so many people that I have heard describe bills before, this is a bad bill. We had this bill in the Judiciary Committee in the 118th and we chose in the 118th to defeat this bill because we saw it as a bad bill then and it is still a bad bill now. I don't know how many times I have

appeared before committees dealing with workers' comp from one end to the other. I constantly heard the refrain that this is a social contract between the employee and the employer. The employer guarantees a certain amount of benefits of injuries and the employee foregoes lawsuits. The problem with this is that it opens the floodgates to lawsuits and an intentional act, that is a lawyer's dream. It brings into the workers' comp law some provisions of criminal law and allows the employee to sue the employer in civil court when those occurred. This was all brought about by an incident that happened a number of years ago. The Maine Supreme Court at the time addressed the issue of proper redress in situations like this and I am quoting from the Maine Supreme Court decision. "Criminal sanctions are available when employers behave egregious." That is where we should be addressing this problem for the criminal courts and not through civil actions and destroying that social contract that we made when we set up workers' comp.

If you look at the fiscal note, it says, "This bill would expose the state to lawsuits which are not permitted under current law and which are not currently covered under the state's liability insurance coverage." It goes on to say the cost that would result could be significant and will increase the cost of liability insurance for all state departments and agencies. Ladies and gentlemen, if it does that to state agencies and departments, imagine what it is going to do to your businesses. I looked at the debate on this bill from the 118th. There was a lot of good debate on it. One of the concerns was the fact that the reading of the language of the bill, the session does not bar a separate tort action against the employer for injury or death caused by the employer's intentional acts, which are punishable by Title 17A, Chapter 9, so forth and so on.

If you look at the sections of the criminal law that are referred to in the sections there is a list of things, murder, felony murder, manslaughter and then you also see things like reckless conduct and you start looking back and you say, is that an intentional act. The legal definition of intentional act is wide open. If this law passes, you will very well find that there are going to be plenty of lawsuits filed ancillary to the workers' comp plan and that of course is going to raise the costs of workers' comp.

Another speaker said that it allows a double recovery. If this passes and this is the same exact language, you will have your remedy under the workers' comp statute and then you will have a separate remedy under a tort action. There is no offset of one against the other in the language here. You are going to have two proceedings out of every one case, actually the District Attorney charging somebody with a crime. One act in the workplace and you have three separate tort actions of administrative actions. It is a bad idea and you ought not to send this wrong message. Make no mistake about it, ladies and gentlemen, this is a backdoor attempt to get litigation into the workers' comp system. It threatens businesses and it mixes the civil liabilities in the criminal sanctions. I hope you will vote against the Majority Ought to Pass Report. Thank you.

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

Representative MCALEVEY: Mr. Speaker, Ladies and Gentlemen of the House. Some of the things you have heard already are partially true or true and I hope to clarify some of this. You have heard that this could be particularly dangerous to businesses. It should be. If you are an employer and you commit a criminal act against one of your employees, you ought

to be held criminally and civilly liable. Just because the criminal act occurs in the workplace and allegedly the owner or the supervisor is the perpetrator it should not negate someone's right as a victim to receive recovery. Talk about definitions, intentional act or reckless act, they are defined very clearly in the criminal code. They are actually part of a culpable state of mind. In order to commit a crime, you have two sections. You have the intent section and you have the actual element of the crime. You have to knowingly, willingly, intentionally or recklessly be in that state of mind when you commit a crime otherwise it is not a crime. If you are a victim of sexual assault in the workplace by your employer, yes, the DA may charge if the elements of the crime are there, but that doesn't negate the fact that you, as an alleged victim of a crime, should have civil recourse, attorneys to represent you in that civil course of action against an alleged perpetrator for a crime that has been committed upon you.

Nowhere that I am aware of in the workers' comp law does it say or should it say that because you are the employer, you can get away with murder or gross sexual assault. In most cases, people who are victims of violent crimes have the case prosecuted and they can also seek civil remedy. The fact that the alleged crime happened in the workplace shouldn't cloud the area. Workers' comp is a separate issue that deals with an injury. I don't see this as prevail. I see this as having legitimate legal representation to go after the employer, not because of the injury, but because of the nature of the injury, a crime. Unfortunately, crimes are perpetrated upon employees by supervisors or business owners occasionally. I think you become a victim of a crime, not a victim of workers' comp, but a victim of a crime. You have certain rights as a victim to seek recourse, whether it is civilly or through a criminal code. Yes, there might possibly be three actions, a criminal trial, a civil trial for the criminal side of it and maybe a workers' comp trial. The recovery of benefits under workers' comp should not blur the issue that the person could be a victim. I don't think that this legislation is out of line. I think it strengthens laws dealing with victim's rights. I don't believe it brings the prevail back into the system.

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

Representative JABAR: Mr. Speaker, Ladies and Gentlemen of the House. In the 118th, I disagree with my good friend from Bridgton. I guess I disagree with him again today. One way to defeat a workers' comp bill is to simply say we are going to let the attorneys back in and this is another prevail rule. I think it is important to look at this as something much more than an attorney's bill or a prevail bill. Right now if an employee engages in criminal conduct or horseplay, having nothing to do with his work, he cannot recover workers' compensation benefits. It seems only fair to me that if an employer engages in horseplay or in criminal conduct, in this particular bill it is limited to intentional criminal conduct, not reckless, why should he be afforded the protection of the Workers' Compensation Act when it protects them if an employee engages in criminal conduct? What is good for the employee should be good for the employer. It is a two-way street. Neither the employer or the employee should be able to take advantage of the Workers' Compensation Act, when they engage in criminal conduct, which obviously if it is intentional conduct, it is outside the scope of the employment. What type of conduct are we trying to protect here? That is why to say that it is simply a matter of another workers' compensation bill is not accurate.

One other thing that is important to note is that in the Workers' Compensation Act, you cannot sue a coworker just like you cannot sue the employer under the immunity clause. The same clause protects a coworker just as it protects and employer. If a coworker commits a criminal act against somebody, rape, sexual assault, the employee cannot sue that coworker for that because of the clause in the Workers' Compensation Act. That is not right. I would like to see the bill go farther and give protection to anybody who engages in horseplay that wouldn't come under the scope of the employment. That would never pass in this Legislature. What you see fashioned in front of you is a very narrow attempt to deal with intentional criminal conduct and should not come under the jurisdiction of the Workers' Compensation Act.

Finally, there is no such thing as a double recovery in the law. There will always be a set off, whether it is an equitable set off or an automatic set off, if you get any type of workers' compensation benefits and then you sue civilly now, there is always a set off so you do not get a double recovery. When you look at this bill, the question you should be asking yourself is what type of conduct are we trying to protect? This is not within the scope of the employment. I can't think of any employment that involves intentional criminal conduct and should not be protected by the Workers' Compensation Act. Thank you.

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. This is a bad bill. The bill is not new. As you heard and we have debated it and just recently defeated it and now it is back before another committee. This bill allows for workers to sue employers. Employers are companies and not people. People commit crimes and employers are businesses. Someone who commits the crime is a supervisor, coworker or a member of the company. The suit that you are talking about is a suit against a company. A company is going to be held civilly responsible for a criminal act when we already have criminal sanctions available. This doesn't work. As much as you would like it to work and as much as you would think it would be the way to do things, it is not. If you wanted to attack the Workers' Comp System and take away the no fault provision, then take away no fault on both sides. At this point you have gone in and you have taken away no fault for one side of the equation. It doesn't work. You are suing the wrong person. You are seeking retribution from the wrong person, because they are not a person, they are a corporation. You are assuming that the corporation had control over the employee who committed the intentional act and should pay through the criminal justice system. Yes, there are two ways to recover when you are hurt. One is civil and one is criminal. One is under Title 17A, the other is under workers' comp. We need to leave it that way. I would urge you to reject this report and continue workers' comp law as it has been working and not mess with it until you are ready to take away no fault and make everybody start having to prove everything.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. Just a few brief comments, it is not as if a worker who is exposed to this type of action is without redress. You can collect workers' comp and you can also take action through criminal law. Somebody cannot take actions against you that are covered under the criminal statute and get

away with it. You can take them to court and you find redress through that. Like the good Representative from Hampden said, you can have a situation where an owner of a company or the manager does something intentionally or otherwise and it is up to the court to decide whether it was intentional or not. That owner could be liable. I am not sure, but I think that you cannot insure against conduct that would be criminal, intentional criminal. You have an owner of a business who is completely exposed in a situation like this because you cannot insure, I may be wrong, but I don't think you can insure against these types of action. It is an action the owner might not even know about. I think the proper way to address this is through the workers' comp injury and then a criminal sanction of going to court and getting redress through the criminal justice system. Thank you.

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

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. I hope you will support the Majority Ought to Pass Report. We heard from individuals that came to our committee that have had situations and they are extremely rare circumstances. I think we are all in agreement that that is the case. We are pleased that that is the case. In those situations where intentional criminal acts occur in the employment setting by the employer, why should an individual not have that right to bring civil action? We have a Maine Constitution and the US Constitution, which guarantees each and every citizen the right of redress. I don't know, I have read the US Constitution and the Maine Constitution and I don't see where it says we give up that right when we are in the workplace. That is a foreign concept to me as an American. We don't give up our rights to due process in court and in an employment setting we shouldn't either in these very, very narrow limited egregious situations. That is why I think we got a good report out of the committee. We are down here, ladies and gentlemen, to deal with situations of unfairness. All we are asking for is the right of an individual to bring this case forward, civilly to address the kinds of situations, but serious egregious cases. Let's not close the door of justice to these individuals. Thank you.

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

Representative **SAMSON**: Mr. Speaker, Men and Women of the House. I stand in support of the Majority Ought to Pass as Amended Report. The workers' comp law was written in 1917. The intent of the law at the time was pure and it was to fix people and pay people that were injured at work by accident. Since that time the law has been rewritten to take into consideration injuries from repetitive action. By doing that the law has been written to take any injury whatsoever at work. This bill was put into place to allow individuals or their families to sue in civil action people that were injured or killed at work because they were murdered, raped, intentionally assaulted, when I say intentionally that omits reckless conduct. In other words it means you wanted to go out there and kill that person or rape that person at work. Under current law there is nothing that family can do. There is no recourse because it is assumed that it is covered under workers' comp. Even manslaughter is not intentional.

We are talking about somebody that comes to work, we had one individual that came before the committee that was repeatedly struck from behind by a fellow worker, a worker that weighed from testimony over 300 pounds that would come up to this individual and slug him in the shoulder everyday. It turned out that worker had to go out and have surgery to repair his

injuries. The fellow employee who was reprimanded was still on the job. The injured worker had to come back and work with that worker and within a short time it started in again in different ways. That worker had to quit his job to protect himself. That would be intentional for somebody to repeatedly come and hit you day after day. This is what this bill tries to cure as a problem.

Take the OJ Simpson case, for example, he was found innocent of murder. The family of the murdered victims brought him to court in civil action and won in court. If that had happened in Maine and that had happened at the workplace, there would have been no recourse for that family whatsoever. If you kill or hurt someone at work, there is no civil damage. I suppose if you are going to injury somebody, you had better do it at work. I do hope that you change that and please vote for the Majority Ought to Pass as Amended Report.

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. A good point was just raised in this debate. You do not have to be convicted of a crime in order for this civil suit to take place. You only have to be accused and a civil action can start. If there is not enough evidence to convince someone that an intentional tort took place, you can go to a civil action and sue. That is not protection from a civil tort, intentional tort. Manslaughter is covered by the way. We passed legislation in the 117th to cover manslaughter in the workplace. That hasn't been brought up today. We have addressed some of the issues that are being talked about here today. We haven't turned our back on them. I would remind you that you cannot buy insurance for intentional tort. It is not sold. Anything that you would seek to recover would have to come out of whatever assets were available from the employer, unlike in a workers' comp case where you have insurance to cover the aspects of the injury. You are going to be suing someone, a corporation, for the actions of an individual with no resources, perhaps, for something somebody might have done somewhere in the workplace, intentionally or not intentionally. I am not sure, but I am a little bit worried about how this weaves and winds its way through the process that we have already developed. We have taken action on manslaughter. We have the criminal sanctions. I wish we had better criminal sanctions or tougher criminal sanctions. I didn't get that.

If one of your employees has committed murder, how do you prove that the employer knew and how do you sue that employer? Who do you collect from? I guess the biggest thing that was just pointed out, which is incredible is, you don't even have to be found guilty of the crime with which you are charged in order for you to gain civil recourse when you already have civil recourse under a no fault system. Mr. Speaker, I would like to move to Indefinitely Postpone this bill and all accompanying papers.

Representative **PLOWMAN** of Hampden moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I appreciate your indulgence. A brief comment, the good Representative from Winslow had talked about his love for the constitution. I will match my concerns for constitutional rights with anybody in this House or anybody that I have ever met. We have constitutional rights and we have due

process. We all have that, even people that would be exposed to this type of action. We have due process in the criminal justice system. This is where these types of acts properly belong. I do not think the part of the workers' comp law where you have immediate benefits without concern for fault as the exclusive remedy. I don't think that constitutionality in the due process has been challenged as far as that law goes. Yes, we do have great concerns for due process and you get those through the criminal justice system. I urge you to vote for the pending motion. Thank you.

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

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Old Orchard Beach, Representative Lemoine.

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. Let me start with a couple of basics, because I know we are talking about a variety of types of legal actions here. The first thing is I would remind the members of this body that the Workers' Comp System compensates injured workers for their work incapacity. It is that limited focus that is the goal of the compensation system. If you have a larger injury that doesn't affect your work capacity, there is no compensation in the system for that, at least at a very fundamental level. On the criminal justice end of things remember that the criminal justice system is the society's punishment of an individual's wrongdoing. That still leaves the person-to-person legal issues, the tort action for wrongful behavior as addressed in their three-tiered system under the current workers' compensation law. I know the constitution has been mentioned several times, but because the language is really quite eloquent, let me just leave, if I may, with a first principle, which is Section 19 of Article 1 of our Constitution, which says, "Every person for an injury inflicted upon the person or the person's reputation, property or immunities shall have a remedy by due course of law and right and justice shall be administered freely and without sale, completely and without denial, promptly and without delay."

The SPEAKER PRO TEM: The Chair recognizes the Representative from Durham, Representative Schneider.

Representative **SCHNEIDER**: Mr. Speaker, Ladies and Gentlemen of the House. I wanted to share with you the perspective of an old prosecutor. I want to assure you that as a matter of law it is possible for an intentional act like is described in this statute to be reckless so that this statute, if it was passed, would include crimes like reckless conduct. It would include crimes like reckless homicide. For example, I can envision a situation in which a small businessperson sends out an employee in a truck that sometimes works and sometimes doesn't and the employee is injured as a result. That might give rise to a suit under this statute if it passes. The intentional act was sending the employee out. That is something that the employer did intentionally. The reckless conduct was the fact that the truck sometimes worked and sometimes didn't. I can assure you that it is possible for intentional acts to be reckless. This statute would bring suits for reckless conduct against employers.

My second point is that since 1916 Maine has essentially a no fault workers' comp system that allows a worker to recover workers' comp benefits even if the worker is at fault or even if the

employer is at fault. Crimes can be punished adequately. We have a whole criminal court system that is set up to punish crimes. We don't need to introduce that into the workers' comp system.

My third point is that this statute is aimed directly at the heart of small business. Big businesses like BIW, Great Northern and SAPPI do not commit these kinds of crimes. These kinds of crimes are committed by supervisors, coworkers and by small business people. This statute, if it is enacted, would be a penalty only to the small businesses in the state and probably only to the smallest businesses in the state, because they are the only ones that are capable under our law of committing this kind of crime. I urge you, ladies and gentlemen, to vote to Indefinitely Postpone this bill. Thank you very much.

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

Representative HATCH: Mr. Speaker, Ladies and Gentlemen of the House. I hope that you will vote against this Indefinite Postponement. I have heard a lot of words this afternoon. I can honestly tell you that I probably would not do well in a courtroom. I can tell when I am outmaneuvered. I do know right from wrong. It is very basic. I think anyone will agree that there should be no discharge of someone's right to being a person, even if you have an insurance policy that says they will pay for damages. It just seems to me it is wrong when someone intentionally does something to injure you under any circumstances. I think you ought to have some justice and I think you ought to have some recourse, whether or not you are an employee, you are still a person. You can debate all day about the legalities of the law and believe me and trust me, I think you are wonderful people, but there is something wrong when someone can be injured intentionally. We are talking about drawing off and smacking somebody or assaulting them sexually and they can't find redress in the system. They would be tied up in the workers' comp law, then something is wrong. I just know my gut feeling. My hat is off to the attorneys in this chamber. I listened and learned more in one day than I could have in a year, but I think you are wrong on this one. This is just a gut feeling and I would ask that you would vote against the Indefinite Postponement. Thank you.

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

ROLL CALL NO. 306

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

NAY - Ahearne, Bagley, Baker, Berry RL, Bouffard, Brennan, Brooks, Bryant, Bull, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Frechette, Gagne, Gagnon, Gerry, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Mailhot, Martin, Matthews, McAlevey, McDonough, McGlocklin,

McKee, Mitchell, Muse, Norbert, O'Brien LL, O'Neal, O'Neil, Pieh, Powers, Quint, Richard, Richardson J, Rines, Samson, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, Twomey, Usher, Volenik, Watson, Williams, Mr. Speaker.

ABSENT - Bolduc, Bumps, Lemont, Peavey, Perry, Shorey, Tuttle.

Yes, 71; No, 73; Absent, 7; Excused, 0.

71 having voted in the affirmative and 73 voted in the negative, with 7 being absent, the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers **FAILED**.

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

Representative TREADWELL: Mr. Speaker, Ladies and Gentlemen of the House. I would just like to share something that came from the Office of Fiscal and Program Review. In their comments it said that this bill will expose the state to lawsuits that are not permitted under current law and which are not currently covered by the state's liability insurance coverage. The cost that would result would be significant and will increase the cost of liability insurance for all state departments and agencies. If that is true for the State of Maine, it certainly would be true for all of the businesses in the State of Maine. Thank you Mr. Speaker.

Representative CAMPBELL of Holden **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: 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. 307

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

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

ABSENT - Bolduc, Bumps, Lemont, O'Brien JA, Perry, Shorey, Tuttle.

Yes, 73; No, 71; Absent, 7; Excused, 0.

73 having voted in the affirmative and 71 voted in the negative, with 7 being absent, the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-227)** 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" (S-227)** in **NON-CONCURRENCE** and sent for concurrence.

The following item was 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 Treat All Employees Equitably with Respect to Leaves of Absence for Legislative Service"

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

- In House, Report "A" (7) **OUGHT TO PASS AS AMENDED** of the Committee on **LABOR READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-354)** on May 24, 1999.

- In Senate, Bill and accompanying papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

TABLED - May 25, 1999 (Till Later Today) by Representative **SAXL** of Portland.

PENDING - Motion of same Representative to **ADHERE**.

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

Representative **TRACY** of Rome **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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

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

Representative **HATCH**: Mr. Speaker, Ladies and Gentlemen of the House. This idea was a good idea two days ago and it is still a good idea now. I ask that you would vote against the Recede and Concur and Adhere. I thank you very much.

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

ROLL CALL NO. 308

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

NAY - Ahearne, Bagley, Baker, Belanger, Berry RL, Bouffard, Brennan, Brooks, Bryant, Bull, Chizmar, Clark, Colwell, Cote, Cowger, Daigle, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Mailhot, Martin, Matthews, Mayo,

McDonough, McGlocklin, McKee, Mitchell, Muse, Norbert, O'Neal, O'Neil, Pieh, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

ABSENT - Bolduc, Bumps, Lemont, O'Brien JA, O'Brien LL, Perry, Shorey, Tuttle.

Yes, 66; No, 77; Absent, 8; Excused, 0.

66 having voted in the affirmative and 77 voted in the negative, with 8 being absent, the motion to **RECEDE AND CONCUR FAILED**.

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

On motion of Representative **RINES** of Wiscasset, the House **RECONSIDERED** its action whereby it voted to **ADHERE**.

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

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

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

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Joint Order (H.P. 5)

Representative **COWGER** from the **JOINT SELECT COMMITTEE ON RESEARCH AND DEVELOPMENT** on Bill "An Act to Promote Research and Development Activities in Maine" (H.P. 1598) (L.D. 2243)

Reporting **Ought to Pass** pursuant to Joint Order (H.P. 5).

Report was **READ** and **ACCEPTED**.

The Bill **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**.

ORDERS

On motion of Representative **COLWELL** of Gardiner, the following Joint Order: (H.P. 1599)

ORDERED, the Senate concurring, that Bill, "An Act to Create a Sales Tax Exemption for Child Abuse and Neglect Councils," H.P. 976, L.D. 1374, and all its accompanying papers, be recalled from the Engrossing Division to the House.

READ and **PASSED**.

Sent for concurrence. **ORDERED SENT FORTHWITH**.

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

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, have

preference in the Orders of the Day and continue with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (7) **Ought to Pass** - Minority (5) **Ought Not to Pass** - Committee on **LABOR** on Bill "An Act to Amend the Workers' Compensation Laws Pertaining to Attorney's Fees"

(H.P. 1452) (L.D. 2073)

TABLED - May 14, 1999 (Till Later Today) by Representative HATCH of Skowhegan.

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

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

Representative MURPHY: Mr. Speaker, Men and Women of the House. Members of that committee aren't in the chamber. We would hope that someone could table it until they return.

On motion of Representative SAXL of Portland, **TABLED** pending the motion of Representative HATCH of Skowhegan to **ACCEPT** the Majority **Ought to Pass** Report and later today assigned.

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

HOUSE DIVIDED REPORT - Majority (7) **Ought to Pass** - Minority (5) **Ought Not to Pass** - Committee on **LABOR** on Bill "An Act to Amend the Workers' Compensation Laws Pertaining to Attorney's Fees"

(H.P. 1452) (L.D. 2073)

Which was **TABLED** by Representative SAXL of Portland pending the motion of Representative HATCH of Skowhegan to **ACCEPT** the Majority **Ought to Pass** Report.

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

Representative HATCH: Mr. Speaker, Ladies and Gentlemen of the House. I am pleased to present to you for your consideration LD 2073, "An Act to Amend the Workers' Compensation Laws Pertaining to Attorney's Fees." It is a very limited measure, which is designed to provide at least some access to legal council for injured workers who are denied benefits under our law and need legal council to obtain the benefits, which we promised them entitled 39A, Maine's Workers' Compensation Law. Those benefits are already severely limited. They are nothing compared to what the employee lost and nothing compared to what the employee would be able to obtain from a jury of Maine citizens if allowed to proceed in a court of law. The promise was that those benefits would be prompt and undisputed. That promise is not being kept. An employee has to sue now to get less, dramatically less than he or she could obtain in a court of law from a jury of Maine citizens and the employee must bear the expense of that litigation. This bill which provides more restricted access to legal council than I would prefer was carefully crafted in the last Legislature and puts control of the decision as to whether attorneys are involved in a particular case in the hands of the insurance company's or self-insured employer.

During the early stages of the case an employee has no right to have legal council paid for by the insurance carrier. Even if the insurance carrier brings in council at that stage, but after mediation, which is the end of the effort to voluntarily resolve a claim, if the insurance company decides that they want to use attorneys to proceed through the formal litigation stage, the

employee would have the right under the bill to obtain legal council and have legal council paid for if the employee wins. If the employee obtains benefits which our law promises that an employer has an automatic right if the employee through litigation after engaging an attorney obtains those benefits and after the insurance company has decided that they want to use attorney's on the case then the employees legal expense would not come out of the benefits the employee obtained, but would be paid for by the insurance company or self-insured employer who wrongly denied those benefits to begin with and created the need for litigation.

We think this is very modest. It provides controls over what cost can be endured in litigation and gives the Workers' Compensation Board control over the assessment of attorney's fees. We think this is very modest and frankly, more modest than I would prefer. At least it ensures access by the injured workers. The cost you are going to hear about from the opponents of this bill, but not costs associated with what is paid to the employee's attorneys. Those costs are minute and at most would be \$2 million or \$3 million a year, by any estimate. The cost they are talking about the benefits they would succeed in denying employees if the employees could not get legal council. That is where their costs come from. They call those costs drivers, because without attorneys employees are denied benefits, which they are supposed to obtain. With attorneys they are very often able to obtain these benefits. What is the truth behind the legal system we have in workers' comp? The imbalance in the system now allows employees to be denied benefits promised them by law. Reducing that imbalance, somewhat, will provoke cost. Costs in the form of benefits promised to employees, but illegally denied them now and denied them now and denied them successfully in the future. This is basic justice. It is the kind of justice that I understand. It is sort of a straight-faced issue. Do we mean it when we promise benefits to employers injured on the job or is it a paper promise, which is never fulfilled because they don't have access to those benefits? This is a test for us. I strongly encourage you to enact this bill. I thank you for your time.

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 am opposed to the current motion. There are a couple of reasons I would like to share with you this afternoon. The changes are focused from dispute prevention to dispute resolution. They are a few little words, but major proportions to the people of Maine, businesses and employees. It is like a seesaw. It has to be balanced like a walker on a tightrope. That balance has to be maintained that has engendered to the incredible success of the reforms of 1992. It is an incredible success for all concerned. It is called a win-win situation between workers and employers. Historically before those reforms took place it was the nature of lawyers to council their employees not to communicate with their employers and to indeed remain out of work and to hold out for settlement dollars. That is how the game was played. That skewed a lot of distrust between employer and worker. There was very few companies writing insurance for workers' comp back in those days. Competition was nearly non-existent. When the reforms were implemented and the landmark blue ribbon commission dispute prevention became the focus. This has fostered many good things for all people. Competition, which was hardly even there, has brought many more companies into the market, which has

reduced the cost. Part of which has implemented safety programs that have engendered in the workplace and made it a much safer place to work for all Maine workers.

As a matter of fact, the Workers' Compensation Board has reported a 34 percent decrease in first reports of injury from 1992 to the end of 1997. In 1996 over 40 percent of those companies that are self-insured reported zero lost time injuries. That is not bad. It is a good thing for Maine. From 1988 to 1990, Maine's workplace has averaged 14.5 injuries in work related illnesses for 100 full-time employees. That is 14.5 out of 100. The highest ever recorded since the state began keeping such records in 1972. Since the reforms took affect, the rate has dropped to 9.4 in 1996, which is the lowest injury rate ever recorded in Maine.

Ladies and gentlemen of the House, that is a resounding success and the trends are still continuing in that arena in that way, that direction. That balance is very good. This bill would add a third level where employers would pay. The attorney's fees in the form of the compensation premiums that are assessed, the advocates, would be assessing that cost and prevail. If this bill passes the employers would be paying the employees attorney's fees. I remind you from the debates earlier in other bills that no employee is unrepresented with the advocates program. Indeed the director of the advocates came to our committee and was very, very proud of the job his applicants do and are going to do as he looks forward into the future under the current law, as we currently have. This bill before us would jettison all this success that we have had up to this day and as we move forward.

One other item that I would like to throw in that will be a different twist than perhaps what others will speak to before we go to the vote. We talk about a global economy and it is more than just buzzwords. It is very true. Many companies have to deal nationally and globally. I will tell you that if this bill passes, this will send a message to customers that many of our businesses deal with outside of the State of Maine. Where I work when we acquire a new customer now, they want to know a lot of things about the company, because competition is that keen out there and saving a dollar and getting the best value for their dollar that they spend it critical to survival. In so doing one of the things they will check out is what is the labor market like where you work? Are you subject to strikes? Are you subject to disruptions in the labor pool say in the buy time, the mailing season when we mail after Labor Day, for example? In the mail order business it is probably the biggest mail drop of the year. If you hire a lot of college kids that leave to go back to college, you could have a one week or two week short fall of manpower. Customers are savvy enough to ask those questions. If the prevail comes back, that will send shock waves to some of our customers. I can tell you that. You have to think in the broad context of what is before you today. I urge you not to support the pending motion. Thank you for listening.

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

Representative TREADWELL: Mr. Speaker, Ladies and Gentlemen of the House. This bill would return to the Workers' Comp System something that existed before 1993 that almost bankrupted the State of Maine economy. We are in a situation where we had the worst comp system in the country. One insurer was writing workers' comp insurance and that was written in a pool status. In other words there weren't any companies willing to come in and write the insurance in a competitive

market. Since 1993, the trial lawyers have been shut out of the system. There was one law firm back in the early '90s that was making approximately \$6 million a year specializing in workers' comp cases. Right now approximately one-third of the cases remaining in the system in the formal hearing phase of the Workers' Comp System are pre-1993 cases. They are cases that are represented by lawyers that took them on for injuries that occurred before 1993 and what they are doing is what they call churning. They continually bring up another point, another allegation trying to get a settlement that is one dollar more than what was offered by the insurance company prior to the lawyer coming on board. If they do that, then according to the law, they prevailed in the case. At that time they are entitled to all the attorney fees being covered by the employer's insurance. That is why they want prevail back into the system, pure and simple. That does pass the straight face test ladies and gentlemen.

About a week or two weeks ago, the good Representative from Skowhegan mentioned that he wished that every time we talk about workers' comp that we didn't have to talk about money. Well, I would submit to you tonight that if it weren't for money, we wouldn't be hearing all these bills about workers' comp. Passing this bill would be disastrous to the Workers' Comp System. We just enacted the Worker Advocate Program or we expanded it. We have given them paralegals to assist in their work. The program is working. We now have a Workers' Comp System that is a model for the country. The cost of comp is going down. I think that we certainly do not need prevail back into the system. I would encourage you to vote against the Ought to Pass motion. Mr. Speaker, I ask for a roll call.

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

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

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

Representative MCKENNEY: Mr. Speaker, Ladies and Gentlemen of the House. As an employer for almost 30 years and one who has paid hundreds of thousands of dollars in workers' compensation premiums, I remember acutely the crisis of the '90s. There are many of you in this body who are employers and I am sure you also remember the day that your insurance company cancelled your policy or wrote you a letter telling you that they weren't going to renew. I am also sure that you remember the day that you heard that insurance companies were bailing out of the state because they couldn't afford to do business in Maine. Make no mistake about it. This was a crisis. Clear heads and a lot of work avoided that crisis. There was a lot of pain involved as well. I am sure you also recall when MEMIC was involved and we had to pay into a surcharge that capitalized the company. We had to start a whole new insurance company from scratch. The premiums were high at first. We groused about that, but we knew we were going in the right direction. We were right. The premiums have steadily come down and the workplaces are safer. The workers are treated better and fairer. The contentiousness of the system has been removed. The single most important reason was the removal of attorneys from this process. The incentive to drag out cases for a higher fee was removed. The Worker's Advocate Program is in its infancy. We need to give it a chance to work. It seems to be working just fine. I can't imagine why we would ever want to go

back to those bad old days. Employers in this chamber join me and vote against this report. Thank you.

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

Representative **SAMSON**: Mr. Speaker, Men and Women of the House. I stand in support of the Ought to Pass report. I guess I want to vote because it is the right thing to do. We have talked about how all the lawyers are out of the system. Somehow I don't understand. The workplace is safer because the workers aren't allowed to have lawyers represent them when they have a workers' comp case. I don't quite understand that. I do understand this. I got a call about a year and a half ago about an injured worker who was injured at work and was unable to get any benefits for his injury. At the public hearing a few months ago, he came and testified for this bill and other bills. It took him 20 months to receive any benefits from the Workers' Comp System. He had to struggle pretty much by himself. He has received partial benefits. There is a hang up now. He has a neck injury and wants to go to work. He can't go to work because he needs an operation. They won't pay for an operation so he is debating that back and forth. Here is a man that wants to go to work. He wants to go to work in September. He works for the school system, but can't because they haven't fixed his injury. This is the kind of person that needs help from an attorney to get through the system. Maybe you never get calls from injured workers, but I get calls frequently from injured workers.

This bill says that if a person hires a lawyer and prevails in a case, which means that he should have gotten benefits from day one for his injuries, he should win that and the lawyer get paid from the Workers' Comp System, rather than out of this injured worker's pocket. They say that lawyers are out of the system. We have a list of about 200 lawyers who are in the system. They are mostly representing insurance companies and self-employers. They are out of the system on one side. A lot of injured workers don't have the money to hire a lawyer. They don't have the funds. What makes it worse is as time goes on they have no income because they are out of work with that injury. It gets worse and worse. This person was out for 20 months before he received any help at all from the Workers' Comp System and was carried by his family, his brothers and sisters. If it hadn't been for them, he would have lost his home and his possessions. This is not a lazy person. This is a person who was hurt at work and fell through the cracks of the system and is not getting the kind of help he deserves out of this system. For that reason and other reasons, I am going to support the Ought to Pass report. I urge you to do the same.

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. In Social Security disability cases as well as Maine State Retirement System disability cases, you don't need an attorney until you are turned down. Once you are turned down, you don't have a hard time finding an attorney, because they know when they prevail they are going to get 10 percent of what is awarded to you. There are some firms who are doing very well representing people who need an attorney. Why are workers' comp attorneys not willing to represent the injured worker? Maybe they are on strike. I am not sure. Maybe they have just said they are not going to do it until we get back in and somebody else pays the bill.

I will tell you that before the reforms were passed less than \$3 out of every \$10 went to benefits for an injured worker. The other \$7 went to the process. That is not a good return on the monies that we were paying out on. I will tell you that it took up to 20 months even with an attorney to get a decision out of a workers' comp commissioner. I will tell you that rates for my company were \$27 for every \$100 I paid. I thought that was outrageous until I talked to people in the building industry who paid over \$100 for every \$100 they paid. That means if they paid \$400 a week to a laborer, they paid \$400 a week for insurance for the laborer. Don't you think that is excessive, dollar for dollar. The rates that I pay now are cut in half since the reforms. My men now have health insurance, retirement and profit sharing. These are all things that we have been able to do besides the fact that we have hired eight new employees since then. These are all things we have been able to do because there is a stable Workers' Comp System in place. If you wish to go back to spending \$3 out of \$10 on employee benefits, where is the rest of the money going? It is going into safety programs. It is going into good equipment. It is going into good harnesses for people who have to work above the ground. We just spent \$7,000 on a special lift so that my guys don't have to climb a ladder to do very dangerous work. It is safer for them. I can spend the \$7,000 paying an insurance company and get a policy to cover when they get hurt or I can spend \$7,000 getting them something that helps them keep from getting hurt. I prefer to work towards something that keeps them from getting hurt, not the backup plan. That is what is going to happen when rates start going back through the roof. We are going to start relying on the backup plan, which is the insurance you need to cover the injuries that happen.

I would urge you not to accept the Majority Ought to Pass Report and continue letting reforms in Maine do what they are doing, making workplaces safer, expanding the benefits and the safety options that employers can offer. I am sure the insurance companies would love to start raking in huge policies for a while and then they will be out of the state. I prefer to see them as being reasonable. The only way they can be reasonable with our rates is how we affect the policies that affect the rate. Thank you.

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

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. In response to the last speaker, I would say that we heard from the Bureau of Insurance and the director that the workers' compensation insurers are now making presently anywhere from 40 percent to 60 percent profit. It seems to me they are doing pretty well in the system as it is. Maybe a little bit of that could go to legal representation for injured workers. I would hope and pray that you would support this bill, limited bill for legal representation for workers. You know, we have had a number of debates on this floor.

Again, I have a great deal of respect for all the members of the Labor Committee on both sides of the aisle, we have all worked hard and we do have differences of opinion. It does seem to me, ladies and gentlemen, that the good opposition, loyal opposition, to this bill, the signers of the other report, have opposed increasing paralegal assistance and legal training for the Workers' Compensation Advocate Program. They have opposed cost of living adjustments for injured workers. They have opposed the maximum benefit levels staying at \$441 and from the issue we just debated if you are egregiously hurt by

your employer in those very minute cases, you will get \$441 for the rest of the time the board chooses, no more. Every change that our committee and our good chair worked hard on to improve the lot of injured workers was opposed by the good loyal opposition. My question is and I think the good Representative from Carmel, Representative Treadwell, said it the other day, I would turn the argument around. It isn't the opposition to just one bill for injured workers that bothers me, it is the opposition to every change to help injured workers that bothers me.

I would urge the body to support this limited assistance to legal representation from the weakest link in this process, the injured worker, up against the insurance company, the employer and the system. Thank you Mr. Speaker.

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

Representative BRUNO: Mr. Speaker, Men and Women of the House. This is the bill to the amendment that we fought so hard for the other night that we didn't think was a very good idea. We voted it down. This is the worst of the amendment. That was mini prevail and this is full blown prevail. I take exception to the fact that everyone who thinks prevail is the right thing to do thinks that employers in this state are doing something wrong for their workers. I can't tell you what I do for my workers. I am not going to sit here and brag about it, but I take care of them. I hire people to come in and take a look at that workstation and tell me how to make it ergonomically correct and tell me any adaptive equipment I need to buy because I don't want to see anybody get hurt. Is that wrong? Absolutely not. Before 1991, there was enough blame to go around the workers and the employers. Now we have a system where we encourage people to come in, fix the problems and let's not get people hurt. It has been proven in the last eight years that it is working. Why would you want to change it? There is nothing in law that stops a worker from hiring an attorney. If that worker truly has a case, that attorney will take it. I don't buy the argument that no injured worker doesn't have the funds. If I truly believed that I was wronged, I will find a way to take care of myself. Most of the time the system takes care of the worker. You do not need this law. It has changed. It is working much better. Sure there are people that fall through the cracks. At some point give the employers some credit that we have tried also. It has cost us a lot of money. Just because a company makes a profit doesn't mean that it is bad. That profit goes to better benefits, better wages and takes care of everyone in the system. I ask you to vote against the pending motion.

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

Representative DAVIS: Mr. Speaker, Men and Women of the House. In a brief answer to my friend from Winslow, I think if all the workers' compensation bills are passed, it has a price tag of \$85 million. I think perhaps companies like Bath Iron Works could survive that or some large corporations. I represent from Falmouth and West Cumberland and Falmouth Foreside a lot of small businesses. I don't think they could survive that. I think when you think of workers' compensation, please keep in mind small business. Thank you.

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

Representative HATCH: Mr. Speaker, Ladies and Gentlemen of the House. I have been sitting here listening and enjoying the debate really. It would seem to me as the good Representative from Hampden implied that if \$3 out of every \$10

goes to injured worker, I am wondering where the other \$7 goes. Thank about it. If a dollar goes to the Workers' Comp Board, there is \$4. That means the insurance company keeps \$6. Don't you think the rates are a little high for what you are getting. In regards to the good employers in here and I know there are good employers in this legislative body. I want to say thank you from all the workers in the state. We do appreciate you. I think quite often of what happened two years ago at legislative hearings on this issue and this year and listening to the people who still are having a problem even with the advocates. Yes, we did pass the bill the other day, which is going to save 15 percent declined cases in the system. I don't see how that bill could even help employees. I guess I am really at the point where I say I value attorneys. I value their judgment. They are like doctors only they don't operate on the physical body. The do bring some justice to the mental state. I have great trust in attorneys. The do a great job at what they do. As a matter a fact we have a lot of attorneys in the Workers' Comp System. They just all happen to work for the insurance companies. When you are thinking about that \$6 that is floating out there that isn't being paid to injured workers, it is not all going to attorneys. There are probably \$2 or \$3 going to attorneys, which makes it about equal to what they are paying in benefits to the employees. Just think about it. How much profit is going out of state to over 200 insurance companies that you are paying good money to. If you don't want to put attorneys back in the system, then I would ask that you would at least, as business people in this body, look to looking at the Workers' Comp Board and the Commissioner of Banking and Insurance and find out why your rates are so high. I think it is something you need to look at. I think for today, on this bill, I think it is a needed step. It would only be at the hearing process. I believe it is a good bill. I thank you very much.

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

Representative TREADWELL: Mr. Speaker, Ladies and Gentlemen of the House. I keep hearing these innuendos that are not supportable. They were just thrown out there with no supporting information. I would like to respond to something that has been said here by a couple of the speakers today. I have a letter from the commissioner from the Department of Professional and Financial Regulation that says that the accident loss adjustment ratio for 1997 for the Workers' Comp System in the State of Maine was 77.6 percent. That does not allow, ladies and gentlemen, for a 60 percent profit margin on workers' comp. It does not include underwriting costs, loss control, general overhead, taxes, agents, commissions or any of the other costs of doing business. I think if you add those all up, you will realize there is nowhere near the profit margin that is being alleged here on the floor tonight and on other debates that we have had in the past. I also have here a book of workers' compensation, *A Guide to Policy Makers*, published by the American Legislative Exchange Council. It says that the only two profitable years for workers' comp nationwide was 1995 and 1996 and 1997 was an unprofitable year nationwide. I am not talking about just the State of Maine here. This is a very reputable publication. When I mentioned earlier that one-third of the cases currently in the formal hearing phase in the backlog of the comp system there are 1,358 cases currently in the system and approximately 450 of those are pre-1993 injuries. Ladies and gentlemen, those cases are being drug out, strung out, those employees are not getting a just settlement to their claim because of the lawyer.

The system is not perfect. I will be the first to admit that. It is a whole lot better than what we had prior to 1993.

The worker's advocates, the majority of those are lawyers. There is a process to prevent them from being influenced by the hearing officers. They are not colluding in any way with the hearing officers on the settlement of the cases. The cases, as a matter of fact, the 1,350 cases currently in the system in the formal hearing stage has gone down by 100 cases since the first quarter of this year. There were 1,458 cases the first quarter of this year. I just want to see the record straight.

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. I need to clarify the remarks that were made by the Representative from Skowhegan, correct them. The figures that I gave out were pre-1992 figures. For every \$10 paid out by an insurance company \$3 actually went to benefits for injured workers. That included pay and medical benefits. The other \$7 went to attorneys. That is what I explained. It was completely taken out of context. I really feel the need to correct that before it goes much further. For every \$10 paid out in claims by insurance companies \$3 were for the direct benefit of the employee in the form of wages and medical payments and \$7 went to the attorney. If you think it is fair to give two and a half times the money that is paid out to the attorneys, then prevail is definitely the way to go. If you feel the money should be going into benefits for the workers, then prevail is not the way to go.

I would submit that we have heard at least 10 workers' comp bills in the last two or three weeks. There was some real directed approach as to what we could start with. Some of these bills could have been out Ought Not to Pass and some bills could have been compromised in committee and brought out as Ought to Pass. We didn't see that. We saw a shotgun approach. We saw A and was going for all we can get. When we stand up to oppose it is one by one because they are presented one by one and they are considered one by one. They are never considered in the hole as presented. They are never considered in the total cost as presented and as dealt with by employers. As we stand here and debate one by one to oppose these divided reports, it is because of the way they came to us. You would think the word negotiation would be a word that the Labor Committee knew.

We need to keep this a manageable cost for employers with as much benefit as possible going to the employee. Thank you.

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

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. Just to clarify a couple of points. That \$7 may go into the insurance company attorneys and the other point that I would make for the benefit of the House is that we heard in the committee from the Workers' Compensation Board directly that the average time taken to solve these cases are 8 to 10 months. Those are not pre-1993 cases. Those are cases in the system today. I submit to you the conservative side and 8 months is too long. Ladies and gentlemen, the Workers' Compensation System was set up to help the injured workers with automatic, instant, certain and limited benefits to get them through their injury. Ladies and gentlemen, that is what we are trying to do. Thank you.

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

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. I can tell you are listening to me because you keep bringing up my \$3, \$7 and \$10. Now if I could just get the equation to be \$3 plus \$7 equals \$10. For every \$10 paid out as claims, not taken in as premiums, \$3 went for the benefit of employees. If someone here doesn't understand that equation, I will be glad to stand and answer it again in the form after a question. It is the amount paid out pre-1992. The money went everywhere but to injured workers. They didn't go back to insurance companies. We are talking about claims paid out. When we are talking about profits, I love hearing the word profits, but for those of you who don't understand, there are two types of profits, gross and net. I think I have done that economic lesson before. Gross is before you figure all your business costs. It covers your costs of materials and what you got for them and what the difference was between what you got for them and what you paid for them and then you take out your costs, such as workers' comp, unemployment insurance, liability insurance, disability insurance, rent and or mortgage, safety equipment, safe vehicles, car insurance, vehicle insurance that covers your vehicles for your people, tools, desks and telephones. After you take out all of those little mundane things that keep a business going, I didn't even mention salaries, I assume everyone here knows that we pay people in the State of Maine, you are down to net profit. As people stand and talk about profit, I would ask that you would please discern as you are throwing out different figures, whether you are talking net or gross profit or whether you know or not. 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. When I got up the first time I had tried to stress the success of the reforms of safety in the workplace. We went from a lose-lose situation to a win, win. This bill brings us back to that lose, lose period of time. I want to throw this perspective out and hopefully we can go to vote. Someone had mentioned earlier during the debate that they couldn't understand how no lawyers in the workplace could make the workplace safer. The fact of the matter is statistics prove it is. My company is just one company out of thousands in Maine that have saved hundreds of thousands of dollars in premiums and they have put that money back into areas of safety just as the good Representative from Raymond, Representative Bruno, talked about. Employees are treated much differently today than they were even 10 years ago. Further, the savings on premiums that companies have, they invest in new machinery, expansion, which keeps them competitive. Competition is good. It creates higher salaries, better benefits, long-term stability for working families, of which I am one. It is not an accident that we are enjoying great job creation in this state. If you want to jettison that, one of the best ways you can do that is to support the pending motion. Expansion of new businesses don't happen when you hamper them and bring them back to old ways that were a loss for employers, employees and working families.

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

ROLL CALL NO. 309

YEA - Ahearne, Bagley, Baker, Berry RL, Bolduc, Brennan, Brooks, Bryant, Bull, Clark, Colwell, Cote, Cowger, Desmond, Dudley, Dunlap, Duplessie, Frechette, Gagnon, Gerry, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, Lemoine, Martin, Matthews, McDonough, McGlocklin, McKee, Mitchell, Norbert, O'Brien LL, Quint, Richardson J, Rines, Samson, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Townsend, Tracy, Twomey, Usher, Volenik, Watson, Williams, Mr. Speaker.

NAY - Andrews, Belanger, Berry DP, Bouffard, Bowles, Bragdon, Bruno, Buck, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clough, Collins, Cross, Daigle, Davidson, Davis, Dugay, Duncan, Etnier, Fisher, Foster, Fuller, Gagne, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, McKenney, McNeil, Mendros, Murphy E, Murphy T, Muse, Nass, Nutting, O'Brien JA, O'Neal, O'Neil, Peavey, Perkins, Perry, Pieh, Pinkham, Plowman, Povich, Powers, Richard, Richardson E, Rosen, Sanborn, Savage C, Savage W, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Tripp, True, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor.

ABSENT - Bumps, Lemont, McAlevey, Tuttle.

Yes, 56; No, 91; Absent, 4; Excused, 0.

56 having voted in the affirmative and 91 voted in the negative, with 4 being absent, the Majority **Ought to Pass** Report was **NOT ACCEPTED**.

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

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

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

CONSENT CALENDAR

First Day

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

(H.P. 978) (L.D. 1376) Bill "An Act to Amend the Retirement Benefit Qualifications for Department of Corrections Employees" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-687)

(H.P. 1130) (L.D. 1589) Bill "An Act to Require an Assessment Evaluation of Juveniles Entering the Juvenile Justice System" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-689)

(H.P. 1333) (L.D. 1916) Bill "An Act Concerning the Regulation and Treatment of Time-shares" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-690)

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the House Papers were **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence.

(H.P. 825) (L.D. 1148) Bill "An Act to Amend the Maine Tort Claims Act" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-691)

On motion of Representative WATERHOUSE of Bridgton, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ**.

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

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Joint Order (S.P. 843)

Report of the Committee on **NATURAL RESOURCES** on Bill "An Act to Fund Training Programs for Water Pollution Control Facility Operators"

(S.P. 845) (L.D. 2244)

Reporting **Ought to Pass** pursuant to Joint Order (S.P. 843).

Came from the Senate with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Report was **READ** and **ACCEPTED**.

The Bill **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** in concurrence.

REPORTS OF COMMITTEE

Change of Committee

Representative GAGNON from the Committees on **TAXATION** and **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Restore Majority State Funding of Public Education in Maine"

(H.P. 1573) (L.D. 2221)

Reporting that it be **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

Sent for concurrence.

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

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

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 Establish a Trust Fund to Provide Statewide Assistance to Low-income Electric Consumers"

(H.P. 1069) (L.D. 1500)

- In House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-618)** on May 21, 1999.
 - In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-618) AS AMENDED BY SENATE AMENDMENT "A" (S-338)** thereto in **NON-CONCURRENCE**.

TABLED - May 25, 1999 (Till Later Today) by Representative DAVIDSON of Brunswick.

PENDING - FURTHER CONSIDERATION.

On motion of Representative DAVIDSON of Brunswick, the House voted to **RECEDE**.

On further motion of the same Representative, **Committee Amendment "A" (H-618) as Amended by Senate Amendment "A" (S-338)** was **INDEFINITELY POSTPONED**.

The same Representative **PRESENTED** House Amendment "A" (H-692) which was **READ** by the Clerk.

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

Representative DAVIDSON: Mr. Speaker, Men and Women of the House. Just to make a few comments about this bill, LD 1500 is a piece of legislation that the Utilities and Energy Committee spent a number of hours and a number of days working on throughout the course of this legislative session. Currently when you and I and everyone else in the state pays their electric bill, there is a certain portion of each months bill that goes to paying for low-income subsidies for people throughout the State of Maine. It is a worthy program. I certainly hope that it continues in its current form. One of the problems that we found in the Utilities Committee is that we subsidize a number of programs within rates. With electric deregulation coming on, the divestiture of all the generation assets of Central Maine Power and Bangor Hydro as well as Maine Public Service be forced, in fact, CMP has sold their generation assets to Florida Power and Light and you will see Bangor Hydro and Maine Public Service do the same in the northern part of the state. What the Committee on Utilities and Energy decided would be the best public policy would be you would take the money from the corporate income tax and use it to set up a low-income trust fund to pay off these things and actually take this out of rates. The Appropriations Committee did not agree with Committee on Utilities and Energy and so that decision was not made.

What we have before us is an amendment that replaces the bill and under this amendment a portion of the corporate income tax is collected from the sale by the tax assessor after today, actually May 21, 1999. It would go to the Maine State Housing Authority and basically go into a trust that would allow people to lower low-income people in the State of Maine to lower their energy costs significantly therefore relieving the amount that other people in the State of Maine pay on their bills. I think it is a good amendment. There was an amazing coalition of people that were put together representing consumer groups and generation groups as well as people in the committee. This was a unanimous report and I believe has unanimous support from the members of the committee. I encourage you to support this. I think it is good public policy for all ratepayers in the State of Maine. Thank you Mr. Speaker.

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

Representative TRUE: Mr. Speaker, Ladies and Gentlemen of the House. I certainly hope that you will support this. I must admit that I was very surprised to find that the monies that were going to be placed here were taken away,

because I can't think of anything that we have done thus far that would help the low-income people and everybody in the state would perhaps get a reduction in their electric rate. I was very surprised that that would happen, especially if we had the money and left it alone for a while whereby it would grow. Evidentially we don't like to do those things. I certainly hope that even though this will be a smaller amount that you will vote to have this carried out as adequately told by the good House chair.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Gooley.

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

The SPEAKER: The Representative may pose his question.

Representative GOOLEY: Mr. Speaker, Men and Women of the House. To anyone who might answer, under this amendment, it includes fuel assistance to persons who qualify. My question is, do the people who receive the assistance, are they required to live in the house during the wintertime?

The SPEAKER: The Representative from Farmington, Representative Gooley has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Brunswick, Representative Davidson.

Representative DAVIDSON: Mr. Speaker, Men and Women of the House. That is not outlined in the bill.

House Amendment "A" (H-692) was ADOPTED.

The Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-692)** in **NON-CONCURRENCE** and sent for concurrence.

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

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

Bill "An Act to Amend the Maine Tort Claims Act"
 (H.P. 825) (L.D. 1148)

Which was **TABLED** by Representative WATERHOUSE of Bridgton pending **ACCEPTANCE** of the Committee Report.

Subsequently, the Committee Report was **ACCEPTED**. The Bill was **READ ONCE**. **Committee Amendment "A" (H-691)** 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-691)** and sent for concurrence.

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

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

ORDERS

On motion of Representative MENDROS of Lewiston, the following Joint Order: (H.P. 1600)

ORDERED, the Senate concurring, that "Resolve, to Lower Certain Tolls on the Maine Turnpike," H.P. 266, L.D. 370, and all its accompanying papers, be recalled from the legislative files to the House.

READ.

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

Representative **MENDROS**: Mr. Speaker, Men and Women of the House. You have before you a yellow sheet of paper. It explains what this bill is all about. It's about fairness for the people of Lewiston. As you can see, if you want to ride on a four lane highway from all these major areas in the State of Maine to Portland. Portland is the biggest municipal center in the state of Maine, if you want to go there from anywhere else, from Houlton, it'll cost you \$1 in tolls. From, as you can see, Bangor, Waterville, Augusta, Biddeford or Wells it's \$1. If you're coming from Brunswick it's free. I commend the Representatives from Brunswick, they're doing an excellent job. If you come from Kittery it's \$3.50. If you come from Lewiston it's \$2.50 for a round trip to Portland. Now, Lewiston/Auburn is the second biggest municipal center in the State of Maine. People from Lewiston/Auburn tend to go to Portland more likely than going anywhere else. No offense to any Representatives from any other parts of the state, but you tend to go to bigger areas when you want to go somewhere. That tends to be the draw, you go somewhere bigger. We want to go to Portland. We're paying the most. If you look at the chart, we all know that Kittery really gets whacked bad. It's \$3.50 for a round trip from Kittery. But the chart shows, and the numbers I've used on this chart are from the official map and travel guide put up by the Maine Publicity Bureau for mileage. You'll see to ride back and forth from Lewiston/Auburn to Portland cost \$.3676 per mile. Whereas if you're coming from Bangor it costs 1 tenth the amount in tolls. Or, even if you're coming from Wells it costs \$.01667, less than half the amount. And even if you're coming from Kittery it costs less to do a round trip to Portland.

Now you'll see, I also footnoted that each of those trips if you're going to Portland can be \$.50 more depending on if you get off at Exit 6 or Exit 9. In case the discrepancy is even larger from Lewiston to Portland and from Kittery to Portland if you happen to get up. So what this bill is about, this bill is about fairness to people of Lewiston to get fair rates on the turnpike. We pay our \$.19 per gallon for gas tax to maintain all these other roads. I'm asking you, let this bill to go back to committee and give it a shot. I understand the Turnpike Authority makes their tolls, but the final decision is up to the Legislature. I feel these tolls are unfair to the people of Lewiston and if the Transportation Committee decides they want to amend this and change the rates all over so there is no net loss to the Turnpike Authority and so the bond issue isn't put at risk, or if the Turnpike Authority wants to change it then we need to send them a message from the Legislature that we're not going to allow this unfairness to go on unchecked. Thank you.

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

Representative **JABAR**: Mr. Speaker, Ladies and Gentlemen of the House. This bill was discussed at the Transportation Committee. As a matter of fact we set up a special meeting of the people from the Turnpike Authority who set up the tolling for all of the exits on the turnpike. Now it's not as simple as you see on this sheet of paper. I could show you a sheet of paper that looks like, it's very complicated. What it is is

a very difficult analysis as to the miles that are traveled from area to area. The amount of money involved. And it is a sophisticated, I think algebraic, equation that I couldn't figure out. But it was explained to us and anyone who is interested was free to meet with the people from the Turnpike Authority to explain how they arrived at the various rates for all of the stops. The Transportation Committee unanimously agreed that it was fair and we were not going to start messing around with these experts and their attempt to come up with what's fair for each of the stops. If we start doing this, then everybody's going to come in and we in the Legislature are going to have to start setting the tolls for all of the exits. I don't think we want to do that. The good Representative from Lewiston and other people who were at the work session were free to meet with these people from the Turnpike Authority to get their explanation. Obviously they didn't like the explanation, but it's there. The Transportation Committee thought it was fair and they voted unanimously Ought Not to Pass on this bill. It already went under the hammer in the House and now they're trying to recall it, bring it all the way back, send it all the way back to the Transportation Committee and study it once again. It's not necessary. We've studied it. This House has acted upon it and let's give it its final burial. Thank you.

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

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. I guess I just really will be very brief about this, but we've studied this to death over the past three years. I for one never agreed with the way tolls were done on the turnpike. I should be the one actually putting this in but I have gone to the Turnpike and worked with them to come down in my communities and have meetings and to meet with my constituents which is a better bill that anything like this would ever be. We've talked about this in committee. I don't know whether we're trying to get press out of this? Is this why this is on the floor of the House? Are we trying to look good? Obviously there're other reasons than really trying to get this passed because we've talked about this and we've discussed this and the Committee agreed unanimously that this was not necessary. Whenever we want our communities to meet with the Turnpike Authority we make a phone call and they're there. The good Representative from York and I, in fact when we get out of session, are setting up a meeting with the Turnpike Authority and any constituent that wants to come with any problems. They're not denied access to the Turnpike Authority members or to the Turnpike Authority liaisons to talk about the toll inequities. Definitely there're toll inequities but it was created from previous Legislatures from the monies that were saved aside to widen the turnpike that were used for other things. We need to widen the turnpike. That went through the process of going out to the voters. They voted overwhelmingly to widen the Turnpike and the tolls are set now to pay for the widening project. We have a letter of guarantee from the Turnpike Authority that everybody in the York County Delegation got that said that any excess monies that are left over each year would be used to reduce tolls. So we are working with the Turnpike Authority and I ask you not to vote for this pending legislation. Thank you.

The SPEAKER: The Chair would remind members there are prohibitions in the etiquette of the House questions the actions or possible actions or motives of other members during floor debate. The Chair would remind members to refrain from that. The pending motion is passage of the Joint Order.

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

Representative GERRY: Mr. Speaker, Ladies and Gentlemen of the House. I respectfully request that you vote Ought To Pass to pull this out of the, I guess, dead file. As you can see on the paper, our toll in Lewiston, even though I'm from Auburn, is \$2.50. If you get off in Auburn you still have to pay another quarter, which is unfair. But why should Auburn or Lewiston taxpayers get nailed a dollar and a half more than any other place, either at the top of the state or at the end of the state, whichever way you look at it. There has got to be some sort of cost adjustment so that we, I guess in the middle, do not bear the brunt of the repairs of the widening of the roads or the turnpike. I don't understand. Also, I don't understand why, if we don't pass this, we voted other bills to go back to committee to look at the process. So, I humbly ask you vote for this pending motion.

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

Representative MENDROS: Mr. Speaker, Ladies and Gentlemen of the House. I'll be very brief. I did go to that meeting with the Turnpike Authority. I looked at their numbers. I analyzed their figures and I showed them at that meeting where their numbers went against what they're claiming. I ask you again, these figures aren't made up, they aren't arbitrary. The mileage is taken out of the official map and travel guide of the Maine Publicity Bureau. The costs are all accurate and correct. Mister Speaker, I ask that when the vote is taken it is taken by the yeas and nays.

Representative MENDROS of Lewiston REQUESTED a roll call on **PASSAGE**.

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

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

ROLL CALL NO. 310

YEA - Bowles, Bragdon, Buck, Campbell, Chizmar, Foster, Gagne, Gerry, Gillis, Gooley, Heidrich, Joy, Kasprzak, MacDougall, Mack, McKenney, Mendros, Nass, Perkins, Pinkham, Plowman, Sherman, Shields, Snowe-Mello, Stedman, Tobin J, Tracy, Trahan, Waterhouse, Winsor.

NAY - Ahearn, Andrews, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bryant, Bull, Carr, Chick, Cianchette, Clark, Clough, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagnon, Glynn, Goodwin, Green, Hatch, Honey, Jabar, Jacobs, Jodrey, Jones, Kane, Kneeland, Labrecque, LaVerdiere, Lemoine, Lindahl, Lovett, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McNeil, Mitchell, Murphy E, Murphy T, Muse, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Shorey, Sirois, Skoglund, Stanley, Stanwood, Stevens, Sullivan, Tessier, Thompson, Tobin D, Townsend, Treadwell, Tripp, True, Twomey, Usher, Volenik, Watson, Weston, Wheeler EM, Wheeler GJ, Williams, Mr. Speaker.

ABSENT - Bumps, Cameron, Lemont, Tuttle.
Yes, 30; No, 117; Absent, 4; Excused, 0.

30 having voted in the affirmative and 117 voted in the negative, with 4 being absent, the Joint Order **FAILED OF PASSAGE**.

The following item was 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.

An Act to Increase the Deer Hunting Day by 15 Minutes

(H.P. 30) (L.D. 39)

TABLED - May 25, 1999 (Till Later Today) by Representative MARTIN of Eagle Lake.

PENDING - **PASSAGE TO BE ENACTED**.

On motion of Representative MARTIN of Eagle Lake, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED**.

The same Representative **PRESENTED** House Amendment "B" (H-693) which was **READ** by the Clerk.

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

Representative MARTIN: Mr. Speaker, Members of the House. In the continued sago of the two Maines, I want to just tell you that I believe that we have now reached some settlement with other bodies somewhere in this world. This amendment will not create 35 time zones, but only two. In particular we are trying to prevent people from Aroostook County, in particular, from night hunting. I would urge you to adopt House Amendment "B."

House Amendment "B" (H-693) was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "B" (H-693) in NON-CONCURRENCE** and sent for concurrence.

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

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

SENATE PAPERS

Non-Concurrent Matter

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

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

Report "A" (6) **OUGHT TO PASS** of the Committee on **LABOR READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED** in the House on May 17, 1999.

Came from the Senate with Report "C" (1) **OUGHT TO PASS AS AMENDED** of the Committee on **LABOR READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-500) in NON-CONCURRENCE**.

Representative GOODWIN of Pembroke moved that the House **ADHERE**.

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

Representative **CAMERON**: Mr. Speaker, Ladies and Gentlemen of the House. You will recall that we talked about this bill a couple weeks ago. While I don't apologize for anything I said that day, I apologize for the way I said it. I tried not to be angry about this bill, but the more I talked about it the angrier I got. I don't know what else I can say about it. I don't mean to offend anybody, but you folks don't get it. I can't say anymore than I said the other day, whether this \$300,000 payment that is included in some of these, \$400,000, \$500,000 doesn't change anything. I don't understand with all the people that are injured in this world that we live in and all the different kinds of injuries that occur, people are paralyzed, people get head injuries and number of other things, how did we pick out this one kind of injury and decide it must be the worst of all? It must need some special attention. These people are not capable. These people can't care for themselves. These people we can fix with money. You can't fix this with money, ladies and gentlemen. I don't know how else to say it. It is about not being able to applaud at a show, ballgame, something your children or grandchildren are in. It is about not seeing that look on people's face when you meet them and they put out their hand to shake your hand. It has happened to me three times already since this happened right out here in the hallway, totally innocently. I wish you folks could have been there. On three separate occasions people have introduced me to someone and the look came on the face. I don't care how much money you give me. I can't change that.

I went out to dinner the other night with my good friend, Representative Murphy. We were sitting in a restaurant talking. A little boy runs from his mom over to our table and says, "What is wrong with you? What is that thing on your hand?" After 30 years you think, why does it still bother me? It doesn't really bother me. The little fella didn't do anything wrong, but it just gets to be old after a while. I am not complaining about it because that is the way life is, but money will not fix it. I don't know what it is that makes people think that money will fix it.

Again, there are people who have head injuries, paralyzed and all kinds of people are injured in different ways. What makes this one injury so special if you lose a finger or you lose a hand or if you lose a leg? Somebody help me understand why this makes us incapable, unable to care for ourselves. Throw some money at them and they will be fine. If somebody can help me understand that, maybe I will vote for this, but I don't understand. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Dixfield, Representative Bryant.

Representative **BRYANT**: Mr. Speaker, Ladies and Gentlemen of the House. To answer the good Representative from Rumford's question, basically this was taken away from injured workers in 1992 and we are replacing it. The other part is that we don't believe that this is going to help what has happened. We just believe that this is fair and that is all we are asking for is to continue to be fair. It is nothing personal. We are just trying to put it back. Thank you.

The Chair ordered a division on the motion to **ADHERE**.

Representative **HATCH** of Skowhegan **REQUESTED** a roll call on the motion to **ADHERE**.

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

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

ROLL CALL NO. 311

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

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

ABSENT - Clark, Colwell, Cowger, Daigle, Dugay, Duplessie, Etnier, Jabar, Joy, Lemont, Martin, McKee, Richardson J, Tobin D, Tuttle.

Yes, 69; No, 67; Absent, 15; Excused, 0.

69 having voted in the affirmative and 67 voted in the negative, with 15 being absent, the House voted to **ADHERE**. **ORDERED SENT FORTHWITH**.

Representative **THOMPSON** of Naples assumed the Chair. The House was called to order by the Speaker Pro Tem.

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

Resolve, to Establish the Blue Ribbon Commission to Establish a Comprehensive Internet Policy

(S.P. 763) (L.D. 2155)

(C. "A" S-303)

Which was **TABLED** by Representative **SHIAH** of Bowdoinham pending **FINAL PASSAGE**.

On motion of Representative **O'NEAL** of Limestone, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Resolve 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-303)** was **ADOPTED**.

The same Representative presented **House Amendment "A" (H-688)** to **Committee Amendment "A" (S-303)** which was **READ** by the Clerk.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Limestone, Representative **O'Neal**.

Representative **O'NEAL**: Mr. Speaker, Men and Women of the House. This amendment provides the legislative per diem

and reimbursement of expenses to members of the commission for legislators and to other members who are otherwise not compensated. It also changes the reporting date of the commission and replaces the appropriate section to reflect the increased costs.

House Amendment "A" (H-688) to Committee Amendment "A" (S-303) was ADOPTED.

Committee Amendment "A" (S-303) as Amended by House Amendment "A" (H-688) thereto was ADOPTED.

The Resolve was **PASSED TO BE ENGROSSED** as Amended by Committee Amendment "A" (S-303) as Amended by House Amendment "A" (H-688) thereto in **NON-CONCURRENCE** and sent for concurrence.

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

ENACTORS

Emergency Measure

An Act Pertaining to the Management of Atlantic Salmon
(H.P. 1421) (L.D. 2028)
(C. "A" H-672)

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. 122 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

Emergency Measure

Resolve, to Modify the State Valuation for the Sappi Plant in the City of Westbrook

(H.P. 1554) (L.D. 2211)
(C. "A" H-680)

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

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

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

Representative **CAMERON**: Mr. Speaker, Ladies and Gentlemen of the House. I am a little bit confused about this particular bill about the SAPPi plant. If we pass this is this going to allow every town throughout the state that has had a mill close to come back here and have their evaluation changed? I don't understand. My car is not worth less if it is off than it is not running. Could somebody please help me understand what we are doing? I would really appreciate it.

The **SPEAKER PRO TEM**: The Representative from Rumford, Representative Cameron has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Waterville, Representative Gagnon.

Representative **GAGNON**: Mr. Speaker, Men and Women of the House. I thank the Representative for the question. We passed a bill last year that when situations of severe economic downturns in a community, changes in valuations in a community, there are certain guidelines that can be met. There

are three conditions. I am trying to remember off the top of my head. It has to do with a certain percentage of valuations, the mill rate in that particular town and I forget what the third one is. Automatically evaluations of a municipality can be adjusted automatically by the Bureau. This was a situation where the Town of Westbrook missed the deadline on filing for that primarily because the final evaluation of the SAPPi plant was not negotiated until after the deadline. We had to put in a special bill for that. Otherwise they would have automatically been able to apply for that. We did deal with this issue last session. The towns that don't fall within those guidelines, rather than having a number of bills, if you will recall, those of you have been around awhile, there were a number of bills for municipalities to adjust their assessments. That is why we set up those criteria. Clearly Westbrook qualified, but they missed the deadline because negotiations weren't complete, through no fault of their own. The committee felt unanimously that the adjustment should be made. I hope that answered your question.

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. 109 voted in favor of the same and 9 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker Pro Tem and sent to the Senate. **ORDERED SENT FORTHWITH.**

Acts

An Act Relating to the Sales Tax Treatment of Certain Rentals and Leases

(H.P. 252) (L.D. 356)
(C. "A" H-677)

An Act to Amend the Election Laws

(H.P. 510) (L.D. 717)
(H. "A" H-663 to C. "A" H-622)

An Act Requiring Labeling of Unpasteurized Milk Products

(S.P. 281) (L.D. 799)
(C. "B" S-346)

An Act to Ensure the Documentation of the Transfer of Ownership of Mobile and Modular Construction Homes

(H.P. 1063) (L.D. 1494)
(C. "A" H-678)

An Act to Promote Equity Among Health Care Clinics

(S.P. 532) (L.D. 1594)
(C. "A" S-347)

An Act Relating to Medicaid Liens

(H.P. 1176) (L.D. 1687)
(C. "A" H-653)

An Act to Create the Sex Offender Registration and Notification Act of 1999

(S.P. 597) (L.D. 1721)
(C. "A" S-332; H. "A" H-679)

An Act to Promote Effective Management of Occupational Exposure to HIV

(S.P. 626) (L.D. 1791)
(C. "A" S-326)

An Act to Increase Access to Cub Care for Children

(H.P. 1255) (L.D. 1809)
(C. "A" H-595)

An Act to Make Certain Provisions for Exceptional Students Consistent with Federal Laws and Regulations

(H.P. 1419) (L.D. 2026)
(C. "C" H-669)

An Act to Reduce the Cost of Prescription Drugs to Qualifying Residents of the State

(S.P. 732) (L.D. 2082)
(C. "A" S-351)

An Act to Clarify the Definitions of "Contribution" and "Expenditure" under the Campaign Finance Laws

(H.P. 1577) (L.D. 2224)
(C. "A" H-676)

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

An Act to Institute Wild Number Beano

(H.P. 610) (L.D. 850)
(C. "A" H-675)

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

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

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

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

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

Representative TRACY: Mr. Speaker, Men and Women of the House. Could somebody please explain to me what An Act to Institute Wild Number Beano is? Does it have anything to do with the wild, wild west and we are in the east? Could somebody please explain that to me please?

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

Representative CHIZMAR: Mr. Speaker, Men and Women of the House. To address the Representative's question, wild number beano is a specialized beano game. It never was legal within the State of Maine. What happens is you post a number on the wall and people would go and buy their beano paper and they would walk over and make sure that all the papers that they had had the number six on it. It was a unanimous committee report. The amendment states that what it needs to do is post the number after the beano paper is purchased by the player. Thank you.

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

Representative PERKINS: Mr. Speaker, Colleagues of the House. Just in case somebody asks for a roll call and tries to derail this, this is a good bill. One of my constituents asked me to put this in. She came over here with 200 signatures on a petition and did a good job in testimony in the committee. Even though it is a unanimous report, I hope you will vote for it anyway. Thank you.

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

Representative TRACY: Mr. Speaker, Men and Women of the House. I had no intentions of asking for a roll call, but if the

good Representative would like me to ask one, I could do it. Thank you.

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

An Act to Clarify the Laws Relating to Off-track Betting Facilities

(S.P. 577) (L.D. 1657)
(C. "A" S-312)

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

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

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

Resolve, to Implement the Recommendations of the Task Force to Study Strategies to Support Parents as Children's First Teachers

(H.P. 689) (L.D. 956)
(C. "A" H-623)

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

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

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

Representative KASPRZAK: Mr. Speaker, Men and Women of the House. It says in the summary that this will expand the home visiting services to all newborn children in the state, adds two more members to the task force, extends the life of the task force until 2001. I don't know about you, but I personally don't want to be attached to anything that expands visiting services to homes of children by the state. I would encourage you to vote with me against this. Thank you.

The same Representative **REQUESTED** a roll call on **FINAL PASSAGE**.

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

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

ROLL CALL NO. 312

YEA - Ahearne, Bagley, Baker, Belanger, Berry RL, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Cameron, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Daigle, Davidson, Desmond, Dudley, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Goodwin, Gooley, Green, Hatch, Honey, Jacobs, Kane, Kneeland, LaVerdiere, Lemoine, Madore, Mailhot, Martin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, Mitchell, Murphy E, Murphy T, Muse, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Rosen, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Berry DP, Bowles, Buck, Bumps, Campbell, Carr, Cianchette, Clough, Collins, Cross, Davis, Duncan, Foster, Glynn, Heidrich, Jodrey, Jones, Joy, Kasprzak,

Labrecque, Lindahl, Lovett, MacDougall, Mack, Marvin, McKenney, McNeil, Mendros, Nass, Pinkham, Plowman, Richardson E, Savage C, Schneider, Sherman, Shields, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Dugay, Gillis, Jabar, Lemont, Perry, Shorey, Tuttle.

Yes, 95; No, 49; Absent, 7; Excused, 0.

95 having voted in the affirmative and 49 voted in the negative, with 7 being absent, the Resolve was **FINALLY PASSED**, signed by the Speaker Pro Tem and sent to the Senate. **ORDERED SENT FORTHWITH.**

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

An Act to Clarify the Laws Relating to Off-track Betting Facilities

(S.P. 577) (L.D. 1657)
(C. "A" S-312)

Which was **TABLED** by Representative SHIAH of Bowdoinham pending **PASSAGE TO BE ENACTED.**

Subsequently, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate. **ORDERED SENT FORTHWITH.**

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:

CONSENT CALENDAR
First Day

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

(H.P. 131) (L.D. 162) Bill "An Act to Make Minor Substantive Changes in the Tax Laws" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-695)**

(H.P. 739) (L.D. 1029) Bill "An Act to Encourage Support of Passamaquoddy Tribal Government Through On-reservation Business Activities" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-694)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the House Papers were **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence.

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

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-696)** on Bill "An Act to Promote the Sale of Traditional Passamaquoddy Crafts"

(H.P. 986) (L.D. 1384)

Signed:

Representatives:

GAGNON of Waterville
GREEN of Monmouth
COLWELL of Gardiner
LEMOINE of Old Orchard Beach
MURPHY of Berwick
BUCK of Yarmouth
CIANCHETTE of South Portland
STANLEY of Medway
DAVIDSON of Brunswick
LEMONT of Kittery

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

Signed:

Senators:

RUHLIN of Penobscot
MILLS of Somerset
DAGGETT of Kennebec

READ.

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

The Bill was **READ ONCE.** Committee Amendment "A" (H-696) 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-696)** and sent for concurrence. **ORDERED SENT FORTHWITH.**

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act to Exempt Retail Store Property from the Business Equipment Tax Reimbursement Program"

(S.P. 81) (L.D. 184)

Signed:

Senator:

RUHLIN of Penobscot
Representatives:
GAGNON of Waterville
GREEN of Monmouth
DAVIDSON of Brunswick
COLWELL of Gardiner
STANLEY of Medway
LEMOINE of Old Orchard Beach
LEMONT of Kittery
MURPHY of Berwick
BUCK of Yarmouth
CIANCHETTE of South Portland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-80)** on same Bill.

Signed:

Senators:

DAGGETT of Kennebec
MILLS of Somerset

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

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

SENATE PAPERS

Non-Concurrent Matter

An Act to Make Failure to Provide Proper Identification a Violation of the Liquor Laws

(H.P. 274) (L.D. 382)
(C. "A" H-313)

- In House, **PASSED TO BE ENACTED** on May 18, 1999.
- In Senate, **PASSED TO BE ENACTED** on May 18, 1999.
- **RECALLED** from the Governor's Desk pursuant to Joint Order (S.P. 837)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-333)** in **NON-CONCURRENCE**.

On motion of Representative CHIZMAR of Lisbon, the House voted to **RECEDE AND CONCUR**.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act to Eliminate Duplicate Benefits from the Tax Increment Financing and Business Equipment Reimbursement Programs"

(S.P. 79) (L.D. 182)

Signed:

Senators:

RUHLIN of Penobscot
DAGGETT of Kennebec

Representatives:

GAGNON of Waterville
DAVIDSON of Brunswick
COLWELL of Gardiner
STANLEY of Medway
LEMOINE of Old Orchard Beach
LEMONT of Kittery
MURPHY of Berwick
BUCK of Yarmouth
CIANCHETTE of South Portland

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

Signed:

Senator:

MILLS of Somerset

Representative:

GREEN of Monmouth

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

READ.

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

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

The Speaker resumed the Chair.

The House was called to order by the Speaker.

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (7) Ought Not to Pass - Minority (6) Ought to Pass as Amended by Committee Amendment "A" (H-477) - Committee on LABOR on Bill "An Act to Enhance the Payment Options for Certain Employers"

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

TABLED - May 12, 1999 (Till Later Today) by Representative SHIAH of Bowdoinham.

PENDING - Motion of Representative HATCH of Skowhegan to ACCEPT the Majority OUGHT NOT TO PASS Report.

Representative BRYANT of Dixfield moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

The **SPEAKER**: The Chair recognizes the Representative from Dixfield, Representative Bryant.

Representative **BRYANT**: Mr. Speaker, Men and Women of the House. I ask you to join with me today in stopping this assault on the working men and women of the State of Maine. What we refer to a lot of times in the workplace is a lot of bla, bla bla. You will hear that mothers on welfare can stretch out their monthly payments and you will hear, why can't a worker do that? I don't think we all want to be in that boat. The bottom line for me is this. The working men and women of the State of Maine did not send us here to negotiate downward for them. They didn't send us here to give away their weekly paycheck. I believe that the working men and women of this state want us to at least hold the line on what they have and not give away one of the most important items that they count on as they go about their daily lives and taking care of their families. What this bill does is it negotiates downward for the working men and women of this state and that is not acceptable. When we go on our way home we go to a gas station, fill up our car and you need pay there immediately or you don't get any gas. They want their money right now. When you go to a restaurant, they want their money right now. You go to Wal Mart, Burger King or anyplace we go they want the money as soon as we use their business. As soon as we use their service, they want their money. They want to pay us whenever they think about it. I ask the good men and women of this chamber to help me in defeating this bill by Indefinitely Postponing this bill and all Accompanying Papers. Thank you.

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

Representative **TREADWELL**: Mr. Speaker, Men and Women of the House. LD 292 is a response to a law that has been on the books since 1911. It was last revised in, I believe, 1916. It requires weekly pay in the State of Maine. The state municipalities have already exempted themselves from the requirement of paying weekly. The law has been forgotten practically because the Department of Labor has only enforced it in recent years upon complaint. The law contains archaic

language that at the present time is very difficult to understand. Some of the definitions are very difficult to understand. As an example, the building trades, manufacturing telephone worker occupations that may have been low paying in 1916 and are no longer in that category. As a matter of fact, many of these occupations pay much more than state and municipal jobs that are exempted from the requirement of weekly pay. There is nothing in this bill that requires any employer to pay anything other than weekly. The only thing that the bill says is that you must pay, at least semi-monthly. If an employer wants to pay weekly, that is his prerogative.

Organized labor has every right in the world to negotiate for weekly pay if that is what they choose to do. We all pay our bills monthly, your credit card, your house or rent payment, your telephone, your electric payments. If you are on welfare, you get your welfare check monthly. Is there anybody who is in a lower income category than a welfare recipient? Food stamps are given out monthly. Social security checks are received monthly. Who is in a category of lower income than those people on welfare or social security? I ask you to think about it. The State of Maine is only one of six states that has any kind of a weekly pay provision in their statutes. There are only two states, Maine and Rhode Island that dictate weekly pay without any provision for an exemption. I guess I should say we are pretty near alone in the country in this regard. I find it very hard to understand why we are even debating the issue. It is something that the time has come and I think that we should move on and pass the bill that would allow the employers of the State of Maine to pay their employees if their employees want that. If they want to get paid weekly, they have the right to do that. If they want to be paid at a less frequent interval, then I think we should enable them to do that also. Thank you very much Mr. Speaker.

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

Representative HATCH: Mr. Speaker, Ladies and Gentlemen of the House. It seems like I have been on my feet more today than I have been in my seat and that is indeed unusual. In regards to this bill, I wouldn't sit in that seat if you paid me a million bucks. I also think that perhaps we ought to look at who is going to be affected by this bill and not by those who are going to be served by this bill. This all came about because of a lawsuit this summer. There were many employers who were out there who were breaking the law and didn't realize that they were, small employers. Yes, there are six states who pay weekly. They are Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York and North Carolina. Actually it is eight.

I want to talk a little bit about why this came about. Why the sudden interest by the business community to go to biweekly. We all read in the paper about the lawsuits. The lawsuits came about because employees complained and the Labor Department hadn't been enforcing the rules. Currently they do about 4,000 inspections a year. Think about it, if you are an employer, you might possibly get inspected once every 10 years. There are about 44,000 businesses in the state. The lawsuit, who was involved in this? There were 39 Burger Kings. There were seven Holiday Inns. Wal Mart, everybody's neighborhood store, 19 and there is Sheridan, South Portland, Top America, Yorktown Paper, Mercier Paper and everybody's favorite McDonalds. It is interesting to note that since I have been here that both my daughters have graduated from high school and one worked at McDonalds and received her

paycheck every two weeks. Did I think it was right? I didn't think much about it at the time. In regards to our all time favorite store where we all like to shop at Wal Mart with all those brands, everyone knows when they locate in a town, I was on the planning board in Skowhegan when they put in the prep work. I have never seen a plan as grand as theirs was. All their permits were there. Everything was in place. It was amazing how much time and effort they put into pleasing the town to move to our town. A disposition for their attorney who does the prep work for all the Wal Marts in this law case, he was asked a question. Did you check to see what the Maine Labor Laws were? He said that they did. They knowingly broke the law in this state. They knew they were supposed to pay weekly and they decided to pay biweekly.

I can honestly tell you that I was not surprised that the Labor Department had not been enforcing this law. It seems as though they have a couple of inspectors and this wasn't one of their routine things. Although if they did pick it up they only warned the business and usually they changed, but mostly they focused on the things that we told them to focus on, child labor, overtime, minimum wage and unpaid wage issues if you were too long in paying your employees. I think we have all received letters or testimony from businesses and I was totally amazed at the hearing to have businesses come and testify and employees so they said, until we asked who they were. To find out, they were mostly management people who were in favor of this bill, because they got paid every two weeks. The striking contrast was there was an employee who was with the employer that I know for a fact was a worker and she got up and the only thing she said was I like getting paid every two weeks because I only have to shop every two weeks. I don't know about you, but it seems to me that that is a poor reason for wanting the check every two weeks for everybody in the state.

In 1997 a publication came out *Working Hard, Falling Behind* a report on the Maine working poor parents. It was based on telephone interviews conducted by Market Decisions of South Portland. There were 300 parents whose household incomes fell below 185 percent of poverty. John Fitzgerald, Professor of Economics at Bowdoin College, who wrote this report, estimated that these households represented some 175,000 people or 13 percent of Maine families. This report confirmed what we have known from census data and other sources that the problem of poverty in Maine is not primarily a problem confined to people who are not working and depending on public assistance. The majority of these households with children had adults who were working full time. Male respondents averaged 44 hours a week work. Women living with partners averaged a little less. While even single mothers with children under 6 averaged 32 hours per week. Their wages averaged \$9.50 for men and \$7.50 for women, primary wage earners and it is \$6.90 for single parents. Many of them work several jobs. Many work in jobs without benefits. These are low-wage jobs. They pose many hardships on the families. About half of these received shut off notices and 13 percent had actually had utilities shut off and 17 percent had run out of heating fuel. There were 47 percent that have postponed dental care for lack of money and 16 percent have postponed other medical care and 14 percent had postponed purchase of prescription drugs. Almost 40 percent were contacted by a collection agency and several had cars repossessed. Almost 20 percent moved in the last three years because of lack of money while 30 percent of the single mothers the samples had, 20

percent of the single mothers had gone to food banks, skipped meals for a day or more because of lack of food.

Among these indicators of hardships, perhaps the one that is the most relevant is the issue before you is that 90 percent of the single mothers in this sample reported that they had no savings to draw on and 80 percent of the married couples said they had no savings. When asked how many weeks they could manage if they lost their jobs, over three-quarters said one month or less. I would like you to take this into consideration while you are deciding today to postpone somebody's weekly paycheck to biweekly on how hard it is already just to get by. I think this is a bad bill. I think it is badly thought out. I think it is a knee jerk reaction to what is happening out there. If you are a business and you want to break the law and you have been breaking the law, then by all means there is nothing I can do about it.

I was most interested when I received a letter from the Maine Bankers Association in favor of this bill. It is interesting because I always seem to mention that I have two daughters in banking. They get paid biweekly because they are not covered by this law. Why would the bankers need this law other than to manage that money which is going to be left in a pile over a two-week period so they can draw the interest down on it? I ask you for the working poor in this state and the working families to vote to Indefinitely Postpone this bill and all the accompanying papers. Thank you.

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

Representative MACDOUGALL: Mr. Speaker, Ladies and Gentlemen of the House. I will be voting against the pending motion and I would like to give you some of reasons why as we deliberated on this issue in committee. The use of other pay options has been going on for years in the State of Maine. The Representative from Maine Bankers Association came before the committee and had shared that their business customers are basically confused because they have been using other pay period options since they have been in business without being challenged or informed by the state. Their employees have been hired knowing that they will be paid biweekly, twice a month or some other payroll period. They know that going in. Many of these businesses have been operating for 50 years or more without this being an issue. Yet, today, they have come to our banks and complained that the cost of doing business will increase if their employees receive no benefit. A small business owner from New Castle, Maine, had mentioned, as some others did, that none of their employees had ever asked to be paid on a weekly basis. It wasn't an issue.

I know no one wants to talk about it, but there is a reality when you are running a business or running your family or whatever. You have a budget and fixed costs and you have to maintain a budget. The costs of going to weekly pay do increase costs. This same small business owner from the Newcastle Inn would increase by \$1,200 a year his cost of payroll without giving anyone a raise or increased benefits. That is \$1,200 without nothing really to show for it. He is a small businessman. Also, Maine Innkeepers Association testified and they as a part of that cost the administrative red tape of producing the payroll is significant. When the law was passed in 1916, there was no need to account for or withhold Social Security, Medicaid, federal income tax, state income tax, health insurance, 401K plans, savings, loans and garnishments. Those all need to be factored and done. It increases the paperwork and, again, without some

demonstrated benefit. National Semi Conductor came and they brought a different dimension. Their cost would be \$33,000 additional for the year. It is fairly significant. There is also another piece to that. They have sights that are located elsewhere in the country. As I alluded to in a earlier debate, we are in a global or national economy and when the home headquarters decides where they are going to expand or invest, one of those things that enters into it is the cost of doing business, the regulations or the taxes, a whole gamut of things. This is just one more hit from the State of Maine saying you are not welcome. That impacts employees, ladies and gentlemen, not just employers, the very people you are trying to defend here with the current motion.

Another feature that even in my own place of work, although it doesn't affect us, there was a fella from Georgia Pacific that came and testified. If they go to weekly pay, they want them to do direct deposit, but their payroll company can't do the direct deposit if it is a weekly paycheck. That is not always the case in every company because there are some that can do it on a weekly basis. I checked that out, but in this case this is an impediment. Direct deposit is a wonderful thing because an employee doesn't even have to go and pick it up, the check. If it happens to be a day off where the plant folks where I am employed work on 12 hour shifts so they work three days one week and they are off four days and they work four days and off three days. Very often on the payday, they don't have to be at the place of employment so direct deposit is a very convenient thing and a very timely thing. It affects direct deposit possibilities.

Economic development is multi-faceted. It is kind of like a rope made of many strands and those strands within themselves are grouped and those groups are made, twisted and forced with all of them working together add the strength. At the inaugural of the Chief Executive, he talked about grabbing the rope as a metaphor, grabbing the future, going into the next century. To me this is another strand or strands that impact how bright that future is going to be. Remember we are one of six states with some form of the pay law and Maine is the most stringent. We can change that tonight.

In one of the handouts and in earlier debate tonight, we heard a few things like who is going to be served. In one of the handouts that Maine families are only a week away from disaster. I submit to you that the best way to remedy that is to stop putting roadblocks in front of businesses so they can compete and be successful in the marketplace so wages and benefits can increase and opportunities to advance and to grow in your job can be possible. That is the best way to remedy low pay. Indefinite Postponement is just another impediment into worker's futures. Let's not patronize employers suggesting that they are incapable of keeping a budget. People are capable of doing great things in this state. I would urge you to vote against the Indefinite Postponement. Thank you.

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

Representative COWGER: Mr. Speaker, Colleagues of the House. It is with a great deal of difficulty that I rise tonight, because I rise to speak against my good friend from Skowhegan and my good friend from Dixfield. I ask you to join me in voting against Indefinite Postponement of this bill and I would like to tell you why. First of all, in my business I pay my employees weekly. I always have, but that has been my choice in my business. I was totally unaware of this law when I first started my business.

I have on my desk a Guide to Doing Business in Maine. It is a book that is put out by the Maine Department of Economic and Community Development. This is the book that new businesses get when they start to learn about all of the laws in the State of Maine and how to do payroll. Nowhere in this book does it tell you what businesses have to pay weekly and what businesses don't have to pay weekly. There is no direction out there. This is a law that has not been enforced. I believe in the 118th Legislature when we looked at repealing a number of archaic laws that we left one out. I believe the law that this bill repeals is an archaic law. This refers back to a 1911 law, which predates many other important labor laws like the minimum wage, overtime requirements and child labor laws. We are talking about a law that predates all of these very important statutes.

There are references in the law, which this law would repeal, to telegraph businesses, steam railroad companies and incorporated express companies. This is not a statute that reflects the current Maine economy. I also believe that if the concern is really for those who need a paycheck on a frequent basis, then we need to look at our full system in totality. I would readily support a bill that was before us to require that everybody be paid weekly, because then it would be fair. Some of this is even beyond our control, retirees on a fixed income only receiving a social security check. They get that check once a month. That is a federal requirement. I don't think we can do anything about that. People that are receiving TANIF benefits receive a check once a month. That is a state check and we can certainly change the law to require that we issue those checks on a weekly basis. I would support that if everybody would be paid weekly.

My point is that the old law that this bill would repeal is very unfair. I want to give you some examples. If we indefinitely postpone this bill, we go back to the law on the books. A lot of people are not going to be required to be paid weekly. Tell me if these people are not just as deserving to have their income readily as others. All state employees get paid on a biweekly basis regardless of their classification or level of employment. Labor unions aren't required to pay their employees on a weekly basis. Law firms, perhaps somebody working in a mailroom in a law firm not making very much money, they are not required to pay weekly. A clerical worker at an insurance company, they are not required to be paid weekly. Telemarketing employees, a new business in Maine, lots of people are getting paid in that industry, but it is not required to be paid weekly. Another example is perhaps a dishwasher or somebody cleaning rooms at a private college or even the state university system, they are not required to get paid weekly at all.

I would also like to address the issue of cash flow in a business. People have said that it is the business's money and that we are holding onto the money and not releasing it to the employee. What I would like to add, especially in my business, a lot of our business is invoiced out. We bill for our services. It is 30 days, sometimes 60 days, especially I will add if the state happens to my client, it takes as much as 60 days to get paid. I have paid my employees long before the money has come into my business. I can think back to the early days when I started my business, it was very difficult to meet those initial payrolls to pay for suppliers without having the money coming in. We don't necessarily have that money ahead of time. I have made the points I would like to make and I would ask you to join me. Again, it is difficult for me rise on this issue, but I wanted to give you the perspective of a small business. I would ask you to join

me in voting against the pending motion and enacting this new legislation.

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

Representative **MCKENNEY**: Mr. Speaker, Ladies and Gentlemen of the House. I have been reading in the paper and perhaps you have too that this is National Small Business Awareness Week. It is also the week that the Chief Executive has his small business conference. When I read these things I am reminded what a gigantic job-creating machine small business is. I used to enjoy being an employer. I am starting to rethink that with all the things I see going on up here. I think the thousands of businesses that are in your district would be appalled by some of the things that go on here. I am saddened and dismayed when business is demonized by our Legislature. We pass laws and regulations that say based on their content that small businesses can't be trusted to take care of employees and always attempting to take advantage of workers. Nothing could be further from the truth, but yet we continue to pass laws that stifle the entrepreneurial spirit. Paying employees on a biweekly basis is not an evil business plot to deprive them honestly earned money. Biweekly pay periods are simply a way companies use to control costs. It is a cost saving measure that allows a business to compete and be profitable. Perhaps a small amount on their P and L, but nevertheless it is one of the small ways that companies try to be profitable and control costs. It is no mystery folks. Companies that aren't profitable go out of business or they don't come here at all if they can't be profitable and away go the jobs that they create.

It could be argued that small business is the biggest social agency of all time. There is no better social program than a good job. The Representative from Skowhegan mentioned welfare moms a few minutes ago. Perhaps you read the Portland Paper on Saturday. It featured a group of women graduating from welfare to work through a training program. One of the women quoted in this article was thrilled to death that she landed a job with Right Express. Right Express pays their salaried workers every two weeks. Do you think this woman cares whether she is paid every two weeks coming from welfare where she has been paid monthly? I urge you to vote against this Indefinite Postponement. Thank you.

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

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. I hope that you will support the motion to Indefinitely Postpone this bill. As a member of the Labor Committee and as a member of this House, my job, as I see it, is to try to do what is right, not what may be expedient at the time. I have said in the committee and on this floor and I hope that if I have not said this that I will be corrected. The vast majority of businesses in the state are good people, small businesses and other size businesses. Ladies and gentlemen, as a member of the Labor Committee my job before that committee is not only to look at the folks that control the management and the financial purse strings of the company, but also to look at the workers. I have listened to the debate here about how things have improved in our country and they have. It is interesting though in the mention of some of the kinds of advances that I am very, very proud of what happened in the '30s under Franklin Roosevelt that some of those issues are still with us today. Today we debated unemployment insurance. The other day we debated the need for childcare in the workplace. We have

debated safety in the workplace. There are still many issues that need to be confronted by this Legislature and I think our citizens will demand it of us. We have heard from those in opposition and that day we had the public hearing and in subsequent work session that employers want the flexibility to listen to their employees and pay them according to not only their wishes, but their employees wishes. We have a situation today, now that those employers that were not following the laws at the time for whatever reason are now complying with the law and paying their employee's weekly.

I had a discussion with an individual running a business from my sister community in Waterville. They called me and we had a nice discussion on the telephone. This individual told me that she hoped we would change the law. It was very tough for her business. It increased their cost by 50 percent. We have had the payroll service folks and others tell us that that is a little high. There are many computerized payroll and other sources, but the bottom line was I asked that individual that was running that company what feedback have you heard from your employees about getting their check weekly? She said that they have been happy. I know that they wouldn't mind going back to getting biweekly pay. My response to that individual business owner was, would she or has she taken the time to survey her employees? No. It didn't happen. Under this change all of those businesses that are now paying weekly, I surmise, will probably go to biweekly. I wonder how much consultation will happen with the employees of that company.

We have had many discussions about the pressures in the workplace today. I am proud of the job that has been done by this Legislature, both Republicans and Democrats, dealing with the pressures of the workplace. I submit to you, ladies and gentlemen, that working people, those especially that are on the lower income side of, our wages are still low in some occupations covered by this law, that we pride ourselves in helping people work. It is tough for many working families in Maine to make ends meet. It is very, very tough. I submit to you and I wish I had the testimony or the history of the discussion in 1911. I can see the parallels. I bet you that there are parallels. It was different times and different society, but parallels nonetheless. We have a lot of single parent families in Maine. The good Representative from Skowhegan shared with us from low-income advocacy groups the kind of direct information about low-income wage earners in our state.

We had one individual from a business testify before the Labor Committee that 83 years ago the state passed the statute. This individual said it probably made good sense and was probably needed. In 1916 a gallon of gasoline cost a dime and today it \$1.15. A quart of milk was less than a nickel and it is nearly \$3 a gallon. Shoes, in 1916, according to the testimony by this businessman before a committee in favor of this bill, a pair of shoes cost \$1. Ladies and gentlemen, shoes are between \$40 and \$100. Times are different, but many things are the same. The stresses on the workforce are still very, very great.

When I was serving in another capacity before I decided to run for this seat at the House of Representatives. It is a great honor for all of us to be in this chamber. I served as a county commissioner. That probably puts me in trouble now for stating that on the record. It was an honor to serve in that capacity. About a year and a half ago we were discussing the issue of biweekly pay. Kennebec County employees, I am sure, workers are governed by a collective bargaining agreement. As

commissioners we were hearing from our treasurer and other folks from different financial institutions and others about going to a biweekly pay because the union employees for the county are paid weekly. We looked at that issue from every which way. It came down to one particular meeting and I remember that I said that we are missing one ingredient here. We have heard from all the different sources. We have heard from the banks. We have heard from the treasurer of our county. We have heard from department heads, but you know we have not heard from the union's collectively bargained employees on this issue. Before this one particular county commissioner votes to do this, I want a survey of every employer of that county or dog gone it let's try to do it for 99 percent of them. I am not going to support anything until we hear from the folks impacted by the change, the people that are putting food on the table each week and paying the bills that need to be paid, paying the childcare in our complicated workforce and putting our kids through school. The bottom line, ladies and gentlemen, that survey was done and it was close to 98 percent in opposition from weekly to biweekly. They were and I am very proud of those employees of Kennebec County. They didn't just answer the questionnaire, but they gave long explanations as to why it was so important.

We pride ourselves in Maine as a Legislature and a people of the work ethic, being proud of our people in the state of our businesses, our workers, and yes, ladies and gentlemen, I consider this issue and the defeat of this issue a quality of life issue. I want to see people come to Maine and employ our people and thrive, but I also want to see those employees grow and thrive also and make it in this sometimes tough challenging society we live in. I would urge you strongly to support the Indefinite Postponement. Thank you Mr. Speaker.

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

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

The SPEAKER: The Representative may pose his question.

Representative COLWELL: Mr. Speaker, Men and Women of the House. Very early on in the debate the good Representative from Carmel, Representative Treadwell, said that if they want to be paid weekly, they can. If they don't want to, they would be paid twice a month or whatever. I am confused. I was looking at the Minority Report and I don't seem to find a provision in there. Is there a provision in the Minority Report that allows for employees to make the decision whether they would be paid weekly or biweekly?

The SPEAKER: The Representative from Gardiner, Representative Colwell has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Carmel, Representative Treadwell.

Representative TREADWELL: Mr. Speaker, Men and Women of the House. To respond to the question, there is no specific language in the report that says that. It just says that an employer may pay no less frequently than bimonthly and all pay due must be paid within eight days of the closing of the pay period.

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

Representative SAMSON: Mr. Speaker, Men and Women of the House. I stand to support the Indefinite Postponement of this bill. As everybody knows here, I support labor probably 100 percent of the time. I never thought I would have to stand up to

support a worker being paid weekly for a week's work. I never thought that would ever come to this floor. I look at this bill as a sleeper. I don't think the general public out there knows what is going on this evening. I hadn't had any calls up until the past five or six days. There was an article in the paper and they started reading about it. They are not very happy. I don't know about the areas you folks live in, but in my area people have traditionally always got paid by the week. They work a week and they get paid the following week. This bill is going to change that. This means if you work on a Monday, you are not going to get paid for that Monday's work for about 23 days. Maybe some people can afford that and I am sure there are a lot of people that can't.

I also work for a union, so I happen to know this first hand. There is mill down the river here, York Paper Tube and Mercier Paper, they were bought out by an outside company and they came in and decided they were going to pay the workers every two weeks instead of weekly. We tried to tell them during negotiations that it is against the law. You have to pay the workers weekly. Their answer was tough. If you don't like it, sue us. That is what we had to do in order to get the workers their weekly paycheck. As far as National Semi-Conductor, \$33,000 cost, that works out to a penny an hour per employee. I don't know if that is going to stop companies from coming into the state. I am standing up for the people of my district that work hard and want their weekly paycheck.

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

Representative TWOMEY: Mr. Speaker, Men and Women of the House. Good evening. I hope you are still awake. I don't know if you are as tired as I am and we have heard a lot of debate and you probably won't change your mind, but I have to stand to tell you that I did go to that public hearing, because there were workers from Biddeford at that public hearing. There were people that worked in the mills. I have had lots of E-mails from women who are the working poor in this state. One woman came to the Labor Committee, she has two children and she needs her weekly paycheck. My son went to technical school and his wife works. He gets paid weekly. He pays \$600 a month for rent. He needs his weekly paycheck. It isn't about budgeting better, it is about not getting paid enough. I would vote with you to overturn this if you could tell me that people out there are getting a living wage. They are not. Who is running the small businesses in the State of Maine? Go to a McDonalds, Burger King, it is teenagers working on minimum wage while most people have corporate jets and fly off. We budgeted 100 percent for the BETR Program for equipment tax breaks. We don't talk about that when we stand up and talk about the working poor.

I am really tired tonight, but I want to rise in support for those people, those women with those two children who are trying to pay their rent and who are trying to pay their bills, but just aren't making enough to make ends meet. Think back, some of you who are millionaires, think back when you started how much you might have made and how you needed that weekly paycheck. If you are not a millionaire, maybe you can relate to just wanting to be able to be paid for a day's work. The good Representative Cowger has a small business, but if we went to his bed and breakfast tonight and said I can't pay you for two weeks, I don't think he would appreciate it. People want and deserve to get paid for the day's work that they put in. Thank you very much.

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

Representative STANWOOD: Mr. Speaker, Ladies and Gentlemen of the House. I will be brief. I lived through one of these changes many years ago at the Jackson Laboratory. It was tough for about two pay periods and we soon got used to it. I got \$44 a week so I guess I wasn't a millionaire. Because of it the laboratory saved a great deal of money in their payroll department and we got the benefit of those savings in more ways than one. If we can stop putting roadblocks in front of businesses so that they can make more profit, more profits make more jobs and you know what the cycle is after that. More people are working, but in our case it also had a spin off affect in that they were able to do it because they didn't have to cut these checks every week they were able to do some things for us, eventually we got payroll savings, war bond savings, they made direct bank deposits and bank payments for us. There are other things that can happen. This is not a mandate that a company wants to pay weekly they can, but they can't pay less than semi-monthly. I would suggest that we defeat the motion and get out of the way of business so they can prosper and we can get more people back to work.

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

Representative CLOUGH: Mr. Speaker, Ladies and Gentlemen of the House. This bill, LD 292, would require that wages be paid no less frequently than semi-monthly. This could be twice a month, every two weeks or weekly. Since the early '70s and even before that, I worked for and managed companies that paid certain employees every two weeks or even twice a month. It was never an issue. I have also worked in companies where a combination of all of three of these pay periods would be used depending on the preferences of a particular group of employees or a job classification. We have heard from organized labor that workers need to be paid weekly. If it is important in a particular industry that they represent then they can negotiate contracts that require a particular payment method. This is a good bill. It does not mandate any particular payment method, but allows employers to accommodate the needs and preferences of their employees if a particular pay period is better for them. This is a particular issue that is decided by employers and employees, not by a mandate of state government. I urge you to support this bill and vote against the pending motion. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative POVICH: Mr. Speaker, Men and Women of the House. I have a question that I don't think was answered by the Representative from Carmel for Representative Colwell. I will ask my own question. I have eight employees and boy do they hate change, change a schedule by a minute and you hear a groan. I don't like change all that much. What I think I am voting for and supporting in LD 292 is the good old days, whatever they were, that because of this business down in Portland where an attorney sued McDonalds under an archaic law, if I support LD 292, will it go back to the good old days where those that were paid weekly will receive a weekly paycheck and those that received a biweekly paycheck will get

that or all of a sudden will I see that with this bill, LD 292, the option to pay biweekly will be a popular option as a cost cutting measure and that those people who are used to be paid weekly will now see a rush to a biweekly paycheck. If that is the case, that is the unintended consequence of what I think is a pretty good bill.

The SPEAKER: 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 Carmel, Representative Treadwell.

Representative TREADWELL: Mr. Speaker, Men and Women of the House. In my last response to the question from Representative Colwell, I misspoke when I said bi-monthly, I meant semi-monthly would be the maximum length of pay period. There is a provision in the law, to respond to the good Representative from Ellsworth, in the amendment of the Minority Report that wages must be paid on an established day or date at regular intervals made known to the employee when the interval is less than the maximum allowed by Subsection 1, which is semi-monthly, the interval may not be increased without written notice to the employees at least 30 days in advance of the increase. I think that we should give the employers in the State of Maine credit for not doing things unilaterally that are going to hurt their employees. I think in most cases the businesses would take into consideration the desires of the employees and if they are paying them weekly now, they would continue to do so.

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

Representative MAILHOT: Mr. Speaker, Ladies and Gentlemen of the House. I will be brief. I am going to be supporting the Indefinite Postponement of this bill for two reasons. I hear a lot of comments here this evening on the rights of businesses to do this and the rights to make more money so they can pay the employees more money and all that. I didn't come here to represent citizens of Maine by removing their rights. By voting for this bill in favor of this bill, we are removing rights from the employee and giving rights to the employer to choose. If they choose to pay them weekly, biweekly, semi-monthly or whenever or wherever this is going to go, the law now states that the employee has the right to demand a weekly pay and by voting for this law we are removing this right from the employee and giving the entire right to the employer. This, in my mind, is not really right. I also hear that this is a roadblock to businesses. I don't believe that to be true. Removing the rights to employee and giving the rights to businesses is not a true way to represent the citizens of the State of Maine. Thank you.

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

Representative DUPLESSIE: Mr. Speaker, Ladies and Gentlemen of the House. I would encourage you to vote against the Indefinite Postponement of this bill. I am attempting to negotiate in contracts. Some of this protection is not necessarily for the union employees. It is for the many employees that earn very little and cannot live week to week or paycheck to paycheck. This a main street issue. If we pass this here, many of these citizens that get paid week to week they go to the local variety store to buy the necessities that they need. If they are not getting paid every week and it is biweekly or some other formula twice a month, where would they go to do their shopping for the necessities? They would probably go to the local Wal Mart or the Rite Aide that now sells those necessities, because

at the Rite Aide or the Wal Mart, they can use a credit card. A credit card is always welcome. They don't have the cash in their pocket, because payday isn't until next week so that is where they will be shopping. I think we need to be looking at the mom-and-pop variety stores of our communities.

I really feel we ought to be looking at those citizens that are in those situations. Who are we concerned here for? The employers, I can't believe it is that much of hardship. If all the largest employers in the state are paying this way, then I believe most every employer can pay this way. I would really encourage you to vote against the Indefinite Postponement of this bill. Thank you.

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

Representative TRUE: Mr. Speaker, Ladies and Gentlemen of the House. I rarely take down notes and I know I can just flash this, but it is full and I don't know where to start because I didn't number them. I guess the easiest thing to do is to go back. I would like to respond first of all to some remarks from my good friend from Winslow. I know what he said. He must have read in the books or talked to his dad because I know he is not old enough to have lived that far, but I have. Certainly Franklin Roosevelt did many things good for our country and the people. I can tell you that I don't believe that Franklin Roosevelt ever thought that the United States of America would grow to the propulsions that it has. We certainly have more population, much more now than we did then.

I know there are members in this body that have served their country and sometimes we think our country has more money than God. Yet, we got paid by the month. We learned to live with it. Some of us, not too many, got \$30 a month, which is \$1 a day in most months and less in others. You learn to live with it. My wife and I got married and between us we had \$16. Many years later I went, in my profession, and I found that I got paid once a month for my wife and I and four children. It taught us the greatest thing that could be taught and that is how to have a budget. In listening to some of the things that the good Representative from Skowhegan indicated to us about approximately how many people had their electricity shut off, can't go to the doctors and things like that. Again, if you want to do it by population, it is probably less than those that have those things. I believe that they learned how to budget. One thing even today, my children rarely ask for pies, cakes and cookies. We couldn't afford them on our budget, so they had fruit. I didn't buy insurance, thank God my kids were healthy.

Society today needs some restraints. They certainly have got to be happy in their work. I can speak a little bit about that having anywhere from \$100 to \$139 in my employment. I can assure you that if it came whereby that we were going to change the payroll, I would want those employees happy so I would ask which they would like to have. I believe I would do that whether or not I had \$150 or \$3. Your employees are certainly going to be beneficial to your business.

Another speaker spoke about the BETR Program and how it was financed. It certainly has been, but think of the number of extra jobs it has created. Economically speaking, it is a good thing. What I observed and the good Representative from Westbrook spoke about the mom-and-pop store, I observed people going there that shouldn't be going there to spend some of their money because many mom-and-pop stores are priced up higher than the larger stores simply because of necessity and the number of hours and so forth that they are open. Society

today need to manage their economic circumstances in a much better way. In doing this I think it will help organize many other facets of their lives properly. I can't tell you whether it is bimonthly, weekly or what have you, but I do believe that we have to do something to help the businesses and in turn I firmly believe that these businesses will cooperate and make these people happy. I shall vote not to indefinitely postpone this bill because I think it is better for Maine and its people in the long run. I thank you.

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

Representative FRECHETTE: Mr. Speaker, Ladies and Gentlemen of the House. I rise today to urge you to support the pending motion. Should we pass this bill we will only hurt the people that need our help the most. Maine's workers who are making the lowest of incomes, this law was originally written to protect working people who were working low wage jobs. The current law is viewed as being generally bad for Maine businesses. This bill that is before us today would aid businesses in our state, but hurt our working people who are working to support their families and pay their bills. Why should we punish the people that are making the lowest of wages? Yes, I believe there may be workers who would like to be paid biweekly in different businesses across the state. I believe that by enacting this bill it would only create hostility between management and the working people of the state. I believe that businesses and workers should decide jointly how often pay should be received among the workers. I urge you to support the current motion.

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

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

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

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

ROLL CALL NO. 313

YEA - Ahearne, Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Cameron, Chizmar, Clark, Colwell, Cote, Dudley, Dugay, Dunlap, Duplessie, Frechette, Gagne, Gagnon, Gerry, Goodwin, Hatch, Jacobs, Kane, Mailhot, Matthews, McGlocklin, McKee, Muse, Norbert, O'Brien LL, Quint, Rines, Samson, Saxl MV, Shiah, Skoglund, Stanley, Stevens, Tessier, Townsend, Tracy, Twomey, Usher, Volenik, Watson, Williams.

NAY - Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Bumps, Campbell, Carr, Chick, Cianchette, Clough, Collins, Cowger, Cross, Daigle, Davidson, Davis, Desmond, Duncan, Etnier, Fisher, Foster, Fuller, Gillis, Glynn, Gooley, Green, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Martin, Marvin, Mayo, McAlevey, McDonough, McKenney, McNeil, Mendros, Mitchell, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, O'Neil, Peavey, Perkins, Pieh, Pinkham, Plowman, Povich, Powers, Richard, Richardson E, Richardson J, Rosen, Sanborn, Savage C, Savage W, Saxl JW, Schneider, Sherman, Shields, Shorey,

Sirois, Snowe-Mello, Stanwood, Stedman, Sullivan, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Tripp, True, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Mr. Speaker.

ABSENT - Jabar, O'Neal, Perry, Tuttle.

Yes, 50; No, 97; Absent, 4; Excused, 0.

50 having voted in the affirmative and 97 voted in the negative, with 4 being absent, the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers **FAILED**.

Representative SAMSON of Jay moved that the Bill and all accompanying papers be **COMMITTED** to the Committee on **LABOR**.

Representative TREADWELL of Carmel **REQUESTED** a roll call on the motion to **COMMIT** the Bill and all accompanying papers to the Committee on **LABOR**.

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

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

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

The SPEAKER: The Representative may pose his question.

Representative **VOLENIK**: Mr. Speaker, Men and Women of the House. If this motion fails and if the Minority Report passes, will it be legal to pay a salaried employee once a year, once every 10 years or simply once in that employee's term of employment in accord with Section 426, MRSA 623 as amended in the Minority Report?

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

Representative **BUCK**: Mr. Speaker, Ladies and Gentlemen of the House. In the case of the Representative from Brooklin he would be paid once.

The SPEAKER: The Chair recognizes the Representative from Dixfield, Representative Bryant.

Representative **BRYANT**: Mr. Speaker, Ladies and Gentlemen of the House. That is the exact problem of why we are here. Who does what? I will leave it there, but I would ask you to Commit this to the Committee on Labor and move on.

The SPEAKER: A roll call has been ordered. The pending question before the House is Commit the Bill and all Accompanying Papers to the Committee on Labor. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 314

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

NAY - Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carr, Chick, Cianchette, Clough, Collins, Cross, Daigle, Davis, Duncan, Fisher, Foster, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey,

Jones, Joy, Kasprzak, Kneeland, Labrecque, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, McAlevey, McKenney, McNeil, Mendros, Murphy E, Murphy T, Muse, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Plowman, Povich, Richardson E, Rosen, Savage C, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Jabar, O'Neal, Perry, Tuttle.

Yes, 74; No, 73; Absent, 4; Excused, 0.

74 having voted in the affirmative and 73 voted in the negative, with 4 being absent, the Bill and all accompanying papers were **COMMITTED** to the Committee on **LABOR** and sent for concurrence.

BILL RECALLED FROM ENGROSSING DEPARTMENT

(Pursuant to Joint Order - House Paper 1599)

Bill "An Act to Create a Sales Tax Exemption for Child Abuse and Neglect Councils"

(H.P. 976) (L.D. 1374)

- In House, House **RECEDED** and **CONCURRED** to **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE**

AMENDMENT "A" (H-395) and SENATE AMENDMENT "A" (S-336).

On motion of Representative COLWELL of Gardiner, 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" (H-395)** was **ADOPTED**.

On further motion of the same Representative, **Committee Amendment "A" (H-395)** was **INDEFINITELY POSTPONED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Senate Amendment "A" (H-336)** thereto in **NON-CONCURRENCE** and sent for concurrence.

On motion of Representative FULLER of Manchester, the House adjourned at 9:24 p.m., until 9:00 a.m., Thursday, May 27, 1999 in honor and lasting tribute to Laura P. Whitman, of Manchester.