

# MAINE STATE LEGISLATURE

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

**Volume III**

**Second Regular Session**

March 23, 2000 – May 12, 2000

**Appendix**  
**House Legislative Sentiments**  
**Index**

ONE HUNDRED AND NINETEENTH LEGISLATURE  
SECOND REGULAR SESSION  
21st Legislative Day  
Wednesday, March 29, 2000

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

Prayer by Pastor John Hall, Litchfield Plains Baptist Church.  
National Anthem by Biddeford High School Chamber Singers.  
Pledge of Allegiance.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Twomey who wishes to address the House on the record.

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. I know it is unusual for one of us to stand up when we have a group come from our hometown. I could not let this morning go without going on the record to thank the Biddeford High School Chamber Singers and their director, Gary Marsette. I have never seen so many of you come in the hallway when we have a group of singers come here. You have told me so many times that you would like them to come back. You have written me nice notes and I just want to say that in a day when we are fighting to cut back on music programs and art, this really speaks for why we should continue to support our music departments in our schools. Biddeford High School is known for state championship football games and I want to be known for having the best chamber singers throughout the State of Maine. I would like to acknowledge them and thank them again. Thank you Mr. Speaker.

Doctor of the day, Andrew Carey, M.D., Falmouth.  
The Journal of yesterday was read and approved.

**SENATE PAPERS**

The following Joint Order: (S.P. 1065)

ORDERED, the House concurring, that the Joint Standing Committee on Taxation report out, to the Senate, a bill relating to sales tax on vehicles leased and removed from the State and certain watercraft used in interstate commerce, clarifying the high technology investment tax credit, permitting reimbursement of motor vehicle excise tax on special mobile equipment that is qualified business property and changing the method of taxation of certain smokeless tobacco products.

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

The following Joint Order: (S.P. 1066)

ORDERED, the House concurring, that the Joint Standing Committee on Legal and Veterans Affairs report out, to the Senate, a bill relating to the reporting requirements for political action committees and the flexibility of the Commission on Governmental Ethics and Election Practices to assess fines.

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

**Non-Concurrent Matter**

Bill "An Act to Amend Weight Requirement Inequalities Between Hauling Wood Products and Hauling Other Products" (H.P. 845) (L.D. 1179)

Minority (5) **OUGHT TO PASS AS AMENDED** Report of the Committee on **TRANSPORTATION READ** and **ACCEPTED** and the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-911)** in the House on March 27, 2000.

Came from the Senate with the Majority (8) **OUGHT NOT TO PASS** Report of the Committee on **TRANSPORTATION READ** and **ACCEPTED** in **NON-CONCURRENCE**.

Representative KASPRZAK of Newport moved that the House **ADHERE**.

Representative THOMPSON of Naples moved that the House **RECEDE AND CONCUR**.

On further motion of the same Representative, **TABLED** pending his motion to **RECEDE AND CONCUR** and later today assigned.

**COMMUNICATIONS**

The Following Communication: (H.C. 404)

**STATE OF MAINE**

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

March 23, 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 Health and Human Services has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 2476 An Act to Promote Improvements to and Evaluation of Services by Long-term Care Providers

L.D. 2523 An Act to Establish Fair Pricing for Prescription Drugs

S.P. 403 JOINT ORDER – Relative to Establishing the Commission to Assess the Health Care Delivery System for the Elderly

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

Sincerely,

S/Sen. Judy Paradis

Senate Chair

S/Rep. Thomas J. Kane

House Chair

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

The Following Communication: (H.C. 405)

**STATE OF MAINE**

**ONE HUNDRED AND NINETEENTH LEGISLATURE  
COMMITTEE ON JUDICIARY**

March 23, 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 Judiciary has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 1010 An Act Regarding the Family Court  
L.D. 2564 An Act Regarding the Payment of Child Support in Cases of Delayed Parental Notification

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

Sincerely,

S/Sen. Susan W. Longley

Senate Chair

S/Rep. Richard H. Thompson

House Chair

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (H.C. 406)

**STATE OF MAINE**

**ONE HUNDRED AND NINETEENTH LEGISLATURE  
COMMITTEE ON APPROPRIATIONS AND FINANCIAL  
AFFAIRS**

March 28, 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 bills out "Ought Not to Pass":

- L.D. 516 An Act to Restore and Improve Family Planning and Pregnancy Prevention Services  
L.D. 937 An Act to Improve Access to Health Care for School-age Children  
L.D. 1360 An Act to Implement the Recommendations of the Joint Committee on Substance Abuse  
L.D. 2555 An Act to Make Supplemental Allocations from the Fund for a Healthy Maine and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2001  
L.D. 2637 An Act to Fund the State's Share for Salt or Sand-salt Storage Facilities Construction

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

Sincerely,

S/Sen. Michael H. Michaud

Senate Chair

S/Rep. Elizabeth Townsend

House Chair

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (H.C. 407)

**STATE OF MAINE**

**ONE HUNDRED AND NINETEENTH LEGISLATURE**

**COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

March 28, 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 bills out "Ought Not to Pass":

- L.D. 1799 An Act Regarding the School Funding Formula  
L.D. 2515 An Act to Provide Equal Access to Meeting the Needs of Students at Public Institutions of Higher Education

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

Sincerely,

S/Sen. Georgette B. Berube

Senate Chair

S/Rep. Michael F. Brennan

House Chair

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (H.C. 408)

**STATE OF MAINE**

**ONE HUNDRED AND NINETEENTH LEGISLATURE  
COMMITTEE ON TRANSPORTATION**

March 28, 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 Transportation has voted unanimously to report the following bill out "Ought Not to Pass":

- L.D. 2617 Resolve, to Direct the Department of Transportation to Review the Opportunities to Avoid the Need to Widen I-295

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

Sincerely,

S/Sen. William B. O'Gara

Senate Chair

S/Rep. Joseph M. Jabar, Sr.

House Chair

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (S.P. 1064)

**119TH MAINE LEGISLATURE**

March 27, 2000

Senator Beverly C. Daggett

Representative John L. Tuttle, Jr.

Chairpersons

Joint Standing Committee on Legal and Veterans Affairs

119th Maine Legislature

Augusta, Maine 04333

Dear Senator Daggett and Representative Tuttle:  
Please be advised that Governor Angus S. King, Jr. has nominated Joseph E. Tinkham II of South Gardiner for appointment as Adjutant General/Commissioner of Defense, Veterans and Emergency Management.  
Pursuant to Title 37-B, M.R.S.A. §3, this nomination will require review by the Joint Standing Committee on Legal and Veterans Affairs 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 **LEGAL AND VETERANS AFFAIRS**.

**READ** and **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** in concurrence.

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The Following Communication: (S.P. 1063)  
**119TH MAINE LEGISLATURE**

March 27, 2000  
Senator Carol A. Kontos  
Representative Gary L. O'Neal  
Chairpersons  
Joint Standing Committee on Business and Economic Development  
119th Maine Legislature  
Augusta, Maine 04333

Dear Senator Kontos and Representative O'Neal:  
Please be advised that Governor Angus S. King, Jr. has nominated Bruce N. Schatz of Augusta, M. Kelly Matzen of Auburn and John Murphy of Fort Kent for appointment as members of the Maine Educational Loan Authority.  
Pursuant to Title 20-A, M.R.S.A. §11415, these nominations will require review by the Joint Standing Committee on Business and Economic Development 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 **BUSINESS AND ECONOMIC DEVELOPMENT**.

**READ** and **REFERRED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** in concurrence.

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**ORDERS**

On motion of Representative THOMPSON of Naples, the following Joint Order: (H.P. 1912)

**ORDERED**, the Senate concurring, that the Joint Standing Committee on Judiciary report out, to the House, a bill to provide equal treatment for state employees under federal employment laws.

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

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**SPECIAL SENTIMENT CALENDAR**

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

**Recognizing:**

Nathan Williford, a student at Messalonskee High School and a member of Boy Scout Troop #454 in Oakland, who has attained the high rank and distinction of Eagle Scout. We send our appreciation to Nathan for his many hours of dedicated service to his community and congratulate him upon achieving this honor;

(HLS 1131)

Presented by Representative NUTTING of Oakland.  
Cosponsored by Senator CAREY of Kennebec.

On **OBJECTION** of Representative NUTTING of Oakland, was **REMOVED** from the Special Sentiment Calendar.

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

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**Recognizing:**

Christopher Rodrigue, a student at Messalonskee High School and a member of Boy Scout Troop #454 in Oakland, who has attained the high rank and distinction of Eagle Scout. We send our appreciation to Christopher for his many hours of dedicated service to his community and congratulate him upon achieving this honor;

(HLS 1132)

Presented by Representative NUTTING of Oakland.  
Cosponsored by Senator CAREY of Kennebec.

On **OBJECTION** of Representative NUTTING of Oakland, was **REMOVED** from the Special Sentiment Calendar.

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

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**Recognizing:**

David Duguay, a student at Messalonskee High School and a member of Boy Scout Troop #454 in Oakland, who has attained the high rank and distinction of Eagle Scout. We send our appreciation to David for his many hours of dedicated service to his community and congratulate him upon achieving this honor;

(HLS 1133)

Presented by Representative NUTTING of Oakland.  
Cosponsored by Senator CAREY of Kennebec.

On **OBJECTION** of Representative NUTTING of Oakland, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

The **SPEAKER**: The Chair recognizes the Representative from Oakland, Representative Nutting.

**Representative NUTTING**: Mr. Speaker, Men and Women of the House. It is always a pleasure to have an Eagle Scout with us for a special sentiment knowing how difficult it is to attain that status. If it is special to have one, then it is really special to have two. To have three like I bring to you this morning, I think is extraordinary. These three young men are all students at Messalonskee High School. Christopher Rodrigue, age 17, for his projects raised in his own garden over 2,600 pounds of food, vegetables, which he distributed to soup kitchens and homeless shelters in the Central Maine area. Nathan Williford, age 18, also a student at Messalonskee, he just recently learned that he has been accepted to Bates College, organized a coat drive. He received over 650 donated coats, which he processed, cleaned and then distributed to needy families in our town. Thirdly, David Duguay, who is 17, did a project to refurbish the McCartney House, which is Oakland's historical house with a fence project. That included upgrading the fence around it. It has really improved the look of the downtown.

These three fine gentlemen, I think, show us what families and community working together and the commitment of their scoutmaster can do. These are all students of the pre-laptop era. I think they are outstanding examples of what Maine produces. I congratulate them today. Thank you Mr. Speaker.

**PASSED** and sent for concurrence.

**Recognizing:**

the following members of the Dexter Regional High School Wrestling Team upon winning the team's 4th consecutive Class C State Championship: Kevin Armstrong, Matt Berry, Mike Burton, Vinny Greene, Matt Hanscom, Marc Hartford, Ethan Hight, Matt Kinney, Phil Mosley, Cooper Page, Adam Paige, Ross Palmer, Josh Patterson, Ben Pomerleau, Rod Schoenbacher, Chris Sinclair, Aaron Thomas, Eric Thompson, Travis Thompson, Joey Turner, Jonathan Wilber, Richard Rideout and Kyle Wilson; Head Coach David Gudroe; Assistant Coaches Randy Gudroe, Joel Doore and Frank Spizuoco; and Managers Vikki Caron, Shelly Gudroe, Mandy Hanscom, Keith Hartford, Jana Mountain and Elena Yugai;

(HLS 1134)

Presented by Representative TOBIN of Dexter.

Cosponsored by Senator DAVIS of Piscataquis.

On **OBJECTION** of Representative TOBIN of Dexter, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

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

Representative **TOBIN**: Mr. Speaker, Ladies and Gentlemen of the House. It is with a great deal of pride I recognize the Dexter Regional High School Wrestling Team this morning. They are seated in the balcony behind me. I have been told by experts that there is probably no more demanding sport than the sport of wrestling in strength, endurance, strategy and thought process. It is a very demanding sport. This team that we are recognizing this morning and the team's history, they have won, not one, not two, not three, but four consecutive years in a row as State Class C Wrestling Championship. This year it is especially sweet because they came from behind to beat a strong Bucksport team. Also, I would like to recognize the fact that 29 years ago I had the coach David Gudroe in my eighth grade English class. David went on to Dexter High School became a state champion himself and also a New England champion. It proves that success breeds success. I would also like to note that Frank Spizuoco and assistant coach is an avid historian in mid-Dexter and has written two books on the history of Dexter and also has served as an assistant coach. It gives me a great deal of pleasure to honor and respect their accomplishments on this special day. Thank you Mr. Speaker.

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

Representative **CARR**: Mr. Speaker, Men and Women of the House. I felt compelled to rise today to also offer my congratulations to this wrestling team. Having graduated from Dexter High School in 1964, I was a member of the wrestling team in those years. In those years Dexter was known for a couple of things, the football team, the wrestling team and Dexter Shoe. Today it is still known for most of those things and especially the wrestling team because they have, year after year, been very successful. I also want to note that one of the assistant coaches Frank Spizuoco, which we lovingly call

"Spook", was the wrestling coach when I wrestled back in the '60s. He was also our football coach. I rise to congratulate them on their continued success and thank them for coming down today so that we could honor them. Thank you Mr. Speaker.

**PASSED** and sent for concurrence.

**REPORTS OF COMMITTEE**

**Ought to Pass Pursuant to Joint Order (S.P. 1033)**

Report of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Amend the Laws Regarding the Board of Licensure of Water Treatment Plant Operators"

(S.P. 1060) (L.D. 2654)

Reporting **Ought to Pass** pursuant to Joint Order (S.P. 1033).

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

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

The Bill **READ ONCE** and **TOMORROW ASSIGNED FOR SECOND READING**.

**Divided Report**

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-577)** on Bill "An Act to Increase Access to High-quality Jobs Through the Federal Workforce Investment Act" (**EMERGENCY**)

(S.P. 957) (L.D. 2498)

Signed:

Senators:

DOUGLASS of Androscoggin

LaFOUNTAIN of York

MILLS of Somerset

Representatives:

HATCH of Skowhegan

MUSE of South Portland

FRECHETTE of Biddeford

MATTHEWS of Winslow

SAMSON of Jay

DAVIS of Falmouth

MacDOUGALL of North Berwick

MACK of Standish

TREADWELL of Carmel

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

Signed:

Representative:

GOODWIN of Pembroke

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-577)**.

**READ.**

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-577)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, March 30, 2000.

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as**

**Amended by Committee Amendment "A" (H-952) on Bill "An Act to Amend the Qualifications of Weighmasters"**

(H.P. 848) (L.D. 1182)

Signed:

Senators:

NUTTING of Androscoggin  
KILKELLY of Lincoln  
KIEFFER of Aroostook

Representatives:

PIEH of Bremen  
CROSS of Dover-Foxcroft  
GILLIS of Danforth  
GAGNE of Buckfield  
WATSON of Farmingdale  
GOOLEY of Farmington  
FOSTER of Gray  
CARR of Lincoln  
COWGER of Hallowell

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

Signed:

Representative:

VOLENIK of Brooklin

**READ.**

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-952)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, March 30, 2000.

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Majority Report of the Committee on **CRIMINAL JUSTICE** reporting **Ought Not to Pass** on Bill "An Act to Establish Certain Crimes of Domestic Violence"

(H.P. 250) (L.D. 354)

Signed:

Senators:

MURRAY of Penobscot  
DAVIS of Piscataquis  
O'GARA of Cumberland

Representatives:

CHIZMAR of Lisbon  
SHERMAN of Hodgdon  
TOBIN of Dexter  
McALEVEY of Waterboro  
POVICH of Ellsworth  
PEAVEY of Woolwich  
O'BRIEN of Augusta

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-951)** on same Bill.

Signed:

Representatives:

FRECHETTE of Biddeford  
MUSE of South Portland  
QUINT of Portland

**READ.**

Representative POVICH of Ellsworth moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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Majority Report of the Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-949)** on Bill "An Act to Limit Lobster Management Zones to State Coastal Waters"

(H.P. 1675) (L.D. 2341)

Signed:

Representatives:

USHER of Westbrook  
ETNIER of Harpswell  
VOLENIK of Brooklin  
PINKHAM of Lamoine  
PIEH of Bremen  
BAGLEY of Machias  
McNEIL of Rockland  
HONEY of Boothbay

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

Signed:

Senators:

GOLDTHWAIT of Hancock  
PENDLETON of Cumberland  
MackINNON of York

Representatives:

STANWOOD of Southwest Harbor  
LEMONT of Kittery

**READ.**

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

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

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Majority Report of the Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-950)** on Bill "An Act to Alter Eligibility for Lobster and Crab Fishing Licenses for Persons Who are 65 Years of Age or Older"

(H.P. 1839) (L.D. 2577)

Signed:

Senators:

GOLDTHWAIT of Hancock  
PENDLETON of Cumberland

Representatives:

STANWOOD of Southwest Harbor  
USHER of Westbrook  
ETNIER of Harpswell  
BAGLEY of Machias  
LEMONT of Kittery  
McNEIL of Rockland

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

Signed:

Senator:

MackINNON of York

Representatives:

HONEY of Boothbay  
VOLENIK of Brooklin  
PINKHAM of Lamoine  
PIEH of Bremen

**READ.**

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

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

Representative **HONEY**: Mr. Speaker, Men and Women of the House. I urge my colleagues here in the House to vote against this recommendation. If there ever was a misnomer in the title of a bill, it is this one. This would indeed alter the eligibility for a lobster license. Please remember we are talking about individuals who fondly held a lobster license here in the State of Maine, but for various reasons let their license lapse in the prior year. Perhaps some of these had a senior moment or whatever. We all go through that. This legislation would take away the senior citizens eligibility for a class 1, 2 or 3 lobster license. This is being attempted under a limited effort plan for Maine's lobster fisheries. Remember, this effort comes at a time when Maine's lobster landings are at a record of 53.5 million pound catch in 1999. This is an all-time record. It has been going up anywhere from 5 to 7 percent each year. You will probably hear on the floor this morning that this legislation will do severe damage to the resource by letting these handful of individuals back into the rightful place in Maine's lobster fishery. I believe the only damage that these people can do by being let back into the fishery would be to themselves, climbing up and down the ladder each morning to the boat.

One other thing in this current legislation the provisions that allow these individuals to get back into the fishery has only been used less than five times during the time it has been on the books. Thank you Mr. Speaker.

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

Representative **ETNIER**: Mr. Speaker, Men and Women of the House. The bill itself, if you bothered to dig it up, basically tells you nothing. It just tells you what it repeals and what section. Let me tell you what it does repeal. The language that is repealed says that a person 65 years of age or over that has held a lobster or crab fishing license, they would automatically be eligible to get a lobster license and be able to fish 300 traps. A couple things I want to mention here, the language that we are trying to repeal here goes back to 1995 and is left over from the original lobster bill that passed back then that opposed a number of hurdles to get into the lobster fishery and had a number of loopholes in it, frankly, and virtually all of them had been repealed except for this one. The Lobster Advisory Council, which has membership from all seven lobster zones on it, it meets once a month at the Department of Marine Resources in Hallowell. It voted unanimously that they requested that our committee do this bill and they voted unanimously to support this bill. It was a request, again, of the Lobster Advisory Council.

The concern driving their concern, frankly, was this is not going to be the end of the fishery either way with this bill. If this repeal fails, it is not going to be the end of the fishery. It is not a conservation measure that is being proposed here today. To me, it is really an issue of fairness. The reason I say that is this loophole would allow anyone who is of this age to get into the fishery. All they had to have done is held at any point in their lives, not just in the previous year, but at any point in their lives, but at any point in their lives held any lobster license for at least a year. All they had to do was hold a license 20 years ago potentially and they could automatically be eligible to get a lobster license under this. They also would not even have to

have held a class 1, 2, or 3 lobster license, which are the ones that are associated with a commercial lobstermen. All they would have had to held would have been an apprentice license, which anybody can get. Those are not limited at the moment. Anybody can get those and it is how you get into the fishery these days. Any person who wished to have an apprentice license can go get one.

Using this loophole they can get one this year and then next year say that they held a lobster and crab fishing license last year. I am 65 or 66 years old, please give me 300 tags and my lobster license. That is not very equitable when you consider the other people who are earnestly working their way through the two-year apprentice requirements to get into the fishery. This would be an easy way around that and would not be particularly fair to those individuals. In addition to those zones, at the moment of the seven zones statewide, four of them are entering into a new process called the limited entry by zone process wherein they can choose in and of themselves by enlarge whether they wish to have a ratio for exit to entry for new lobster licenses into their area. This would allow these individuals to essentially bump someone who has gone through the apprentice program who may be a young person on an island or something like that who wants to get into the fishery and has put in his two years and 200 days under the apprentice program. He has met all the criteria and has worked hard to do so. He could be waiting patiently and in good faith to get into the fishery. He could get bumped by virtue of someone with a 65 year old license coming in ahead of him and making him or her wait even longer to have his chance to go fishing. There is no requirement in existing law that the 65 year old license had any previous experience, any time on the water or any hands on experience lobstering. It is just that they held a license at any point in the past. That does not mean they are necessarily fishermen who are going to be getting these licenses, retired fishermen or fishermen who failed to get it in one particular year.

Another concern, which I don't know if it is truly the end of the world either that brought this forward was the feeling among some of these people on the Lobster Advisory Council that a 66 year old person could get these licenses and then under existing law have as many stern men, people working with them on the boat, as they so chose. There is no limit on stern men. He could essentially be on the boat and have one, two or three people assisting him and running the boat for him. Again, it is really trying to eliminate the last loophole. It is really trying to be fair to those people who are going through the apprentice program and I would urge you to support the majority position on this. Thank you for your attention.

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

Representative **PINKHAM**: Mr. Speaker, Men and Women of the House. Since this law went affect several years ago, there is actually a decrease in the number of licenses in that age group. It is down by 31. There were 360 back in 1997 and it is 329 now in that age group. This isn't putting a flood of people into the industry. Also, the people who are proposing to not allow people 65 and over to get a license are full-time fishermen that already have what they want. They have their licenses. They have their number of tags. I guess it would only stand to reason that they would like to keep the monopoly on the fishing for themselves. As the statistics will show, there wasn't a flood of people that came in. As a matter a fact, there was a decrease in the number of licenses in that crew. The people that we had testify for this



repeal was, like I say, full-time fishermen that already have their licenses. I just feel this is a nice way to allow people in their senior years to work and make a few extra dollars to pay the bills. You can also use them as training for younger fishermen that come in. They have a lot of knowledge. We are not allowing people that never have been into the fishery and these are people who have fished before. They do have a lot of knowledge on lobster fishing and it is a way to train some of the younger fishermen that are coming in how to handle the fishery. I think it is a good bill to keep on the books. I am asking you to vote against the pending motion and let these people enjoy their senior years and maybe make a few extra dollars. Thank you.

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

Representative ETNIER of Harpswell **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 Brooklin, Representative Volenik.

Representative **VOLENIK**: Mr. Speaker, Men and Women of the House. It is a Maine tradition to go back to lobster fishing. Usually on a small scale upon retirement from other work to go back to the lobster fishery that you did earlier in your life and that you have planned on doing perhaps through years of servitude to some other job. This bill ends that tradition. This bill is another attempt to reduce traditional fishing practices along the coast in order to protect the more than adequate incomes of Maine's largest fishermen. I urge you to vote against the pending motion. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Kittery, Representative Lemont.

Representative **LEMONT**: Mr. Speaker, Ladies and Gentlemen of the House. Unfortunately, this is no longer a traditional fishery. We have a limited fishery now, limited entry into the fishery in four out of the seven zones. What this legislation proposes to do is allow anyone who is 65 years or older that held a license, they only had to hold that license for one year. It might have been in 1940, 1950, 1960 or they could have held a license for three months and never even participate in the fishery. To go ahead of qualified people who are on a waiting list to participate in this fishery, you have apprentices that have spent two years in this fishery, they are on a waiting list and still cannot receive a license. All this legislation does is create a loophole for 12 individuals to enter the fishery. Thank you.

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

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. In my district we have three different piers, lobstermen. I have several people who have logged the hours they needed and cannot get in to lobster. They have played by the rules. They have spent their two years and because their license was issued on January 1, 2000 and because limited entry went in on January 1, 2000, they cannot enter. They played by the rules. They have lived by those rules. They logged the hours. They worked for years to do this and they are being denied the right to make their livelihood. It would be like going to college for four years getting your degree for whatever you needed and then being told, so sorry, we have changed the rules. You can't make that living for which you tried. If I have lobstermen who can't get in after playing by the rules that we

establish, I have a real problem allowing somebody to go back. I ask you to please go along with the majority on this. Thank you Mr. Speaker.

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. 496**

**YEA** - Ahearn, Andrews, Bagley, Baker, Berry RL, Bouffard, Brennan, Brooks, Bruno, Bryant, Bull, Cameron, Cianchette, Clark, Collins, Colwell, Cote, Cowger, Daigle, Davidson, Davis, Dudley, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagnon, Green, Hatch, Jabar, Kane, Lemoine, Lemont, Lindahl, Martin, Matthews, McDonough, McGlocklin, McNeil, Mendros, Mitchell, Murphy E, Muse, Norbert, O'Brien LL, O'Neal, O'Neil, Perry, Powers, Quint, Richard, Richardson J, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Shiah, Skoglund, Stanley, Stanwood, Sullivan, Tessier, Thompson, Tobin J, Townsend, Tripp, Twomey, Usher, Watson, Wheeler GJ, Williams, Mr. Speaker.

**NAY** - Belanger, Berry DP, Bolduc, Bowles, Bragdon, Buck, Bumps, Campbell, Carr, Chick, Chizmar, Clough, Cross, Desmond, Dugay, Duncan, Foster, Gagne, Gerry, Gillis, Glynn, Goodwin, Gooley, Heidrich, Honey, Jacobs, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, Lovett, MacDougall, Mack, Mailhot, Marvin, Mayo, McAlevey, McKenney, Murphy T, Nass, Nutting, O'Brien JA, Perkins, Pieh, Pinkham, Plowman, Povich, Richardson E, Rosen, Schneider, Sherman, Shields, Shorey, Sirois, Snowe-Mello, Stedman, Tobin D, Tracy, Trahan, Treadwell, True, Tuttle, Volenik, Waterhouse, Weston, Wheeler EM, Winsor.

**ABSENT** - Frechette, LaVerdiere, Madore, McKee, Peavey, Rines, Stevens.

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

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-950)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, March 30, 2000.

#### **CONSENT CALENDAR**

##### **First Day**

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

(S.P. 1041) (L.D. 2623) Bill "An Act to Clarify Terms of Appointment to the Advisory Committee on Family Development Accounts" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass**

(S.P. 215) (L.D. 637) Bill "An Act to Amend the Law Enforcement Officer Certification Standards" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-578)**

(S.P. 302) (L.D. 873) Bill "An Act to Clarify Municipal Responsibility for the Maintenance of Veterans' Gravesites" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-581)**

(S.P. 503) (L.D. 1504) Bill "An Act to Amend the Lobbyist Registration Fee Provisions" Committee on **LEGAL AND**

**VETERANS AFFAIRS reporting Ought to Pass as Amended by Committee Amendment "B" (S-582)**

(S.P. 910) (L.D. 2362) Bill "An Act to Establish State Death Benefits for State Police Officers Killed in the Line of Duty" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-579)**

(S.P. 923) (L.D. 2374) Bill "An Act to Establish an Office of Women's Health" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-585)**

(S.P. 963) (L.D. 2505) Bill "An Act to Support Child Care Education and Services" (EMERGENCY) Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-580)**

(S.P. 964) (L.D. 2513) Bill "An Act to Adopt Recommendations of the Department of Human Services and the Department of Mental Health, Mental Retardation and Substance Abuse Services and the Joint Advisory Committee on Select Services for the Elderly Related to the Mental Health Service Needs of the Elderly" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-586)**

(S.P. 1007) (L.D. 2574) Bill "An Act to Harmonize State Financial Services Laws with Federal Law" Committee on **BANKING AND INSURANCE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-589)**

(S.P. 1017) (L.D. 2585) Bill "An Act to Provide Education Benefits For Maine National Guard Members" (EMERGENCY) Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-583)**

(H.P. 1886) (L.D. 2625) Bill "An Act to Strengthen the Habitual Motor Vehicle Offender Law" Committee on **TRANSPORTATION** reporting **Ought to Pass**

(H.P. 1872) (L.D. 2608) Bill "An Act to Improve Educational Programming at Juvenile Correctional Facilities" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-956)**

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. 723) (L.D. 2043) Bill "An Act to Clarify Underinsured Motor Vehicle Coverage" (C. "B" S-572)

(S.P. 736) (L.D. 2086) Bill "An Act to Preserve the State's Farm Economy and Heritage" (C. "A" S-574)

(S.P. 902) (L.D. 2354) Bill "An Act to Increase the Pay for Jury Duty" (C. "A" S-576)

(S.P. 936) (L.D. 2386) Bill "An Act to Establish a Deer Hunting Season in the Town of Cranberry Isles" (C. "A" S-575)

(H.P. 1877) (L.D. 2613) Bill "An Act to Clarify Application of the Employment Leave Law for Victims of Violence"

(H.P. 1532) (L.D. 2185) Bill "An Act to Promote Workplace Safety" (C. "A" H-948)

(H.P. 1621) (L.D. 2268) Bill "An Act to Provide Freedom of Access to All Reports Commissioned by the State" (C. "A" H-953)

(H.P. 1888) (L.D. 2628) Resolve, Regarding Legislative Review of Chapter 6: Certification of Law Enforcement Officers, a Major Substantive Rule of the Maine Criminal Justice Academy (EMERGENCY) (C. "A" H-943)

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

(H.P. 1542) (L.D. 2196) Bill "An Act Concerning the Formation of the Central Maine Regional Public Safety Communication Center" (C. "A" H-945)

On motion of Representative COLWELL of Gardiner, was **REMOVED** from the Second Day Consent Calendar.

The Committee Report was **READ**.

On further motion of the same Representative, **TABLED** pending **ACCEPTANCE** of the Committee Report and specially assigned for Thursday, March 30, 2000.

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

Bill "An Act to Amend the Charter of the Moscow Water District"

(H.P. 1802) (L.D. 2529)  
(H. "A" H-955 to C. "A" H-937)

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

Bill "An Act to Clarify the Tuition Waiver Program for Persons Who Resided in Foster Care as Children"

(H.P. 1909) (L.D. 2657)

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

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

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENGROSSED** and specially assigned for Thursday, March 30, 2000.

Bill "An Act to Allocate from the Fund for a Healthy Maine" (EMERGENCY)

(H.P. 1818) (L.D. 2552)  
(C. "A" H-941)

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

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

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

**ENACTORS  
Emergency Measure**

An Act to Allow Children to Fish from Shore with a Single Baited Hook and Line on Certain Portions of the Aroostook River

(S.P. 113) (L.D. 310)  
(C. "A" S-551)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 135 voted in favor of the same and 1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**Emergency Measure**

An Act to Reduce the State Rate for Tax on Telecommunications Personal Property

(H.P. 1752) (L.D. 2458)  
(C. "A" H-897)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 125 voted in favor of the same and 7 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**Emergency Measure**

An Act to Restore the Chaplaincy in the Maine Correctional Center in South Windham

(H.P. 1837) (L.D. 2575)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of the same and 4 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**Emergency Measure**

An Act to Amend the Charter of the Kennebunk Sewer District

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

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 132 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**Acts**

An Act to Allow Certain Disabled Persons to Fly-fish With Any Type of Rod and Reel

(H.P. 523) (L.D. 730)  
(C. "A" H-887)

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

(H.P. 1069) (L.D. 1500)  
(C. "B" H-891)

An Act to Validate Pierringer Releases in Multiparty Lawsuits

(S.P. 630) (L.D. 1795)  
(C. "A" S-558)

An Act to Encourage Equity Equivalent Loans or Investments in Nonprofit Community Economic Development Organizations

(S.P. 642) (L.D. 1824)  
(C. "A" S-553)

An Act to Modify the Campaign Finance Laws with Regard to Running for Federal Office

(H.P. 1508) (L.D. 2153)  
(C. "B" H-892)

An Act to Amend Requirements for Maine Technical College System Employees Participating in a Defined Contribution Plan

(H.P. 1704) (L.D. 2410)  
(C. "A" H-895)

An Act to Promote Historic and Scenic Preservation

(S.P. 983) (L.D. 2537)  
(C. "A" S-557)

An Act to Repeal the Fort Kent Utility District

(H.P. 1830) (L.D. 2566)

An Act to Amend the Program Evaluation Report Contents of the State Government Evaluation Act

(H.P. 1899) (L.D. 2640)

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

**Resolves**

Resolve, to Direct the Department of Inland Fisheries and Wildlife to Review Rules for Compliance with the Americans With Disabilities Act

(H.P. 868) (L.D. 1225)  
(C. "A" H-886)

Resolve, to Ensure Adequate District Court Facilities for Western York County

(S.P. 956) (L.D. 2497)  
(C. "A" S-556)

Resolve, to Ensure Adequate Funding for the Lewiston District Court

(S.P. 1029) (L.D. 2609)  
(C. "A" S-561)

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

An Act to Require Completion of an Ambulance Operator Course

(H.P. 471) (L.D. 678)  
(C. "A" H-888)

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

On motion of Representative BERRY of Livermore, was **SET ASIDE**.

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

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

The SPEAKER: The Representative may pose his question.

Representative BERRY: Mr. Speaker, Men and Women of the House. In regards to the ambulance operator course that is required, in looking at the amendment, it is tied to the person whose job description includes operating an ambulance in the emergency mode of transporting a patient, must possess the certification or the successful completion of a basic ambulance operator course. My question would be related to my own

experience. Occasionally we are shorthanded in the rural areas and we have had multiple vehicle accidents or multiple injuries and I have been asked to drive the ambulance on occasion. I wonder if this would limit firefighters who may be available to help transport patients from doing that? I would appreciate an answer. Thanks.

The SPEAKER: The Representative from Livermore, Representative Berry has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Freeport, Representative Bull.

Representative BULL: Mr. Speaker, Men and Women of the House. The very quick and dirty answer is no. The language was specifically written to include those who routinely are operating an ambulance. We were specifically concerned about this very instance that the good Representative from Livermore, Representative Berry, raised. There are times where you have a situation where you are shorthanded or if you need to press some people into service and this would not apply to them, it would simply be if this is something you do commonly and routinely. Thank you Mr. Speaker.

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

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

**UNFINISHED BUSINESS**

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

An Act to Prevent Gray Market Cigarette Sales

(S.P. 897) (L.D. 2316)

(C. "A" S-524)

TABLED - March 22, 2000 (Till Later Today) by Representative SAXL of Portland.

PENDING - **PASSAGE TO BE ENACTED**.

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

HOUSE DIVIDED REPORT - Majority (9) **Ought Not to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (H-944)** - Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Assist Students with Disabilities"

(H.P. 365) (L.D. 490)

TABLED - March 28, 2000 (Till Later Today) by Representative BRENNAN of Portland.

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

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

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

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

Representative BELANGER: Mr. Speaker, Men and Women of the House. I rise to ask you to defeat the pending motion so that we might go on and accept the Majority Report, which is **Ought Not to Pass**. During the 118<sup>th</sup> Legislature, legislation was

passed that brought the Maine Special Education Regulations as they relate to suspension of special education students, in line with the federal regulations. The Minority Report would have you exceed the federal regulations and roll back the good legislation that was passed in the 118<sup>th</sup>. Under current law, schools may suspend a special ed student for 10 days individually or accumulative for the entire year. A special ed student can only be suspended 10 days accumulatively for the entire year. Any suspension beyond that period of time requires that educational programming be provided while the students are out of school. The Minority Report makes two significant changes. The first removes the flexibility of the school and would limit any suspension to three days. Within three days you would have to have a manifestation hearing to determine if the action or misbehavior, if you will, was caused by the disability. The other difference is that it adds the word deliberate. It would have to be a deliberate violation of the rules. In my judgment, that is a loophole that would perhaps spur much litigation.

Why are we being asked to make these changes? The people that testified before our committee in support of this bill, not one of them, because I asked, not one said there was abuse going on with the current law. No one had been suspended more than 10 days accumulatively in a year. I ask you to keep the current law in effect. It coincides with the federal regulation, which protect our children. Have faith that your schoolteachers and your school administrators will use good judgment. For those few that may not, remember the regulations that limit any suspension for a total of 10 days in any school year. Let's not add cost and unnecessary burdens to our schools. I ask you to defeat the pending motion. Thank you.

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

Representative SNOWE-MELLO: Mr. Speaker, Ladies and Gentlemen of the House. I stand here before you today in support of the Ought to Pass motion. I am a sponsor of this bill. I stood in the 118<sup>th</sup> and I am one of those legislators that voted for this law. I thought, wow, let's get tough on these kids that act out, but since then I have learned an awful lot. I learned that 10 days is an awful long time for students with disabilities to go without a manifestation determination review. Parents have called me in my district and around the state and have thanked me for putting this bill in. I think we have gone too far. Our students, within 10 days, these kids with disabilities can lose much of what they have learned. Another thing, most of these parents are working parents. They simply can't stay home with these kids that need supervision and help. A lot of things could happen with these kids within 10 days, I believe that we are sending the wrong message. What are we doing? Just washing our hands of these kids. I don't always agree with what our federal government does. Sometimes I feel they are very out of tune with what the states are doing and what is really going on. I believe this is a good compromise. I think the Minority Report is a very good compromise. I think that 3 days is fair. It allows a child to go home, think about what they have done, talk to the parents and then get a determination to find out what is wrong with this child and get the services this child needs. I really believed in this legislation. I think it is a good idea. I really urge you to support the Ought to Pass as Amended Report. Thank you.

Representative MARTIN of Eagle Lake **REQUESTED** that the Clerk **READ** the Committee Report.

The Clerk **READ** the Committee Report in its entirety.

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

Representative **MARTIN**: Mr. Speaker, Men and Women of the House. For the last several years I have served as a member of the school board, a task, which I invite you all to try. The one thing I have learned through this process is how difficult it is to deal with some of the issues dealing with students with disability. One of the things that I have learned through this process is that parents with students with disabilities have far more rights than students who are not classified under that category. Frankly, I have also learned that it is really pretty easy to get someone classified and that is to request for perhaps a PT meeting. You start the process and you are covered by the federal law. At that point, you lose control. At that point what happens and I have seen it happen is don't kid yourself, people with disabilities, kids with disabilities and parents with student disabilities know the rules, know how to follow them and they access them to a point where you can't deal with the problems that occur in the school system. That is basically this, many of the problems are disciplinary problems and they know how far they can go to push you, push the teachers and the administration. Invariably that affects the rest of the students in that school system. That is the unfortunate part. I do not believe that we ought to be changing our rules and make it even more lenient than what the federal law is, because we are sending a message at this point and perhaps what we ought to do is change the law to let every parent participate under this system. You want to see the school system come to a screeching halt, you will see it in a hurry. I also happen to be the chief negotiator for the school board with the teachers and the staff, whether it be the Teamsters or the MEA. I don't know how many of you have talked to members on the school board, but these organizations basically are saying that we need comp time, we need money to be reimbursed somehow, some manner or shape for all the hours that we now have to spend to deal with PT, parents in this process and at some point someone is going to have to pay. We are asking much more of teachers than we were 10 years ago. Ask any teacher who has been through this process. Night after night meeting with parents and teachers in the committee meetings with the PT process, implementing the PT process, writing a plan and I could go on. I think before we start to change again to where we were four years ago and two years ago, we ought not to change what we did, what you did because I wasn't here, but I congratulate those of you who were that made change at least to make some conformity. I move that this bill and all accompanying papers be Indefinitely Postponed and ask when the vote be taken, it be taken by the yeas and nays.

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

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

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

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

Representative **RICHARD**: Mr. Speaker, Men and Women of the House. You have had many things said about this bill and some of them have been misconceptions. Usually the chairman of the committee and I can manage to come to a compromise when we don't agree and we did come to a compromise two years ago. That was when we passed legislation that has been

referred to already and was presented by Representative Dean Clukey of this body that brought our law into compliance with federal law. Here is where there seems to be some misunderstanding, when we talk about 10 days of suspension, we are talking about 10 accumulative days. That can be one day and then one day and then two days and then one day until it accumulates to 10 days. We are not talking about a child could be suspended for 10 days, what we would like to think and those of use who are on the committee and who are legislators do think that the educators out in the field are not going to suspend a special needs student for 10 days all at one time. If they do, they are going to use up all of the time. Once the special needs student has been suspended for 10 days, then a tutor needs to be sent home with them. For one day at a time the federal law says and we brought the state law into compliance with that, the federal law says one day at a time or two days at a time until you reach that 10<sup>th</sup> day. You do not need to send a tutor home with the student.

If a child has some unique problems that caused them to misbehave in school, that they cannot control, these can be addressed in their individual education plan. How they will be suspended can be addressed in the child's individual education plan. We are not taking that away from them in this legislation. A manifestation determination can be requested at any time by the parents if a child has been suspended for one day. The parents can request that that be done. The word deliberate in this bill is very troublesome. Those of us who voted against this can see the word deliberate as being a place where we can have all kinds of legal ramifications. How to tell whether or not a student who has special needs does something deliberately, is very, very difficult. Therefore, we find that word to be very, very difficult in this. Lastly, as the law was before the law that we passed in 1998, if two students, one a special needs student and one a regular student got into a fight on the school grounds, it would be very common that the regular student be suspended, but the special need student would not because the school would find it difficult to pay the cost of sending home a tutor with the special needs student. The schools are liable to teach the special needs students and one of the things, which they need to be taught is it doesn't make any difference who you are or what talents you do have or do not have. There are some things that are just not acceptable in society. It is very difficult, but the teachers have to work to attempt to teach the special needs students who are capable of learning that there are some things that are not acceptable in society. I urge you to understand that the bill, the legislation, that is now on the books, is now in statute, is an accumulation of 10 days. We are not talking about sending a student at home for 10 days at a time. That can be done, but as Representative Belanger said, we trust and we believe that there are very few people in the school systems who are going to do that. Therefore, I would urge you to support the motion that is on the floor.

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

Representative **BRENNAN**: Mr. Speaker, Men and Women of the House. Sometimes we take fairly straightforward issues and make them very complicated. In this particular issue, it is fairly straightforward, but the debate so far has been fairly complicated. I want to tell you why I think this is a very straightforward issue and why this is a reasonable proposal that is being put before the Legislature. Law that was placed in 1998 said that if a special needs child was suspended, at the time of

that suspension, the school district had to provide school services, tutoring and whatever else was in the child's individual education plan. Many school districts felt that that was a burden and felt it was too difficult for them to provide those services immediately upon the suspension. What this bill does is simply say that if a suspension of a special needs child goes beyond three days and that suspension is a result of their disability, after that three days, they would continue to get educational services. It is a recognition that the overwhelming majority of suspensions are for less than three days. We don't believe that with a child with special needs, that their educational progress will be negatively affected if they were just suspended for one day, two days or three days. However, with this particular group of students, when they are in a situation where they are not in school for an extended period of time, their educational progress is significantly affected at times. This is a very reasonable proposal that says that if you have a child with special needs and they are suspended for an extended period of time, meaning more than three days and that suspension is a result of their disability, they would get the educational services that they need so they won't fall behind in school when they come back. I think most people would understand that educational progress is very important and that we don't want to put these high-risk students in a position of falling even further behind in school.

One issue I want to make perfectly clear relative to a comment that was made by the previous speaker. This doesn't speak at all to whether or not a school can suspend a child with special needs. They are treated in the suspension the same way that any other child is suspended. If the behavior a special needs child engages in is not acceptable to the school, they are suspended in the same way that any other child would. What we are simply doing is talking about taking a reasonable step to make sure that they don't fall further behind in school. I hope that you will vote against the pending motion and support the motion after this pending motion. Thank you.

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

Representative **STEDMAN**: Mr. Speaker, Ladies and Gentlemen of the House. I am on the Majority Ought Not to Pass Report. I would like to reinforce the reasons that have already been stated, but the reasons that I voted in this manner. As was said, the accumulative 10 days to a year is not, in my estimation, an overly burdensome problem in the special ed arena. If a student is suspended for 10 consecutive days, that takes a major violation of school rules to make that happen. For anything less than 10 days, two, three or four days, I feel that the school's responsibility there is to make the rules apply to all students in the same manner. With all due respect to the sponsor of the bill and having worked in schools many years, I would have to say there is a different way of looking at special ed students when it comes to disciplinary matters. This is in response to the comments of the previous speaker. There is no way that a teacher looks at all students in the same manner when some are special ed and some are not. There are special rules that govern how you treat special ed students. The word deliberate has been mentioned and put into this amendment that is on the Minority Report. That, as been stated, could create all kinds of litigation possibilities because of the definition of the word, how it would be defined and how it can be used. The exceeding of the federal regulations is the third matter that I wish to lift up. I would urge you to support the pending motion on the floor to Indefinitely Postpone. Thank you.

The SPEAKER: The Chair recognizes the Representative from York, Representative Andrews.

Representative **ANDREWS**: Mr. Speaker, Men and Women of the House. I am a member of the Minority Report, Ought to Pass. I am on that report for a very specific reason. I do not have a problem with a single day suspension. For a child with a disability that is suspended longer than three days and do not receive instruction, can have catastrophic results. Some of these children can actually backslide. I will note one particular diagnosis of autism. It is critically important for a child with autism that they have a very set repetitive pattern day after day, hour after hour. It is not the child that is being suspended for one day that I have a concern for. It is the child of a specific disability or diagnosis that this could actually cause them to backslide. Thank you.

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

Representative **O'BRIEN**: Mr. Speaker, Colleagues of the House. I certainly had no intention to stand up on this, but listening to debate I need to also echo Representative Andrew's comments. There are other diagnosis that the teacher's do not necessarily know, such as depression, mental health issues, obsessive-compulsive disorder. If a child is out of school for a length of time and they are not caught up with their work and they get further and further behind, it is a very, very devastating thing for that child. In all due respect to previous speakers, not necessarily do all teachers know all these kids. They may act like there is no problem, no disabilities when, in fact, they have severe disabilities. Thank you.

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

Representative **WATSON**: Mr. Speaker, Men and Women of the House. I rise to ask my colleagues here today not to support the Indefinite Postponement of this bill and all its papers. I recognize that this, to some people, is a very complex issue, but certainly for me who has not ever been a school administrator or served at the local level on a school board, but have served statewide on behalf of parents with children with disabilities as a board member of a very fine Maine Parents Federation Organization. I guess I am rising today to speak on behalf of those parents who cannot be here today to speak for themselves or for their families. I was very supportive of this initiative brought forward in this LD by Representative Snowe-Mello. I was not aware of the problems that can arise with children with disabilities in our schools who need and actually it is our responsibility to give the most support that we can to them because of those disabilities, not just a state mandate, but a federal one also as you have heard today.

When children of any age is suspended from school for whatever reason, no matter if they are a child of disabilities or not, it is a serious matter. I have had reference made today by my colleague on the other side of the aisle, Representative Martin, that he assumes that these children know how to push their behaviors, these children with disabilities, to the max. Some of the children that I know with disabilities it would be wonderful if they were certainly that bright and that perceptive and knew how to play their teachers that well. Unfortunately, that doesn't always happen. These children are suspended because they have behaviors that are disruptive and are sometimes violent and that is unfortunate. To say that these children, based upon nothing else but their behavior at the time, should not have a continuation of services that are so necessary

to their development, I think is unconscionable. What we have been asked to do is rectify a situation that does not need to happen. We do not need to wait 10 days to determine whether or not that student had behaviors that were directly related to a disability. I was astounded to find out that even though a child with disabilities has an IEP that immediately that school did not reconvene that child's team, whether the suspension was for one day, two days, three days or more. That school had no obligation to convene that team on that child's behalf until the 10 cumulative days had passed. They had no mechanism legally in which to serve that child's needs. They took it on face value that the child's acting out behavior was on the same par with a child with no disabilities. All we are asking for is that assumption not be made. After three days, there shall be a team effort to determine whether or not the behavior was a manifestation of a disability and whether or not after three days of suspension, that child should be entitled to some support services in the home. I urge you all to please to defeat the Indefinite Postponement of this bill and all its papers and go on to help pass this very simple request that we have for parents who have children with disabilities, to give their children a fair chance to continue to support them in their educational endeavors. Thank you.

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

Representative **RICHARD**: Mr. Speaker, Ladies and Gentlemen of the House. I am sorry to prolong this, but I find it very difficult to sit here and be made to sound like those of us who are on the majority of this bill are in some way opposed to children with special needs or are in some way trying to harm children with special needs. That is the very last thing from our minds. All of us have worked with children with special needs and we understand their needs. I have said before and I need to repeat it that unique problems of children with special needs can be addressed in their individual education plan and in that plan you can address the way that students will be disciplined. That is in statute now. We are not trying to change that. That is in statute now. The manifestation determination can be requested at any time. That is trying to determine why the student is misbehaving. That is in statute now.

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

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I stand here again and there were a couple of comments that were made that I really take exception to. Especially the comment that was made by a fellow colleague that many of the parents of children with disabilities get more rights than any other parents we know. That is an appalling statement to have said that if you know or knew of parents that have children with autism, you would see what kind of strife they go through day by day. I believe that we need to get those parents as much support as we can or any other child that has a disability. I believe this is a good bill. I don't think three days is unreasonable. I think it is very reasonable. People that have children with autism, have such a difficult time that many of the marriages wind up in divorce. That is how stressful and difficult this disorder is. I think by passing this law we go a long way in helping keeping families together and serving the children that have these problems. There are no problems that are easily addressed. We need to address them just as soon as possible. Thank you.

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

Representative **STEDMAN**: Mr. Speaker, Ladies and Gentlemen of the House. I wish to just make a couple of comments. If you look closely at the amendment, it doesn't say that the student has to be suspended for three days before any action takes place. It says within three days of the date of which misconduct occurs. It doesn't say that they have to have been suspended for three days. I would like to make that point that it could be on a one day violation of the rules and a suspension of one day could result in this manifestation and determination hearing to be held. I think that takes it totally out of the control of the local administration and the department. One other comment, the present law does not say that a school cannot provide services if a student is suspended. Many schools do provide those services voluntarily if they feel it is necessary to keep the student on track as far as education is concerned. They will provide those services anyway. Thank you.

The SPEAKER: The Chair recognizes the Representative from Mapleton, Representative Desmond.

Representative **DESMOND**: Mr. Speaker, Men and Women of the House. I need to clear up just one misconception that I have heard. A teacher may not know or understand the disability. I would say that if there is a child with a disability in a classroom, that the teacher will know that that child is there. The teacher has to be part of the individual education plan. As such, the teacher will understand and know what that child is going through and what that child's problem is. I would say that we should urge to support the pending motion.

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

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. I feel I must stand and defend those of us who are in the classroom. I just left the classroom just this morning with many students of mine who have special needs, mainstreamed into the classroom. I can tell you that I have taught students with Marfan's Syndrome, Tourette's Syndrome, dyslexic, autistics, students with ADD, ADHD, depressed, students have a myriad of mental health issues. They are all tabbed in my gray book and there is plenty of information about all these students. I am also married to a coordinator of special education in a high school, grade 7 through 12. Our phone never stops ringing. There are nightly, daily, afternoon determinations for activity going on in both of our schools. We are constantly thinking about these students. We know a great deal about them. They are identified. Each student is brought before us at the beginning of the year with reports. I evaluate those students every two weeks and talk to their parents. Let's not make it anymore difficult than it already is and I wouldn't say that parents of students with disabilities have any more rights. I think that they are better informed and I think we are serving them better because parents have been good advocates for those students. Let's not make the law anymore onerous than it is. Teachers and administrators are working extremely hard to deliver a public education to every single child. Let's not make it any more onerous than it needs to be. Thank you.

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

Representative **BRENNAN**: Mr. Speaker, Men and Women of the House. I just want to quickly read a letter from a young woman 19 years old who came to the public hearing on 490. She said, "I have bipolar disorder. That can sometimes cause some strange and bizarre behaviors. I started to get sick at the end of my senior year. I was lucky and got help. If these

behaviors would have happened to me earlier in school, I would have been suspended more than once. For these reasons, I am here to support LD 490. There needs to be a law in place to determine what behaviors are bad behaviors or what behaviors are of an illness. Kids with disabilities need to be accountable for their behavior, but they also need to get their education so that they can go on to college like I did and someday stand here and testify in front of the Legislature for something they believe in. Thank you."

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

Representative **MARTIN**: Mr. Speaker, Members of the House. I don't believe there is anyone in this body who is suggesting that we do not provide assistance for students with disabilities. The issue here before us is whether or not we are going to complicate the rules and we are going to have two separate standards. One, the federal and then we are going to superimpose a different kind of standard at the state level. The school boards and members of the teaching profession will then need to conform with it. There is enough confusion out there. Let's not create anymore. We are doing a tremendous job, in my opinion, in most school districts in this state for students with disabilities of all kinds. We ought not to complicate that problem. If you live in a school district where that is not being done, then I would suggest that you deal with the school board at your local level and you deal with the Commissioner of Education and the division that deals with that particular program. Let's not make it any worse at the present time.

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

Representative **COTE**: Mr. Speaker, Members of the House. I know there are a lot of you that feel that I shouldn't stand up and testify on this bill, but I urge you to defeat this motion. I, myself, experienced this personally with my own son, Ron. All of you have known my son this past two years. He may not show it, but he may show that he is a bright boy, but we just found out he does have these disabilities that bill has spoken about. It took his mother over a year to get him some help with his schooling. It took the school system a year to realize he has this problem. He just went through a testing last month to find out what his disabilities are. He has a learning disability and it took us almost over a year to get him this help. I know from experience about a child with a disability. I, myself, had this disability when I was in school. I never got the help that I needed or my grades would have been better. My son is able to get this help after fighting the school system for over a year. They finally are giving him the help he needs. He has already received 10 detentions because of his schoolwork. Now until the end of the school season he has to stay in school after school for detention to catch up on his schoolwork. The schoolteacher failed to notify us ahead of time after giving him two detentions. He waited until he gave my son 10 detentions to notify us about his schoolwork or we could have taken care of this way before now. I urge you to follow my light and defeat this pending motion. Thank you.

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

#### ROLL CALL NO. 497

YEA - Ahearne, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Brooks, Bruno,

Buck, Bumps, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Colwell, Cross, Daigle, Davidson, Davis, Desmond, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Foster, Fuller, Gagne, Gagnon, Gillis, Glynn, Goodwin, Gooley, Hatch, Heidrich, Honey, Jacobs, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, Lemoine, Lemont, Lindahl, Lovett, Mack, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McKenney, Murphy E, Murphy T, Nass, Norbert, Nutting, O'Brien LL, O'Neal, O'Neil, Perkins, Perry, Pieh, Pinkham, Plowman, Povich, Powers, Quint, Richard, Richardson E, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Sherman, Shields, Shorey, Sirois, Skoglund, Stanley, Stanwood, Stedman, Sullivan, Tessier, Thompson, Tobin D, Tobin J, Treadwell, Tripp, True, Tuttle, Usher, Volenik, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Andrews, Brennan, Bryant, Bull, Cote, Cowger, Dudley, Gerry, Green, Jabar, Kane, MacDougall, McNeil, Mendros, Mitchell, Muse, O'Brien JA, Richardson J, Shiah, Snowe-Mello, Townsend, Tracy, Trahan, Twomey, Watson.

ABSENT - Frechette, LaVerdiere, Peavey, Rines, Stevens.

Yes, 121; No, 25; Absent, 5; Excused, 0.

121 having voted in the affirmative and 25 voted in the negative, with 5 being absent, and accordingly the Bill and all accompanying papers were **INDEFINITELY POSTPONED** and sent for concurrence.

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

Bill "An Act to Allocate from the Fund for a Healthy Maine" (EMERGENCY)

(H.P. 1818) (L.D. 2552)

(C. "A" H-941)

Which was **TABLED** by Representative SAXL of Portland pending **PASSAGE TO BE ENGROSSED as Amended**.

On motion of Representative TOWNSEND of Portland, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-941) was ADOPTED**.

The same Representative presented **House Amendment "A" (H-964) to Committee Amendment "A" (H-941) which was READ** by the Clerk.

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

Representative **TOWNSEND**: Mr. Speaker, Men and Women of the House. This is a technical amendment. It removes the emergency from the bill. The only substantial action that it takes related to the amendment is that it means that an appropriation of \$6.3 million, which would have been to the reserve fund in this fiscal year, would be made to the reserve fund next fiscal year. Thank you.

**House Amendment "A" (H-964) to Committee Amendment "A" (H-941) was ADOPTED**.

**Committee Amendment "A" (H-941) as Amended by House Amendment "A" (H-964) thereto was ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-941) as Amended by House Amendment "A" (H-964) thereto** and sent for concurrence.



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

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

**HOUSE DIVIDED REPORT - Majority (10) Ought Not to Pass - Minority (3) Ought to Pass as Amended by Committee Amendment "A" (H-951) - Committee on CRIMINAL JUSTICE on Bill "An Act to Establish Certain Crimes of Domestic Violence" (H.P. 250) (L.D. 354)**

Which was **TABLED** by Representative **POVICH** of Ellsworth pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **POVICH**: Mr. Speaker, Men and Women of the House. This session the Criminal Justice Committee considered three similar domestic violence bills. All of the bills were designed to strengthen the criminal code to more effectively deal with domestic violence prosecution. The bills were LD 354, 2421, and 454. We chose LD 454 as a vehicle to deal with these particular issues. LD 454 was engrossed on 3-27 and the other body concurred on 3-28 as the vehicle to carry the concepts of the three bills. LD 454 is a comprehensive and effective bill. The vote was 10 members Ought Not to Pass, including all three members of the other body. By combining the most important element of all three bills into LD 454, LD 354 was rendered redundant the committee felt.

LD 354 would create two new offenses in the criminal code: domestic violence assault and domestic violence terrorizing. At first blush I felt that we ought to name domestic violence in the code. I proceeded that way until the Maine Commission on Domestic Abuse, the Maine Coalition to End Domestic Violence, Family Crisis Services in Cumberland and Sagadahoc Counties, along with the Criminal Law Advisory Commission, our legal eagles from the judiciary, prosecution, and defense bars, agreed with the majority of the committee that domestic violence criminal conduct is regulated under general criminal law. New crimes are not necessary. What is needed is more DA's and judges to hand the domestic violence cases.

The three Domestic Abuse organizations just mentioned worried that there would be a lessening of the prosecutions and penalties caused by the addition of two crimes and possible confusion to the criminal code. LD 454, the vehicle you just endorsed, also pointed the judiciary to two new aspects of domestic violent conduct, domestic destruction, which was Representative **Murphy's** bill and rendering communication inoperable, which was Representative **Muse's** bill. Now the judiciary has a clear roadmap to deal with domestic violent behavior.

I must mention that one important shortfall of this bill is that Maine's general recidivism statues, which elevates the classification so offenses for repeated violation does apply to this bill. What I like about current criminal law is that if you keep doing this nasty family business you will earn your felony. LD 354 will not do this. Under this bill you keep doing this and we are going to continue to treat you as a minor criminal. That doesn't impress me much.

For those reasons, I urge the body to support the pending motion. I don't want to expand my time too much. I will come back to the issue if necessary. Thank you.

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

Representative **MUSE**: Mr. Speaker, Men and Women of the House. I felt very strongly that I had to break away from the committee to vote in support of this bill for the simple reason that for all of the noise and for all of the clamber we have heard over the last several years and for all the light that has been shown on the very real problems of domestic violence in the State of Maine, the State of Maine does not have a law against domestic violence. In the Maine Criminal Code there is no law against domestic violence. That really sat wrong with me and that was what prompted me to introduce the bill. In speaking with other members of domestic violence groups, one of the things that became very apparent is the largest problem that they deal with is after an assault occurs and an arrest is affected, the person is brought to jail and more times than not, as is the case with just about every crime, the individual is brought to jail and they are bailed out and they are back on the street and they are back in their home before the arresting officers have even finished filling out their paperwork and left the department. That is a fact. This happens every single day. They don't have to wait to make bail for the officer to finish filling out paperwork. In fact, in most jails the officers in the jails hurry to separate the arrestee from the arresting agency. They want to get them away from one another for obvious reasons. The people who run the jail, they don't want them in the jail either. Jails are overcrowded. They want to get them in, get them processed and get them out as quick as they can. They call the bail commissioner and the bail commissioner sets the bail and the individual makes a phone call, a brother or other family member with a deed to their house or a property tax receipt and they pay the bail commissioner's fee and they are on their way home. The most important aspect of this bill is the clause in the bill that says that if you are arrested and charged with domestic violence in the State of Maine, you cannot be bailed out of jail by a bail commissioner. You must appear in front of a judge to make bail. This will afford the victims of domestic violence an opportunity to make living arrangements, to get out of the home or do whatever they feel is necessary so that they feel safe and secure. They not only feel they are safe and secure, but they can be literally safe and secure.

I spoke with the Attorney General about the bill. His feeling was that if this bill were to pass, it will promote guilty pleas. Some of the domestic violence people said the thing we don't like about it is it may force victims to have to come into court and testify that, yes, that is my spouse or whatever the case might be. It will force victims to have to come in and testify. They didn't like that. My question was, if they don't come in, then what happens? Then the case would get dropped down to a simple assault, which is exactly what we have now. If they plead guilty to the domestic violence piece, terrific. If they don't and the victims are that apprehensive about coming into court and testifying and the case is plead down, then we are right where we are today. This is just affording a couple of things to happen. Number one, the state may come away with a conviction for this crime. Number two, and the most important piece of the bill, it is going to afford victims an opportunity to be safe and secure. I would strongly urge that we go ahead and turn down this motion and go ahead and pass the Minority Report. Thank you Mr. Speaker.

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

**Representative MCALEVEY:** Mr. Speaker, Ladies and Gentlemen of the House. At first blush, I believed that this was a good bill until I realized that some of the people that came and testified found out some shortcomings. First, we all have a constitutional right to bail. I would dare say that 99.9 percent of the people who are bailed, whether by a bail commissioner or a judge, as part of their bail conditions, there is no contact with the house, residence, victim or the family. All the stipulations could be place in effect if there is alcohol involved, no alcohol involved, if there is threatening of weapons and if they are a very violent person, removal of weapons from the home. In my experience seeing people bailed, people do go back to their homes and violate their bail conditions and then they go back to jail without bail because that is a non-bailable situation.

The previous speaker, who I have a lot of respect for, made the point that we are trying to create a law to promote guilty pleas. That is not the purpose of this legislation, to create laws to promote guilty pleas. Right now, if you are convicted of a third assault, that can be elevated to a felony. An assault is an assault, no matter who you beat up, unless it is a child under six and then it is a felony. There are special circumstances and sentencing purposes if it is in domestic violence or if you are taking advantage of an incompetent person or disabled person. An assault is an assault. Do we next create a special law of assault on parents or parents on children? There is a lot of abuse of our elderly seniors by some of their children. I think there is merit in this bill, but I think it takes a little more time to work on it. I don't want to get off track here, but you will see a report coming to you later on about a study commission. This may be a place where this could reside and live and come back and be revisited by us at a later date when we have a number of months to study it and look at the prospect of it. I think that the bill has potential, but in its present form it doesn't, I think, do what we would like it to do. The key to preventing this is stiffer enforcement and violations of bail and protection of abuse orders and stronger sentencing for people who do abuse their spouses. That is the key. Lock them up. You can't beat your spouse up if you are in jail. Thank you.

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

**Representative SAVAGE:** Mr. Speaker, Men and Women of the House. The good Representative from Waterboro, Representative McAlevey, has stolen a good deal of my thunder by correctly pointing out that the purpose of this Legislature is not to hold people in jail in order to force them into a guilty plea. I think that is just fundamentally offensive. I agree with everything that he said about domestic violence being a problem, but I look at the provision in this bill dealing with bail as being something that if we are going to look at bail conditions, we should do it comprehensively. We have a presumption of innocence in this country that applies to every criminal defendant. We have given the bail commissioners the necessary tools to access the situation and decide whether or not there needs to be a no contact provision about returning to the home. If we are going to get rid of the presumption of innocence, let's not do it here. Let's do it right in the Constitution.

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

**Representative MUSE:** Mr. Speaker, Men and Women of the House. I apologize for rising again, but I just want to clear up something. I didn't sponsor this bill or put it in an effort to

promote guilty pleas. That is simply a benefit that was pointed out to me by the Attorney General's Office. I think that is a fact. I think that it will, in fact, promote guilty pleas. As far as my friend, Representative McAlevey, pointed out that we have a constitutional right to bail. This doesn't deny that constitutional right. We hear, as the former speaker said, it won't prevent somebody from going back to the home. It won't. Why should we do it? If we follow that same train of thought, why do we have laws that say it is illegal to rob a bank or it is illegal to murder someone, people do it anyway. Why do we have those laws? Will people still violate this? Yes, they will. Is this a very strong step forward? Is this creating an opportunity for victims of domestic violence to either move or find secure housing or to get away? Yes, it is. That is why I supported this piece. Thank you Mr. Speaker.

Representative POVICH of Ellsworth **REQUESTED** a roll call on his motion to **ACCEPT** the Majority Ought Not to Pass Report.

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

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

#### ROLL CALL NO. 498

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

NAY - Baker, Brennan, Bull, Davidson, Dugay, Gagne, Green, McKee, Muse, O'Brien LL, O'Neil, Powers, Quint, Saxl MV, Shiah, Townsend, Volenik, Watson, Williams.

ABSENT - Buck, Cianchette, Frechette.

Yes, 129; No, 19; Absent, 3; Excused, 0.

129 having voted in the affirmative and 19 voted in the negative, with 3 being absent, and accordingly the Majority Ought Not to Pass Report was **ACCEPTED** and sent for concurrence.

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

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

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (H-949)** - Minority (5) **Ought Not to Pass** - Committee on **MARINE RESOURCES** on Bill "An Act to Limit Lobster Management Zones to State Coastal Waters"

(H.P. 1675) (L.D. 2341)

Which was **TABLED** by Representative ETNIER of Harpswell pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended Report**.

The **SPEAKER**: The Chair recognizes the Representative from Kittery, Representative Lemont.

Representative **LEMONT**: Mr. Speaker, Ladies and Gentlemen of the House. I would first like to complement the good Representative from Harpswell. He has done exactly what you should do. He has put in legislation that would benefit his constituents. Unfortunately, it is a huge detriment to mine. In 1995, we passed landmark lobster management legislation. It created seven zones that went out to 30 miles. This was to give the local lobstermen the chance to manage their own fishery. The zones were given three areas of jurisdiction. One was the number of lobster traps they could fish and the other was the number of lobster traps on a trawl. The third was the time of day when lobstering could occur. Why was this legislation necessary? The lobster was determined to be over fished, which acquaints to effort, which means you must reduce effort, which equals conservation. We, as a state, took several conservation measures. One was the trap limit. The other was the v notching of female lobsters, the oversized lobster protection and the vent size. The Legislature before you voted conservation. It increases effort. It reduces the lines to three nautical miles. Under the current law, there is something called majority/minority. You have to designate the zone you want to fish in. You can fish a majority of traps. You can fish a majority of traps in that zone and a minority in another bordering zone. Right now, what that means, is if this Legislature was successful, your maximum of 800 traps this season can be fished outside of three nautical miles from Eastport to Kittery.

Lobsters know no lines. They migrate in September and late October. They migrate in a southwestern direction. Let me give you an example. Zone F, which is Casco Bay, and Zone G, which is Cape Elizabeth to Kittery, the zone I fish in. Under this law, Zone F fishermen will migrate from their zone and fish outside of three nautical miles in Zone G. Currently, the only ones who will be eligible to do that with this law will be the federal license holders. There used to be 900. That number had been consistent for several years. It has recently been increased to 1,200. Obviously someone has figured out a loophole in this law to increase effort and decrease fishing grounds. We are talking about Zone G, three out of the last four years our landings have been down drastically. In fact the stock assessments that have just come out and they are very healthy from Cape Elizabeth to the east, but from Cape Elizabeth to the west, the stock assessments are lower.

This legislation in Zone G will increase effort. It will cause gear conflicts. It will allow fishermen to fish on the brood stock, which is identified in this area. It will have a huge economic impact on Zone G fishermen. What will be the effect of this legislation on zone management? It will reduce the jurisdiction, which I previously said, from 30 miles to three miles. We, in essence, are giving back what we fought so hard for 90 percent of our jurisdiction. Zone G has expressed to me on several occasions that if they can only manage three miles and in, what

is the point of managing their fishery? I would feel much better about this legislation when during the public hearing we had had more people testify from other zones. We only heard testimony from Zone F and Zone G. There was one individual from Zone B and one individual from Zone D. What is the effect on the Atlantic States Fishery Management Council? They are the governing body, the federal body that regulates the lobster fishery. They have gone along with us on several occasions in our conservation efforts. Two or three of our Maine commissioners feels that this sends a very negative message. I hope you will please vote to support the lobstermen of Zone G. Enough is enough. We have conservation on top of conservation. We need to let the dust settle and see the impact of our conservation measures. Thank you.

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

Representative **ETNIER**: Mr. Speaker, Men and Women of the House. My good friend and colleague from the western part of the state, Representative Lemont, has made a comment that, personally, I find a little offensive, but I just want to mention that because we are good friends and I don't want this to go any further, but regarding putting the bill in to benefit my constituents. There are lobster license holders in my district who fish with federal permits and who would benefit potentially under this law. In my four towns, I think all federal permit holders would benefit under what I am proposing here. The only reason they are benefiting is because the current law that is in effect is disadvantaging. This bill will correct that inequity. That is all it does. It does not give them anything more than what they had before the current law regarding majority/minority and limited entry into zones when into affect. This is an attempt by myself to help out the fishermen in the state who rely for the largest part of their income on commercial lobstering. Those are the federal permit holders, by enlarge, and they have been adversely affected by a law that we passed last year and I supported that had inadvertent consequences. It had unintended consequences of majority/minority in there. That language, without going into a great deal of detail, will cause undo hardship on those federal permit holders, Maine federal permit holders. It will cause no undo hardship on Massachusetts or New Hampshire federal permit holders who can fish side-by-side with Maine federal permit holder and are not affected by this law that we passed last year. It only disadvantages Maine permit holders. This is why I put the bill in. There is a lot of support from my zone, which is the Casco Bay Zone, Small Point to Cape Elizabeth. There is a lot of opposition from the zone to the west, where the good Representative from Kittery resides, which is Kittery to the New Hampshire border. There is also support from the Down East Lobstermen's Association on the record for this bill. There is also support from the Zone D lobster council. They have voted and gathered petitions to support this. That is more of a mid-coast Penobscot Bay zone. There were fishermen from as far away as Zone A, which is the eastern most zone. They spoke in support of it as the Representative mentioned. It has been played out to be, unfortunately, a Zone F versus Zone G issue, which I think is misleading. I am sorry that it has played out that way. I knew it would all along.

Another thing I wanted to correct was the landings in the County of York where Zone G primarily is. They have gone up. The preliminary catch for last year for 1999, lobster landings in York County went up almost 900,000 pounds from the previous year. I got these numbers today from the Department of Marine

Resources. Those are preliminary numbers. There are now 3,264,000 last year, up approximately 900,000 from the year before. Zone G did do a little bit better last year. Those numbers are always misleading because where the lobsters are landed doesn't necessarily relate to the county that is under discussion, but that is another story.

A large part of the reason I brought this bill forward was an attempt to do what I think is an important thing for us as fishery managers in this state and that is to minimize the lines that are on the water that fishermen have to live by when they go out every day under fairly adverse conditions, unlike us here in the Legislature to make their livings. I think every time we, as fishery managers, that is what we end up being here in the Marine Resources Committee for good or for bad, every time we have an opportunity we should keep those lines to a minimum. There was a good reason why the Department of Marine Resources, through the rulemaking process made these lines go out 200 miles to the extent of federal jurisdiction back in 1996 or 1997 when they did the rulemaking process. At that point in time there was no federal trap limit. There was no federal tag required for your traps. There was none of the other conservation measures that Maine holds near and dear, v notch, egg-bearing protection and oversized protection. Those are all in place now in federal waters. That is a large part of the reason I don't think we need to have the lines going out there and minimizing these lines to state waters. I think it would help eliminate a lot of the friction between zones and help ensure the health of the lobster zones in the future by cutting down on the length of these lines.

I don't view this bill as a conservation measure. I don't view the status quo that it seeks to change as a conservation measure. The fishermen who are bound by this law, one way or the other, are still probably going to fish 800 traps. That is what the limit is in all the zones except for one. They are still going to fish that number of traps. The only thing that the status quo does, which I am seeking to change because I think it is wrong, is the status quo that tells these fishermen where they can fish their traps. I think that is the wrong thing to do. We have already done enough. I have had a hand in it myself trying to do conservation for this industry by trap limits, limited entry, apprentice programs, student license and you name it. We have done all we can. A lot of it really hasn't had the desired affect to date to be honest with you. To further compound that, to say we are now going to disadvantage these federal permit holders and tell them where they are going to fish their gear, I think that is absolutely the wrong thing we should be doing. It is hard enough to make a living in the lobster fishery. It is hard enough to make a living in the off-shore waters of the state when you fish in the fall and the winter, let's not go in there and medal around and tell these people where they can fish their traps. Let's leave it as it has been. Let's leave it the traditional way it has been for decades and allow these fishermen to work east and west along the coast to make their living. Thank you very much and I appreciate your attention.

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

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

The SPEAKER: The Representative may pose his question.

Representative WHEELER: Mr. Speaker, Men and Women of the House. To anyone who may answer, what benefit would Zone G fishermen have with this piece of legislation?

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

Representative TUTTLE: Mr. Speaker, Men and Women of the House. In answer to the good gentleman's question, the answer would be none. I don't normally rise on issues of this nature on Marine Resources, but in a previous life I did serve as Senate Chair of Marine Resources. I can remember talking to my relatives, I have an uncle who used to fish on the coast a number of years ago. He used to survive on 100 traps. Now we are talking about 800 traps. As far as the figures of how well the resource is doing, I think a lot of times there is a big discrepancy in talking to maybe the department, who testified neither for nor against this bill and talking to the fishermen. As I mentioned before, I had many relatives who have been fishermen in the York County area for generations. I have received calls from them and essentially what they are saying is if we pass the bill in its present form, it will essentially totally destroy the lobster industry in York County. I take what they say to me very seriously. These are individuals who have worked hard all their lives in the fishing industry and very seldom we get involved in subjects like this, but on this subject here, it has really burned a lot of emotion in my area.

I think that just because we have a few individuals with big boats, they are big boats for any of us that have watched the industry grow, who want no trap limits at all. Historically, when I was chair and to this day, delay any type of conservation measure and their efforts, whether it be in court or otherwise, I think would be a mistake by this body.

My understanding, that under present regulations, those management zones go to 200 miles and I would say to you, wouldn't you think it was rather extreme to go from that 200 mile management zone to a zone of three miles. Isn't that a little extreme? Wouldn't 12 miles be better or maybe 30 miles? I received communication on this. I received communication not just from our area, but from areas around the state, from a gentleman from Lincoln, him and his wife, referring to this bill. They said it would allow adjoining zones to overlap in federal waters undermining the conservation zones with lower trap limits as they mentioned in Zone E and large groups of fishermen from moving southward into other zones. It also said that there main concern is that this bill will undermine the zone management process. I am a firm believer in co-management and having fishermen taking their share of responsibility in managing this fishery. The zone process is very limited in its scope already. Anything that further limits that scope is a step backwards and potentially damaging.

It is for that reason, Mr. Speaker, men and women of the House, I would ask that calmer heads will prevail. I would ask that the Bureau of Marine Resources, the Committee and the fishermen, come back with an approach that I think would be in better management for the state resource because in all honesty, ladies and gentlemen, unless we do some things drastically over the next decade, there may not be a fishing industry in my area in the very near future. That would be a shame not only to us, but to all the people of the State of Maine.

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

Representative PIEH: Mr. Speaker, Men and Women of the House. I will say that, I as not a person who lives in Zone G or F or represents any of those folks, that I appreciated the good

Representative from Harpswell putting in this bill as something that was relevant to the fishermen that I worked with and that I have seen up and down the coast. No doubt you have been encouraged in the halls by fishermen, which way to vote on this, both ways. I think one of the things that all of the fishermen here listening would agree on is they rarely agree on anything. It falls to us to make this decision. I think that this bill is no exception in terms of their disagreement. My position in supporting this Majority Report, which I encourage you to support as well, is the commitment that I have to protecting traditional fishing territories. One thing that we have heard in the Marine Resources Committee over and over and over again is that these zone lines were originally drawn for voting purposes only. You voted out of the harbor you fished from. It had nothing to do with lines. The lines were drawn for those voting purposes. This is really important because lobster move and fishermen have always followed them. The zone lines were drawn based on those harbors so when a fishermen had a territory that crossed over the lines that were arbitrarily drawn, it was not a problem. As zones began to limit their traps, it did begin to become a problem. I saw disputes between fishermen, my constituents, both sides of the dispute that had never fought over their territories. Suddenly fighting over a line that was drawn through rulemaking by the Department of Marine Resources, with our support, just drawing that line and having nothing to do with the fishing territory. We now have a buffer zone in that one area and we are hoping it works somewhat, but it does not help them as they go out to sea. Those lines keep going now and as entry is limited, those lines become rigid. These are lines drawn for voting purposes becoming rigid territorial lines so fishermen that maybe fished 500 traps, we are not talking gigantic boats, can no longer go and fish in a territory that they have always fished on. If we limit the zones to Maine's coastal waters, that will protect those traditional fishing territories and at least in federal waters and I believe that is the right thing to do and will be supportive of the fishermen as a whole and will stop some of these disputes that were started by us drawing the line. I encourage you to support the Majority Ought to Pass as Amended Report. Thank you for listening, I know this is complicated.

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

Representative **SKOGLUND**: Mr. Speaker, Ladies and Gentlemen of the House. The territory that I represent includes some of the most important lobster fishing villages on the coast of Maine, Port Clyde, Tenant's Harbor, Spruce Head and Owls Head. Every lobsterman who has contacted me on this matter, and there have been many, just urge me to follow Representative Etnier's light. There is no need to understand all of the details. I will guarantee you that in my area, the lobstermen have instructed me to follow Representative Etnier's light. Thank you.

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

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. In response to the former speaker, I do think the devil is in the details. I think you do need to be aware because we are not just talking about blindly following. We are talking about the second largest source of revenue, tourism, believe it or not, lobster villages, lobsters being in our restaurants, people coming here for the quaint fishing villages, tourism. I happen to represent part of Zone G. I inherited a very strong fishing tradition when I was elected. The career teacher quickly became

the student and boy have I had an education about lobsters. I now know the difference between the kitchen and the parlor of the traps. I know about escape hatches and all those details. I also know that fishermen in Zone G didn't really like the vent enlargement. That was the big thing of the first session of this 119<sup>th</sup>. It was for conservation and they abided by that decision that this body made.

This is about conservation and the good Representative from Harpswell, Representative Etnier, is correct. The landings are up after three consecutive years in Zone G. They are finally up. Zone G holds 10 percent of the licenses in the State of Maine. We land less than 5 percent of the licenses. This is about conservation. One of the reasons we believe that the landings are up in Zone G is because Maine has put forth one of the strongest and finally, in fact, the feds are following our v notch laws. I can go into those details too, but maybe that doesn't pertain to this bill. It is about conservation. It is about fishermen from Zone G being able to make a living. It is about industry. I said last session on the floor, we were talking about Washington County. We were talking about cranberries. I said as a body that we are only as strong as the weakest county. Washington County desperately needed help, economic help.

I am looking at you all now and saying that you have even heard the Representative from Harpswell say that this might not be the greatest thing for Zone G. I am telling you it isn't the greatest thing for Zone G. It hurts. Our public policy if we enact this Majority Report, creates and hurts an entire group of fishermen, Maine citizens that we, as a body, should be promoting rules that benefit all, every single person. Not a law that hurts an entire group of people. They are people who plan on paying bills and taxes. I ask you to do the right thing and make sure we enact laws that help everybody and does not hurt one entire zone. It is only fair. It is the moral and right thing to do. I ask you to consider my fishermen and the good Representative from Kittery, Representative Lemont's fishermen. I ask you to consider Representative Collins's from Wells and all up and down the coast. Thank you.

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

Representative **PERKINS**: Mr. Speaker, Colleagues of the House. I don't usually speak or vote against several of the members on the majority. I respect them highly on these issues. I lobster fish myself a bit. I don't even go out to three miles, so it doesn't really concern me. I am concerned about the process. A lot of us were skeptical about dividing the state up in these zones. It sounded friendly and benign at the time. A lot of us were skeptical. I am more skeptical than ever. It seems like every time we pass something to try to tinker with it, it is hurting one group and helping another group. It just makes it more complicated. It seems to me that we are vulcanizing the State of Maine's waters and this would speed up that process. Instead of Zone A, B and C, we might call them Bosnia, Serbia and so forth. I am afraid we are heading down that road. It has been said today that this may relieve some of the tensions. I think it is going to increase them. I don't know how many of us understand fully what is going on. These zones go out now as fingers, way out to 200 miles. With this bill in front of us, the majority would chop those fingers off at three miles and allow the people, 1,200, with the federal permits. Those are frozen. You can buy them from people for about \$10,000 in *Uncle Henrys*. That would allow people to come in within three miles of the whole cost of Maine if you have one of those permits. That is what it is about.

I am not positive which way to go on this, to tell you the truth. I haven't heard from any of my fishermen, not one. What you hear is what has been a battle for a while, I think is going to turn into a war if this passes. That is what I am afraid of.

I put in a bill last year. I presented it to the Marine Resources Committee that would assure that these zones were for voting only. I think probably they recall that. I was told at the time by the department and the committee that they already have a law in the books that said that. I am a little confused. I do have a question about what our good chair said. It started out to be just for voting and now it is heading to fishing. I can see it heading to be limited to where you could fish. That was not the intent at first. I could see it heading that way. I could see it last year heading that way. I put in a bill to make sure it didn't happen. I was told it was already on the books so it can't happen. I am confused on that. The upshot of what I feel is this ought to go back for a lot more work to bring everybody into it. If all the zone people don't agree on this, I don't think we should be passing any more legislation on this. Thank you.

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

Representative HONEY: Mr. Speaker, Men and Women of the House. This is a complicated issue. We are talking about fishing along 250 miles of Maine coast. Every area has their own fishing areas. They have their own areas that they normally fish and then the Legislature got involved with this and this is where it is beginning to turn the other way on us here. Fishermen from my area, Boothbay Harbor and Southport, traditionally fished in the wintertime 60, 70 or 100 miles from home. That is where they have always fished in the wintertime. When you get 50 or 75 miles offshore, those lines mean nothing to the people that fish these areas. What we have done is keep people from their traditional areas, where they would normally fish during the winter and fall months. It is creating havoc along the coast. Representative Pieh was correct when she talked about what the lines have done. There was an area between my Zone E and her zone that was in dispute. The department actually had to go out and draw a line for these people to keep them from each other's throats. Furthermore, the area that we are talking about offshore is presently being fished by large lobster fleets from New Hampshire and Massachusetts, that is an area that is legally available to those fishermen offshore. My fishermen and I think most of the fishermen in the State of Maine want to fish the area and they want to follow the lobsters where they are. I realize Zone G has had three or four years of bad fishing, but if the fishing is as bad as they say it is around southern Maine, I doubt that fishermen from Boothbay Harbor are going to go down there and fish those lobsters. If it is as poor as it is depicted here, they would be foolish to do that. They are going to go where the lobsters are and if they don't get them, someone from New Hampshire or Massachusetts will. Thank you.

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

Representative MCNEIL: Mr. Speaker, Ladies and Gentlemen of the House. I represent Zone D and I also serve on the Marine Resources Committee. I would just like to answer one of the comments that was made about big boats and that this was done by the big boats to take away trap limits. In my zone there are no big boats. The limit that you have is 800 traps. The federal permit holders from all other states are allowed to come into the State of Maine and fish wherever they want to up

and down the coast of Maine beyond the three mile limit. I realize there are some people in Zone G that may feel that they are being hurt by this, but my lobstermen unanimously feel that without this bill, they will be injured and their traditional fishing places will be taken away from them and that they will lose valuable money that they have made in past seasons. I ask you please to support the Ought to Pass as Amended. Thank you very much.

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

Representative SULLIVAN: Mr. Speaker, Men and Women of the House. I just want to respond to one thing that Representative Honey said. Indeed we will go where the lobsters are. The truth of the matter is, as I have gotten into this, I have found out that lobsters migrate like so many other animals. They migrate southwest. They migrate down our way. Indeed our whole problem comes and it is true it came from the 4951, a law that we created, and here we are trying to change that law so that we can follow the lobsters down in the late fall or early winter. Indeed, that is the time that Zone G normally would have their best harvest. They have waited all this time for the migration of lobsters. We are creating something that will allow everybody else to come down as G has waited for their chance to be able to increase their landings. I really do hope that we do not create something that will knowingly hurt citizens of Maine. Thank you.

Representative ETNIER of Harpswell REQUESTED a roll call on his 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 Southwest Harbor, Representative Stanwood.

Representative STANWOOD: Mr. Speaker, Men and Women of the House. I am on the Minority Report of this bill. I would ask that you oppose the motion before the House. This is, in my mind, a bad bill. In chasing the lobsters to the southwest and taking all the traps that a fisherman can fish in the zone to where the lobsters are, we are going to deplete the nursery stock, the brood stock and hurt the entire fishing industry. I know these federal permits, that is who we are talking about, there are about 1,200 of them. The price of those in the paper goes up every week in *Uncle Henrys*. The last one I saw was \$15,000. They must be worth a lot of money. We need to hear more from more zones. This is sort of a north and south issue, unfortunately. Most people in Zone A, B, C and a few in D have contacted any of us relative to this matter. They like the zones the way they are and they are trying to work through those. It has only been four years. Traditional fishing in Maine has changed because of the action of this Legislature. I think we need to give this thing more time. I would ask you to oppose the pending motion.

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

#### ROLL CALL NO. 499

YEA - Bagley, Belanger, Berry DP, Berry RL, Bragdon, Brennan, Bruno, Bull, Carr, Cianchette, Cote, Cowger, Cross, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Foster, Fuller, Gagne, Gagnon, Gillis, Glynn, Gooley, Green, Hatch, Honey, Jabar, Jodrey, Jones, Kasprzak,

Kneeland, Labrecque, Mack, Mailhot, Martin, Matthews, Mayo, McDonough, McGlocklin, McKenney, McNeil, Mitchell, Muse, Norbert, Nutting, O'Brien LL, O'Neal, Peavey, Pieh, Pinkham, Povich, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Samson, Savage C, Saxl JW, Saxl MV, Sherman, Shiah, Shields, Shorey, Sirois, Skoglund, Snowe-Mello, Stevens, Tessier, Thompson, Tobin D, Tobin J, Townsend, Trahan, Treadwell, Tripp, True, Usher, Volenik, Waterhouse, Weston, Williams, Mr. Speaker.

**NAY** - Ahearne, Andrews, Baker, Bolduc, Bouffard, Bowles, Bryant, Bumps, Cameron, Chick, Chizmar, Clark, Clough, Collins, Colwell, Daigle, Fisher, Gerry, Goodwin, Heidrich, Jacobs, Joy, Kane, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, MacDougall, Madore, Marvin, McAlevey, McKee, Mendros, Murphy E, Murphy T, Nass, O'Brien JA, O'Neil, Perkins, Perry, Plowman, Rosen, Sanborn, Savage W, Schneider, Stanley, Stanwood, Stedman, Sullivan, Tracy, Tuttle, Twomey, Wheeler EM, Wheeler GJ, Winsor.

**ABSENT** - Brooks, Buck, Campbell, Frechette, Watson.

Yes, 90; No, 56; Absent, 5; Excused, 0.

90 having voted in the affirmative and 56 voted in the negative, with 5 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-949) was READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Thursday, March 30, 2000.

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

#### **UNFINISHED BUSINESS**

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

Bill "An Act to Restrict Passengers in the Vehicle of a Newly Licensed Driver"

(H.P. 1744) (L.D. 2450)

- In House, Bill and accompanying papers **COMMITTED** to the Committee on **TRANSPORTATION** on March 9, 2000.

- In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-847) in NON-CONCURRENCE.**

**TABLED** - March 22, 2000 (Till Later Today) by Representative **BOUFFARD** of Lewiston.

**PENDING - FURTHER CONSIDERATION.**

On motion of Representative **CLARK** of Millinocket, the House voted to **RECEDE.**

The same Representative **PRESENTED House Amendment "B" (H-904) to Committee Amendment "A" (H-847), which was READ** by the Clerk.

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

Representative **CLARK:** Mr. Speaker, Ladies and Gentlemen of the House. House Amendment "B", all it does is draw down the age from 21 to 18 years of age if you get your license before 18 years of age, 90 days after the driver's license is issued, you can have regular passengers. All this does is if you are 18 years of age, you can have immediate family. Right now, current law, you can vote at 18 years old and do other things at 18 years old. Another thing, these consolidated school districts are out in rural communities. Some of these people

don't have bus transportation and when they go to school, they usually a ride with their buddy. If we put it to 21 years of age, that might be brought past the understanding. Another thing that we have to look at is every day society is trying to push the age further away from 18. No matter what you are going to do, you are always going to have people out there doing what they are not supposed to do. We can't legislate common sense. If you are out there with a driver and you have your driver's license and you are 18 years of age or younger, you have gone through driver's education. You have gone through the permit and you have gone and got your license. Most likely, when you are going for your driver's license during that permit process, you drive with a relative or with a parent. If they are good enough parents, they will try to teach you how to drive correctly and not to misbehave behind the wheel when you have other friends of yours in the same vehicle. All this amendment does is drop the age down from 21 to 18. Almost everything is done in this world when you are 18 years old. You can go in the military when you are 18 years old you can drive other personnel around. Why should this be any different? Someone will probably get up to try to indefinitely postpone this amendment they will say it is a safety issue. A lot of people are trying to get the kids that are just graduating high school. You can't legislate common sense. Thank you.

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

Representative **BERRY:** Mr. Speaker, Men and Women of the House. From the first time I saw this bill and saw the text of the amendment to this bill, I was concerned. The Representative from Millinocket has expressed some of those concerns. I will not get into those, but I still have concerns. One of those concerns is the vagueness of this bill, the enforcement of this bill, the definition of this bill of immediate family member and where it defines grandparent, parent, including step parent, brother and sisters and it does not include wife and children. We have people who are married at 18 and by 21 who have families who are dependent upon having a driver's license to be able to transport themselves and their family. None of the amendments and there have been multiple ones that I have seen here at my desk, concern themselves with this.

We give insurance reductions, I believe we still do, to good drivers for their grades. We give other things to students for good things. As the prior Representative said, we cannot legislate in any way the common sense of doing things right. We have had propaganda sent to our desks that say that teenagers cause more accidents. That is really not in dispute. We have also had other material that has come to our desk with pictures that show accidents where these teenagers were injured. Ladies and gentlemen, in none of those pictures did it ever say how long that teenager had their license. It wasn't part of it. All of us are concerned about the safety of every driver, especially the beginning drivers. That is why we passed legislation in a prior session that dealt with a longer period of supervision by someone in your family to be part of the process of you obtaining a license.

I have one piece of information that came to the desk that said that 53 percent of teenage motor vehicle deaths in 1998 occurred on Friday, Saturday and Sunday. Forty-one percent of teenage motor vehicle deaths occurred between 9 and 6. If you take these figures just based on themselves, we can save 94 percent of all deaths by not allowing them to drive Friday, Saturday or Sunday nor between 9 and 6. What a deal we have

for them. We probably would have to hold school dances on Monday nights. I believe that this bill came with good intentions. I don't believe that this bill contains or does the things, which we feel it ought to do.

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

Representative **SAVAGE**: Mr. Speaker, Ladies and Gentlemen of the House. I urge you to support some form of a young driver's bill. It is your prerogative if you want it 18. I would rather see it 19. I do think we need to give these young people some experience behind the wheel of a car without an adult sitting to their right telling them to slow down, take a right, take a left or there is a car coming. They have to have some experience. As far as the prior speaker saying that he hadn't seen anything that said how long a driver had had their license. We did have something come across our desks that said Madison teen had license one month. A Madison teenager killed in a high-speed crash Wednesday had her driver's license for only a month. She was killed when her 1991 Ford Escort spun out of control on the River Road and slammed into an oncoming car. She was killed instantly and two occupants of the other car were injured. I also have the clippings from the *Bangor Daily News*. The headline says, "Grief fills courtroom at driver's sentencing. Pain in court, a hard lesson." This is a young man 17 years old who had had his driver's license 44 days. He had a carload of teenagers with him and was speeding. He crashed and killed one of his passengers. We do have information on young drivers carrying passengers in those first three months. This isn't the bill about good kids or bad kids. It is about giving those kids some time without adult supervision. I have had a lot of letters and e-mails and phone calls from parents thanking me for doing this, signing onto this bill.

As far as family members are concerned, someone asked me why a family member was less important than a friend in the automobile. We are saying that if you carry a family member, you are not as apt to speed or drive reckless because that sibling is going to go home and tell mom and dad. I urge you folks to protect our teenagers. Thank you.

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

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

Representative **MARTIN**: Mr. Speaker, Members of the House. I live in Eagle Lake, but that is all right. I have been sitting here and I really was not going to speak. However, I am going to vote for adoption of House Amendment "B." Then I am going to reconsider whereby we voted to Recede and that prevails and then I will move to Adhere. We are now in a quandary about how to back this bill up so we can do something about it and get rid of it. Let me tell you why. This bill reminds me of when I was a teacher at Fort Kent Community High School. We had the issue of what we are going to do with the dress code. We had students who really were concerned about the dress code. We decided to create a committee of faculty, parents and of everyone else that we could think of that wanted to join. The final recommendation was we did away with the dress code. Lo and behold for a couple of days we had some problems where they wore anything and everything, but then

young adults decided they want to look pretty good and it changed even better what it was before the dress code. The people who objected at that meeting for the most part, to doing away with the dress code, were parents. Not all, but they said, "How are we going to prevent our kids from wearing what it is that they want to wear?" My answer to them was, you are the parent. The school should not be the parent. That is your responsibility and it doesn't belong to the school system. Here we are basically telling parents what they got to do. Parents do not have to give the student that car to drive. Parents don't need to insure that car at an extra couple of thousand dollars. Parents make that decision. Let them make that decision. It is not ours to make. If they don't have the car to drive, guess what, they won't have an accident. If you bring them in and home at 6 o'clock, they won't be on the road at midnight. I don't see why we have to be the parent. I see it everyday now as a member of the school board, going back to that relationship where the parents want us to tell them what to tell their children. I say, it is not my job. Let's vote for amendment "B." Let's reconsider whereby we voted to Recede and then let's move to Adhere. Let's get rid of this bill. It will go back to the Transportation Committee and hopefully will die a quick death.

Representative TUTTLE of Sanford moved that **House Amendment "B" (H-904) to Committee Amendment "A" (H-847) be INDEFINITELY POSTPONED.**

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

Representative TUTTLE: Mr. Speaker, Men and Women of the House. I would ask that you would support the motion to Indefinitely Postpone this amendment. I sort of come from a different perspective having been an emergency medical technician for 20 years and having been involved in situations from time to time. I wouldn't ask that you would have been with me, but it probably would have changed your opinion in supporting me. I admit the bill presently will be difficult for some young people, particularly in rural areas. I think sometimes we have to enact things that are going to save lives. Having been in a situation where I have had to talk to a parent or parents about a child who has been killed in a motor vehicle accident, I think if we can save one life or many lives, I think it will be well worth passing this bill as is. For that reason, I would ask that you support the motion to Indefinitely Postpone.

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

Representative **JABAR**: Mr. Speaker, Ladies and Gentlemen of the House. It is kind of a crazy situation here knowing whether to support this Indefinite Postponement and hope that it goes back to the bill where 21 years of age is. A vote on the 18 year old when I really don't support that because I really think the age should be 21 or at least 19. Let me tell you why. This bill came before the committee because there is a problem with too many young people dying on our highways. We asked the Secretary of State and we have in the years past. There was a special task force dealing with that. Please come up with some suggestions to help us with these young people that are dying on the highways. All of you as parents or grandparents, the worst fear you have is your teenager getting in his automobile and driving off with a car. There is no way you can stop them from doing it. You cannot stop them from going to the dances. It is impossible. You know it. We all know it and you cannot limit it.



My good friend from Eagle Lake has indicated, let's leave it up to the parents. We certainly haven't left it up to the parents to let them drive at 15. We have imposed greater restrictions on our drivers. We have made them take driver education. We just recently passed some other restrictions before they get their license, that they have to spend more time with an adult next to them before they can get their license. We have toughened the laws and we have tried to come up with safety provisions so that when they do get on the road by themselves, they are safe drivers. The Secretary of State has come up with a series of recommendations and this is one of his recommendations in an attempt to stop the death on the highways. We are not preventing these people from getting their licenses. We are making it a little more difficult for them to do it. We are making them go through the hoops a little more than they do now.

I know when my son first got his license, he was a terrible driver. Sure, he passed the test. He learned how to parallel park and drive with the driving instructor right next to him. When I was in the car or his mother was in the car, he was a safe. I know he was not a good driver when he first got behind the wheel. I am sure any parent whose son went off at night with the car was relieved when that car drove into the driveway that evening at 11 or 12 o'clock. This original bill, which came to us, which is now trying to be amended, has a legitimate purpose. The purpose is to make somebody learn in a 90-day period to be a safe driver on their own before they start taking a carload of kids to the football game on Friday night, the party at the lake on Saturday night or just hot-rodding around town. It is really not that much of an inconvenience for these young people to have to spend another 90 days before they start hauling around their friends on Friday and Saturday night. Hopefully, we will prevent some deaths.

I do support this motion to Indefinitely Postpone. Not so that we can kill the bill. I know there is an amendment for 19 year olds because then we get it out of high school. I agree. If once they get out of high school and they are out of high school, the problem diminishes significantly. How many times in the springtime have we read about four and five teenagers getting killed in an automobile accident following some graduation party or following some event they are all going to? Ninety days is not going to guarantee that this is not going to happen again. This is not going to solve that problem, but it is going to be diminishing the amount of time these teenagers are going to be together hot rodding around. It is a small step, but I think it is an important step. It will save some lives and I think it is worth it.

Representative CLARK of Millinocket **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "B" (H-904) to Committee Amendment "A" (H-847)**.

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

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

Representative **TRAHAN**: Mr. Speaker, Men and Women of the House. I also had great reservations when I read the original bill. I still have reservations. I thank the good Representative from Eagle Lake for his testimony because it just really struck a nerve with me. I feel like we are trying to dictate to the rest of the world safety. Unfortunately in a free society, to quote my seatmate, is to be free, you have personal responsibility. Basically, this proposal is unenforceable under our Constitution. When you stop a vehicle as a law enforcement person, you have

to have a reason to stop that vehicle otherwise it is considered what is called profiling. I can't imagine law enforcement going up and down our highways trying to identify people under the age of 21 and then stopping them because they appeared to be under 21. Think of all the problems that that creates. Everyone in the vehicle would have to carry ids. The officer would view somebody and then stop them and the driver would say to the officer, "Sir, what have I done?" The officer would say that you look less than 21 years of age and I would like to see your license. Your courts have said repeatedly that that is unconstitutional. It is considered profiling as it would be for any officer in the City of New York to stop a young black man on the street because he is a young black man. It is no different. We would be stopping people because they appear to be less than 21 years of age. I don't think that we can even do this. It is unenforceable. The only way that we could enforce it is when the officer has stopped somebody. When the officer has stopped someone, it is for a violation. If anything made any sense at all, it would be a probationary period of say 90 days. If you get stopped by an officer for a violation, then you would lose your license for a period of time. Otherwise, you cannot stop the individual to check them for their license. It makes no sense to me. Could somebody please stand and explain how we could enforce this law if we passed it?

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

Representative **JABAR**: Mr. Speaker, Ladies and Gentlemen of the House. I would just like to respond to those questions. Enforcement of this law would be no different than the enforcement of charging somebody with operating after suspension, operating beyond restrictions, operating without having a permit and not having somebody in the car with you. It is no different than from those situations. You can operate a vehicle without a license and the police have no right to stop you. If they do stop you for a taillight, stop sign or speeding, they then can check your status. If your license is suspended, if your status is you are supposed to have somebody with you because you have a permit, if you status is you are not supposed to be operating with a bunch of people in your car because you have only had your license for 90 days, it is the same exact situation. It is just as enforceable as those other provisions. Thank you.

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

Representative **TRAHAN**: Mr. Speaker, Men and Women of the House. I think the previous speaker made my point exactly. You have to stop an automobile to find this information out. At that point, wouldn't it be much easier if that person was under the age of 21 or 18 or whatever the age is and they violated our traffic laws. Wouldn't it make much more sense to have a probationary period? Then you would be penalizing the people that break our laws, not all of those people that are out there and randomly stopping them to see if they are under the age of 21 because we can't do that. The only way you can check their age is when you have already stopped them for a violation. He made my point exactly. Let's take a new look at this and maybe we can adopt a probationary period and then put some more restrictions on them and they violated the law. Thank you.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I believe we already have that in current law. The first year somebody has a license if they get

pulled over for a traffic violation, it is an automatic loss of license for 30 days. I really don't see how this is needed. If they already have to be pulled over for something else, they are violating the law, they are going to lose their license. I also have a copy here of the Young Drivers Just How Safe Are They Report to the Secretary of State. I looked through it and I analyzed it. Maybe someone could find it in here. I see some big statistics about the number of licensed drivers, age category, how often they are in accidents, but nowhere in here, I called the department specifically and they couldn't get it for me. How many of these underage drivers that are involved in accidents are the actual cause? If you are not the cause of the accident, what does it matter? They are not unsafe if somebody else hits them.

When I was 19 years old I had had my license for four years at the time. I got in my first car accident. A woman ran a red light and crashed into me. There wasn't much I could have done about it. The first accident I was actually at fault. It was two days after I turned 21. I was driving home in a snowstorm and went off the road. My point is it doesn't say they have to be at fault. We also heard a couple other stories about a 16 year old that was in a car that got killed. This is a tragic story, certainly. Was anyone in the auto with that individual? We just had come across our desk a story of an 18 year old who had their license for 44 days and had an accident. The 16 year old girl that was in the car with them was killed. What was left out when we heard this on the floor was that he was going 80 miles an hour. That is already against the law. He ignored that law and he would have ignored this law. We wouldn't have saved that life. He would have just gotten two tickets instead of one and he would still be facing manslaughter charges like he is. I have yet to see any real evidence, either in the report or any of the statistics that show that this will do anything to save lives.

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

Representative **BOUFFARD**: Mr. Speaker, Men and Women of the House. The reason this bill has been submitted here was the fact to save young people's lives. What the bill does, and I can remember back in the 117<sup>th</sup> Legislature a bill was presented to us to have a graduated license in the State of Maine. A graduated license was even more severe than what we are proposing here. It added more things and less freedom for your children. The reason why this has been proposed here is in the past few years, time and time again we see in the newspapers that these young kids are getting killed and they are killed in automobile accidents in which only teenagers were driving. Some of them were newly licensed. This is what this bill is asking to do. A person who has a new license is not allowed to transport other teenage children under the age of 21, except for their immediate family until they have satisfied a driving experience of at least 90 days. What would be the first thing that a teenager, newly licensed at 17, wants to do? He wants to show to his peers how great it is to have a license. He gets them all in the car, not withstanding or hoping that he would have an accident, but unfortunately having an accident and killing one of these children that are in the car with him. Not himself, but one of his passengers. This is what this bill is supposed to stop. Yes, I will go along with the Representative from Eagle Lake, if this becomes law, I would think that parents of these kids who were newly licensed would make it a point to instruct their kids that you are not supposed to be driving the rest of the army of your teenage friends here unless you have 90 days experience of driving. This is what this does and the parents are going to

take this seriously and avoid killing more teens on our highways. They will see to it that their newly licensed child is going to transport only those persons that are allowed. They will not allow them to transport other kids. If this piece of legislation saves only one life of these teenagers, then I think it is well worth it.

In the 118<sup>th</sup> we passed that bill whereby newly licensed drivers had to have more road experience with someone who is licensed. That is one piece of a graduated license. This is another piece and if it only saves one life, then I think it is well worth it. I would submit that I, too, don't like the idea of age 18 and I gave the reason why is because according to the Secretary of State's figures, at the age of 18 you still had 1,107 teenagers who were newly licensed. When you got up to the age of 19, it drops down to only 500 of these people who are newly licensed. Therefore, I would prefer to see the age of 21 stay there, but if it needs to be lowered, just think, the age of 20 it drops down to only 267. If you are going to drop it down, drop it down to 20 and not to 19 or 18. That is what I would like to see. I would like to see the bill stay in its present form. I think it is a good bill. I think it is a bill that will save lives. I think it will also show parents the responsibility to make sure that their kids have had that experience of driving before they go showing off to their teenage friends how good they are. Thank you.

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

Representative **SAVAGE**: Mr. Speaker, Men and Women of the House. I just wanted to point out that there are 39 states that have some form of graduated licensing for teens. Massachusetts, California, Colorado, Michigan, Ohio, Pennsylvania and Missouri are states that have all three phases of the graduated license. This is not specific to Maine. This is nothing new that hasn't been tried. I think you will find from reports that I have read that it has been effective in those states who have passed some type of graduated license. Thank you.

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

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. When I was 18 on my third try, I finally got my driver's license. There are a lot of reasons for that, but we won't go into that dark history. However, when I did get my driver's license, my father looked me straight in the eye in that way that he had and said, "You are not going to take any passengers other than family for six months. That is the rule." I think it might have been a year, but it really doesn't matter because I didn't follow it. I had come home late at night after track practice and he said, "You didn't give anybody a ride home, did you?" I guess the question is, did I follow the model of George Washington and say, "Father I cannot tell a lie. Yes I broke the rules of the House." No, I lied. I covered my butt and I did what I wanted to do and I got away with it. Did I drive like a maniac? Absolutely. Some would say that I still do. It did not prevent me from doing foolish things behind the wheel of a vehicle because someone told me I could not have passengers. Sometimes I did some dramatically foolish things behind the wheel of a vehicle. I broke every law including the laws of physics. I was very, very lucky. It doesn't matter what we do, whether we pass something at age 19 or 24 or 18 or 5. It doesn't matter because the youth of Maine are not going to obey it. One way or another they are going to find a way around it. However, there may be some out there who are thoughtful enough and parents who may take it as a signal that they might want to mind for insurance purposes if for

nothing else. What if my son or daughter breaks the law, does something foolish and has a terrible accident and kills another student who is riding with them? What is our insurance going to be looking like? Is it going to cover the damages? They might monitor it a little bit more carefully. The risks that I took were not so great probably in terms of the accidents I avoided, but rather so my father's wrath, which was probably more terrible than as many accidents you can imagine. I would support the Majority Report and I would support it without any amendments because I am not thinking of someone like myself who isn't going to be told at the age of 18 or 17 what they are or are not going to do. It is never going to happen to them. If it was ever going to happen to them in their minds, we wouldn't need the strict OUI laws that we have today. If we didn't need them, then commonsense would prevail upon people to say if I had 18 beers, I may drive into a bridge abutment. That is never going to happen to them. The OUI laws work so well because they can visualize being stopped, being arrested, having their picture in the paper and being humiliated before their family, friends and communities. They can fathom that, but they cannot fathom broadsiding a van full of churchgoers coming back from a picnic and being labeled one of the great criminals of their community. You have to work on what people can handle. I think that people can handle this idea that you are not going to stop the drivers from doing foolish things, but you can protect people who might be riding with them and this is good way to do it. Thank you.

Representative CAMERON of Rumford REQUESTED that the Clerk READ the Committee Report.

The Clerk READ the Committee Report in its entirety.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House. I asked for that for an obvious reason. When the Transportation Committee sat through the hearing like all of the rest of you do when you have important bills come before you, we heard testimony. We heard parents. We have had other bills come before us where children had died needlessly, but in this bill we saw a direct statistical correlation between the number of teenagers in the car and the number of times they have an accident. We, on the committee, were clearly convinced that the slight inconvenience of 90 days was certainly worth the potential of living 90 years. I believe every one of you in this room that has children has sat through what the good Representative, Representative Jabar, talked about. From the time they drive out the driveway, when will they be home? Are they okay? What are they doing? When you hear somebody say that they are going to ignore the law so there is no point having it, I suggest we take away all of the speed limits. I suggest we take away the drunk driving rules and take away all of the rules and let everybody do whatever they want. Yes, we are interfering with people's lives, but that is what we do here, ladies and gentlemen, and sometimes we actually make them better when we interfere with them.

This is an honest attempt to make the lives of these children better, safer and actually keep them alive. I don't want to go home and this summer hear of an accident when some young person has had a license for 35 days and either they or their passengers have been killed and I think if only we had passed this law. Will children go out and do things that their parents don't want them to do? Absolutely. This is not about that. The parents are going to not be able to let them go out and do that without their parents knowing they are breaking the law. Can we

replace parenting? Absolutely not, but not every one of these children that died in the past had parents that didn't care. Certainly the majority of them had parents that deeply cared and tried to do the right thing. I would like to think that we are not interfering and that we are trying to help. My phone hasn't been ringing off the hook telling me to mind my own business and stay out of my children's lives.

I ask you again to respect the committee process, realize it was a unanimous report after a long deliberation and think about is 90 days worth 90 years as you cast your vote. Thank you.

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

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House. I would just like to follow up on the good Representative Cameron's comments about what Representative Trahan I'm sure said about the laws and doing away with the laws, especially the speed limit law. I assume that would probably be very appropriate for some of the members in this House to do away with the speed limit.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hodgdon, Representative Sherman.

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

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

Representative SHERMAN: Mr. Speaker, Men and Women of the House. My question is this and it comes about because I have a flicker of institutional memory. I would like to do a background before I ask the question, if I may. I came here in January 1999 and I had a bill to slightly modify the driver education bill that had come out of the task force. I was basically told in no uncertain terms that every "i" and every "t" was going to stay there. The driver ed schools got up behind me and told me the world would end if we change any of this. It sounded like a done deal. From that point of view, I guess my question is, how many classes, if you will, have we had graduate under the new stiffer and tougher driver ed programs, which involved parents coming in, parents talking and parents riding with kids? The statistics about individuals dying, are those statistics before or after the new driver ed programs came in the State of Maine? How many graduating classes have we had, if you will, under the driver ed rules?

The SPEAKER PRO TEM: The Representative from Hodgdon, Representative Sherman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Buckfield, Representative Gagne.

Representative GAGNE: Mr. Speaker, Ladies and Gentlemen of the House. Part of the problem that we have here today is because this bill wasn't allowed for us to speak on normally. We are now in a process problem. It was pulled on March 9 and it ended up in the Senate. They voted on it. It got sent back to us and here we are. Now what do we do? We couldn't postpone this bill, so we ended up arguing seven different ways. We have got to vote against the pending motion. We have to at least go back to the amendment that was placed in there and I will tell you why. It seems to me that there are many of us in this room who do not want this bill to pass. If anything, we would want the bill to be reduced to 18, at least that much, because those kids would still be in school.

I was 19 when I got my driver's license and a sophomore in college. When I got my license it was the best thing I ever did in

my whole life. I loved it. It was freedom. It still is. It was better than getting married. It was better than going through college, getting two degrees, having my kids and winning two elections. It was better than that. I am sure the other young people felt the same way when they get theirs. I only had 90 days to train to get that license. Young people today have a whole year of a permit to get their license. Watching them and following them to school many times, I always thought they drove better than I did because they got more training. As Representative Sherman just said, we have got the same thing today. They have had more time and more practice. We have a new law that we just did last year. We don't need more.

I wanted to take my girlfriend out for ice cream that night. I did that because she helped me learn how to drive. In fact, she took me through the course. With this kind of law I couldn't do that, but I could take my 12 year old brother or sister. That is not what I feel this is about. I had a friend 18 years old with a new license and she had a baby. She could take that baby, according to this law, down to get groceries, but I can't go with her to help if I were a teenager. What sense does that make? Her 17 year old brother got his license and he has a friend over to help fix his grandmother's back porch and he has to get something from the hardware store so the two of them want to jump in the car and go get it, but they can't if this law prevails, but he can take his six year old half brother. What is that? It just seems to me that we have a lot of issues here that we are not happy with. If we need to go back to Adhere and send it to the committee, then maybe we better do that. Obviously, a lot of us don't want it at all.

Another issue, of course, mentioned today was that 90 day time period. What is 90 days, six months or a year? Somewhere along the way, why is that particular time any better than another? It was also mentioned that you can already lose your license if you have any kind of moving vehicle infraction. That is punishment and the high cost until you are way into your 20s should be another deterrent. Isn't that enough? When are you an adult anyway? I thought it said in the law 18, but this legislation makes young adults second-class citizens. The first 20 years of our lives are constantly being controlled by parents, schools and the government all the time. What about the last 20 years? My aunt was 65 when she got her driver's license for the first time. I was pretty proud of her that she had that accomplishment. It took her two times to get it, but she did. She wanted to take her friends to Beano games. That is great, but she is a little hard of hearing so they would have to yell. How come they aren't distracting her? How come she doesn't have a 90 day time period to wait? Maybe they think her passengers will be asleep before they get to Bingo and won't bother her. I don't know.

I really believe that enforcement is the biggest issue. I know that young people are stopped all the time for anything that they can find. I know you will argue with me for that, but out of all the years of my teaching and the stories I have had to listen to, if a group of kids are just standing around, they will be stopped and talked to and harassed, I call it. If four or five adults are talking in the mall, it is socializing and with kids, it is loitering. I think they do the same thing with drivers. How are you going to know if the passenger is a sister or brother or a friend? How are you going to know even how old they are when you stop them? I would urge you to vote against this motion even if you would compromise to 18, although I don't like any of this. I don't want to be party to a law that brings further regulation of our adult

citizens, and they are our adult citizens. I would ask all of you to vote against this pending motion and vote to Adhere.

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

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. Just to comment on the previous speaker, I don't think the Transportation Committee would like to see a bill back that we voted out unanimously because we have already debated this issue. Number two, a license is a privilege. I remind everybody it is a privilege, not a right. With a privilege there are guidelines to make our roads safer. I don't really want to apologize because I feel the way I voted in the committee was a way to make our roads safer and to save some of our young people's lives. I encourage every one of you when you go home this weekend or some time during the summer to try to get a hold of one of the local state troopers and ride with them for a night. I did on a Friday night and let me tell you this bill is very, very important. The people we were stopping were 18 year olds with young kids, drinking and racing up and down the roads. All of us were young at one time and you know the first thing when you get in the car is, how fast is this car going to go? How much rubber can you leave on the tar and Johnny is sitting right next to you egging you right on to do it. It is about time we help our young people live a longer life and I urge you to support the pending motion of Indefinitely Postponing House Amendment "B." Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hodgdon, Representative Sherman.

Representative **SHERMAN**: Mr. Speaker, Men and Women of the House. The reason why I ask the prior question was because I called driver ed instructors. I think it is some of the unintended consequences, I guess, that we have from passing some of these laws. What you are finding now is that the driver ed instructors, I asked what do you think of having these kids out 90 days? I got some strange answers because what is happening now because of this law, many schools are not doing driver ed instruction anymore. They are out to private schools. The questions I got, the majority of the driver ed people that I talked to said, are you guys nuts? You just put through a new law we are working through with parental involvement. The parents have to sign. Either the parents come in or drive with the instructors while they are doing the driving, some parents take videos home and have to answer written questions on those videos. The unintended consequence, I think, are the numbers that it costs to do this. I guess it has nothing to do with this amendment. I can be ruled out of order, but I am hearing costs of \$400 and \$500 to get a driver's license now. I am hearing people are going into their junior and senior year before they are even getting involved in driver ed. We have a Christian school in Houlton that has no driver ed instructor. They had to hire a driver ed school to come up. That was \$350 to lay out on the line. You have already raised the bar for some of these kids getting in the car in the first place. The money factor is going to push many children back, especially rural children or poor children, which was part of the bill that I had before Transportation in January 1999. Thank you.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I wish to express my appreciation for the Representative from Buckfield who did a marvelous job expressing all my concerns. The only addition I would make to

that is that this reminds me of a law for every statistic and it is one law too many. I hope that you will vote against the present motion. As the good Representative from Buckfield said, go on to Indefinitely Postpone the bill when it comes around in the Engrossed form.

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

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I stand here today as a cosponsor of this bill. I am going to tell you why I did it and why I am also standing up here in regards to the amendment that has been presented. I had read about another law that was very similar to this law that was in another state. I thought that was a great idea, but it is a lot tougher than this law. Those of you, I always say that, you know very well that I don't like to do a lot of things they tell parents or anyone what to do, but when it comes to driving a vehicle, that is one of my weaknesses as far as telling people what to do. I really believe that as the good Representative Wheeler said, that this is not a right. This is earned privilege that I think our teenagers need to learn. When it was brought forth that it was going to be 21 years and younger, I strongly disagreed with that. I just could not support a bill that would say 21 years and younger. Why I liked the 18 or the 19. The reason why I don't like the 21 years old is because of the fact that kids leave school, they go to college and you have new people that are joining the workforce, people are going off to join the service. I believe they have earned their freedom. They are out of high school. They are ready to go. They are ready to enter life.

I will say that one thing that has not been brought up with this bill is that it is a tool. I thought of it as a tool that we could give to the parent so that they could use it and say, "Johnny, listen. I feel really insecure. Did you know it is a state law that you can't drive with your other friends? You have to be 18 years and younger. Did you know that? I want you to abide by that law." To me, it was just simply a tool. When the kids got to school, they could also say to their friends, I don't feel comfortable with you driving. I know very well there are kids out there that are not going to care that there is a state law. There are some kids who are really truly responsible.

On Route 121 and 11 there was an accident that occurred a couple of years ago and it took the lives of a whole carload full of kids. The person that was driving was a person that was a brand new driver. Nobody really knows exactly what happened. The kids weren't drinking. All they can come up with is that perhaps they were distracted. They simply went off the road and this caused their death and that scares me. Another thing, unfortunately, I grew up in the State of New Jersey and they had really, really tough driver ed laws. When I got my license, I was a nervous wreck. When I got it my sister told me that my pulse was flowing out like you wouldn't believe. I didn't want anyone driving with me because I did not want to be distracted from driving that car. I also was a pretty fast driver and it would not have been a good thing. I would like you to please vote against the Indefinite Postponement and pass the amendment "B." Thank you.

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

Representative **MURPHY**: Mr. Speaker, Ladies and Gentlemen of the House. As I sit here this afternoon and listen to the debate on this bill, my mind wandered back to when my children were teenagers. I got a telephone call one day telling

me that my daughter had been in an accident and was on the way to the hospital in an ambulance. We were very fortunate. She was not seriously hurt, but I have always said that if I ever had an opportunity to put stricter restrictions on teenage driving, I consider teenagers 18 and 19 years old, I would vote to do it. I would hope that we would pass this bill. If it only saves one set of parents the telephone call that we got, because at that minute, your heart stops. You automatically think the worst. It is not always the worst, but this bill, I think will do a lot of good. Maybe it is just the beginning, but I would hope that we pass something here today. I would like to see it at least 19 or 20 and I will vote for 21. I hope we do pass something here today because the first 90 days, I think, is a crucial time in anyone's driving. Thank you.

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

Representative **O'BRIEN**: Mr. Speaker, Ladies and Gentlemen of the House. I will be very, very brief. I just have to say that I have a child now who has his permit, who is getting ready to take his driver's test. He is a terrible driver. His friends are terrible drivers. They drive together, but I would echo the previous remarks of so long ago of Representative Martin who said that it is the parent's responsibility. It is my responsibility. If I err in that judgment and I often do err, it is my responsibility. I would also be very hypocritical. We talk about distractions. We talk about being the teenagers being not really responsible, not really good drivers. I am a horrible driver. I am distracted all the time with a car full of kids, a dog or thinking about something else. It would be extremely hypocritical for me to vote for this. So, for several reasons, but the most important being it is a parental responsibility, I think this is a bad bill. Thank you.

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

Representative **TRAHAN**: Mr. Speaker, Ladies and Gentlemen of the House. I just felt strongly that I had to stand and make two points. First, one of the previous speakers had said that in the future if you saw a carload of kids in an accident, wouldn't you feel horrible? The first thing I would like to say is that that wouldn't be your responsibility. It would be the responsibility of the individual that was driving and their poor judgment. I think that sort of sums up the direction that this type of legislation takes us and that is to the area where we are protecting people from their own decisions. We cannot do that in the Legislature. We cannot legislate commonsense and that is what we are trying to do with this type of legislation. You are still going to have irresponsible kids and we can't stop that. Don't feel guilty if you see an accident a year from now. It was not your actions, it was the actions of the irresponsible decisions of the driver. That is what we should be stressing and that is commonsense by the driver and good responsible practices by the driver and the family. That is where I think we should move.

The second point I would like to make is with this type of legislation, we basically give the public a sense of comfort that if their child is out on the street or if they are out on the street that they are safer now because we have this legislation restricting drivers to children under the age of 21 not carrying passengers. We have created a false sense of security out there. An accident is an accident. I have wished all my life that I could have been there in the situation before it happens so that I could

help that person stop this accident from happening or stop this violent act from happening, but I couldn't. Instead, I think we should be promoting personal responsibility, taking responsibility for your actions. Representative Wheeler said something, he said he was a police officer and they were stopping kids racing up and down the road squealing their tires and drinking. All of those things are against the law. It strengthens what I said to you in my previous testimony, probationary period. If they are doing these things, let's stop them and if it is within the 90 days, let's take away their license, penalize them and make it difficult for the irresponsible people on the road. I thank you for your indulgence.

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

Representative **MACDOUGALL**: Mr. Speaker, Ladies and Gentlemen of the House. This has been a long debate and I am sorry to prolong it, except I appear to be the only Representative present who has been a parent with their child in terms of the parental portion of the new law we passed. I was out with my son in driver ed as he went for a 45 minute to 1 hour period of time. I can tell you first hand I learned a great deal. I learned how much I have forgotten, number one. I would dare say most of us. Things to look for, when to look for them, how to stay alert and how to drive in a way that protects yourself and others on the road. My son just mailed in yesterday for his learner's permit. He sent in to get it. When he gets it, he is going to be anxious to go out and drive, whether it be with his mother or myself. The benefit of having gone out with him with his driver ed instructor, not just for the test, but many areas that we can review together as father and son or mother and son. When I first heard it, I kind of was, is this really necessary? Having been through it, I think it is a good piece of legislation that got passed. It needs more time. Allow it to filter through. Allow the time to go by for the law to take place that got passed by the previous Legislature.

I have five sons as most of you know. Ryan is my youngest. I am getting at the end of that trail. One of his older brother when he took his driver ed test, flunked. The state trooper told me, it was more of his attitude than anything else. He actually did some things wrong, but his attitude was what created the negative result. He said to me that if we don't get him here, it is very difficult to get them later. We really have to be strict right here at the test, which certainly makes sense. As I have listened to the debate having had children that are all different, I think the laws that are in place as we speak have strengthened driver ed to a point where a young person is trained and trained well and has ample time. Now with a parent who has been refreshed themselves to what the rules of the road are and what the hazards are in the road to review with their child. Number two, we are a rural state, as we all know. When we strengthened the laws last Legislature, a lot of people weren't happy about it back home because of the rural nature of the state and feeling that impeded on the young people. That has been discussed today too, but bear that in mind.

The other is responsibility and trust. The Representative from Eagle Lake, Representative Martin and others have echoed the parental responsibility in all of this. I think it is a very important factor and in at some point they are going to have to go out and drive at a point where we can't protect them. With that, I would urge you to vote against the Indefinite Postponement. Thank you.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is to Indefinitely Postpone House Amendment "B" (H-904) to Committee Amendment "A" (H-847). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 500**

YEA - Ahearn, Andrews, Bouffard, Bowles, Brennan, Bruno, Bryant, Bull, Cameron, Campbell, Colwell, Cowger, Davidson, Dudley, Dunlap, Duplessie, Etnier, Fisher, Gagnon, Goodwin, Gooley, Green, Hatch, Jabar, Jones, Kane, Labrecque, LaVerdiere, Lemont, Lindahl, Madore, Mailhot, Marvin, Matthews, McKee, McNeil, Mitchell, Murphy E, Murphy T, Muse, Nass, Norbert, O'Brien LL, O'Neil, Perry, Povich, Powers, Quint, Richard, Richardson J, Samson, Sanborn, Savage C, Savage W, Shiah, Shields, Stanwood, Stevens, Tessier, Thompson, Townsend, Tuttle, Weston, Wheeler GJ, Mr. Speaker.

NAY - Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bragdon, Buck, Bumps, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Cote, Cross, Daigle, Davis, Desmond, Duncan, Foster, Fuller, Gagne, Gerry, Gillis, Glynn, Heidrich, Honey, Jacobs, Jodrey, Joy, Kasprzak, Kneeland, Lemoine, Lovett, MacDougall, Mack, Martin, Mayo, McAlevey, McDonough, McGlockin, McKenney, Mendros, Nutting, O'Brien JA, O'Neal, Peavey, Perkins, Pieh, Pinkham, Plowman, Richardson E, Rines, Rosen, Saxl JW, Saxl MV, Schneider, Sherman, Shorey, Sirois, Skoglund, Snowe-Mello, Stanley, Stedman, Sullivan, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tripp, True, Twomey, Usher, Volenik, Waterhouse, Watson, Wheeler EM, Winsor.

ABSENT - Brooks, Dugay, Frechette, Williams.

Yes, 65; No, 82; Absent, 4; Excused, 0.

65 having voted in the affirmative and 82 voted in the negative, with 4 being absent, and accordingly the motion to **INDEFINITELY POSTPONE House Amendment "B" (H-904) to Committee Amendment "A" (H-847) FAILED.**

Subsequently, **House Amendment "B" (H-904) to Committee Amendment "A" (H-847) was ADOPTED.**

**Committee Amendment "A" (H-847) as Amended by House Amendment "B" (H-904) thereto was ADOPTED.**

Representative MARTIN of Eagle Lake moved that the House **RECONSIDER** its action whereby it voted to **RECEDE.**

Representative WHEELER of Eliot **REQUESTED** a roll call on the motion to **RECONSIDER** whereby the House voted to **RECEDE.**

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

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

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

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

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. To anyone who may care to answer, would someone please explain to me the ramifications of reconsidering whereby we receded? If we do reconsider where we receded, would the amendment we just adopted come off the bill?

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

Representative **MARTIN**: Mr. Speaker, Members of the House. At the present time, what I am trying to get back to is to the posture that we had the bill in when it first came here. The amendment, at this point, if my motion were to fail, obviously House Amendment "B" would stay on the bill. What I am basically trying to do is bring it back where we can vote to Adhere. What I am doing is proposing that we reconsider the motion to recede, vote against the motion to recede and then we Adhere.

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

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

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

Representative **CAMERON**: Mr. Speaker, Ladies and Gentlemen of the House. Please someone correct me if I am wrong, but if I understand correctly, if we vote to Adhere, we would Adhere to our original decision, which would be to send it back to committee?

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

Representative **JABAR**: Mr. Speaker, Ladies and Gentlemen of the House. Not to further confuse the issue, but I just want to rise to ask you to oppose this motion, because Adhering and sending it back to committee, really isn't going to accomplish anything in view of the fact that the committee was a unanimous report. I think what you have before you is a bill, which has been compromised by the age being reduced from 21 down to 18. Despite the fact that I was in favor of the 21 year old cut off, I would certainly support a 19 year old, but rather than see the bill fail all together, I would support the way it is presently with an 18 year old cut off. I really do think there is some merit to this bill even with the 18 year old as opposed to 21. By reconsidering this motion, we are just going back and really killing the bill. I ask you to vote against this motion to reconsider and at least salvage something from this bill, which does have a great deal of merit. Thank you.

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

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

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

Representative **MENDROS**: Mr. Speaker, Men and Women of the House. Who made the motion to recommit this to committee?

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

**ROLL CALL NO. 501**

**YEA** - Bagley, Belanger, Berry DP, Berry RL, Bolduc, Bragdon, Buck, Bumps, Carr, Chick, Chizmar, Cianchette, Collins, Cross, Daigle, Davis, Foster, Gagne, Gillis, Glynn, Gooley, Hatch, Heidrich, Honey, Jacobs, Jodrey, Joy, Kasprzak, Kneeland, Lemoine, Lovett, MacDougall, Mack, Madore, Martin, Mayo, McDonough, McGlocklin, McKenney, Mendros, Nutting, O'Brien JA, Peavey, Pieh, Pinkham, Richardson E, Rines, Samson, Sherman, Shorey, Skoglund, Stanley, Stedman, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Usher, Waterhouse.

**NAY** - Ahearne, Andrews, Baker, Bouffard, Bowles, Brennan, Brooks, Bruno, Bryant, Bull, Cameron, Campbell, Clark, Clough,

Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Duncan, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagnon, Gerry, Goodwin, Green, Jabar, Jones, Kane, Labrecque, LaVerdiere, Lemont, Lindahl, Mailhot, Marvin, Matthews, McAlevey, McKee, McNeil, Mitchell, Murphy E, Murphy T, Muse, Nass, Norbert, O'Brien LL, O'Neal, O'Neil, Perkins, Perry, Plowman, Povich, Powers, Quint, Richard, Richardson J, Rosen, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Shields, Siros, Snowe-Mello, Stanwood, Stevens, Sullivan, Tessier, Thompson, Townsend, Tripp, True, Tuttle, Twomey, Volenik, Watson, Weston, Wheeler EM, Wheeler GJ, Winsor, Mr. Speaker.

**ABSENT** - Dugay, Frechette, Williams.

Yes, 60; No, 88; Absent, 3; Excused, 0.

60 having voted in the affirmative and 88 voted in the negative, with 3 being absent, and accordingly the motion to **RECONSIDER** whereby the House voted to **RECEDE FAILED**.

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-847) as Amended by House Amendment " B" (H-904)** thereto in **NON-CONCURRENCE** and sent for concurrence.

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

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**HOUSE DIVIDED REPORT** - Report "A" (7) **Ought to Pass as Amended by Committee Amendment "A" (H-893)** - Report "B" (5) **Ought Not to Pass** - Report "C" (1) **Ought to Pass as Amended by Committee Amendment "B" (H-894)** - Committee on **LABOR** on Bill "An Act to Limit Mandatory Overtime"

(H.P. 729) (L.D. 1019)

**TABLED** - March 22, 2000 (Till Later Today) by Representative **HATCH** of Skowhegan.

**PENDING** - Motion of same Representative to **ACCEPT** Report "A" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-893)**.

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. This bill is, I think, a bill that we debated long and hard in the 118<sup>th</sup> Legislature. It was a carryover bill from the First Session of this Legislature and I believe it is still not necessary and it is not good legislation. There is no evidence of widespread abuse of mandatory overtime in the State of Maine. There are occasions, I think, where we have seen abuse of voluntary overtime in the State of Maine. The only cases that were brought to the committee where overtime was being abused, allegedly, was at Poland Springs Bottling Company back three or four years ago. The employees, because of a business expansion that was going on, were being required to work what was considered at that time obsessive overtime by the workers. I would like to remind you the Poland Springs Bottling Company is a unionized shop. That can be covered in a bargaining agreement. The amount of overtime hours that can be worked can be written into the contract between the employer and the employees.

This year the only other case that came before us that alleged mandatory overtime or overtime being an unsafe practice, was the case of the CMP lineman who was killed while working on an outage situation in western Maine. CMP is also

an organized shop and overtime could have been handled through the contract negotiations for CMP. The people at CMP have assured us that that situation has been corrected. As a matter of fact, the individual who was killed was working voluntary overtime. CMP has corrected the problem. They no longer allow their employees to work even voluntary overtime in excess of certain limits. I don't recall what those limits are right now.

During the testimony on this bill, there were two individuals who spoke in favor of the bill. There were seven people who spoke in opposition to the bill. The biggest reason the opponents gave was the fact that in a paper mill during a shutdown there are situations where they do need to have their workers available to work overtime in order to get that mill up and running again. I think in most cases, they have enough volunteers because of the economic advantage of working overtime. The employees get time and a half for all of the overtime hours that they worked. It is an economic benefit to those employees. No sane employer is going to use overtime when they have to pay one and a half times the salary to an employee when an expansion of the workforce would be a more economically favorable way of handling that output or production or what have you. The only time that I am aware of where overtime has been used to a large extent is during a shutdown of a mill, during a business expansion or during some unexpected situation where an employer had to do something to keep the business going for a very temporary period of time. Therefore, we have seen no evidence of widespread abuse. We would be the only state in the country with such a law. I would encourage you not to vote in favor of Report "A." Thank you.

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

Representative HATCH: Mr. Speaker, Ladies and Gentlemen of the House. Yes, I agree that this legislation has been around and it has been worked on numerous times. Most recently in this last session and it was held over for a reason. It was held over to give us time to work with the Labor Department and other interested individuals in regards to what we could do. This is a health and safety issue in the State of Maine, whether you want to believe it or not. I am sure there will be some testimony this afternoon that will be shared with you from front line people who have been there and seen it. I know for a fact that many times people are told they will work extra hours and it doesn't matter where you work in the state that does happen. This puts a very small step forward to say that we recognize that this is happening, usually in places that you can't even imagine. If you have never worked in a paper mill and we do have people who work in paper mills in this Legislature, then you can't even understand how you can work in a 100 degree or 120 degree heat year round, 12 to 16 hours a day, day in and day out. The Labor Department has worked long and hard with us on this, the Wage and Hour Division. I want to thank Alan Hensley, publicly and on the record, for coming forth and saying this is a health and safety issue in the State of Maine.

What is the reason? Ten years ago the average age in the workforce in the state was between 34 and 35. It currently is 37. The age of the average person working in mills is 47. Think about it. A few of us have seen the blush of 47 and a little plus and we fit in these chairs and by the time 5 o'clock rolls around, we are complaining how tired we are. Can you imagine if you added the heat in with that and the conditions of running back and forth attending a paper machine or in Poland Springs bottling water all day on a conveyor line? This is not a paper mill

bill. This is not a Poland Springs bill, but this is an issue for all those people who are forced to work long and hard hours. It puts a cap of 80 hours on a two-week period of overtime. You can work 120 hours in one week if you want, but the next week you work 40 hours. I did a little bit of math. For an 80 hour week, you would have to work 12 hour days for six days and then you would have 8 hours left over for Sunday. You can work five 16 hour days and that would be 80 hours.

This is a family issue. All we are saying is that people don't have to work more than 80 hours a week. Our forefathers in 1916 passed by referendum a 50 hour work week for women and children. That was before the ladies even could vote. Think about it. I want you to know that maybe that law has been repealed, but we have done some great things in this state. We have great labor laws for children and it was a bipartisan effort on the part of this Legislature. This is not a CMP bill. This is not a paper mill bill. They can't work people more than 80 or 120 hours a week one week and then work them 40 the next. My husband has been employed for 35 years in paper mills. I called myself a paper mill widow when we were younger because he spent so much time in the paper mill earning a living to make sure that we were fed and clothed, that he had little time for the children. He has always regretted that, but he had to work. He was told he had to work. I don't think we should let another generation in this state grow up without their fathers if it is at all possible or their mothers, because it does happen to women too now.

There are a lot of things that I could tell you in regards to this, but think about it. The average age of the workforce in the industrialized setting is 47 years old. It is not 27. It is not 22. There are state troopers telling us that they are worn out when they get 25 years in and rightly so. Our working people in this state are getting tired too folks and we need to at least take one small step to limit some of this overtime. It doesn't mean they can't work 160 hours if they want. They can volunteer. If they are called on the phone and asked if they want to work and they say yes, this bill does nothing about that. They can work as many hours as they want.

Even our employees here who work more than 40 hours a week are given a comp time. Yes, employees who work over 40 hours get time and a half. You figure it out and I have done taxes for years and after you have earned about 60 hours worth of pay, you pay the rest in taxes anyway. We have people out there who are waiting for some of these jobs from young people. Maybe they will be new hires if we pass this law because they will see that they have to have more employees. I ask you and I encourage you that this is a good bill. It has been worked on hard and long. It is not just a Majority Report. The Department of Labor has worked on this with us. It is a good bill. It is not just a good bill. It is a great bill. I ask you to pass it and I ask you pass it today. Thank you.

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

Representative SAMSON: Mr. Speaker, Men and Women of the House. I also stand in support of LD 1019 as amended. As was just stated, this bill doesn't say you can't work all the hours you want if your employer will allow you. What it says is that your employer cannot force you, make it a mandate that you work more than 80 hours overtime over a two week period. I had to stop and think, but I recall many years ago when I worked in a paper mill where I was mandated to work 12 hours a day, seven days a week. I was lucky that my job wasn't as demanding as



some other jobs in some of the paper mills. I didn't realize at the time the toll that those long hours took on my family. I had two small kids at the time. I was so busy working 12 hours in the mill and coming home and trying to get as close to 8 hours of sleep that I could and sometimes I wouldn't see my kids because of the shift that I was working and they might have been in school at the time. I didn't realize for a long time the toll it took on those kids. I was like a stranger to them. These 12 hour shifts for me last six months. Six months in a six year old's life is a long time. I was young at the time. I was 30 years old and I was able to put in those hours. Today at 52 or 53, if I had a more difficult job, it would be extremely difficult for me to have to work some of the hours some people have to work today and do that type of work.

Eighty hours in a week is equivalent to five 16 hour shifts or six 12 hour shifts in an 8 hour day. What we are saying is that nobody should be mandated to have to work those hours if they choose not to. In saying this, I also know that there are a lot of people who voluntarily work these hours particularly when their business needs them. I also recall my father-in-law who worked in another paper mill. At the time he was sick, he didn't realize he had cancer. He wasn't feeling well. He was mandated to work 16 hours a day on the paper machine. If anybody here has ever worked on a paper machine in the summertime when the outside temperatures are in the 90s, the inside temperatures around the paper machines are in the hundreds, 110, 120 or 140 degrees. After a few days of working those long hours, he told the company he couldn't. He was sick. He called the company nurse and told her he couldn't work because he was sick. She said to tell your supervisor and go home. He went home. He got a phone call a few hours later saying he was fired. Here is a man who spent 30 odd years working in a paper mill, working shift work and long hours. He was fired because he was ill and couldn't work it. Luckily they did have a union there and luckily within two days he was brought back on the job. Maybe the case could have been that he didn't have a union to protect him and he would have lost his job. The man was sick and the company mandated that he work those 16 hours in a hot temperature and that would have been the end of it. Ask yourself, is this fair? As a working man most of my life, I say it is not fair. I believe that most employers are reasonable and take care of their employees, but not all. If a company needs to work somebody long hours for weeks and weeks and months on end, why not hire a few more people? After I had worked six months for 12 hour shifts, they finally hired four people to help us. I will tell you in those six months the men, they were all men, they aged 10 years in six months. I kid you not. I wish I had taken a picture of us before and after we had worked those six months. I urge you to please vote for this legislation. Thank you.

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

Representative MACDOUGALL: Mr. Speaker, Colleagues of the House. Good afternoon. The question you need to ask is, what is the problem to be solved? I contend in my fellow committee members on my side that this is a solution looking for a problem. There should be widespread or increased use of excessive overtime examples throughout the state. There is no documentation of any widespread or increasing use or excessive overtime to these dimensions. If we are going to draft legislation to do so, I think it is foolish to do so without gathering data to guide us as we craft our legislation. It is not right or fair to either the employer or the employee. It could be right full of unintended consequences. No other state has legislation such as this, nor

has Congress passed any. Currently there are two remedies in place for those in the unions, that would be the bargaining table. The previous speaker, with that example, the bargaining table would be the remedy. There are OSHA laws that are enforced for the employee's behalf. If we put this legislation through, we would be putting into statute a condition that would force businesses to place less qualified individuals into a situation where they might not normally be placed in. That could impact safety, perhaps, the worker or the team he is working with. We all know we are in a technological workforce today and it is even more so. What a person may be doing may take quite a while to become proficient in doing that. The ability to do someone else's job may not be as easy as it has been in the past.

Overtime has a financial impact on any organization of any company. In my place of employment we work seven days a week, 24 hours a day. We can't open up Saturday because we already are open Saturday. The cost of the machinery, the cost of doing business in such a structure as that means those machines need to be moving. They need to be producing product or indeed it will impact the incomes of everyone working for that company. Our policy is embraced by the employees because they do get a fair amount of overtime. That is usually 10 to 12 hours a week, as long as we are staying consistently busy. That is always voluntary. There are times, however, because we are seven days a week and indeed other companies throughout the state may be in a similar situation, that you have product to deliver or service to render and perhaps sickness like the flu or vacations or a combination of a number of things impact your qualified people to run the machinery or to make the products that you are involved with. There could be, in short, a period of time that requires some serious measures that would require some overtime. Because it is very costly indeed after so many hours at our place, you end up with double time. It is something that is avoided. In fact, all our department heads are charged with keeping that under control. It is not considered being successful by grinding people into the ground. Fiscally, it is irresponsible and from a safety issue it is irresponsible. It is not a normal policy and I dare say,,, it wouldn't be for any other company in the state.

Again, we haven't had documentation that there is widespread misuse here. It could impede the companies or a company's ability to comply to a service or a product promise to a customer. At the end of a line a customer needs product. In my business, it is very time sensitive. If you are having a one-day sale that Macys is having on a certain date and you are two days late with it in the mail, it is useless. There are time constraints for many industries as well. The unexpected occurrences that can happen can come out of nowhere. Down in southern Maine and other parts of Maine trying to find people, find employees, is difficult. That can impact your ability to get product out. Even though you desperately want to hire and train people, it isn't necessarily that easy. These are things that really aren't covered with this bill for a problem that hasn't been demonstrated that needs to be solved.

Prolonged periods of continuous mandatory overtime are not productive, both from the quality of the product, the amount that is going to get produced, it is going to impact the bottom line and it is going to impact safety. Safety in the workplace, as you have heard debated on other bills from time to time from this committee, since the workers' comp reforms were put in place, safety has improved greatly. The workplace in Maine is a safer place than it was several years ago. The fact that is the case to

me is the case that it can't be rampant examples of workers being forced to the fatigue point where they would be injuring themselves. I urge you to vote against the pending motion and vote Ought Not to Pass. Thereby, you are leaving the opportunity for a business in those rare events where lots of things may have impacted their ability to produce product to be able to do those things to stay in business, be fair with their employees and also keep the employees. In my company, if the pressroom fails or can't produce product for a week, it will affect the finishing area and shipping. You could have a situation where perhaps 20 employees having to work some overtime impacting hundreds of other jobs, which in turn are trying to feed their families. Thank you very much for listening.

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The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

Representative **BERRY**: Mr. Speaker, Men and Women of the House. The Representative from Carmel in his opening remarks assumes that because a group of workers is organized that they can negotiate overtime restrictions. I say that is not so. The bargaining unit can try to bargain overtime rules. They can beg and they can strike. The need to limit mandatory is a statewide issue, not a union or a non-union shop issue. It is a safety issue and it is a family issue. If it is not a problem today, then now is the time to enact this law. I think history will show that there is little that the Legislature can or will do immediately for people when it is a problem. From my experience, I just want to say that there are times when in the mill that I work in, we do work extended hours. It has always been to me when we work Labor Day, it is always the management that is home with their families while we work in the mill. They are at home sleeping nights while we are making a product. I think it is a fair time now, especially, to enact this law. 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. Looking at the amendment and particularly the summary for the jobs that are exempted, I see something that concerns me. We have a couple of industries in this state involved in shipbuilding and major refitting of ships. One of the routine assignments in that industry is to require the workers to accompany the ship on sea trials upon completion of the project. I am concerned that this language would prohibit the employers from requiring the employees who would normally be assigned for this long-term trip or an employee may be able to decide that he doesn't want to go. That would inhibit the ability of this industry to operate. Thank you.

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 Winslow, Representative Matthews.

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. With all due respect to the good gentleman, Representative Daigle's question, I see a red herring. Ladies

and gentlemen, this issue goes to worker's safety and having a workforce that is ready to do the job, that is not stretched to the limit as the good gentlemen from North Berwick talked about with mandatory overtime, why would an employer want to stretch those employees and have them work well beyond the time of any kind of semblance of sanity when they are reaching 100 hours of overtime. Ladies and gentlemen, this is a safety issue. It is purely and simply and safety issue. I guess the real question that ought to go to the other report and those that have signed the other report is, what would you put down for a reasonable amount of overtime? If the opposition to this amendment and to this bill seems to state that most employers wouldn't do such a thing, then join us. Let's crack down on those few employers that are pushing their workforce beyond the limit. Today we have a society with out children at home that don't see their mom and dad. It is a society that is losing touch with the important things in life. That has to do with the almighty dollar, ladies and gentlemen, let's face it.

As far as being novel and new, passing the first state law, well I guess somebody has to do it. Minimum wage, well, somebody had to do it. Worker's safety, well, somebody had to do it. Limitations on sweatshops, well, somebody had to do it. Somebody has to step up to the plate and it seems to me it is the Legislature of the State of Maine that is ready to step up to the plate. This is an important issue, ladies and gentlemen, for people not represented by a collective bargaining agreement or unions, that have no say whatsoever in the workforce. They can be terminated because they don't come in 90, 100 or 200 hours. The Legislature comes in and sets up a floor, a safety zone, and that is what we are being asked to do on this bill today. Yes, new, big deal, somebody has to step up and say it is wrong. Eighty hours, what would those that have signed the other report put down as a reasonable amount of overtime? They are dragging. They can't stay awake. They are having a hard time standing. We are not talking about 100 years ago in a sweatshop. We are talking about modern society today in Maine and throughout our country. Most industrialized nations of this world have protections on mandatory overtime, because they realize it is not right. It is not fair. It is a protection for workers. Yes, there comes a point in time when you ought to be able to do that as an employer. Eighty hours is a good starting point.

Ladies and gentlemen, look at the exemptions. With due respect to the good gentleman, Representative Daigle's question, about going out to sea. That is a wonderful question. I am not going to attempt to answer it, however, but I am going to say that in the real world most of us that are dealing with our constituents in our districts that have to deal with mandatory overtime and they are asking and crying out to this Legislature to pass a law that says you can't do that. Those are the folks I am concerned about. Those are the folks that have no voice. This is good legislation today. Our chair has worked very, very hard. The committee has worked hard. I hear that there may be support elsewhere in this state for this legislation, but not on this floor. It is a good protection. Ladies and gentlemen, society is not static. We don't simply live in a vacuum. Sometimes we have to step up to the plate and do what is right just like our forefathers have done and just like previous Legislatures have done in the past with worker protections. This is one and I will support it. Thank you Mr. Speaker.

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

**Representative MACK:** Mr. Speaker, Right Honorable Men and Women of the House. I urge you to vote against the pending motion. First, to answer the question from the right honorable Representative from Arundel, yes, it is a problem if someone is on a sea trial for a ship or someone who works at a summer camp or someone who works at a job and needs to sleep over on a road trip. The ambiguities of this bill is one of the major reasons the Department of Labor came before the Labor Committee to testify against this bill. It is very vague and there are a lot of ambiguities. I thank the Representative for his excellent question. This is one of the big problems with this bill. This bill is bad policy. The Representative from Winslow made a very emotional plea and argument for this bill. If you step back from the emotions and look at the facts and look at what this bill will accomplish, it will not accomplish very much. In fact, it will hurt the families he is trying to protect.

First of all, the safety issue. This bill has nothing to do with safety. As has been previously stated, this does not crack down on all overtime. This would just crack down on mandatory overtime. If an employee wants to volunteer to work more hours, if he has a wife and young children at home and is trying to earn more money, he can still do that. If you have someone working on a dangerous machine, does it matter if he is voluntarily there or being mandated by this employer to be there? If this bill truly was concerned about safety, it would ban it in all cases. This is bad policy. This is not just a safety issue. This does not apply to people working in dangerous circumstances. This applies to all employees in Maine, whether it be the secretary sitting behind a desk or someone at a paper machine. This is having a blanket solution to something where there is not even a problem. There are a few instances of long periods of overtime. If this was a huge widespread complaint, we would be seeing the carnage. We would hear stories of abuses and accidents caused from this. Those accidents are just not occurring.

Maine would be the only state in the nation with this law. Yes, for any new law someone has to lead, but it should not be the State of Maine. Not only is it bad policy, but it would continue to put Maine at a competitive disadvantage with other states. Already the State of Maine has the third highest tax burden in the nation. We have more red tape than most states. The bureaucrats won't leave Maine businesses alone. All this has led to Maine having the fourth slowest economic growth in the country. When I first ran for the Legislature a lot of my friends had to leave this state to get good jobs. The opportunities just weren't here. They wanted to work here. This is where we live, where we grew up. They had to leave to get good jobs. I have family in Washington County. Washington County's unemployment rate just went down to 7.5 percent. There are people in rural Maine begging and looking for jobs. Putting in another piece of legislation that will hamper Maine for keeping the businesses we have and attracting new ones is not the right thing to do. How many more kids who are in school in Maine are going to have to leave the state to get a job if we put this and other legislation in?

Also, this is bad policy for running a business. Most of the time when you run a business, you have a normal schedule. You have normal shifts and normal flow of product you need to get out. Every once in a while odd things happen. You have seasonal employment. Someone may be sick and a machine may be down and you may have a big order for one of your biggest customers. If you work at a print shop like the good Representative from North Berwick, you may have to get

something out right away. A machine may have been down or someone might be sick and you may need people to get the product out and keep the business in operation. If the business can't get the product out, they will lose their customers and all the employers will go out of business. This bill does not take anything into affect for those rare circumstances that happen in a business where things get hectic and you must get the product out. Again, this bill has nothing to do with safety. It would put Maine at a competitive disadvantage keeping new job growth in Maine down and it is bad policy for business and I urge you to vote against the pending motion.

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

**Representative VOLENIK:** Mr. Speaker, Men and Women of the House. I was just thinking that a lot of workers, half the workers in this state, might have to leave the state if one set of workers is doing twice the work so that those other set of workers can't even get a job. I am not sure that argument holds up. I have been looking at this bill and it defines overtime as the hours worked in excess of 40 hours of a calendar week and then it limits overtime. It says, "An employer may not require an employee to work more than 80 hours of overtime in any consecutive two-week period." If you think about it, an employer could require someone to work 40 hours of overtime in one week and then 40 hours the next week. That is only 11.4 hours a week if you work seven days a week. That employer could require all of that 80 hours of overtime in one week and just a regular schedule the following week. On that one week that he is working that 80 hours of overtime, the employee is working 40 hours of the regular job, 80 hours of overtime, that is 120 hours. If you divide that by seven, you have 17.1 hours per day for that seven days he is working. That leaves 6.9 hours each day for that seven days that he can eat, drive back and forth to work, sleep, interact with his wife or husband, interact with his children and do the normal community affairs that normal people do unless they have a job that requires 80 hours of overtime.

Thinking of the question on ship trials, we are going to send this ship out that costs hundreds and hundreds of millions of dollars and let's say that ship is out for more than one week. If it is out for more than one week, we are only going to require those people who are doing the sea trials to work 11.4 hours a day. I am not sure I would want to entrust these people who have this ship that costs hundreds and hundreds of millions of dollars if they are working more than 11.4 hours a day. Just think, if the sea trials take less than a week, we would be requiring that they work 17.1 hours a day on those sea trials, we are going to be entrusting this ship that costs hundreds of millions of dollars from our great shipyard to people who are working 17.1 hours a day. Working that kind of hours, there is a slight chance they might make a mistake. Something might go wrong there. There is a slight potential that that ship costing hundreds of millions of dollars might end up on the bottom. We are really saving a lot by not requiring this.

Even if we do pass this bill and we are going to allow this barbaric amount of overtime for a week, life is going to be pretty hard for a lot of workers. If we don't pass this and overtime can be 168 hours a week for 52 weeks a year, I imagine that worker's lives could be a living heck. Thank you.

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

**Representative GOODWIN:** Mr. Speaker, Men and Women of the House. To help answer the Representative Daigle's

question about whether or not this was a detriment to Bath Iron Works, this billion dollar ship that they take out usually will go to sea for three to four weeks or sometimes six weeks to run all the snags out of it. When they go to sea, they have a naval crew, but they also have an A, B and C Crew. There are three men working eight hour shifts because that is the nature of the beast. This is a brand new ship going out there and it, as the good Representative from Down East mentioned, it cost billions of dollars.

As you can see by this divided report, there are three reports. There is an A, B and C. I am the C. I fought for less exemptions in this bill, but because we come to the Legislature to legislate and negotiate, we negotiated in the Labor Committee. This is what came to the floor. I will support the Majority Ought to Pass as Amended Report. I thank the Speaker.

The SPEAKER: The Chair recognizes the Representative from Embden, Representative McGlocklin.

Representative **MCGLOCKLIN**: Mr. Speaker, Men and Women of the House. I feel compelled to rise in support of this bill on behalf of my working constituents and their families. As someone who has spent 12 years working in the shoe industry, I can tell you first hand what a hardship mandatory overtime presents for working families. It is a common problem. Many working people forced into overtime are the parents of young children and very often they are given less than an hours warning that they will have to stay late. Frantic phone calls to the daycare providers are common while sympathetic bosses are not. Nursing mothers find themselves working against their will to the tune of 60 to 70 hours a week while their babies cry for them. People worn out from the 100 plus degree factory heat are treated to more of the same whether they want it or not. This bill will not stop employers from offering overtime, nor will it prevent people who want the extra hours and extra pay from taking it. It simply states that people who prefer spending precious time with their families to the extra pay will not fear losing their jobs. Please vote in favor of this bill. Thank you.

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

Representative **DAIGLE**: Mr. Speaker, Men and Women of the House. I am glad in a way that my questions have prompted so much discussion here. They are very serious. I guess I am a frustrated member of the Labor Committee. Mr. Speaker, may I pose another question to the chair? In the situation where an employee job description may call for certain circumstances such as sleepovers, extended tours and I wasn't thinking of Bath Iron Works, I was thinking of Portsmouth Naval Shipyard where some of my constituents work, would that job description calling for extended periods be considered a voluntary acceptance of overtime so this law would not interfere with the conduct of that work? Thank you.

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 Standish, Representative Mack.

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. To answer the question of the good Representative from Arundel, there is nothing in the law that would exempt such things. If someone's job description includes, such as a traveling salesman or someone on a summer camp who may have take a trip with the campers, they could voluntarily say they want to do what my job description says or under this bill they could say no and refuse the trip and put the

business at a huge disadvantage and do the exact opposite of what their job description said. There is no difference between someone who works on the road or someone who works in the office in the building. As has been previously said, this is one of the major reasons that the Department of Labor itself came in and testified against this bill.

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

Representative **HATCH**: Mr. Speaker, Ladies and Gentlemen of the House. In regards to the question on the sea matter, I would assume that those people who are going out had a contract and if they were going out for an extended time, there would be shifts. I don't know that, but I would assume that is so. No one from Bath Iron Works showed up to testify neither for nor against this bill, nor from Portsmouth. If you check the bill out, you will see there are a lot of different categories that are exempted from this bill including health and safety personnel. It might be the National Guard that the Governor has to call out when you have an ice storm. There are also camp counselors that are exempt because they stay on the premises. I think the good Representative from Standish ought to read the bill thoroughly. In the bill there is one section he apparently didn't read and that is D. There are a lot of exemptions in there for workers and what not.

I want you to know that this is a serious issue. We took it seriously. As far as sailing a ship, I am sure that they take that seriously too after spending all of that money building that ship. Those people are well prepared to go out, by working shifts, sleep and maybe they are getting paid for 24 hours a day while they are doing this. I am sure it is not a six-month trial or a three-month trial. It is probably more than a week to two weeks. I would assume that is probably taken care of. Either it is under state law or it is under federal law and if it is under federal law, then there are probably some restrictions on how many hours they can work actively in doing what they do.

I want you to know there has been a lot of conversation about business, but I want you to know that this is a people's bill. It is for the working people of this state. It is only a start. I would like to have seen it only 10 hours of overtime a week and maybe our kids could have stayed home instead of leaving the state because they couldn't find decent paying jobs. I ask for your support on this bill. I won't take up any more of your time. I think the debate has gone on far too long already. Thank you.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Rines.

Representative **RINES**: Mr. Speaker, Men and Women of the House. I found the debate on the sea trials to be interesting. I do work at BIW. I have worked on the buildings, I have worked on the waters and I once had the opportunity to go out on sea trials. It is not sweatshop conditions let me tell you. You do work 8 or 10 hour shifts, but that is all you work. You may be out two or three days at the most. They feed you when you are out there. Let me tell you, I am single and they feed you very well. You are always envious of your friends at the yard who get to go out on sea trials. There is always a waiting list for people who do want to go out. I want to thank the good Representative from Skowhegan for putting this bill in again. It is an excellent bill and I would encourage everyone to vote for it. Thank you.

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

Representative **MACDOUGALL**: Mr. Speaker, Ladies and Gentlemen of the House. In terms of the exemptions that the

good Representative from Skowhegan, Representative Hatch mentioned, my concern is, who have we missed that should be in there? I would suggest to you that salesmen aren't in there as the good Representative from Standish, Representative Mack had mentioned. Who else out of the employers of Maine have we missed? I will tell you that those whom we have missed, jobs will be impacted potentially with this legislation. Those jobs have people attached to them and people will be affected negatively by this. In terms of the overall issue of moms and dads not being home to raise their family because they have to work too hard, there are other policy areas that I would suggest we could address in other areas, such as taxes and economic development to address those concerns. Thank you.

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

Representative TREADWELL: Mr. Speaker, Ladies and Gentlemen of the House. I have to respond to a couple of comments from previous speakers. The Representative from Winslow, Representative Matthews, said that the Representative from Arundel's question was a red herring. I think it was an appropriate question and I don't think it was a red herring. I also feel that businesses in the State of Maine being portrayed as a 1930s class B black and white movie where you have workers strung up on the racks and hanging on the walls and things of that nature, I don't think that we have that in the State of Maine. I think we have responsible employers who do not demand excessive mandatory overtime hours of their employees. I am disturbed by the comments that portray the employers of this state as being that kind. I just don't see the need for the bill. There is no evidence of widespread abuse of mandatory overtime. I urge you to vote against the pending motion and I request a roll call.

Representative TREADWELL of Carmel REQUESTED a roll call on the motion to ACCEPT Report "A" Ought to Pass as Amended by Committee Amendment "A" (H-893).

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 Winslow, Representative Matthews.

Representative MATTHEWS: Mr. Speaker, Ladies and Gentlemen of the House. I find it interesting in this debate today to hear the opposition mentioning the amendments and adding to the list. I guess I would ask where they were when we were discussing the bill in committee? They should have joined us in helping to write a good bill. I think we have written a good bill here today. It is not perfect, but it is a good start. My question to anyone on the other report, where does this amendment prohibit overtime?

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of Report "A" Ought to Pass as Amendment by Committee Amendment "A" (H-893). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 502**

YEA - Ahearne, Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Carr, Chick, Chizmar, Clark, Collins, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gagnon, Gerry, Gillis, Goodwin, Gooley, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Lemont, Mailhot, Martin, Matthews, Mayo, McDonough, McGlocklin, McKee, McNeil, Mitchell, Muse, Norbert, O'Brien LL, O'Neal, O'Neil, Perkins, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Rosen, Samson,

Sanborn, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Sirois, Skoglund, Stanley, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler GJ, Mr. Speaker.

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

ABSENT - Dugay, Frechette, Kneeland, Stevens, Williams.

Yes, 87; No, 59; Absent, 5; Excused, 0.

87 having voted in the affirmative and 59 voted in the negative, with 5 being absent, and accordingly Report "A" Ought to Pass as Amended by Committee Amendment "A" (H-893) was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (H-893) was READ by the Clerk and ADOPTED. The Bill was assigned for SECOND READING Thursday, March 30, 2000.

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

**CONSENT CALENDAR**

**First Day**

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

(S.P. 588) (L.D. 1668) Bill "An Act to Create the Drive ME Wheels-to-work Program" Committee on HEALTH AND HUMAN SERVICES reporting Ought to Pass as Amended by Committee Amendment "A" (S-595)

(S.P. 916) (L.D. 2368) Bill "An Act to Promote Bone Marrow Donation" Committee on HEALTH AND HUMAN SERVICES reporting Ought to Pass as Amended by Committee Amendment "A" (S-596)

(S.P. 1012) (L.D. 2580) Bill "An Act to Provide Legal Access to Marijuana for Medical Use" Committee on HEALTH AND HUMAN SERVICES reporting Ought to Pass as Amended by Committee Amendment "A" (S-597)

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

**CONSENT CALENDAR**

**First Day**

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

(H.P. 1639) (L.D. 2290) Bill "An Act to Improve Business Entity Filings and Authorize Mergers, Consolidations and Conversions of Various Business Entities" Committee on JUDICIARY reporting Ought to Pass as Amended by Committee Amendment "A" (H-965)

(H.P. 1883) (L.D. 2618) Bill "An Act to Implement the Recommendations of the Joint Standing Committee on Marine Resources Relating to the Review of the Maine Sardine Council Under the State Government Evaluation Act" (EMERGENCY)

Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-963)**

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

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**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

**Pursuant to Statute**

**Department of Human Services**

Representative KANE for the **Department of Human Services** pursuant to Maine Revised Statutes, Title 5, section 8072 asks leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Sections 61, 62, 63,

68 and 73 of 10-49, Chapter 5, Bureau of Elder and Adult Services Policy Manual, a Major Substantive Rule of the Department of Human Services (EMERGENCY)

(H.P. 1913) (L.D. 2659)

Be **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

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On motion of Representative CHIZMAR of Lisbon, the House adjourned at 5:29 p.m., until 9:00 a.m., Thursday, March 30, 2000.