

# 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  
SECOND REGULAR SESSION  
9th Legislative Day  
Tuesday, February 29, 2000

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

Prayer by the Reverend Doctor Alfred Fletcher, Executive Minister of the American Baptist Churches of Maine, Falmouth.  
National Anthem by Warsaw Middle School Band, Pittsfield.  
Pledge of Allegiance.  
Doctor of the day, Marie Guay, D.O., York.  
The Journal of Friday, February 25, 2000 was read and approved.

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**SENATE PAPERS**

The following Joint Order: (S.P. 1022)

**ORDERED**, the House concurring, that the Joint Standing Committee on Business and Economic Development report out, to the Senate, a bill to promote economic development in the State.

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

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**Non-Concurrent Matter**

An Act to Amend the Elderly Low-cost Drug Program (EMERGENCY)

(H.P. 1795) (L.D. 2518)  
(C. "A" H-802)

**PASSED TO BE ENACTED** in the House on February 18, 2000.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-802) AS AMENDED BY SENATE AMENDMENT "A" (S-507)** thereto in **NON-CONCURRENCE**.

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

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**COMMUNICATIONS**

The Following Communication: (H.C. 349)

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

February 18, 2000  
Honorable Mark W. Lawrence, President of the Senate  
Honorable G. Steven Rowe, Speaker of the House  
119th Maine Legislature  
State House  
Augusta, Maine 04333

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

L.D. 2159 An Act to Reimburse Androscoggin County for Shortfalls in State Reimbursement for Jail Costs

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

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

**READ** and **ORDERED PLACED ON FILE**.

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The Following Communication: (H.C. 350)

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

February 18, 2000  
Honorable Mark W. Lawrence, President of the Senate  
Honorable G. Steven Rowe, Speaker of the House  
119th Maine Legislature  
State House  
Augusta, Maine 04333

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

L.D. 675 An Act to Amend Consumer Protection Laws with Respect to Internet Service  
L.D. 952 An Act to Reduce Unsolicited Communications from the Internet  
L.D. 1414 Resolve, to Support Downtown Revitalization through the Location of State Facilities and Targeting Economic Development Funding  
L.D. 2385 An Act to Allow Maine Pharmacies to Operate more Efficiently and Improve the Delivery of Services

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

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

**READ** and **ORDERED PLACED ON FILE**.

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The Following Communication: (H.C. 351)

**STATE OF MAINE**  
**ONE HUNDRED AND NINETEENTH LEGISLATURE**  
**COMMITTEE ON CRIMINAL JUSTICE**

February 10, 2000  
Honorable Mark W. Lawrence, President of the Senate  
Honorable G. Steven Rowe, Speaker of the House  
119th Maine Legislature  
State House  
Augusta, Maine 04333

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

L.D. 1202 An Act to Ensure Just Sentences  
L.D. 2455 An Act to Provide Parity for Federal Drug Enforcement Agents in the State of Maine

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

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

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (H.C. 352)

**STATE OF MAINE  
ONE HUNDRED AND NINETEENTH LEGISLATURE  
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

February 18, 2000  
Honorable Mark W. Lawrence, President of the Senate  
Honorable G. Steven Rowe, Speaker of the House  
119th Maine Legislature  
State House  
Augusta, Maine 04333  
Dear President Lawrence and Speaker Rowe:  
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Education and Cultural Affairs has voted unanimously to report the following bill out "Ought Not to Pass":  
L.D. 933            An Act to Permit the Submission of Citizens' Initiatives and Citizens' Vetoes to School Districts

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

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

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (H.C. 354)

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

February 18, 2000  
Honorable Mark W. Lawrence, President of the Senate  
Honorable G. Steven Rowe, Speaker of the House  
119th Maine Legislature  
State House  
Augusta, Maine 04333  
Dear President Lawrence and Speaker Rowe:  
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Taxation has voted unanimously to report the following bills out "Ought Not to Pass":  
L.D. 2384            An Act to Protect State Taxpayers and State Jobs  
L.D. 2501            An Act to Strengthen Maine's Corporate Accountability Law

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

Sincerely,  
S/Sen. Richard P. Ruhlin  
Senate Chair  
S/Rep. Kenneth T. Gagnon

House Chair  
**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (H.C. 353)

**STATE OF MAINE  
ONE HUNDRED AND NINETEENTH LEGISLATURE  
COMMITTEE ON MARINE RESOURCES  
JOINT SELECT COMMITTEE ON RESEARCH AND DEVELOPMENT**

February 15, 2000  
Honorable Mark W. Lawrence, President of the Senate  
Honorable G. Steven Rowe, Speaker of the House  
119th Maine Legislature  
State House  
Augusta, Maine 04333  
Dear President Lawrence and Speaker Rowe:  
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Marine Resources and Joint Select Committee on Research and Development has voted unanimously to report the following bill out "Ought Not to Pass":  
L.D. 1827            An Act to Establish the North Atlantic Cold Water Observatory

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

Sincerely,  
S/Sen. Jill M. Goldthwait  
Senate Chair  
S/Rep. David Etnier  
House Chair  
S/Sen. Carol Kontos  
Senate Chair  
S/Rep. Scott Cowger  
House Chair

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (S.P. 1015)  
**119TH MAINE LEGISLATURE**

February 22, 2000  
Senator Marge Kilkelly  
Representative Matthew Dunlap  
Chairpersons  
Joint Standing Committee on Inland Fisheries and Wildlife  
119th Legislature  
Augusta, Maine 04333  
Dear Senator Kilkelly and Representative Dunlap:  
Please be advised that Governor Angus S. King, Jr. has nominated Dr. Harold H. Brown of Bangor and Kenneth E. Bailey of Camden for reappointment as members of the Inland Fisheries and Wildlife Advisory Council.  
Pursuant to Title 12, M.R.S.A. §7033-A, these nominations will require review by the Joint Standing Committee on Inland Fisheries and Wildlife and confirmation by the Senate.  
Sincerely  
S/Mark W. Lawrence  
President of the Senate  
S/G. Steven Rowe  
Speaker of the House  
Came from the Senate, **READ and REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE.**

**READ** and **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE** in concurrence.

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The Following Communication: (S.P. 1016)  
**119TH MAINE LEGISLATURE**

February 22, 2000  
Senator Susan Longley  
Representative Richard Thompson  
Chairpersons  
Joint Standing Committee on Judiciary  
119th Legislature  
Augusta, Maine 04333

Dear Senator Longley and Representative Thompson:  
Please be advised that Governor Angus S. King, Jr. has nominated Linda E. Abromson of Portland for reappointment and Warren C. Kessler of Readfield for appointment as members of the Maine Human Rights Commission.

Pursuant to Title 5, M.R.S.A. §4561, these nominations will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,  
S/Mark W. Lawrence  
President of the Senate  
S/G. Steven Rowe  
Speaker of the House

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

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

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The Following Communication: (S.P. 1018)  
**119TH MAINE LEGISLATURE**

February 24, 2000  
Senator Susan Longley  
Representative Richard Thompson  
Chairpersons  
Joint Standing Committee on Judiciary  
119th Legislature  
Augusta, Maine 04333

Dear Senator Longley and Representative Thompson:  
Please be advised that Governor Angus S. King, Jr. has made the following nominations:

Pursuant to Article V, Part 1, §8 of the Maine Constitution, the Honorable Howard H. Dana, Jr. of Portland for reappointment as Maine Supreme Judicial Court Associate Justice, and the Honorable Nancy D. Mills of Cornville for reappointment and the Honorable Ellen Gorman of Durham for appointment as Maine Superior Court Justices.

Pursuant to Title 4, M.R.S.A. §157, the Honorable Rae Ann French of Augusta as Maine District Court Judge (Resident in the Seventh District), John McElwee of Caribou as Maine District Court Judge (no resident designation) and Patricia Worth of Belfast as Maine District Court Judge (no resident designation).

Pursuant to Title 4, M.R.S.A. §157-B, the Honorable Courtland D. Perry of Augusta as Maine District Court Judge, Active Retired.

Pursuant to Title 4, M.R.S.A. §1151, Rick E. Lawrence of Portland for appointment as Maine Administrative Court Judge. These nominations will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,  
S/Mark W. Lawrence  
President of the Senate  
S/G. Steven Rowe  
Speaker of the House

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

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

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**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

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

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**UTILITIES AND ENERGY**

Bill "An Act to Amend the Charter of the Kennebunk Sewer District" (EMERGENCY)

(H.P. 1856) (L.D. 2592)

Presented by Representative MURPHY of Kennebunk.

Cosponsored by Senator LaFOUNTAIN of York.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

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**Pursuant to Public Law**

**Joint Standing Committee on Education and Cultural Affairs**

Representative BRENNAN for the **Joint Standing Committee on Education and Cultural Affairs** pursuant to Public Law 1999, chapter 424, Part A, section 11 asks leave to report that the accompanying Bill "An Act to Extend the Use of Emotional Disability as an Indicator in the Identification of Exceptional Children"

(H.P. 1858) (L.D. 2593)

Be **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

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**Pursuant to Statute**

**Department of Labor**

Representative HATCH for the **Department of Labor** pursuant to Maine Revised Statutes, Title 5, section 8072 asks leave to report that the accompanying Resolve, Regarding Legislative Review of Chapter 9: Rules Governing Administrative Civil Money Penalties for Labor Law Violations, a Major Substantive Rule of the Department of Labor (EMERGENCY)

(H.P. 1852) (L.D. 2590)

Be **REFERRED** to the Committee on **LABOR** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **LABOR** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

**ORDERS**

On motion of Representative RICHARD of Madison, the following Joint Resolution: (H.P. 1853) (Cosponsored by Senator BERUBE of Androscoggin and Representatives: ANDREWS of York, BAKER of Bangor, BELANGER of Caribou, BRENNAN of Portland, DESMOND of Mapleton, Speaker ROWE of Portland, STEDMAN of Hartland, Senator: MURRAY of Penobscot) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214)

**JOINT RESOLUTION MEMORIALIZING THE MAINE CONGRESSIONAL DELEGATION TO SUPPORT THE PRESIDENT'S SCHOOL RENOVATION AND REPAIR INITIATIVE**

WHEREAS, WE, your Memorialists, the Members of the One Hundred and Nineteenth Legislature of the State of Maine, now assembled in the Second Regular Session, most respectfully present and petition the Maine Congressional Delegation as follows:

WHEREAS, many communities across the State continue to struggle with unmet school construction needs due to growing student populations, overcrowded schools and the significant increase in the use of portable leased classrooms; and

WHEREAS, existing conditions in certain public schools create a serious inability to provide appropriate educational programs and services consistently throughout the State and constitute a threat to the health, safety and general welfare of the children of the State; and

WHEREAS, the Governor's School Facilities Commission conducted a comprehensive review to determine the true scope of local school construction needs throughout the State and identified \$200,000,000 in necessary renovations and school units have applied for a total of \$73,500,000 for health and safety repairs; and

WHEREAS, the Maine State Legislature has demonstrated a serious commitment to Maine schools by appropriating \$20,300,000 during the One Hundred and Eighteenth Legislature and \$23,400,000 during the One Hundred and Nineteenth Legislature to the revolving loan fund for renovation and repair; and

WHEREAS, President Clinton has proposed to use \$3,700,000,000 in tax credits over 5 years to help local governments issue nearly \$25,000,000,000 worth of bonds to renovate about 6,000 schools across the country, as well as \$1,300,000,000 for school renovations and repairs in high-need school districts with little or no capacity to fund urgent needs; and

WHEREAS, combining federal funds with state funds would dramatically increase the State's ability to meet our school renovation and repair goals; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request that the Maine Congressional Delegation support the President's school renovation and repair proposal; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to each Member of the Maine Congressional Delegation.

**READ and ADOPTED.**

Sent for concurrence.

**SPECIAL SENTIMENT CALENDAR**

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

**Recognizing:**

the Fourth Degree of the Knights of Columbus on the occasion of its 100th Anniversary, February 22, 2000. In 1900, in New York, one thousand Third Degree Knights took part in the first Fourth Degree exemplification and became the Knights of Columbus' first "Sir Knights." We take this opportunity to remember those Sir Knights and give thanks for their accomplishments and the heritage we now share;

(HLS 1020)

Presented by Representative USHER of Westbrook. Cosponsored by Senator MICHAUD of Penobscot, Representative GLYNN of South Portland, Representative MARTIN of Eagle Lake, Representative MADORE of Augusta, Representative O'NEAL of Limestone, Representative SIROIS of Caribou, Representative BOUFFARD of Lewiston.

On **OBJECTION** of Representative USHER of Westbrook, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

The **SPEAKER**: The Chair recognizes the Representative from Westbrook, Representative Usher.

Representative **USHER**: Mr. Speaker, Men and Women of the House. On February 22, 1900, there were over 1,100 Fourth Degree Knights of Columbus who met in New York for the first part of their organization. They contributed to many communities throughout the United States and Canada. One of the examples is they raised over \$1 million for the renovation of the Statue of Liberty. In Maine there are over 40 assemblies with more than 3,000 members. This is a true representative of Catholic men who donate their time and energy to the Catholic Church and their community. Today we congratulate them on the past 100 years and wish them well in the next.

**PASSED** and sent for concurrence.

**In Memory of:**

Madeline Norwood Stanwood, of Southwest Harbor, beloved wife, mother and grandmother. Mrs. Stanwood was the mother of our colleague, Representative Robert E. Stanwood. Mrs. Stanwood spent her whole life as a housekeeper, cook and companion to several local families. She was a lifetime member of the Rowena Rebecca Lodge, the Mt. Desert Order of Eastern Star and St. John's Episcopal Church. She was also a member of the Eugene Norwood Post American Legion Auxiliary No. 69 and a member of the Southwest Harbor/Tremont Nursing Service, Inc. She will be fondly missed by all who knew her;

(HLS 1032)

Presented by Representative PERKINS of Penobscot. Cosponsored by Representative PINKHAM of Lamoine, Senator GOLDTHWAIT of Hancock.

On **OBJECTION** of Representative MURPHY of Kennebunk, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. Today we honor the memory of the mother of Representative Stanwood. A Maine citizen who's life reflected her love of family and service to her community. Today our hearts go out to the family. I would ask that when we adjourn

today that we adjourn in the memory of Madeline Norwood Stanwood. Thank you.

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

Representative STANWOOD: Mr. Speaker, Men and Women of the House. My mother was here when we were sworn into office and I am telling you that she was very, very proud of all of us as she has been proud of all of her accomplishments of her children. On behalf of the family I want to thank this body and the people of the State of Maine for this sentiment. This is truly a culmination of a celebration of her life, which we had two Saturday's ago. Thank you very much.

**ADOPTED** and sent for concurrence.

**In Memory of:**

W. Ballard Nash, of Poland Spring, former chief of the Poland Fire Department and decorated veteran of World War II. Mr. Nash was an original member of the Poland Fire Department, became the first Emergency Medical Technician in the Town of Poland, taught EMT classes with his wife Pat for many years and was an instructor for the Maine Safety Council. Mr. Nash was a member of American Legion Post No. 150 and the Masonic Lodge in Mechanic Falls and in 1994 was awarded Citizen of the Year. Mr. Nash was also involved in other community organizations, including the Poland School Committee and the Poland Community Club and was a lifelong member of the Poland Historical Society. Mr. Nash's dedication to his family, religion and community set an example for others throughout his life and he will be greatly missed by his family and many friends;

(HLS 1035)

Presented by Representative SNOWE-MELLO of Poland. Cosponsored by Senator DOUGLASS of Androscoggin, Representative HEIDRICH of Oxford.

On **OBJECTION** of Representative SNOWE-MELLO of Poland, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

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

Representative SNOWE-MELLO: Mr. Speaker, Ladies and Gentlemen of the House. I rise today to pay special tribute to the memory of a dear man Bal Nash. When I first met Bal, I was a little bit scared of him, believe it or not. If you knew the man, you would say, come on. He was a burley fella with a very gruff voice. I was fairly timid way back when, I bet you wouldn't believe that now. When I got to know him, I realized that Bal was one of the sweetest and dearest and kindest men I have ever met. In my eyes he was truly an American hero. He would be well suited to pose in a Norman Rockwell painting. He reminds me and the family reminds me of what American families are all about. Bal is really an extraordinary person. Both Bal and Pat have been fantastic citizens because I couldn't say that word in their community, state and nation and they set a very good example for their children. Bal is the type of person that would help his neighbor at anytime whenever asked. I am very honored to have known Bal and to known the family. Thank you.

**ADOPTED** and sent for concurrence.

**REPORTS OF COMMITTEE**

Refer to the Committee on Labor Pursuant to Joint Order (S.P. 1008)

Report of the Committee on **LABOR** on Bill "An Act to Establish a Method of Determining Employer Contributions to the Unemployment Compensation Trust Fund"

(S.P. 1019) (L.D. 2588)

Reporting that it be **REFERRED** to the Committee on **LABOR** pursuant to Joint Order (S.P. 1008).

Came from the Senate with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **LABOR**.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **LABOR** in concurrence.

**Refer to the Committee on Utilities and Energy Pursuant to Joint Order (H.P. 1560)**

Representative DAVIDSON from the Committee on **UTILITIES AND ENERGY** on Bill "An Act Relating to Telemarketing"

(H.P. 1855) (L.D. 2591)

Reporting that it be **REFERRED** to the Committee on **UTILITIES AND ENERGY** pursuant to Joint Order (H.P. 1560).

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

Sent for concurrence.

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

**Divided Report**

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act to Permit Persons Out-of-state to Ship Malt Liquor and Wine to Maine Residents"

(S.P. 785) (L.D. 2200)

Signed:

Senators:

DAGGETT of Kennebec

CAREY of Kennebec

FERGUSON of Oxford

Representatives:

TUTTLE of Sanford

CHIZMAR of Lisbon

FISHER of Brewer

GAGNE of Buckfield

LABRECQUE of Gorham

HEIDRICH of Oxford

McKENNEY of Cumberland

O'BRIEN of Lewiston

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-505)** on same Bill.

Signed:

Representatives:

MAYO of Bath

PERKINS of Penobscot

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

**READ.**

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

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-495)** on Bill "An Act to Make Technical Changes in the Law Authorizing the Capital Riverfront Improvement District"

(S.P. 863) (L.D. 2261)

Signed:

Senators:

PENDLETON of Cumberland  
GOLDTHWAIT of Hancock  
DAVIS of Piscataquis

Representatives:

AHEARNE of Madawaska  
BAGLEY of Machias  
RINES of Wiscasset  
McDONOUGH of Portland  
TWOMEY of Biddeford  
BUMPS of China  
KASPRZAK of Newport  
JODREY of Bethel  
RICHARDSON of Greenville

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-496)** on same Bill.

Signed:

Representative:

GERRY of Auburn

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-495)**.

**READ.**

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

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

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

Representative **GERRY**: Mr. Speaker, Ladies and Gentlemen of the House. This bill is a very special bill. We worked it diligently in our committee. It is very good for the City of Augusta. I am trying to choose my words to not stop the project from going forth. I think that this is very vital to the City of Augusta, this quasi group. With this group it should bring revitalization to the downtown. It should bring jobs and hopefully lower the property taxes. My only concern with the bill was when it was presented to the committee, it was only to extend the boundaries of the district to just the other side of the street. What our committee had done was to remove those constrictions and to throw it onto the city planning board to let them decide on what the boundaries should be. My only concern with the development authority is the fact that they could stray from the potential theme of the capital riverfront district and potentially could engulf the whole City of Augusta.

I had talked with a very dear friend from the City of Augusta's city council and he sort of relieved most of my fears. He asked

me not to be so cynical and to have a heart and faith in the city council and the planning board. They will do the right thing and look out for the interests of the City of Augusta. Also, I would like to admonish the Augusta Delegation to keep close tabs on what this capital riverfront development district is doing so that they can relieve the fears of their constituents. I did have fears about only one member of the Augusta Delegation being on the capital riverfront development district. I would have liked to have seen all of the Augusta Delegation, both House and Senate, on there. That way it would truly look out for the interests of the people of Augusta. That was my main theme is to look out for the people of Augusta and to make sure their interests were protected. Property owners in the district would not get run over. They wouldn't be hampered in developing or renovating their building as long it conformed to the original theme.

I also had concerns about this capital riverfront development district overextending their authority by trying to plan where a potential bridge could be built or renovations of the current bridge. I had concerns about the authority changing the rotary system and that was one of my worst fears is that because the State Planning Office, Charlie Jacob, is a part of the capital riverfront development that may get preferential treatment to this quasi group over any other project within the state due to whatever federal money. I have been assured that all projects across the state will get the same treatment and they will be taken care of in the order that they are presented. I thank the House for your indulgence.

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

Representative **AHEARNE**: Mr. Speaker, Ladies and Gentlemen of the House. First of all, let's just state that there is a governing board that oversees this capital riverfront improvement district. This governing board is split between the state and city officials. If there is a request by this governing board for the expansion of the district boundaries, they will have to seek the approval from the planning board as well as the city council. I don't see the big concern in terms of if they are going to overstep their bounds. Certainly there is going to be enough adequate oversight to ensure and protect the city's interest. I have no doubt that the delegation of Augusta has been kept on tabs of what is occurring with this riverfront improvement district. I am sure the one member who is appointed to this district is informing the other members and I don't see the need to prolong this any further. I ask you to accept the Majority Ought to Pass Report.

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

Representative **O'BRIEN**: Mr. Speaker, Men and Women of the House. I hope that I can allay any fears that the good Representative, Representative Gerry, has. I am not a member of the capital river improvement district. As an Augusta Delegate, I am not the one appointed, but I am fully informed and have attended some of the meetings and there are parallel efforts underway in Augusta and we are very much involved. I assure you that I will keep my constituents informed and I will not allow any neighborhoods to be disrupted and other concerns that you will have. I am on top of it. Thank you.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-495)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, March 3, 2000.



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Majority Report of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act to Require That All Fines Collected by State Agencies Be Deposited in the General Fund"

(H.P. 346) (L.D. 462)

Signed:

Senators:

MICHAUD of Penobscot  
CATHCART of Penobscot

Representatives:

TOWNSEND of Portland  
STEVENS of Orono  
BERRY of Livermore  
MAILHOT of Lewiston  
POWERS of Rockport  
KNEELAND of Easton  
BRUNO of Raymond  
TESSIER of Fairfield

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-813) on same Bill.

Signed:

Senator:

HARRIMAN of Cumberland

Representatives:

WINSOR of Norway  
NASS of Acton

**READ.**

Representative TOWNSEND of Portland moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-816) on Bill "An Act to Amend the Installment Payment Order Capability of the Disclosure Court"

(H.P. 243) (L.D. 347)

Signed:

Senators:

LONGLEY of Waldo  
BENOIT of Franklin

Representatives:

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

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

Signed:

Senator:

TREAT of Kennebec

Representative:

NORBERT of Portland

**READ.**

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

The Bill was **READ ONCE**. **Committee Amendment "A"** (H-816) was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, March 3, 2000.

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Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-815) on Bill "An Act to Provide for a Limited Waiver of Immunity"

(H.P. 916) (L.D. 1294)

Signed:

Senators:

LONGLEY of Waldo  
TREAT of Kennebec  
BENOIT of Franklin

Representatives:

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

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

Signed:

Representatives:

PLOWMAN of Hampden  
WATERHOUSE of Bridgton

**READ.**

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

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. What this bill does is it removes the immunity from liability for volunteer drivers. I am on the Minority Report. I have a lot of problems with doing that. Right now people who volunteer to take people to the store, elderly or whatever, if they get in a car accident, they have an immunity from liability from non-profit organizations. I feel if we do this, it is going to have a chilling affect on those people who volunteer their time to do these types of services. That is my main objection to this. I have gotten numerous e-mails and calls from organizations that have volunteer drivers and they have the same concerns. I will ask you not to support the Majority Ought to Pass Report because of those points that I have mentioned. Mr. Speaker, I ask for a roll call. Thank you.

Representative WATERHOUSE of Bridgton **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 Naples, Representative Thompson.

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. This bill would change the limited immunity law in only one aspect. Currently if you are a volunteer, you are totally immune from any civil liability from your actions as a volunteer. That serves a very good purpose to encourage volunteerism to get people to take part in non-profit organizations. However, it also can result in, what I think, are unforeseen consequences. If you are an innocent third person who is injured by the actions of that volunteer and if that charitable organization, which is being volunteered for, has no insurance, then that third party suffers the injury and has no way to receive compensation for their injury. They have no way to have their medical bills paid. The only way we are making sure is saying that if you are involved as a volunteer driver, for example, and you should injure someone through your negligence and you do have insurance, then you are liable up until the limit of your insurance only. We have further limited that to say that does not include any umbrella policies that you may have. If you are driving your car, you injure someone, you happen to be a volunteer at the time you are driving your car, that person that you injured through your negligence can recover from your insurance company, your automobile insurance company, which you have already paid for. There are very few cases of this type, but if you are the injured third party who has no one to recover from, that is one too many cases.

I do not believe that in any way this will have a chilling affect on people volunteering. They cannot get at your personal assets at any way. They can only get at your insurance. I think it is a fair result for the person who is injured yet still protects the volunteers and gives that volunteer immunity from any personal liability. I would urge you to pass the Majority Report.

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

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

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

Representative **MAYO**: Mr. Speaker, Men and Women of the House. Could the good Representative from Naples enlighten me as to any relationship that this has to offices and director's liability insurance?

The **SPEAKER**: The Representative from Bath, Representative Mayo has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Naples, Representative Thompson.

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. It actually applies to director's offices or volunteers as well. Anyone who has immunity under the current statute, which is those three categories are given immunity under the current statute for personal liability. If they have automobile insurance and they are in their capacity acting as the director of that organization, then they are liable only up to their insurance. It applies to all three categories.

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

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

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

Representative **TUTTLE**: Mr. Speaker, Men and Women of the House. In looking over the bill, I will pose the question, have there been any cases recently where it would have necessitated this bill? In other words, have there been volunteer drivers that

have been involved in accidents and individuals who have no recourse after the fact?

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

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. In response to the question, we were not given any specific cases. However, what we are looking at is the issue of liability that was presented to us and the committee looked at that and felt that this was the proper way to go.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I just want to make one more point. In everything we do when we establish public policy there are certain tradeoffs. The tradeoff in this case is the possibility that somebody may be injured in the car that is being driven by a volunteer and the organization that they are driving for doesn't have insurance. We haven't heard any examples of that today. The other tradeoff is the possibility of the chilling affect for volunteers. I think people who volunteer their time are deserving of a public policy that doesn't put them at risk. 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. 440

YEA - Ahearne, Bagley, Baker, Berry RL, Bouffard, Brennan, Brooks, Bruno, Bryant, Bull, Carr, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gillis, Goodwin, Gooley, Green, Hatch, Jabar, Jacobs, Kane, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, Mailhot, Martin, Matthews, McDonough, McGlocklin, Mitchell, Murphy E, Muse, Norbert, O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Perry, Pieh, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Shields, Sirois, Skoglund, Stanley, Sullivan, Tessier, Thompson, Townsend, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Andrews, Belanger, Berry DP, Bowles, Buck, Bumps, Cameron, Campbell, Cianchette, Clough, Collins, Cross, Daigle, Davis, Foster, Gerry, Glynn, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, MacDougall, Mack, Marvin, Mayo, McAlevey, McKenney, McNeil, Mendros, Murphy T, Nass, Nutting, O'Brien JA, Pinkham, Plowman, Povich, Richardson E, Rosen, Sherman, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Tracy, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM.

ABSENT - Bolduc, Bragdon, Madore, McKee, Shorey, Stevens.

Yes, 92; No, 53; Absent, 6; Excused, 0.

92 having voted in the affirmative and 53 voted in the negative, with 6 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-815) was READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Friday, March 3, 2000.

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act to Allow Charitable Nonprofit Organizations to Conduct Limited Video Gaming"

(H.P. 1205) (L.D. 1715)

Signed:

Senators:

DAGGETT of Kennebec  
CAREY of Kennebec  
FERGUSON of Oxford

Representatives:

LABRECQUE of Gorham  
CHIZMAR of Lisbon  
PERKINS of Penobscot  
TUTTLE of Sanford  
O'BRIEN of Lewiston  
HEIDRICH of Oxford  
McKENNEY of Cumberland  
GAGNE of Buckfield  
FISHER of Brewer

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

Signed:

Representative:

MAYO of Bath

**READ.**

On motion of Representative TUTTLE of Sanford, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act to Modify the Campaign Finance Laws with Regard to Running for Federal Office"

(H.P. 1508) (L.D. 2153)

Signed:

Senators:

CAREY of Kennebec  
FERGUSON of Oxford

Representatives:

TUTTLE of Sanford  
CHIZMAR of Lisbon  
FISHER of Brewer  
GAGNE of Buckfield  
PERKINS of Penobscot  
HEIDRICH of Oxford  
McKENNEY of Cumberland  
O'BRIEN of Lewiston  
LABRECQUE of Gorham

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-811) on same Bill.

Signed:

Senator:

DAGGETT of Kennebec

Representative:

MAYO of Bath

**READ.**

On motion of Representative TUTTLE of Sanford, the Bill and all accompanying papers were **COMMITTED** to the Committee

on **LEGAL AND VETERANS AFFAIRS** and sent for concurrence.

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Majority Report of the Committee on **TRANSPORTATION** reporting **Ought to Pass** on Bill "An Act to Clarify Repair and Inspection Standards for Punctured Tires"

(H.P. 1732) (L.D. 2438)

Signed:

Senators:

CASSIDY of Washington  
PARADIS of Aroostook

Representatives:

FISHER of Brewer  
COLLINS of Wells  
SANBORN of Alton  
CAMERON of Rumford  
WHEELER of Eliot  
BOUFFARD of Lewiston  
SAVAGE of Union  
WHEELER of Bridgewater

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

Signed:

Senator:

O'GARA of Cumberland

Representatives:

LINDAHL of Northport  
JABAR of Waterville

**READ.**

Representative JABAR of Waterville moved that the House **ACCEPT** the Minority **Ought Not to Pass** Report.

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

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## CONSENT CALENDAR

### First Day

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

(S.P. 880) (L.D. 2295) Bill "An Act to Clarify Granting Authority Under the Agricultural Development Grant Program" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass**

(S.P. 891) (L.D. 2310) Bill "An Act to Change the Name in the Statutes of a Native American Organization Able to Issue Hunting and Fishing Licenses" (EMERGENCY) Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass**

(S.P. 925) (L.D. 2376) Bill "An Act to Change the Name of the Natural Resources Information and Mapping Center to More Accurately Reflect its Roles and Duties and to Correct Inconsistent Statutes" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass**

(S.P. 742) (L.D. 2101) Bill "An Act to Enhance the Maine State College Savings Program" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A"** (S-501)

(S.P. 932) (L.D. 2382) Bill "An Act to Require Expenditure of Designated Funds for the Purpose for which the Legislature Designated the Funds" Committee on **STATE AND LOCAL**

**GOVERNMENT reporting Ought to Pass as Amended by Committee Amendment "A" (S-497)**

(H.P. 1637) (L.D. 2288) Bill "An Act to Eliminate Regulation of Public Heating Utilities" Committee on **UTILITIES AND ENERGY reporting Ought to Pass**

(H.P. 1638) (L.D. 2289) Bill "An Act to Provide Standard-offer Service to Certain Customers" (EMERGENCY) Committee on **UTILITIES AND ENERGY reporting Ought to Pass**

(H.P. 1722) (L.D. 2428) Bill "An Act to Make Certain Public Utility Commission Rules Routine Technical Rules" Committee on **UTILITIES AND ENERGY reporting Ought to Pass**

(H.P. 1676) (L.D. 2342) Bill "An Act to Add Emergency Medical Services to the Municipal Fire Department Authority" Committee on **STATE AND LOCAL GOVERNMENT reporting Ought to Pass as Amended by Committee Amendment "A" (H-822)**

(H.P. 1716) (L.D. 2422) RESOLUTION, Proposing an Amendment to the Constitution of Maine to Allow the Legislature to Provide for Assessment of Property Used for Commercial Fishing at Current Use Committee on **TAXATION reporting Ought to Pass as Amended by Committee Amendment "A" (H-820)**

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

**CONSENT CALENDAR  
Second Day**

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

(S.P. 873) (L.D. 2281) Bill "An Act to Grant Municipalities Greater Flexibility in their Arrangements for Tax Base Sharing Agreements"

(S.P. 930) (L.D. 2380) Bill "An Act to Implement Recommendations of the Commission on Performance Budgeting"

(S.P. 941) (L.D. 2391) Bill "An Act to Simplify the Approval Process of Existing State Tax Increment Financing Districts"

(S.P. 865) (L.D. 2263) Bill "An Act to Amend the State's Fair Debt Collection Practices Laws and to Provide for Nonprofit Debt Management Services" (C. "A" S-493)

(S.P. 867) (L.D. 2277) Bill "An Act to Conform the Maine Tax Laws for 1999 with the United States Internal Revenue Code" (EMERGENCY) (C. "A" S-490)

(S.P. 870) (L.D. 2280) Resolve, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Real Estate in the Unorganized Territory (C. "A" S-494)

(H.P. 1678) (L.D. 2344) Bill "An Act to Repeal the Nondiscrimination in Pharmaceuticals Pricing Law"

(H.P. 90) (L.D. 103) Bill "An Act to Implement the Recommendations of the Commission to Study Poverty Among Working Parents with Regard to State Earned Income Credit" (C. "B" H-812)

(H.P. 1147) (L.D. 1644) Bill "An Act to Clarify Laws Governing Simulcasting" (EMERGENCY) (C. "A" H-807)

(H.P. 1633) (L.D. 2285) Bill "An Act to Amend Maine's Probate Code" (C. "A" H-817)

(H.P. 1684) (L.D. 2351) Bill "An Act Concerning the Possession of Marine Organisms by Aquaculturists Outside of the Harvest Season" (C. "A" H-809)

(H.P. 1700) (L.D. 2406) Bill "An Act to Clarify the Prosecution of Aggravated Operating Under the Influence" (C. "A" H-810)

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

(H.P. 1664) (L.D. 2333) Bill "An Act to Clarify the Laws Relating to Corporate and Other Entities" (C. "A" H-818)

On motion of Representative CAMERON of Rumford, was **REMOVED** from the Second Day Consent Calendar.

The Committee Report was **READ** and **ACCEPTED**. The Bill was **READ ONCE**. **Committee Amendment "A" (H-818)** was **READ** by the Clerk.

The same Representative presented **House Amendment "A" (H-826)** to **Committee Amendment "A" (H-818)** which was **READ** by the Clerk and **ADOPTED**.

**Committee Amendment "A" (H-818)** as Amended by **House Amendment "A" (H-826)** thereto was **ADOPTED**.

The Bill was assigned for **SECOND READING** Friday, March 3, 2000.

**BILLS IN THE SECOND READING  
Senate As Amended**

Bill "An Act to Amend the Motor Vehicle Laws"

(S.P. 893) (L.D. 2312)

(H. "A" H-814 to C. "A" S-485)

**House**

Bill "An Act to Establish a Commemorative Day Recognizing Major-General Henry Knox" (EMERGENCY)

(H.P. 1787) (L.D. 2507)

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

**ENACTORS  
Acts**

An Act Concerning State Government Competition with Private Enterprise

(S.P. 179) (L.D. 533)

(C. "A" S-478)

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

On motion of Representative SAXL of Portland, was **SET ASIDE**.

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

An Act to Implement the Recommendations of the Joint Standing Committee on Utilities and Energy Arising from its State Government Evaluation Act Review of the Public Utilities Commission

(H.P. 1820) (L.D. 2554)

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

On motion of Representative SAXL of Portland, was **SET ASIDE**.

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

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

**COMMUNICATIONS**

The Following Communication: (H.P. 1859)

**STATE OF MAINE  
OFFICE OF THE SECRETARY OF STATE  
AUGUSTA, MAINE 04333**

February 28, 2000  
Honorable Joseph Mayo  
Clerk of the House  
2 State House Station  
Augusta, ME 04333

Dear Clerk Mayo:  
Enclosed please find my official certification to the 119th Legislature of the citizen initiative petition entitled, "An Act Regarding Forest Practices."  
Sincerely,  
S/Dan A. Gwadosky  
Secretary of State

State of Maine  
Department of State

I, **Dan A. Gwadosky, Secretary of State**, hereby certify that written petitions bearing signatures of 43,745 electors of this State were addressed to the Legislature of the State of Maine and were filed in the Office of the Secretary of State on January 31, 2000, requesting that the Legislature consider an act entitled, "An Act Regarding Forest Practices."

I further certify that the number of signatures submitted is in excess of ten percent of the total vote cast in the last gubernatorial election preceding the filing of such petitions, as required by Article IV, Part Third, Section 18 of the Constitution of Maine, that number being 42,101.

I further certify this initiative petition to be valid and attach herewith the text of the legislation circulated on the petition's behalf.

In testimony whereof, I have caused the Great Seal of the State of Maine to be hereunto affixed. Given under my hand at Augusta on the twenty-eighth day of February in the year two thousand.

S/DAN A.  
GWADOSKY  
Secretary of State

REFERRED and with accompanying papers **ORDERED PLACED ON FILE**.

Sent for concurrence.

The accompanying Bill "An Act Regarding Forest Practices" (I.B. 5) (L.D. 2594)

On motion of Representative SAXL of Portland, the accompanying Bill "An Act Regarding Forest Practices" (I.B. 5) (L.D. 2594) was **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**, ordered printed 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:

**ORDERS**

On motion of Representative MATTHEWS of Winslow, the following Joint Resolution: (H.P. 1854) (Cosponsored by Senator MICHAUD of Penobscot and Representatives: AHEARNE of Madawaska, BRYANT of Dixfield, DUNLAP of Old Town, GOODWIN of Pembroke, SAMSON of Jay, SHIAH of Bowdoinham, STANLEY of Medway, VOLENIK of Brooklin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214)

**JOINT RESOLUTION MEMORIALIZING THE PRESIDENT AND CONGRESS OF THE UNITED STATES TO OPPOSE THE ENTRY OF CHINA INTO THE WORLD TRADE ORGANIZATION AND TO DENY CHINA PERMANENT NORMAL TRADE RELATIONS STATUS**

WE, your Memorialists, the Members of the One Hundred and Nineteenth Legislature of the State of Maine now assembled in the Second Regular Session, most respectfully present and petition the President and Congress of the United States as follows:

WHEREAS, the nation of China has taken steps to become a member of the World Trade Organization; and

WHEREAS, membership in the World Trade Organization would give China recognition and status as an equal, legitimate partner with other countries in world trade; and

WHEREAS, China has an abysmal record of human rights, imprisoning those who attempt to engage in legitimate political opposition and oppressing those whose religious or political beliefs differ from those of the regime; and

WHEREAS, China ignores the rights of its workers and intimidates and imprisons those who seek to improve labor conditions in the country; and

WHEREAS, China's neighbors consider it a military threat; and

WHEREAS, the World Trade Organization, through its promotion of global markets, promotes multinational corporations that exploit child labor and sponsor sweatshops and poor working conditions; and

WHEREAS, the World Trade Organization has not shown itself to be a champion of reform in member countries; and

WHEREAS, membership in the World Trade Organization would increase import of cheap textiles, made inexpensive by the low pay and poor working conditions of Chinese laborers; and

WHEREAS, these cheap textile imports would unfairly compete with and would harm Maine's shirt, textile and manufacturing industries; now, therefore, be it

**RESOLVED**: That We, your Memorialists, respectfully request that the members of the Congress of the United States vote against any proposal to grant permanent normal trade relations status to China, which is a precursor to the granting of World Trade Organization membership, and take whatever other action is in their power to deny membership in the World Trade Organization to the nation of China; and be it further

**RESOLVED:** That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States; to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States; and to each member of the Maine Congressional Delegation.

**READ.**

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

Representative **MATTHEWS:** Mr. Speaker, Men and Women of the House. I am presenting a Joint Order today on China's admission to the World Trade Organization and granting them most favored nation status and asking them to join me today in opposition to this move of the Congress. This resolution and I would urge all of you to read it if you have a moment. I think it says it all very well. I have additionally put on your desks a couple of reports that I think are very well done in illustrating the concerns that many of us in this country and America have with China. I don't understand why we treat China any differently than we treat Cuba or other nations that are persona non grata. China today is in admission of our own State Department, I heard this just the other day, in 1999, China's human rights record and its record with respect to labor organizing, religious intolerance, was the worst of any nation in the world along with Cuba. We have an opportunity today in the State of Maine and in this Legislature to voice the concerns that we have with rewarding behavior, which, we, as a member of the world and those countries that practice democracy and free speech abhor. Why would we want to grant China a special significance for doing exactly what, we, as Americans, find to be wrong.

I hope you will support my resolution today. It is China that practices forced abortion. It is China that discriminates against those who wish to form labor organizations. It is China that tramples human rights and the rights of women. It is China that threatens its nation and its neighbors with missile launches seven miles from the border of Taiwan. It is China that practices sweatshop labor. It floods our markets unfairly. All the kinds of things that we should castigate China, stand up to China and say there is a better way. We still have not seen China atone for the Tiananmen Square massacre. We have not seen China atone for the millions of political prisoners and deaths done by that régime. No, ladies and gentlemen, we haven't. It is interesting. I know we are one state and this is one resolution and we are asking our Congress to look at this issue closely. As we sit in this body today as a member of the United States, a Legislature that participates in the governance of this nation as we created it. We have every right to ask our Congress and our President when there is a policy issue that affects us in this state and nation. We have any reason and ability to rein in our opinion. This is what this issue does. As a member of the Labor Committee and working hard with my chair, Representative Hatch, who has done an outstanding job on behalf of workers, we oppose this kind of policy that China does each and every day. We believe in freedom of religion and freedom of association, the Constitution, the very things that China does not espouse. I ask you to join me Democrats and Republicans in this chamber so we can speak loudly. We are to stand up for Maine workers, American workers, the rights of the individual, the Constitution, democracy today and tell China, No. You haven't done the job. Thank you Mr. Speaker.

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

Representative **BROOKS:** Mr. Speaker, Ladies and Gentlemen of the House. I guess I have to start off by saying that usual introduction to very brief speeches, I had not intended to speak on this. However, I do have some concerns about passing a resolve like this. One of the concerns that I have is that I haven't, frankly, had an opportunity to study this in very much detail. In addition to that, I am not sure resolves like this do a whole lot of good when they get to Congress. We voted on one here a week or so ago and some of the complaints and testimony were that not much will be done. Unless you hand deliver it to a Congressman it may not ever be known.

A year ago last fall I visited China. I spent about 21 days there. Understand please that I am not attempting here to imply that a visit to China for 21 days makes me an expert or makes me anything at all to the Chinese people other than a very brief visit by a tourist. I do have some concerns about not passing or not giving the opportunity to involve themselves in world trade. We spent many hours in the northern province listening to people talking about attempting to make joint partnerships with countries all over the world. We were met by various levels of government. There were times, I will admit, that I was very suspicious of that black car with the darkened windows that followed me who had been identified as not just a legislator, but as a reporter. I wondered whether or not some of the pictures I took and some of the stories that I wrote, which came back here and were published in the daily newspapers in the state carried in a couple of instances by the weeklies in this state. I wondered if I wasn't going to be censored, but nothing like that happened. I was asked for transcripts of my reporting, which I refused to give to them until the day I left their province. We visited Tiananmen Square. I will grant to you that nearly all of the people that we talked to were very reluctant to talk about Tiananmen Square and what happened there.

I also agree with the good Representative that presented this resolution that there are some serious issues about "forced abortions" and the regulation to have one child in the larger cities and two in the suburbs. I will also grant to him that there are some very serious concerns that I share with him about worker's rights and unions and some very serious concerns about oppression, which we have not only heard about, but I think in some instances observed. How is a third-world country going to emerge unless we give them the opportunity to do so? This may not be a very popular position that I am taking, but I am concerned about a resolve that goes out and attempts to reflect the total sentiment of this body. I am wondering if there isn't some way that we can perhaps soften it and not let Congress know, if in fact anyone in Washington pays attention to this, that this is not a unanimous resolution. I will agree with some of the concerns and the cautions. Efforts have been made to make changes. When we were there we saw some of those changes. Again, how can an impoverished nation that has suffered under oppression for as many years as it has break into the new millennium and become part of the rest of the world if we continue to sanction them.

When we were in China we witnessed a variety of events taking place. We went to numbers of schools where kids were learning to use computers. They were learning the arts. Believe me, some of them were far ahead of some of our students. They will be a force to attend with. I hope never militarily, but if they are, certainly I will be the first to stand up here and question even the words that I am using this morning. I am wondering whether or not this proposal is an appropriate one. It may go

with a whole lot more votes than I can carry, but I am afraid I am going to have to oppose it this morning. Thank you Mr. Speaker.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House. Speaking as the Representative from Kennebunk this morning, I think we have seen over the last decade or two that trade can bring about increased levels of prosperity and quality of life we have seen in many countries or dictatorships where it has brought the fresh air of democracy. That has happened when there has been a level playing field when there has been fair trade rather than unfair trade. Our largest trade deficit is with China. It is no longer Japan. It is almost a one-way street of Chinese goods coming to America. When American food crops, natural resources, manufactured products attempt to enter China, they hit a bamboo wall. The door is closed to American Trade. As we have heard already, we have given unfair trade advantage to a country that rattles nuclear missiles against its neighbors and does not open up the doors of democracy for their people. What is influencing my vote today and I will be supporting the good Representative Matthews and his resolution is there is a face to this unfair trade. There is a face to this bamboo wall and advantage is given to China when their goods flood this country. That price is thousands of Mainers who have lost their jobs in the textile, electronics and footwear. For that reason today, I think we need to send a message that if we are going to have trade with China, it should be fair trade. It should be a level playing field. Thank you.

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

Representative LABRECQUE: Mr. Speaker, Ladies and Gentlemen of the House. I rise not necessarily against the issue of recognizing China, but more as if you look at this particular document, the whereas also criticize the World Trade Organization. I have a problem with that. I have a problem with the wording of those whereas. Thank you.

The Chair ordered a division on **ADOPTION**.

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

Representative VOLENIK: Mr. Speaker, Men and Women of the House. Let's look at China and Cuba, both have communist governments. For 40 years we have isolated Cuba, we have kept medicine, medical equipment and food from the Cuban people. China, arguably far more deficient in the area of human rights, is now our good friend. Our government gives China most favorable trade status. Our government supports China's entry into the World Trade Organization. Why the difference? Multi-national corporations have been granted only limited entry into Cuba. China has opened its doors to multi-national corporations who are adept at campaign financing and influencing the federal government's policies. Our policy, as always, is based on money and profits. Thank you.

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

A vote of the House was taken. 90 voted in favor of the same and 24 against, and accordingly the Joint Resolution was **ADOPTED**.

Sent for concurrence.

On motion of Representative SAXL of Bangor, the following Joint Order: (H.P. 1857) (Cosponsored by Senator ABROMSON of Cumberland and Representatives: DUDLEY of Portland, GLYNN of South Portland, JONES of Pittsfield, MAYO of Bath, NUTTING of Oakland, O'NEIL of Saco, PERRY of Bangor, SULLIVAN of Biddeford)

ORDERED, the Senate concurring, that the Joint Select Committee to Study the Creation of a Public/Private Purchasing Alliance to Ensure Access to Health Care for all Maine Citizens is established as follows.

**1. Joint select committee established.** The Joint Select Committee to Study the Creation of a Public/Private Purchasing Alliance to Ensure Access to Health Care for All Maine Citizens, referred to in this order as the "committee," is established.

**2. Membership.** The committee consists of the following 13 members:

A. Three members of the Senate, appointed by the President of the Senate, each of whom serves on the Joint Standing Committee on Banking and Insurance; and

B. Ten members of the House of Representatives, appointed by the Speaker of the House, each of whom serves on the Joint Standing Committee on Banking and Insurance.

**3. Chairs.** The Senate and House chairs of the Joint Standing Committee on Banking and Insurance are the chairs of the committee.

**4. Appointments; convening of committee.** All appointments must be made no later than 30 days following passage of this order. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been made. When the appointment of all members is complete, the chairs shall call the first meeting of the committee no later than May 15, 2000.

**5. Duties.** The committee shall:

A. Examine the public policy, regulatory and legislative issues related to the creation of a public/private purchasing alliance, including, but not limited to:

(1) The priorities and objectives of a purchasing alliance;

(2) The critical mass needed for an alliance to be effective and the possible public entities that could be included in an alliance;

(3) The ability of private payers such as individuals, small employers and large employers to join an alliance;

(4) The use of community rating, separate risk pools or other risk adjustment mechanisms in an alliance;

(5) The governance and administrative structure of an alliance; and

(6) The benefit structure and choice of health plans that should be offered through an alliance;

B. Review the experience of other states or entities that have established purchasing alliances;

C. Recommend a model and strategies for the establishment of purchasing alliances in this State; and

D. Invite the participation of experts and interested parties, including the Department of Professional



and Financial Regulation, Bureau of Insurance; Department of Human Services, Bureau of Medical Services; the State Employee Health Commission; the Maine Health Management Coalition; and the University of Southern Maine, Edmund S. Muskie School of Public Service.

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

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

**8. Meetings.** The committee shall hold 6 meetings, but if the committee requires additional meetings, it may apply to the Legislative Council, which may approve additional meetings.

**9. Report.** The committee shall submit a report along with any recommended legislation to the Legislature by December 1, 2000. If the committee requires an extension of time to make its report, it may apply to the Legislative Council, which may grant the extension.

**10. Committee budget.** The chairs of the committee, with assistance from the committee staff, shall administer the committee's budget. Within 10 days after its first meeting, the committee shall present a work plan and proposed budget to the Legislative Council for its approval. The committee may not incur expenses that would result in the committee exceeding its approved budget. Upon request from the committee, the Executive Director of the Legislative Council or the executive director's designee shall provide the committee chairs and staff with a status report on the committee budget, expenditures incurred and paid and available funds.

**READ and PASSED.**  
Sent for concurrence.

**SPECIAL SENTIMENT CALENDAR**

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

**Recognizing:**

the University of Maine Cooperative Extension 4-H program. The program provides a wide variety of learning experiences for over 30,000 Maine youth ages 5 through 19. The program helps them build character, leadership, responsibility, respect and other essential life skills. We extend our appreciation to workers of the program for all their efforts in helping the youth of Maine;

(SLS 427)

On **OBJECTION** of Representative DUNLAP of Old Town, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

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

Representative **DUNLAP:** Mr. Speaker, Men and Women of the House. We, in this body and along with the other body in our committees often deliberate on a lot of new ways to reach youth in the State of Maine. We also talk about different programs for helping the rural economy and the rural culture in the State of Maine. I think sometimes we forget that we have one of the oldest and grandest programs in the country right here under our nose and that is the Cooperative Extension 4-H Program. It has reached people in every county and in every town in this state for

many, many decades. As it says in the Sentiment, over 30,000 Maine youth today are affected by it and participate in it. It is a tremendous character building program and I really wanted to speak on this today and embrace an opportunity to applaud the people that make it all happen. I am very pleased that we have in the gallery today some of the key people that are in charge of making this happen for the youth of Maine. I think that when we talk about helping the youth we should really turn to the real experts. Those are the people in 4-H, the people that make it work in the rural communities. Thank you very much Mr. Speaker.

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

Representative **PIEH:** Mr. Speaker, Men and Women of the House. As a member of the Board of Agriculture that serves with the University of Maine and with the Cooperative Extension and working with them to work together in terms of how they can help the extension become more and more effective and get the kind of acknowledgement and recognition that it observes. I have been really pleased with the growth that is happening and I think the university is realizing that through the Cooperative Extension every single Mainer is a student and has the opportunity to take advantage of all the different branches that they have and the services that they offer that involved all kinds of agricultural, natural resources, environmental and all kinds of educational, parenting and those kinds of needs that are there. I accolade them and accolade the dean for acknowledging the extension and its tremendous importance. I do hope you will take a chance to go down to the Hall of Flags and see their displays. Thank you.

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

Representative **CHICK:** Mr. Speaker, Ladies and Gentlemen of the House. I will not try to match some of the previous eloquence in describing this program. I will rise to mention to you some of the facts that the Maine fairs in great part are supported for demonstration for the fairgoers by this organization. I have been acquainted with many of the extension workers over the years, many retired now, that have taken part. I would encourage all of you folks when you attend the Maine fairs that you would look for the programs that come under this jurisdiction. There are many and they are varied. You might have to go to all areas of a particular fairground in order to see them. I can't say enough for the program and its development of character in our Maine youth. Thank you.

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

Representative **CAMERON:** Mr. Speaker, Ladies and Gentlemen of the House. A couple of nights ago I was watching television, a newly popular show, Who Wants to Be a Millionaire? One of the initial questions was what organization started in this country to teach youth about agriculture? Obviously the answer was the 4-H. I mention that because my wife and I have been 4-H leaders for two and a half or three decades now. All of our children grew up in 4-H and had many, many projects. One of the things that I always chuckled about when we first started in agriculture having been involved in agriculture my whole life, when were starting in 4-H, one of the things that the extension group in Oxford County always talked about was that 4-H ain't all cows and cookin', which is what the image of 4-H used to be. 4-H now has expanded into literally hundreds of different programs from rocket science to cooking to



sewing to the internet. There is no limit to the number of opportunities. I guess you are only limited by your imagination and what your children can do in 4-H. I just want to lend my support to this effort here today. It is a wonderful organization. I just wish that more and more children had the opportunity. The opportunity depends on volunteers and the volunteer to be the leaders and develop the program that works for your communities. Whoever brought this forward today, I want to thank the folks in the extension and all of the leaders around the state. Thank you.

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

Representative **SAVAGE**: Mr. Speaker, Ladies and Gentlemen of the House. For the last two years I have been on the evaluation team to evaluate fairs in the state for the Department of Agriculture. I am always impressed by the 4-H exhibits. Some fairs are greater than others, but like Representative Cameron said, it is not just cooking, sewing and animals anymore. They are so extensive and I am always amazed.

I have to tell you about one little fair that I went to and it is a small fair. These exhibits overflowed a building and into the second building. When I was talking to one of the members of that association, I said that I am just so impressed with what you do over here in Oxford County with 4-H. I said I don't know who is responsible for all this, but they should be praised for what they are doing. He said that my mother has a great part in that. She is only 92 and she has always been involved in 4-H. In fact, she is going to be going shortly down to eastern states to accompany those 4-H members that are going to eastern states. That is at 92. She is still volunteering. We do really have to praise those people that spend the hours that they spend volunteering with these kids. It makes a better state to live in. Thank you.

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

Representative **JACOBS**: Mr. Speaker, Ladies and Gentlemen of the House. I would just like to extend my appreciation to all of the people that have made 4-H possible because I was in 4-H myself. A lot of the things that I learned have helped me since then and that 92 year old woman that was mentioned was my 4-H leader. I just want to say what a fine thing 4-H is for boys and girls for the State of Maine. You are right. It is not just cows and vegetables or sewing. It goes beyond that to working with others and being honest. I don't know if they still have the same meaning for head, heart, hands and health or not. That is what it used to be. It covers the whole thing. Thank you.

**PASSED** in concurrence.

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

**HOUSE DIVIDED REPORT - Majority (10) Ought Not to Pass - Minority (3) Ought to Pass as Amended by Committee Amendment "A" (H-813) - Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Require That All Fines Collected by State Agencies Be Deposited in the General Fund"**

(H.P. 346) (L.D. 462)

Which was **TABLED** by Representative TOWNSEND of Portland pending her motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **TOWNSEND**: Mr. Speaker, Men and Women of the House. I would like to give you background on this bill. As originally brought to our committee by Representative Joy it was intended to require that all fines collected across state government be deposited into the General Fund. That initial piece of legislation was unconstitutional on a couple of grounds. We carried it over to this session and it was the feeling of the majority of the committee that its value was not worth the risk. The bill, as amended, in the Minority Report applies only to three funds in the Department of Environmental Protection, three very important funds. They are the Maine Coastal and Inland Surface Oil Cleanup Fund, the Maine Hazardous Waste Fund and the Groundwater Oil Cleanup Fund. Each derives its funding from a variety of sources including fines imposed on those parties who cause spills. One of the flaws of the Minority Report, in my view, is that it takes affect July 1, 2001, so that you are being asked today to take a leap of faith. If you remove this source of revenue from these three very important environmentally protecting funds, the revenue will be there in the future replaced from the General Fund. That may happen and it may not. I won't be here to ensure that it does. I am not comfortable with the level of risk involved.

Some situations which have drawn on these funds include the situation in Gorham where a number of households found that their wells were polluted with a variety of very scary toxins, which had come from a local car repair shop. I would just suggest to you that if that sort of situation took place in your districts, you would want as many resources available as possible to address the very real public health impasse to your constituents. Furthermore, I think you will hear from the other side that the concern here is one of perception. Perhaps the Department of Environmental Protection is pushed to impose fines in order to derive income. It is referred to sometimes as the Georgia Cop Syndrome. The majority of us found that that perception did not outweigh the very real risk to Maine citizens. Thank you.

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

Representative **MARTIN**: Mr. Speaker, Members of the House. I note that the original bill deals with all agencies. I note that Committee Amendment "A", which is now part of the pending motion now changes that and attempts to limit the original intent of the bill. I would therefore question the germaneness of Committee Amendment "A" to the LD.

The SPEAKER: The Chair would rule that the request is premature because the Committee Amendment "A" is not yet before the body. The Representative would be free to make his request at a later date.

The Chair recognizes the Representative from Norway, Representative Winsor.

Representative **WINSOR**: Mr. Speaker, Men and Women of the House. I am standing today to ask you to reject the current motion before us to allow us to go on and debate and pass the Minority Report. The consequences of supporting the current motion is to simply maintain the status quo. From my view, the status quo forces, in this case, the DEP to budget the collections of an uncertain amount of money or fine revenue that goes up

and down in a non-predictable way. I think this is not the best way to budget for these non-important programs. I do not think I should plan on people doing wrong as a way to budget for and plan a program. For example, in one fund the DEP budgets about \$500,000 a year in fine revenue. While over the past six fiscal years, they have never achieved that amount of fine revenue. The income in this account actually from fines has varied over the last six years from a high of \$483,000 to a low of \$24,000 on an annual basis. The result of this, of course, is the department must either curtail necessary duties or play games with their accounts. Neither, in my view, is good or prudent management practice. I would like to believe that department should budget for its needs. It should get the money necessary from the General Fund if its dedicated revenues are not sufficient to maintain its programs. If you wish to maintain the current system, a system which guarantees the department an unsteady, unpredictable revenue source, then you should support the current motion. However, if you believe as I do that there is a better and more reasonable and responsible way for us to budget for these very important functions, then you would defeat the present motion and allow us to go on and discuss the alternative proposal.

I will say the reason that the Minority Report, to just briefly deviate a little bit from what the House Chair has said, the reason we put the implementation onto the next budget cycle was precisely to allow the department to come forth for the regional budget proposal in their normal operating way that they budget. I really don't see any reason why this should be feared. I think that every department is expected to estimate their needs over the upcoming biennium and present to this Legislature those needs. We debate them. We look at them and then we do what I think is right and proper. I don't see any reason why we would not do that with these particular funds and duties. Thank you Mr. Speaker.

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

Representative MARTIN: Mr. Speaker, Members of the House. Let me try to deal with this in a somewhat different fashion perhaps. When you look at the original bill, it dealt with all fines. The original bill specifically dealt with my concern, for example, has always been with the Department of Inland Fisheries and Wildlife. It survives on the very existence of those fines and the amount of fines. The more that can collect, the more that can be allocated by the committee that allocates the dollars. What we are now doing with this amendment to the present bill is to specifically deal with three funds. The others are now excluded from the discussion. I have greater support for the original bill than to simply attempt to attack three funds in one particular department and especially one in particular, which concerns me. That is the Maine Hazardous Waste Fund or for the Groundwater Oil Cleanup fund, the two of them that are included. What that means, in effect, is the potential that the next Legislature and I have heard some people around this place and I have never been too excited about the gap, but we are creating a \$1.5 million gap, structural gap, as I understand some people like to refer to it as. The next Legislature will have to deal with it.

For those of you who vote for the present structure of the bill as amended by Committee Amendment "A", you are creating a structural gap. Let's make that clear. Let's not try to slide under the table what is okay for this one. What we are doing is saying that whatever we choose to do in cleaning up, we are going to

have to structurally put that into our budget next time. That is what we are doing. It is one thing if what we are doing was doing it to everyone, that would be one thing. Now we are narrowing it to three. One of them, in particular, to me of what would happen if the Legislature in its infinite wisdom, which from time to time doesn't have any, chooses not to fund the cleanup water fund and we had what happened in Portland a couple of years ago, we would have to call a Special Session of the Legislature and imagine how much time that would take. In the meantime, you can't clean up because you haven't got the funds and you haven't gotten any emergency ability now to get to that. That is the problem. I love the intent of the bill, the original bill. It has merit, but not what we are doing right now with what comes out of the minority from the Appropriations Committee. Unfortunately as much as I like the intent, I am going to have to vote with the majority of the Appropriations Committee and vote for the Ought Not to Pass.

The SPEAKER: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House. I put this bill in at a request because when it was first suggested to me, I agreed with the presenter that the Legislature should never create any agency that it doesn't intend to fully fund. To create an agency that has to have its existence based upon fines gives a terrible impression out there to the public. The Appropriations Committee very generously carried this over because they did see a lot of merit in this bill. The extent of it was so broad that they knew they didn't have the time to deal with it in this session and to move it out ahead so that they could really work all of the problems out of the original bill. I appreciate the support of the good Representative from Eagle Lake and the intent. The reason it was changed is because somewhere the Legislature has to make a start and being on the Natural Resources Committee and being involved in listening to all of the bills that come in dealing with these various funds, it seemed like a logical place to start. The DEP in their testimony in opposition to this, actually gave testimony, which was very contradictory. Actually the setup that this would allow under the jurisdiction of the Legislature where they would go to the Appropriations Committee and justify their budget. I think this, in the long run, would be much more beneficial for them. I hope that you will overturn the pending motion and move on to pass the amended version. Thank you.

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

Representative DAIGLE: Mr. Speaker, Ladies and Gentlemen of the House. I believe I can provide some more information to this body on this matter. What we are talking about here, which has been correctly stated is those three funds and I won't repeat those. What they are all connected to is a single bureau within the Department of Environmental Protection. It is called the Bureau of Remediation and Waste Management. There are approximately 200 state employees in this particular bureau. They receive their funds in basically three different ways. First, there are fees on oil. That is the groundwater fund that was mentioned. Yes, if you have a violation under that program, those fees are added to the fund. Believe me, you pay a great deal more. There is a fee set on all bulk petroleum deliveries to this state to maintain a running balance. Right now it is approximately \$8 million in this fund. It is used for all oil cleanup like the one that was referenced in the Town of Gorham. Should this fund ever be depleted below \$3 million, in this statute

there is an automatic increase in the fees placed on petroleum to replenish this fund and the entire affair is managed by what is called the Fund Insurance Review Board or affectionately known as FIRB. Please do not be concerned that if anything is done with these fees that they will be any shortage of money in the groundwater fund. There is plenty of money. There is approximately \$16 million per year flow into it automatically regardless of fines. The mechanism is there to increase that amount should there ever be a need such as an incident in Portland or anywhere else in the state.

The second source of funding for this bureau is under federal grants. That is typically the Ricker Program. Of course federal money grants give you money. There are strings attached. You are expected to be obeying the federal programs and answering to the people in the EPA Region I in Boston that approve these grants year by year. Obviously that allegiance, perhaps, may be part of some of the problems. Lastly, there are these fines. Understand, this bureau receives essentially no money from the General Fund. They have taken amounts for computers and some equipment, but essentially no money through a funded 200 staff positions. They do not answer to this Legislature. That is one of the reasons why I personally will be supporting this bill. There is a problem with that. They never come before this body and ask for funding like every other state agency does. Even the bureau director, the bureau director, is not paid for by general funds. He is paid for by fees on petroleum also. When the Legislature says this is our policy and this is what I would like you to accomplish, the bureau will decide if they feel like it. If they don't adhere to policy, what are the repercussions? Frankly, if the Executive Branch supports their position, there are no repercussions. You can't do anything about it. They can't come to Appropriations like every other state department does and says, can I have some money for next year? We get a chance to say, wait a second, how well have you listened to us? That is a major factor. That is a major problem with the department right now. They are very uncomfortable with this and why wouldn't they be? It involves change. It is very comfortable. For years they have gotten assured funds through fines, grants and fees. If they have to come to the Legislature, they don't know what it is going to be like. Everybody else gets used to it, but I think there concern is a motivation for us to see this amendment "A" pass, which would mean defeating the current motion.

As far as the issue of future funding, I can't think anybody here in this current body or any future body would intend for this organization not to receive the proper resources. In fact, I believe if this bill would have passed, it would be greater benefits to the department because of stability in funding. What do you do when you have a half million dollar budget and you don't collect half a million dollars, which was the case last year? They collected \$350,000. They have a \$150,000 shortfall in their budget. Wouldn't they be better off knowing exactly what is going to come in and what they are going to get back?

As far as the structural gap, remember we are depending upon these fines coming in to the department. They are going to go to the General Fund instead. If I pull it out of one pocket and put it into another, I have just as much money as before. The only exception is there are changes from year to year on the amount of fines levied. That is a minor thing. Please understand that this issue is philosophically well grounded and can have some very tangible benefits in making the department healthier when they come before the Legislature like everybody else does.

I believe we get to see the policy of this body get a little bit more attention from the Executive Branch.

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

Representative MARTIN: Mr. Speaker, Members of the House. In due deference to my colleague from southern Maine, Representative Daigle, I need to just lay out that everyone goes to the Legislature for their funding, whether it be state funding, federal funding, fines or whatever. Unfortunately the Representative has not been a member of the Appropriations committee, but that is where it is at. That is where all the dollars get allocated. I would urge him next term to become a member of the Appropriations Committee and he will be able to dictate exactly what DEP gets in every single fund that exists.

Representative STEDMAN of Hartland REQUESTED a roll call on the motion to ACCEPT the Majority Ought Not to Pass Report.

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

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

Representative BERRY: Mr. Speaker, Men and Women of the House. I will be brief. I will apologize. I missed the very beginning of this debate, but I just want to express my concerns. My concern is that the funding changes don't take place until the next year. I think with experience, if I through out the fingerprinting issue, the funding is similar. That is my main concern with it. I have similar views of Representative Martin. I will be supporting the Majority Ought Not to Pass Motion.

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

Representative WINSOR: Mr. Speaker, Men and Women of the House. Just a couple of things I would like to touch upon. First, the reason we picked the year 2001 to start this new budgeting process was to coincide with the next biennial budget process. It was done, as I remember it, because of the testimony that we heard from the department. It was one of those major concerns. You can't do it in the middle of the budget. It is going to cause all sorts of difficulty. Well, we dealt with that. The other thing we did in this report, which nobody has mentioned, is the original bill that was put forth by Representative Joy called for all fines that were administered anywhere in the state to come into the General Fund. As a matter a fact, most do as we have found anyway. We found that when they drafted the bill originally, they included stuff that was unconstitutional. You have to change that. We also included in the Minority Report, since we seem to be debating it at this point, a study. In a reporting requirement for the commissioner of Administrative and Financial Services to report back to the Legislature exactly what fines and fees are sent to dedicated funds. Frankly, if I have learned anything in the last three years, it is that we have a pretty big business here and sometimes it is pretty confusing about what money goes where and who pays what. This is an attempt to try to get a handle on it. There was no feeling on my part or nor I believe any of my coauthors to endanger the funding of the DEP on these very valuable programs. It is not the intention. It is really to give them a stable base from which to operate. It makes the Legislature, frankly, responsible and that is what we should be. I appreciate your attention and I sincerely request that you reject the current motion so we can go on and support the Minority Report.

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

**ROLL CALL NO. 441**

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

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

ABSENT - Bragdon, Clark, Fisher, Perry, Shorey, Stevens, Tessier, True, Usher, Williams.

Yes, 80; No, 61; Absent, 10; Excused, 0.

80 having voted in the affirmative and 61 voted in the negative, with 10 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

HOUSE DIVIDED REPORT - Majority (10) **Ought to Pass** - Minority (3) **Ought Not to Pass** - Committee on **TRANSPORTATION** on Bill "An Act to Clarify Repair and Inspection Standards for Punctured Tires"

(H.P. 1732) (L.D. 2438)

Which was **TABLED** by Representative JABAR of Waterville pending his motion to **ACCEPT** the Minority **Ought Not to Pass** Report.

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

Representative **JABAR**: Mr. Speaker, Ladies and Gentlemen of the House. I know it is noontime and you are getting hungry. I know all of you also got this flyer with this thing attached to it. I just want to remind you that this is not a beef jerky, don't eat it no matter how hungry you are. You can also take it off and use it as a moustache also if you are really clever. Seriously, I am rising to ask you to oppose this bill. This bill allows consumers to use plugs from these do-it-yourself kits for tire repairs and not have to go to a garage and not having to worry about passing an inspection with these from outside in repairs.

You have received a lot of information on your desk. I won't go through all of that. Obviously, the people who are in the tire business oppose this bill because it affects them. Beyond that,

the Maine State Police oppose it because it is not safe. The reason you should not support this bill is because it is not safe. I read to you from this kit that you have in front of you. If you read it, the one with the beef jerky attached to it, you will see it very clear in these kits that it is a temporary repair. It is not meant to be permanent. Of course they are disclaiming responsibility by saying that in these kits because if something happens, what they want to say is it is only temporary and is not to be permanent. If they are to be temporary and the people who put out these kits say it is to be temporary and the State Police interpret it as temporary and unsafe, then we should not pass a law making these permanent fixtures to a punctured tire. It is really a matter of safety. The size and speed of vehicles today, we should not be reducing the standards of tire safety. Defeating the bill simply leaves it the way it is now by allowing the bill to go forward. It reduces the standards regarding tire safety. I urge you to vote with the Minority Ought Not to Pass. Thank you.

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

Representative **LINDAHL**: Mr. Speaker, Ladies and Gentlemen of the House. First of all, I want to say that I hold Representative Skoglund in great respect and high regard. He doesn't rise often to speak, but when he does, he seems to speak with a commonsense that the average person has. Today, I have to differ with him. Last Friday morning as we were coming to session, I pulled into the lot out here and Representative Skoglund was getting out of his vehicle. He walked in with me. He said, "Are you going to debate that tire bill?" I said, "Yes, I am." He says, "I may have to discredit you a little bit." I said, "Gee, Jim, I was going to say nice things about you in the House." He paused about 10 seconds and said, "Well, maybe I will let you discredit yourself then." That is the type of man that is hard to argue with. In the Legislature we passed the laws that say you have got to have your vehicle safety inspected once a year. It used to be every six months, but we changed that. The Legislature made that decision that you only have to have your safety inspection annually. We allow the State Police to promulgate the rules and regulations. We don't set them individually. According to Lieutenant Bruce Dow, who is in charge of that program, the State Police has regularly updated the motor vehicle inspection manual as equipment has evolved, such as airbags and anti-lock breaks. They had to make changes to the inspection manual or as safety problems have been identified such as improper aftermarket modifications. As a guideline, the State Police has always turned to the manufacturers for information when developing specifications for inspection requirements for repair. Engineers who developed the products are the ones who are in the best position to establish appropriate repair procedures. Tires are no different. The State Police do not have laboratories where they can test this stuff themselves. When it comes to ball joints, tie rod ends, the State Police rely upon the manufacturer to say when something is worn too far. When is it no longer safe? They don't do these tests themselves.

Unanimously, the tire manufacturers say it is okay to repair damage tires, but the proper way to do it is you have got to take that tire off the rim and you must see if there is damage inside that tire. We have all had plugged tires. I don't know about all, but I know I have. I have run plugged tires. I have never had a problem. The State Police used to plug tires on the cruisers. They don't anymore because it is not safe. If you are out here

and you have a nail in your tire and you see it is going down slowly and you take it to the garage and they pull it out and put one of these plugs in and it is right in the center of the tread, you very well may not have a problem with that tire ever. I have had people say they have put plugs in tires when they were new and run them until they were worn out and never had a problem. What generally happens is you have a flat tire and you are out at the mall or you leave here in the early morning hours, you walk out, you jump in your car, you don't notice the tire is flat and you back up and before you realize it, you hear that thump, thump, thump and by then you have probably damaged the inside of that tire. You can take that tire off and take it to a garage. They can put air in it and it will hold air and you can pull whatever caused it to go flat out and repair it, but you cannot see the damage inside that tire. The weight of the car and the rim on that sidewall will cut the cords and damage it so it is a severe hazard.

One of the things that Representative Skoglund told our committee was in typical fashion he was at one of his local service stations and one of his constituents came to him and said, "What on Earth are you people trying to do to us up there in Augusta?" That is just the way he said it and then he would give him a tirade about putting this extra expense on the people of the State of Maine to repair tires. It costs upwards to \$18 to have it properly repaired. I went to three different tire repair places in Belfast. I went to Tire Warehouse and wanted to get a tire plugged. They told me they didn't plug tires. It is unsafe. I asked how much to get it fixed? If the tire is off your car and in your trunk it is \$6.95. They will take it off and put the patch inside like it is supposed to be. If it is on your car, they charge you \$10. VIP Auto charges \$10. Dutch Chevrolet, which is the most expensive that I found, it is a car dealership, charges \$15.95.

Now that you know individually that this is unsafe, if you had a child that was driving age and was going off to college and they had a flat, would you tell them to go get it plugged, your son or daughter, and drive 200 miles or would you say to pay the \$6.95 and get it fixed properly? I say you would probably say, knowing what you know now, you would tell them to get it fixed properly. That is the correct way to do it. Tire repairs can only be done by taking it off the rim. We are putting a liability if we pass this law, every tire repair place or somebody that sells tires now will be asked by their clients who come in to plug tires. If they do it, what is their liability knowing that the manufacturer says this is unsafe. You are putting a huge liability on these tire repair places. I urge you to vote with the pending motion. If you get a chance, I hope you read these repair kits. I went to Napa Auto and said I want a tire repair kit and I read what it said on the back. In case you haven't read what was given to you, it says, "Permanent tire repairs using this product must be done by a professional tire repair who should remove the tire from the rim. Inspect fully. Temporary repairs using this product may be done in an emergency. Not to travel more than 50 miles or exceed 50 miles per hour before the tire is inspected by a professional." This is what the manufacturer of the plug says. You should do this. These donuts, small spares, that come with new cars now, it is legal to run with those on the road now. They come with the car from the manufacturer. You can drive those, but you can't get it inspected with them on there. You can't put four of those on your car and go get it inspected because they are not meant to be. That is what I say to you with these plugged tires. Please go with the Minority Report on this. Thank you.

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

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. I rise today and ask you to oppose the pending motion and to vote along with the Majority Ought to Pass Report. During the public hearing there was one group that came forward, the Maine Tires Association, that opposed the bill. This is all we heard from on opposition. All public hearings are putting all the papers across the state. It is on the web page. Notification is very well represented. I found it hard to believe that if there was so much opposition to plugging tires, why weren't more people there defending this? I brought the question to the State Police of safety and asked if there was ever an accident that was proven, caused by a plugged tire? The answer was no. You are going to hear a lot after me, I am sure, on the safety issue, but the bottom line is there has never been a proven accident by a plugged tire. I, myself, have driven a plugged tire. I drove one for about 30,000 miles on a tire. The tread wore out before the plug did.

You received a "beef jerky" on your desk, which is one plug. There are many different size plugs. There are many different plug kits. They all have different instructions. This one is a very, very small plug. You are not supposed to drive this more than 50 miles. There are certain different types of plugs that as the tire heats up, they will expand from the inside and the outside and the tire becomes very solid. Again, I urge you to vote against the pending motion and to allow the Majority Ought to Pass Report to come forward and pass. Think of your constituents. So many times here in Augusta and it is not always that we can help what we do, but pass along costs that we shouldn't be passing along. If there was a serious safety issue and it was proven to me in committee, I definitely would not be voting for this bill. There hasn't been, ladies and gentlemen, it has not been proven and it won't be proven before we are done debating this bill today. I urge you to think of your constituents. Do not pass along another fee or another cost of living that they don't need to have. Thank you.

The SPEAKER: The Chair recognizes the Representative from St. George, Representative Skoglund.

Representative **SKOGLUND**: Mr. Speaker, Men and Women of the House. I didn't realize this bill would engender quite so much controversy because it is such a commonsense ordinary piece of legislation. This is not something that I have tried to change. This is not a change that I am bringing about. For years and years and years since they have had tubeless tires, if it is punctured, you take it to the garage. They simply pull out that little item that may have punctured it, if there was an item that punctured it, put a wonderful little plug in there, glue it in and it sticks. It is a miracle of modern technology. I have never known one to fail on my car. This has been done for years and years and years. Only recently did the State Police make a new regulation that a plugged tire is unsafe. They were persuaded to make this change by people who are interested in not having tires plugged, for some reason. The State Police did change regulations. This was not an act of the Legislature. They changed the regulation. If you have a plugged tire, your car fails inspection. I asked the mechanic how many have you failed? He said that if we don't ask, you don't tell. This is a law that is completely unenforceable and leads for disregard and a scuff law attitude.

Why do I disagree with the good Representative from Northport? There is not a deep philosophical nor moral issue,

but the good Representative worked for the State Police for many, many years. The State Police have a zero tolerance for any safety violation. It is a way of thinking. They cannot tolerate anything that could be a safety violation. They are obsessed with safety and it is a good thing they are. I am grateful that they are. If there is any chance of failure, the State Police won't tolerate it.

I was in Sweden many years ago. The whole country is filled with people like that. I was driving with my cousin down a dirt road in Sweden and he said, "Roll up the window." I said, "Why?" He said, "It is the law." I said, "Why is it the law to roll up a window?" He said, "A rock might come through and hit you." They have no tolerance whatsoever for error or danger. There is no end to it.

As far as patching your own tires, I have never seen anyone carrying one of these things in their vest pocket when they go to Boston in case they have a flat. When you have a flat, you will take it to the garage and have it patched.

Under the new system, the new regulation says the tire has to be removed from the rim. This usually changes it from a \$5 job to a \$20 job. The mechanic if he is a responsible person will say that you only have half the tread left on this tire. It is going to cost you \$20 to get it patched, but you might as well put a new one on now. He is being a good and honest and respectable person. He is not being dishonest. If you are going to spend \$20, you might as well have a new tire. It is far more expensive to do this. I asked a mechanic if the new method of patching is better? He said that it was, absolutely yes. It is much, much, much safer, but driving a Volvo would be much safer than driving that old car you drive. There is a level of acceptable risk and I think this is a case where we can continue as we have for \$20 to risk using the \$5 patch, rather than the \$20 patch.

Please, if you have had a tire successfully plugged, follow my light. If you have been fatally injured in a crash caused by a plugged tire, follow the light of the Representative from Northport. If you don't understand if you want to go to dinner now, just follow the majority. Thank you.

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

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. I don't think that whatever we do today on this legislation, whether we accept either report, it is going to make an awful lot of difference out there in the real world. I think vehicles with lots of plugged tires on them are still going to get inspected. Certainly in my dark past I have had vehicles inspected that had the driver's seat sort of falling down through the floorboards. The inspection process, if you look at what the inspection rules are, there are a lot of reasons to reject a vehicle for passing inspection. I think what we are talking about is something that my good friend from St. George mentioned about whether or not this is enforceable or not. I am not certain that it is. I think we can vote either way on this issue and not do any real harm to the people of the state. Certainly it might bring into question whether I could get my truck inspected again next year, since I have four different sized tires on it right now. It is a little ungamely when it goes down the road. Never mind the fact that three of them are, in fact, plugged.

I think looking at the whole issue of roadside repair and people doing it themselves, I am not certain that is really going to happen. I have done things like this myself with checkered success at best. I was towing a boat from Alabama to Maine some years ago. It was one of those old trailers when you had

to change the tire, you had to take the cap off the axle cover and pull out a cotter pin and then all the bearings came out in your hand and meanwhile you are getting covered with grease. I was traveling with a nice old fella whose son lived not far from my grandfather where I had been visiting. This was at night and the tire had gone flat. Talk about having things in your wallet. This is what brought it to mind. On the way out the door, my grandfather had said, "Matthew, you might need a couple of cotter pins, why don't you put these in your wallet just in case." I wanted to humor my grandfather so I took the cotter pins and I put them in my wallet. Of course, we blew the tire in Tennessee and wrecked the cotter pin taking it out. I said to my friend, Al Michaud from Old Town, "No problem, I got a spare cotter pin in my wallet. Just take it out of my pocket." We fixed the tire and off we went. We are in the middle of Virginia and I thought we had time to get some gas and we were getting a little hungry. I asked where my wallet was. Well, it had flown out of the boat somewhere in Tennessee and everything was gone. There can be disadvantages to doing roadside repairs out of your wallet. If you do that, I would advise all of you to keep track of it.

I am split on this. I could go either way on it. I certainly can buy into the safety argument. At the same time, however, I am not sure we are really solving a problem by doing so. That is where I am.

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

Representative **SAVAGE**: Mr. Speaker, Ladies and Gentlemen of the House. I feel like I ought to have the metal of honor for attempting to stand on the floor and oppose Representative Skoglund. He was so convincing at committee. He is very persuasive, as you just heard. I did vote Ought to Pass at the time, but I am going to change my vote. I am going to vote Ought Not to Pass after having got a lot more information. I am just sitting here thinking that maybe it has never happened, but if tomorrow someone went down the road with a plugged tire and it blew all to pieces and they had an accident and someone was hurt badly, I am going to say to myself, "You voted for that, you are partly responsible." I am going to vote with the Minority Report, Ought Not to Pass. Thank you.

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

Representative **MCKENNEY**: Mr. Speaker, Ladies and Gentlemen of the House. We all chase from time to time with the action of bureaucrats. I am usually the first in line to criticize bureaucrats, but on occasion even I will acknowledge that some of them are experts in their field. The State Police are experts in the field of auto and truck safety. We should really let them do their job. We are chasing now with this regulation that the State Police promulgated last year. The fact remains that it is unsafe to plug a tire and it has always been so. I keep hearing this referred to as a new process. Maybe the Representative from St. George could remember when tires weren't tubeless and we had to take them apart to patch the tube. That is an old technology, not a new one.

Some of you in this body are lawyers. If you had a client in court injured or killed in an automobile accident and if that accident was traced to a failed tire that had been plugged by me, you would only have to ask me one question on the stand. You would say something like, Mr. McKenney, could you tell us what tire manufacturer recommends this method of repair? The answer, of course, is none. I would be defenseless and you would rest your case. By passing this legislation we are telling



people that tire plugs are okay. They are safe. There is nothing wrong with them. This is not factual. Tire plugs are dangerous if the inside of that tire is damaged. You have heard that testimony. We need to inspect the inside of that tire in order to know whether any damage occurred. This legislation allows the plugging of a tire on a sidewall and even goes so far as to suggest that it is not necessary to inspect the internal parts of a tire for damage. I cannot think of anything any more dangerous to put into legislation. I plan to vote for this measure and I would hope that you would join me. Thank you.

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

Representative **SIROIS**: Mr. Speaker, Men and Women of the House. As an old saying says, I am not the plumber, but I am the plumber's son and I can plug your hole until the plumber comes. Thank you.

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

Representative **CAMERON**: Mr. Speaker, Ladies and Gentlemen of the House. First of all I want to thank Representative Skoglund for bringing this issue forward. It may seem like an insignificant issue to some folks when we hear how dangerous it is, 25, 30 or 40 years we have been plugging tires and we didn't see any evidence of a single accident caused by a plugged tire, not one. I had a call from one garage in the entire State of Maine saying to support this, one, in the entire State of Maine. The same one called everybody on the committee. There is not a groundswell of support for this horrible thing that we are visiting on the citizen's of the State of Maine. Keep one thing in mind as you vote, if you vote to support allowing plugs to be put in the tires, you don't have to do that. You can still have it fixed the expensive way if you choose to. There is nothing here that is stopping you from doing that if you believe all of the horror stories that you have heard, which I don't believe. We saw no evidence to that. I would ask you to keep in mind that we have done something for 30 or 40 years and no evidence, not one single shred of evidence, has ever caused an accident and now we are going to, out of the clear blue change it, because the tire manufacturer who, by the way, is going to make a little money if you sell a new tire instead of fixing the old one. It is kind of the fox guarding the chicken pen. They said it is not safe. I am sorry. I don't buy it. I have used plug tires. I still use plugged tires and I hope to continue to use them. Not the little thing that we got on our desks, but the better quality ones. I hope still to be able to be allowed to use them and make it my choice. As the good Representative Skoglund said, "There is a bit of risk. You individually can decide what you are willing to take for a risk." The motherhood and apple pie issue of sending your daughter off to college with a plugged tire, you don't have to do that if you buy into that, which I don't. Please vote against the pending motion. Thank you very much.

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

Representative **POVICH**: Mr. Speaker, Ladies and Gentlemen of the House. I received one call from a businessman in Ellsworth. Bill Harmon runs Harmon's Tire. This is not necessarily a pitch for there business, but they have been in business in Ellsworth for many, many decades. They are considered the authoritative and by the busyness of their shop, the expert on tire repair, he did alert me to the vagaries of this bill. His argument was convincing. He just showed me some of the clutter that he digs out of these tires after he repairs them.

He showed me a six inch piece of coat hanger that he extracted from one of the tires. He said that you don't get this stuff out unless you remove that tire. That stuff just stays in there and grinds and grinds at the tire. I am going to vote for the motion. I am going to support the Ought Not to Pass Report.

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

Representative **MARTIN**: Mr. Speaker, Members of the House. I can't help but follow up with the Representative in terms of what is inside tires. If you live along the border, it is amazing what comes across the border inside the tire. Frankly, it never caused a problem to the tire or what is in it. When you have a hole in the tire and that doesn't matter, it stays there. I have knowledge of that because it has happened to me. I really thought that this was an anti-northern Maine attempt by the State Police until I realized that for those of you who live in southern Maine and you have all these people who come hunting in my area or fishing with pickup trucks and two-ply tires, you will drive them all up a wall if you vote against this bill. When they hit there, they have these two-ply tires and they have flats every 20 miles. If they don't have a kit or they come to my place to buy kits, we don't sell, but we give it to them for nothing, to plug their tires so they can get back home, you wait and see what you are going to get for a reaction if you don't vote for this bill. It is unbelievable. At least those of us in northern Maine are smart enough, I think, to buy six-ply tires so that when we go in the woods they will probably last a little longer. There is a major difference. I understand what State Police are trying to do. I don't know when the last time you inspected your vehicle, but the person who has that authority at the garage can find all kinds of reasons not to pass your car. He or she doesn't need another one. This clearly, to me, is an attempt by people who sell tires to sell more. The outfit in the hall out here is not here for your betterment or your improvement or your health. They are here to sell a product, not to save your vote in what will be the reaction of the citizenry when you go home. That is the difference. We are here to represent the people that elected us, not a tire company. I urge you to vote against the pending motion. I request the vote be taken by the yeas and nays.

Representative **MARTIN** of Eagle Lake **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought Not to Pass** Report.

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

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

Representative **TRACY**: Mr. Speaker, Ladies and Gentlemen of the House. I would just like to follow up on the good words of the Representative from Eagle Lake, Representative Martin. I have spent many days and weeks in the north woods. If we were to go over to Raymond's Store in Northeast Carey, I am sure if we were to pass this bill, there would be many, many vehicles along the Golden Road and various other roads up there that would not be able to have their tires plugged. I would urge you to vote against the pending motion. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. One, to the people who like the existing rule that the State Police set in place here last year requiring that the tire be dismantled. I have heard here today that there is no evidence of an accident caused by plugged tires. Is that true there have been none? Question to the other side of the argument, I have heard a couple of people here today say that it is a bit riskier. How risky? Is it risky to me driving down the road facing one of these plugged tire vehicles coming toward me? What information do you have to back up your feeling that it is a bit riskier?

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

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. In response to the good Representative's questions, number one, during the public hearing I did ask the State Police if there ever has been a proven accident from a plugged tire? The answer was no. There has never been a proven accident from a plugged tire. As far as the second question, it has kind of slipped my mind, but I will allow somebody else to stand up and answer it.

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

Representative **LINDAHL**: Mr. Speaker, Men and Women of the House. It is true that the State Police when they code accidents that they can put in there that there was equipment failure, but they don't put in there that it is a tire failure. If it is a tire failure, they don't do an autopsy, let's say, on the tire to show what caused the failure. Yes, if you are meeting the vehicle coming down the road and his tire fails, it could cause an accident. As far as how many accidents have actually been attributed to this, It don't think anybody nationwide does autopsies on tires after a collision. I was an accident reconstruction specialist in the State Police. I have been to many, many, many accidents. You can tell prior to impact if a tire was deflated by the marks it leaves on the road. A lot of times tire failure will be blamed for an accident, when, in fact, it actually wasn't. It was fully inflated upon impact and you can tell this, not 100 percent of the time, but most of the time you can tell whether the tire was deflated. As far as doing an examination, it just hasn't been happening. Maybe it should and probably as a result of this bill, it will. We will be setting a precedent. We will be the only state in the nation, I believe, that will be encouraging these tire repair kits. You say when you repair them you don't use these little tiny things that were given out here today, but those little tiny things that were given out here today will be legal. You will be able to use those repair kits and they will be legal. It is not safe. If you don't want to be fatally injured in an accident, then vote with the pending motion or reduce that risk. Thank you.

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

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

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

Representative **DAIGLE**: Mr. Speaker, Men and Women of the House. Should the pending motion fail and this become law, given that the manufacturers recommend against this type of repair, would it then be perfectly legal for people who, for example, operate taxi cabs, rent cars, repair school buses or

otherwise maintain vehicles that the unknowing public would ride in, to use these repairs and therefore, expose the public without control?

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

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. If this motion fails and we do pass the Majority Ought to Pass Report, what we will be doing is putting back into policy or law, whatever you want to call it, what has been in place for the State of Maine for the past 30 or 40 years and that is, that plugging a tire is legal when you went to get an inspection sticker. This was changed last year by the State Police through policymaking, not through public hearings, but just on their own as they saw fit. All we would be doing if we do pass the Majority Ought to Pass Report is allowing the State of Maine to move back to the way it has been for the past 30 or 40 years.

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

Representative **HATCH**: Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to rise today in support of this bill. First of all, I haven't always been a legislator. I was a bookkeeper, but my husband and I own four businesses. The one business that he managed on a full-time basis was a garage. He had four mechanics. Those mechanics were kept pretty busy just working on mechanical stuff on the cars. When a customer came in with a bad tire, usually my husband handled it. I think we ought to leave this up to the garage attendants. When somebody comes in, I think we always have. I think they are truthful and honest. They ask the customers exactly how much traveling do you do? Is this something for just around town? It is a small hole. We can plug it or we can put a patch on it. They do lay out options for people. I think this is a good bill. I think we ought to pass it and get it out of here. I don't think we need any more government in our lives than we already got. Thank you.

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

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

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

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. The same question actually that I asked before. I got one of them answered, but one I didn't get answered. I would like, please, somebody from the side that said they would like to repeal the rule and said it would be a little less safe. In other words, these plugs are a little risky, a little less safe. A couple people have said that. Would you please elaborate on that? If it has to do with the difference between the Volvo and a smaller old junker coming down the road, as I understand it, Volvos are great in crash tests, but for the people inside, I perhaps would rather be run into by Representative Skoglund's little car than a big heavy car. The question is, are these plugs a little risky and if so, what information are you basing that on?

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

Representative **JABAR**: Mr. Speaker, Ladies and Gentlemen of the House. The problem with just simply plugging a hole is that if you do not look on the inside of the tire, there



may be other damage present as a result of the puncture that you don't see. You are taking a risk in riding on a tire that may have had more damage than you anticipated by just seeing a simple hole. Many times the hole is just the tip of the iceberg, so to speak. I don't know much about tires and I can't give you any official opinion as to what is safe and not safe, but in the State of Maine I like to think I can rely on the credibility of the Maine State Police who have people who are experts in this area who deal with it every day. When I have a problem and I want to go to an expert, I go to an expert and ask that person's advice, whether it is a doctor or a mechanic. In the State of Maine we have the State Police. They are not in the business of selling tires. When the State Police says to me and says to the committee it is not safe, unless there is some reason not to believe them, I am going to believe them. Otherwise, the State Police have no credibility. That is why I urge you to vote Ought Not to Pass, not because the tire dealers are here selling their tires, but because the Maine State Police who are in the business of safety say it is not safe. 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 good Representative from Waterville for that testimony. He mentioned that he is not an expert on tires. I look over there and I don't see Representative Clark there so that leaves the only person in this room who is an expert on tires, me. The rest of you really don't have the expertise to make that call. The State Police safety people need to make that call. Thank you.

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

Representative BOUFFARD: Mr. Speaker, Men and Women of the House. At the public hearing when it was asked to the State Police if they had any indication of an accident being caused by these plugged tires? The answer specifically was no. In this state where we have our vigorous weather and where a lot of our city roads and city streets and highways are full of potholes, I would venture to say there are more accidents being caused by cars who are not well balanced or out of line than there are from any one of them who has a plugged tire. Please turn down this motion here of Ought Not to Pass and let's go on and back commonsense into the regulations into the State of Maine.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Collins.

Representative COLLINS: Mr. Speaker, Ladies and Gentlemen of the House. Quite clearly this comes down to a situation of choice. You are the consumer when you want to repair a flat tire. You have a choice. You should have a choice. Right now you don't have a choice. I would like to give my constituents that opportunity to have a choice of either putting an interior patch on a flat tire or simply putting in a plug. That is what it comes down to, choice. I have got to say that I think the motives behind this, in my opinion, are clearly to sell more tires. I am opposed to the situation now of trying to force down our throats new tires. I just don't think it is right. I am opposed to it. I think we should go forward with the Majority Report and turn this one down.

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

Representative MCALEVEE: Mr. Speaker, Ladies and Gentlemen of the House. As you know, I don't rise that often

and I try not to speak on issues I know nothing about. If we are serious about highway safety, I would hope that the State Police and others who are serious about highway safety will put the energy into enforcing our OUI laws that we have put into this proposed legislation.

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

Representative COTE: Mr. Speaker, Men and Women of the House. I urge you to vote against this motion and go with Ought to Pass. I am going to have to relate back to my fellow colleague on the other side. I am an expert on tires. My cousin is a mechanic. That makes me an expert on tires. The man plugs tires everyday. I have had plugged tires. In every car I have owned, I have had plugged tires. I am still walking the face of the Earth. It doesn't matter if it is plugged or patched or whatever. Safety is not the issue here. The issue is if this one ought to pass? I urge everybody to vote Ought to Pass and not Ought Not to Pass. Thank you.

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

Representative LOVETT: Mr. Speaker, Ladies and Gentlemen of the House. I think I would be remiss today if I didn't get up and say something having served over 10 years on the Maine Highway Safety Commission. I have heard their argument of choice. Yes, we do have a choice, but remember that life could be yours because somebody had a choice. We don't know what that tire is going to do. It could be killing you or I. Thank you.

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

Representative O'NEIL: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative O'NEIL: Mr. Speaker, Men and Women of the House. I am not that good with numbers. I know the Representative from Bowdoinham has a degree in mathematics, maybe he can help me out or anybody can. If we have to replace or buy 1,000 new tires that wouldn't have ordinarily or otherwise been replaced, how many will we then have to dispose of?

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

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

The SPEAKER: The Representative may pose his question.

Representative PLOWMAN: Mr. Speaker, Men and Women of the House. Is there a fiscal note here or a bond attached for tire disposal?

The SPEAKER: The Representative from Hampden, Representative Plowman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Northport, Representative Lindahl.

Representative LINDAHL: Mr. Speaker, Men and Women of the House. Absolutely not. There is not going to be a lot of tires that are going to be disposed of because of this. They are just going to be properly repaired. The tire dealers are not making a lot of money off this. The tire dealer that was out there lobbying today has been in business, I believe, for 14 years. He has never plugged a tire when he could because it is not safe. He will not do it for his customers. He patches them properly by taking them off the rim. There is a case that was handed out to

everybody here that shows an instance where somebody was killed by one of these plugged tires. Thank you.

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

**ROLL CALL NO. 442**

YEA - Andrews, Baker, Belanger, Berry DP, Brennan, Buck, Bull, Campbell, Clough, Daigle, Davidson, Davis, Desmond, Dudley, Dunlap, Duplessie, Etnier, Foster, Gagne, Gagnon, Gooley, Green, Jabar, Kane, Kneeland, LaVerdiere, Lindahl, Lovett, Marvin, Matthews, McDonough, McKenney, McNeil, Muse, Nass, Plowman, Povich, Richard, Savage C, Saxl JW, Shields, Stanwood, Tessier, Thompson, Townsend, Volenik, Watson, Mr. Speaker.

NAY - Ahearne, Bagley, Berry RL, Bolduc, Bouffard, Bowles, Brooks, Bruno, Bryant, Bumps, Cameron, Carr, Chick, Chizmar, Cianchette, Collins, Colwell, Cote, Cowger, Cross, Dugay, Duncan, Frechette, Fuller, Gerry, Gillis, Glynn, Goodwin, Hatch, Heidrich, Honey, Jacobs, Jodrey, Jones, Joy, Kasprzak, Labrecque, Lemoine, Lemont, MacDougall, Mack, Madore, Mailhot, Martin, Mayo, McAlevey, McGlocklin, McKee, Mendros, Mitchell, Murphy E, Murphy T, Norbert, Nutting, O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Pieh, Pinkham, Powers, Quint, Richardson E, Richardson J, Rines, Rosen, Samson, Sanborn, Savage W, Saxl MV, Schneider, Sherman, Shiah, Sirois, Skoglund, Snowe-Mello, Stanley, Stedman, Sullivan, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tripp, Tuttle, Twomey, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor.

ABSENT - Bragdon, Clark, Fisher, O'Brien JA, Perry, Shorey, Stevens, True, Usher, Williams.

Yes, 48; No, 93; Absent, 10; Excused, 0.

48 having voted in the affirmative and 93 voted in the negative, with 10 being absent, the Minority Ought Not to Pass Report was **NOT ACCEPTED**.

Subsequently, and accordingly the Majority Ought to Pass Report was **ACCEPTED**.

The Bill was **READ ONCE** and was assigned for **SECOND READING** Friday, March 3, 2000.

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

**SENATE PAPERS**

The following Joint Order: (S.P. 1021)

**ORDERED**, the House concurring, that the Joint Standing Committee on Transportation report out, to the Senate, a bill to implement the transportation recommendations of the task force created to review smart growth patterns of development.

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

**READ** and **PASSED** in concurrence.

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On motion of Representative STANWOOD of Southwest Harbor and Representative SNOWE-MELLO of Poland, the House adjourned at 1:05 p.m., until 9:00 a.m., Friday, March 3, 2000 in honor and lasting tribute to Madeline Norwood Stanwood, of Southwest Harbor and W. Ballard Nash, of Poland Spring.