

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
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ONE HUNDRED AND NINETEENTH LEGISLATURE
SECOND REGULAR SESSION
28th Legislative Day
Friday, April 7, 2000

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

Prayer by the Reverend Jeff Scott, North Turner Union Presbyterian Church, Church of Christ Starks Presbyterian and West Mills Community Church.

National Anthem by Annie Ellis, Monmouth Academy.

Pledge of Allegiance.

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

The Journal of yesterday was read and approved.

COMMUNICATIONS

The Following Communication: (S.P. 1075)
119TH MAINE LEGISLATURE

April 6, 2000

Senator Carol Kontos

Representative Gary O'Neal

Chairpersons

Joint Standing Committee on Business and Economic Development

119th Legislature

Augusta, Maine 04333

Dear Senator Kontos and Representative O'Neal:

Please be advised that Governor Angus S. King, Jr. has withdrawn his nomination of M. Kelly Matzen of Auburn for appointment as a member of the Maine Educational Loan Authority.

Pursuant to 20-A, M.R.S.A. §11415, this nomination is currently pending before the Joint Standing Committee on Business and Economic Development.

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.

The Following Communication: (S.C. 625)

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

April 5, 2000

The Honorable G. Steven Rowe

Speaker of the House

119th Maine Legislature

2 State House Station

Augusta, Maine 04333

Dear Speaker Rowe:

In accordance with Joint Rule 506, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Marine Resources, the nominations of Craig Pendleton of Saco, Ralph Smith of Jonesport and David

Turner of Meddybemps for appointment and Jennifer Bichrest of Harpswell, Lori Howell of Eliot and Kristan Porter of Cutler for reappointment as members of the Marine Resources Advisory Council.

Thank you for your attention to this matter.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and **ORDERED PLACED ON FILE**.

ORDERS

On motion of Representative McDONOUGH of Portland, the following Joint Order: (H.P. 1938) (Cosponsored by Senator RAND of Cumberland and Representatives: BRUNO of Raymond, ETNIER of Harpswell, GAGNE of Buckfield, POVICH of Ellsworth, SCHNEIDER of Durham, TESSIER of Fairfield, THOMPSON of Naples)

ORDERED, the Senate concurring, that the Joint Study Committee to Study Bomb Threats in Maine Schools is established as follows.

1. Committee established. The Joint Study Committee to Study Bomb Threats in Maine Schools, referred to in this order as the "committee," is established.

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

A. Two members of the Senate, appointed by the President of the Senate; and

B. Four members of the House of Representatives, appointed by the Speaker of the House, one of whom is a member of the Joint Standing Committee on Judiciary, one of whom is a member of the Joint Standing Committee on Criminal Justice, one of whom is a member of the Joint Standing Committee on Education and Cultural Affairs and one of whom is a member of the Joint Standing Committee on State and Local Government.

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

4. Appointments; convening committee. All appointments must be made within 30 days following the passage of this order. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been made. The chairs of the committee shall call and convene the first meeting of the committee no later than June 1, 2000.

5. Duties. The committee shall study the problem of bomb threats in schools in the State and possible methods of deterring bomb threats in schools, including withholding privileges, such as driver's licenses and other licenses, from a student convicted of or participating in making a bomb threat until the student is 20 years of age.

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

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

8. Report. The committee shall report on the issues studied with any recommended legislation for the First Regular Session

of the 120th Legislature no later than November 1, 2000. If the committee requires an extension of time to make its report, it may apply to the Legislative Council, which may grant the extension.

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

READ.

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. We have been kind of out of touch locked up here in Augusta, but in our educational system, there is tremendous damage being done. Some of our school districts have seen 27 or 28 bomb threats called in. It is impacting youngsters, teachers, learning and there is no way that we can guarantee that when a school has been swept that it is safe when youngsters come back in. There are members of this body that have been here the last week of June carrying on our business. Many Maine school districts, not because of the snow days or ice days, are looking at Maine youngsters still in the classroom looking at the Forth of July holiday coming up very closely.

We have had debates in this House about the communities of Wells and Ogunquit. Ninety-eight percent of the time they agreed and they may have an innovative solution to this. If your youngster calls and disrupts school, the parents pay. The estimated cost when you bring out the fire and the police, is about \$25,000 to the taxpayers in that community. I would hope that this commission could do two things. One, look at the schools that aren't being disrupted where there are no bomb threats and also maybe look at that Wells Ogunquit solution that if your youngster causes the disruption of learning and the taxpayers are paying the cost, then the parents ought to pick up that \$25,000 bill. Thank you.

PASSED.

Sent for concurrence.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

the 85th Anniversary of the Armenian Genocide. On April 24, 1915, a campaign was launched against the Armenian people that resulted in the death of over 1.5 million Armenians. Some of the survivors of the genocide settled in the State of Maine, and their children have contributed significantly to the benefit of Maine. We join our citizens of Armenian heritage on April 24, 2000 in remembering this event, and we express our deepest sympathy for those who perished;

(HLS 1204)

Presented by Representative BRENNAN of Portland.
Cosponsored by Speaker ROWE of Portland, Representative DUDLEY of Portland, Representative SAXL of Portland,

Representative McDONOUGH of Portland, Representative QUINT of Portland, Representative NORBERT of Portland, Representative TOWNSEND of Portland, Senator ABROMSON of Cumberland, Senator RAND of Cumberland.

On **OBJECTION** of Representative BRENNAN of Portland, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **BRENNAN**: Mr. Speaker, Men and Women of the House. Truly one of the hard times in our history was the Armenian Genocide. As it is noted in the special sentiment, over 1.5 million people were systematically killed as a result of the actions of another government. I think all of us would agree that it is important to continue to recognize and to continue to pay tribute to those people that died as a result of that genocide. Today, here in the gallery, we have the son of one of the survivors of the Armenian Genocide here with us, John Malconian. He asked me to submit this special sentiment on behalf of the Armenian people in the State of Maine. I am proud to do that and sad at the same time, because, again, recognizing this tragic event in human history makes us all pause and recognize at times the terrible tragedies that we can inflict upon one another. I hope you will join me today in recognizing this anniversary.

PASSED and sent for concurrence.

Recognizing:

Beth Chamberlin, principal of the Lura Libby School in Thomaston and the Cushing School in Cushing, who was the 1999 School Principal of the Year. She is a graduate of Valley High School in Bingham and the University of Maine at Orono and she has spent her entire professional career in Thomaston and Cushing. We acknowledge her dedicated service to her schools and we extend our congratulations to her on her achievements;

(HLS 1207)

Presented by Representative SKOGLUND of St. George.
Cosponsored by Senator PINGREE of Knox, Representative POWERS of Rockport.

On **OBJECTION** of Representative SKOGLUND of St. George, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **SKOGLUND**: Mr. Speaker, Ladies and Gentlemen of the House. As many of you know so well, one of the most enjoyable privileges of serving in this body is to be able to stand and bask in the reflected glory of our friends and constituents in the balcony who have made noteworthy commendable achievements.

Beth Chamberlin who was 1999 Elementary School Principal of the Year has spent her entire professional career in Thomaston. When she started teaching, I had the good fortune of occupying the room next to her. She taught home economics and I taught social studies. She undertook as her mission by patient example gentle hints to encourage me to become more orderly and organized. I think that is the only thing she has undertaken in her career, at which she hasn't succeeded. Presently she is principal of the Lura Libby School in Thomaston. I visited that school within the past few weeks and truly, ladies

and gentlemen, it filled my heart with joy to see such a well organized, well run, pleasant school. Beth Chamberlin is a principal who has never confused confusion in the classroom with creativity. If Beth Chamberlin were a member of this body, I will guarantee that everyone would walk through the State House to the right and no one would block the doors. She is that type of a person. She realizes that children appreciate and need orderliness just as we do.

We have heard a great deal about Maine leading the nation in education now. Some would suggest that Maine has done well because of our extensive testing system and assessment and all that type of thing. One of my former colleagues has suggested that Maine leads not because of testing and learning results, but Maine leads in education because we have a tradition of excellence in our teaching profession that has been maintained. The tests merely show that up. The excellence has been here for as long as we can remember. We have excellent educators like Beth Chamberlin who are confident and secure in their position. They are secure and confident enough to try anything new and then discard it immediately if it doesn't work, but always these outstanding educators cling to those things that have succeeded over the years.

I am very proud that Beth Chamberlin has come up to be with us today. I congratulate her. Thank you.

PASSED and sent for concurrence.

Recognizing:

Joseph H. Bigl, of Bucksport, who is the recipient of the 2000 Hans Honders Community Service Award from the Bucksport Bay Area Chamber of Commerce for his years of generous service to the citizens of the Bucksport community and the State of Maine. Mr. Bigl, who retired from a long and distinguished career in the paper industry, is an active "school friend" to the students of the Bucksport school system. He initiated a domestic violence prevention team in Bucksport and helped to establish a substance abuse team. He is on the Bucksport Adult Education board and is a founding member of the Bucksport's Partners in Education. Mr. Bigl served in the Maine State Legislature during the 117th and 118th Legislatures, serving on the Marine Resources and Legal and Veterans Affairs committees. He currently chairs the Membership Committee of the Bucksport Bay Area Chamber of Commerce, serves on Bucksport's Economic Development Committee and chairs the Business Survey Committee. Enjoying his retirement, Mr. Bigl writes poetry, sketches and is learning to play the piano. He and his wife, Mary, have 2 daughters, one son and 6 grandchildren. We send our appreciation to Mr. Bigl for his years of public service and congratulate him on this occasion;

(HLS 1217)

Presented by Representative ROSEN of Bucksport.

Cosponsored by Senator ABROMSON of Cumberland, Representative AHEARNE of Madawaska, Senator AMERO of Cumberland, Representative ANDREWS of York, Representative BAGLEY of Machias, Representative BAKER of Bangor, Representative BELANGER of Caribou, Senator BENNETT of Oxford, Senator BENOIT of Franklin, Representative BERRY of Belmont, Representative BERRY of Livermore, Senator BERUBE of Androscoggin, Representative BOLDUC of Auburn, Representative BOUFFARD of Lewiston, Representative BOWLES of Sanford, Representative BRAGDON of Bangor, Representative BRENNAN of Portland, Representative BROOKS

of Winterport, Representative BRUNO of Raymond, Representative BRYANT of Dixfield, Representative BROOKS of Winterport, Representative BRUNO of Raymond, Representative BRYANT of Dixfield, Representative BUCK of Yarmouth, Representative BULL of Freeport, Representative BUMPS of China, Representative CAMERON of Rumford, Representative CAMPBELL of Holden, Senator CAREY of Kennebec, Representative CARR of Lincoln, Senator CASSIDY of Washington, Senator CATHCART of Penobscot, Representative CHICK of Lebanon, Representative CHIZMAR of Lisbon, Representative CIANCHETTE of South Portland, Representative CLARK of Millinocket, Representative CLOUGH of Scarborough, Representative COLLINS of Wells, Representative COLWELL of Gardiner, Representative COTE of Lewiston, Representative COWGER of Hallowell, Representative CROSS of Dover-Foxcroft, Senator DAGGETT of Kennebec, Representative DAIGLE of Arundel, Representative DAVIDSON of Brunswick, Representative DAVIS of Falmouth, Senator DAVIS of Piscataquis, Representative DESMOND of Mapleton, Senator DOUGLASS of Androscoggin, Representative DUDLEY of Portland, Representative DUGAY of Cherryfield, Representative DUNLAP of Old Town, Representative DUPLESSIE of Westbrook, Representative ETNIER of Harpswell, Senator FERGUSON of Oxford, Representative FISHER of Brewer, Representative FOSTER of Gray, Representative FRECHETTE of Biddeford, Representative FULLER of Manchester, Representative GAGNE of Buckfield, Representative GAGNON of Waterville, Representative GERRY of Auburn, Representative GILLIS of Danforth, Representative GLYNN of South Portland, Senator GOLDTHWAIT of Hancock, Representative GOODWIN of Pembroke, Representative GOOLEY of Farmington, Representative GREEN of Monmouth, Senator HARRIMAN of Cumberland, Representative HATCH of Skowhegan, Representative HEIDRICH of Oxford, Representative HONEY of Boothbay, Representative JABAR of Waterville, Representative JACOBS of Turner, Representative JODREY of Bethel, Representative JONES of Pittsfield, Representative JOY of Crystal, Representative KANE of Saco, Representative KASPRZAK of Newport, Senator KIEFFER of Aroostook, Senator KILKELLY of Lincoln, Representative KNEELAND of Easton, Senator KONTOS of Cumberland, Representative LABRECQUE of Gorham, Senator LaFOUNTAIN of York, Representative LaVERDIERE of Wilton, President LAWRENCE of York, Representative LEMOINE of Old Orchard Beach, Representative LEMONT of Kittery, Senator LIBBY of York, Representative LINDAHL of Northport, Senator LONGLEY of Waldo, Representative LOVETT of Scarborough, LORING of the Penobscot Nation, Representative MacDOUGALL of North Berwick, Representative MACK of Standish, Senator MacKINNON of York, Representative MADORE of Augusta, Representative MAILHOT of Lewiston, Representative MARTIN of Eagle Lake, Representative MARVIN of Cape Elizabeth, Representative MATTHEWS of Winslow, Representative MAYO of Bath, Representative McALEVEY of Waterboro, Representative McDONOUGH of Portland, Representative McGLOCKLIN of Embden, Representative McKEE of Wayne, Representative McKENNEY of Cumberland, Representative McNEIL of Rockland, Representative MENDROS of Lewiston, Senator MICHAUD of Penobscot, Senator MILLS of Somerset, Representative MITCHELL of Vassalboro, Senator MITCHELL of Penobscot, Representative MURPHY of Berwick, Representative MURPHY of Kennebunk, Senator MURRAY of Penobscot,

Representative MUSE of South Portland, Representative NASS of Acton, Representative NORBERT of Portland, Senator NUTTING of Androscoggin, Representative NUTTING of Oakland, Representative O'BRIEN of Augusta, Representative O'BRIEN of Lewiston, Senator O'GARA of Cumberland, Representative O'NEAL of Limestone, Representative O'NEIL of Saco, Senator PARADIS of Aroostook, Representative PEAVEY of Woolwich, Senator PENDLETON of Cumberland, Representative PERKINS of Penobscot, Representative PERRY of Bangor, Representative PIEH of Bremen, Senator PINGREE of Knox, Representative PINKHAM of Lamoine, Representative PLOWMAN of Hampden, Representative POVICH of Ellsworth, Representative POWERS of Rockport, Representative QUINT of Portland, Senator RAND of Cumberland, Representative RICHARD of Madison, Representative RICHARDSON of Greenville, Representative RICHARDSON of Brunswick, Representative RINES of Wiscasset, Speaker ROWE of Portland, Senator RUHLIN of Penobscot, Representative SAMSON of Jay, Representative SANBORN of Alton, Representative SAVAGE of Union, Representative SAVAGE of Buxton, Representative SAXL of Bangor, Representative SAXL of Portland, Representative SCHNEIDER of Durham, Representative SHERMAN of Hodgdon, Representative SHIAH of Bowdoinham, Representative SHIELDS of Auburn, Representative SHOREY of Calais, Representative SIROIS of Caribou, Representative SKOGLUND of St. George, Senator SMALL of Sagadahoc, Representative SNOWE-MELLO of Poland, SOCTOMAH of the Passamaquoddy Tribe, Representative STANLEY of Medway, Representative STANWOOD of Southwest Harbor, Representative STEDMAN of Hartland, Representative STEVENS of Orono, Representative SULLIVAN of Biddeford, Representative TESSIER of Fairfield, Representative THOMPSON of Naples, Representative TOBIN of Windham, Representative TOBIN of Dexter, Representative TOWNSEND of Portland, Representative TRACY of Rome, Representative TRAHAN of Waldoboro, Representative TREADWELL of Carmel, Senator TREAT of Kennebec, Representative TRIPP of Topsham, Representative TRUE of Fryeburg, Representative TUTTLE of Sanford, Representative TWOMEY of Biddeford, Representative USHER of Westbrook, Representative VOLENIK of Brooklin, Representative WATERHOUSE of Bridgton, Representative WATSON of Farmingdale, Representative WESTON of Montville, Representative WHEELER of Bridgewater, Representative WHEELER of Eliot, Representative WILLIAMS of Orono, Representative WINSOR of Norway.

On **OBJECTION** of Representative ROSEN of Bucksport, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Bucksport, Representative Rosen.

Representative **ROSEN**: Mr. Speaker, Ladies and Gentlemen of the House. For those of you that served as members of the 117th and 118th Legislatures, you, of course, know who Joe Bigl is. For those of you who are members here for the first time in the 119th or did not serve in the 117th and 118th, Joe Bigl was an individual that served his district and served the communities of Bucksport and Orrington with energy, pride and did a tremendous job to make sure that his constituents were heard in this body. Our local chamber gives an annual award and this is their community service award. We certainly appreciate that the members here in this body join in

congratulating Joe's service. Joe was proud to serve as a member of this Legislature. He is proud, I know, to be able to receive from you his congratulations. Thank you very much.

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

Representative **SAVAGE**: Mr. Speaker, Men and Women of the House. I had the honor of being a seatmate with Representative Bigl. As I was reading down through this sentiment and I read this, enjoying his retirement, he writes poetry. He didn't wait for retirement to write poetry. I will tell you that no matter what the occasion was whether it was something humorous on the floor or something serious. All Representative Bigl had to do was pick up his pen and he would jot down a poem and share it with Representative Labrecque and me. I will tell you that we miss that. My seatmate now is very organized, but he is not a poet. I am going to send him up to Bucksport so Representative Bigl can coach him a little so he can share those little stories in poetry with us. Thank you for allowing me to speak in honor of you today, Joe. We love you.

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

Representative **TUTTLE**: Mr. Speaker, Men and Women of the House. It is indeed a pleasure to recognize this order and speak in honor of Joe Bigl who served on the Legal and Veterans Affairs Committee. I will always remember Joe as having a great sense of humor. He was always a hard worker. I remember that committee that year. There are certain committees that you remember being a chairman and a member of this Legislature. I can say that it was the best committee that I thought I ever worked with in all my years in the Legislature. One of the reasons was because of Joe Bigl being a member. As I mentioned before, I always admired Joe's sense of humor during the difficult times of debating different aspects. You know that our committee is not the easiest committee to deal with, dealing with things from smoking, off-track betting and things like that. We can get pretty tense at times with suits against the state. I will always remember that Joe had a good sense of humor to bring us back on track. As I mentioned before, he was always a hard worker, but I always remember that the most important thing is Joe Bigl is a good husband, a good father and a good grandfather. In my opinion, I think that we all should aspire to be half the person that Joe Bigl is. Joe, God bless you and welcome back.

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

Representative **LABRECQUE**: Mr. Speaker, Ladies and Gentlemen of the House. As my good seatmate now said, in the 117th Legislature we shared Joe and we always teased him about being the rose between two thorns. I would like to add a little personal note. At the end of the session, which we are in now, things get contentious. We go through a tremendous amount of ups and downs. On those days when we came in and Joe was down and I was down, we shared hugs and that got us through the day. I appreciate that. Thanks so much for bringing this forward. Thank you.

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

Representative **ETNIER**: Mr. Speaker, Men and Women of the House. Also in the 117th, I was on the Marine Resources Committee in the Legislature for the first time, as was my good friend, former Representative Joe Bigl. He was a tremendous asset to our committee then. As you have alluded to, the good

Representative Tuttle and others, his tremendous sense of humor, his energy, his bright smile, his cheery disposition through the most difficult and heinous lobster bills you can imagine. It kept us going when we were trying to wordsmith those and deal with the difficult issues that we had to in the 117th and again in the 118th when he wasn't on the committee. I sure remember his presence. I sure am grateful for all the help he gave to his state and to our committee. I, too, would like to thank him on behalf of the Marine Resources Committee. Thank you.

PASSED and sent for concurrence.

In Memory of:

Dr. Warren G. Hill, a highly distinguished alumnus of the University of Southern Maine. Dr. Hill earned a baccalaureate degree from Gorham Normal School and went on to earn a Master's degree from Boston University and a doctorate from Columbia University. He was presented with the prestigious Hilltop Award for outstanding voluntary service to the University of Southern Maine. In 1969, the Gorham gymnasium was named in his honor. Dr. Hill had a very successful career in education having served as Maine's Commissioner of Education, President of Trenton State College, Chancellor of Higher Education for Connecticut and Director of the Education Commission of the States. He will be greatly missed by his family members and numerous friends;

(HLS 1205)

Presented by Representative BERRY of Belmont.
Cosponsored by Senator CAREY of Kennebec, Representative TRUE of Fryeburg, Representative RICHARD of Madison.

On **OBJECTION** of Representative BERRY of Belmont, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **BERRY**: Mr. Speaker, Men and Women of the House. I will preface this with the fact that this will probably be one of the most difficult risings that I do in my political career. When you drove north on Beech Ridge Road in Scarborough and you crossed the turnpike, you entered the land of the Grants, the Story, the Millikens, the Johnsons and the Berrys and the Hills. At one time we occupied almost all of that land. I say we, because we were all related. This person, Dr. Hill, to me, was never Dr. Hill. He was Uncle Spin. For those that knew him, he was Spin Hill. He lived in several communities, Gorham, Buxton, Bar Mills, Scarborough and Augusta. He was born, actually, in Brooklin, Nova Scotia and his family came to Maine when he was just a young boy. In World War II he served in the Pacific in the Coast Guard.

From the years 1956 to 1963, I believe, he distinguished himself in the State of Maine as a great educator. Serving as the Commissioner of Education during that period. Probably the greatest contribution during that period were two things. One of them, his statesmanship. There was always honor. Everyone was treated fairly and equally. He knew how to make business work for education. The second contribution is something that all of us live with today that prevented every community from having its own separate little high school in the development of the Maine School Administrative Districts.

After that period of time, he moved on to several other careers he was the President of Trenton State College in New

Jersey. He was a Chancellor of higher education in the State of Connecticut. He served as the Executive Director of the Education Commission of the states. Other achievements were that he was a member and Director of the National Commission of Education and Professional Standards, the Defense Advisory Committee on Education and the State Higher Education Executive Level Office.

Spin is survived by his wife Kitty, his two children and grandchildren. All of us in that neighborhood were members of his family. We have dug ditches together. In fact, he and I dug a sewer ditch together. Ladies and gentlemen, he is the person that I look at as a model of achievement in education and the role model for me to be able to go and look at education and teaching as a career. It was a joke in our family, it wasn't a joke, it was actually serious. We could have held a state convention of teachers with our family and we would have had our own commissioner. Our family was made of so many educators. Educators are not made. Educators come from models of their parents and those that they model after. This, ladies and gentlemen, was one of the great men in the State of Maine. Thank you.

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

Representative **TRUE**: Mr. Speaker, Ladies and Gentlemen of the House. It gives me a great deal of pleasure and honor to speak this morning to remind people that we have had many great educators in the State of Maine and certainly Dr. Warren Hill leads most of them. To me, he was always Spin. Spin and Kitty always came to the alumni associations. I am proud, certainly, to be an alumnus of the University of Southern Maine and when Spin and I went to Gorham State Teacher's College. More so, I am very proud that I have had an opportunity not only to be a friend with Spin and certainly my good friend the Representative from Belmont. I didn't know of our association until I did meet Representative Berry here. He can be proud of his lineage and certainly proud of Spin.

If you walked into a large crowd and heard people laughing, you would know that Spin was in the middle somewhere. He was a very enjoyable person, a very friendly person and he thought a great deal of the college that he graduated from as well as the community from which he came. It is with deep regret that I learn of his passing. I thank you.

ADOPTED and sent for concurrence.

In Memory of:

Norman P. Ledew, of Hallowell, beloved husband, father and grandfather. Mr. Ledew served in the Army Air Corps during World War II. He was a rehabilitation officer at Togus Veterans Administration. He was a Hallowell councilman from 1953 to 1957, director of School Administrative District No. 16, city assessor, a member of the Hallowell Planning Board, a trustee and treasurer of Hubbard Free Library and an incorporator of Arch-Alpha and Arch-Beta. He will be missed by family and friends;

(HLS 1206)

Presented by Representative COWGER of Hallowell.

Cosponsored by Senator TREAT of Kennebec.

On **OBJECTION** of Representative COWGER of Hallowell, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **COWGER**: Mr. Speaker, Men and Women of the House. It is with a great deal of honor that I rise today in memory of Norman Ledew. Mr. Ledew, in addition to being a neighbor and a constituent, was a devoted family man and a dedicated public servant. You have heard quite a list of his public accomplishments from serving in World War II to being a rehabilitation officer out of Togus, being a Hallowell City Councilman in the 1950s, school board director in the '60s and also a member of the Hallowell Planning Board and the Hubbard Free Library. Mr. Ledew was also a dedicated servant to the State of Maine in that he served 29 years as an employee in the State Bureau of Taxation. Mr. Ledew started his career in the Bureau of Taxation when Maine first instituted a statewide sales tax. That is how long ago it was. He later went on in a long and devoted career to direct the Property Tax Division. Norman was loved by many municipalities far and wide across the State of Maine. He was very respected by his staff as a very qualified manager. We were fortunate to have his expertise in Taxation as the City Tax Assessor in Hallowell. Again, back in the 1960s, but later in 1980 all the way from 1980 all the way through 1997. I am very much going to miss Norman's friendly smile around town and in our community through all the things that he was involved with. We suffered a great loss with his passing. I know his family has suffered a great loss as well. Thank you Mr. Speaker.

ADOPTED and sent for concurrence.

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

REPORTS OF COMMITTEE
Divided Report

Ten Members of the Committee on **LABOR** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (S-643)** on Bill "An Act Regarding Length of Service for Retirement Benefits for State Police Officers"

(S.P. 911) (L.D. 2363)

Signed:

Senator:

DOUGLASS of Androscoggin

Representatives:

HATCH of Skowhegan

MUSE of South Portland

GOODWIN of Pembroke

FRECHETTE of Biddeford

MATTHEWS of Winslow

SAMSON of Jay

DAVIS of Falmouth

MacDOUGALL of North Berwick

TREADWELL of Carmel

Two Members of the same Committee report in Report "B" **Ought to Pass as Amended by Committee Amendment "B" (S-644)** on same Bill.

Signed:

Senators:

MILLS of Somerset

LaFOUNTAIN of York

One Member of the same Committee reports in Report "C" **Ought to Pass as Amended by Committee Amendment "C" (S-645)** on same Bill.

Signed:

Representative:

Mack of Standish

Came from the Senate with Report "A" **OUGHT TO PASS AS AMENDED READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-643)**.

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-643)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-643)** in concurrence.

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

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Public Law

Representative DAVIDSON from the Committee on **UTILITIES AND ENERGY** on Bill "An Act Concerning Certain Contracts Affected by Electric Industry Restructuring" (**EMERGENCY**)

(H.P. 1937) (L.D. 2680)

Reporting **Ought to Pass** pursuant to Public Law 1997, chapter 316, section 12.

Report was **READ** and **ACCEPTED**. The Bill **READ ONCE** and **ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION**.

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. 298) (L.D. 870) Bill "An Act to Improve School Safety and Learning Environments" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-657)**

(S.P. 1059) (L.D. 2650) Bill "An Act to Clarify the Enforcement Authority of the Manufactured Housing Board" Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-649)**

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

There being no objection, the Senate Papers were **PASSED TO BE ENGROSSED as Amended** in concurrence.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-648)** on Bill "An Act to Reduce the Release of Mercury into the Environment from Consumer Products"

(S.P. 734) (L.D. 2084)

Signed:

Senators:

TREAT of Kennebec

NUTTING of Androscoggin

LIBBY of York

Representatives:

TOBIN of Windham

ETNIER of Harpswell

McKEE of Wayne

MARTIN of Eagle Lake

CLARK of Millinocket

COWGER of Hallowell

DAIGLE of Arundel

DUPLESSIE of Westbrook

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

Signed:

Representatives:

JOY of Crystal

CAMERON of Rumford

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-648)**.

READ.

On motion of Representative MARTIN of Eagle Lake, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-648)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** later in today's session.

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

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (9) **Ought to Pass as Amended by Committee Amendment "A" (H-918)** - Minority (4) **Ought Not to Pass** - Committee on **LABOR** on Bill "An Act Raising the Minimum Wage"

(H.P. 253) (L.D. 357)

TABLED - March 27, 2000 (Till Later Today) by Representative SAMSON of Jay.

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

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

Representative **MACDOUGALL**: Mr. Speaker, Ladies and Gentlemen of the House. I would urge you to vote against the pending motion. The proposed increases in the minimum wage I would contend would hurt both business and workers. Both would be hurt. What are the studies or the documentation showing that these particular increases are the right increases, if

indeed you even want to agree there should be an increase? In other words, how are they connected to what perhaps a living wage is perceived to be in terms of a worker? In the case of an employer or employers throughout the state, how does that impact how they are going to pay for this increase? We have 40,000 small businesses in Maine. How are their bills going to be paid? How does this impact their bottom line and the jobs they will be able to offer or they won't be able to offer or keep? The raises that won't be given to workers that maybe otherwise would have received them because of this implementation of a raise in the minimum wage.

A few years ago at my company, we don't pay minimum wage, we pay well above that, but down in southern Maine, as many of you know, it is a very competitive job market if you were looking for a job. The company decided to raise its entry-level wage. It did so. The problem with that is they did nothing to adjust for those who had been there for a while and had earned raises. You had worker beside worker, one who had just started making pretty darn close to someone who had been there a couple of years. That created discord in our workplace and that was a mistake. That is what this will do. The benefits of that entry-level wage impacts the other wages and those who have earned increases in their wages along the way.

Benefits that would be offered by small businesses maybe won't be offered anymore or will be decreased in the health care that they may offer or benefits that could have expanded won't be able to expand, their ability to compete, particularly on the borders of New Hampshire. Businesses will have to pay for this in some manner and I have, as I have outlined above, either in perhaps less jobs or perhaps less benefits. Another way would be to raise the prices on products or services that the businesses make, do or provide. Who will pay for that? Guess what? It is going to cost more to live for the worker.

I think the bill ignores minimum wage increases, fundamentally ignore an important principle for increasing wages without any relationship to increasing productivity or increasing services or increasing wealth. We are just artificially infusing a raise into the economy. The cost of goods and services that will be directly affected will go up. The very people that we are supposedly helping will be impacted. The people making a minimum wage would be better served by taking advantage of our educational initiatives that we have all worked hard on the past several years. The Department of Labor has been working very hard on what they call career centers, which are centers, which have all kinds of opportunities for people no matter what your economic situation is. You could be employed and find even a better job. Certainly there are tools out there so that an individual can make himself more valuable and more marketable in the job place. That would be a better way to approach helping our entry-level workers. I thank you.

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

Representative **HATCH**: Mr. Speaker, Ladies and Gentlemen of the House. Yes, this is a minimum wage bill. Yes, there will probably be much discussion either today or later if we pass this bill. Let's talk about this bill itself before we get into a discussion on whom it is going to hurt or whom it is going to help. This is a referendum. This would be the one chance that the citizens of the State of Maine, who by polling results, ranging from 66 to 75 percent say they want a minimum wage increase. They think it is a good idea. I don't know of any poll in the state that has been taken in the last three years that people have not

said, overwhelmingly, that a minimum wage is a good idea. Yet, we stand in this chamber year after year and debate the merits of a minimum wage increase. For the first time let's give the citizens of this state a chance to tell us if a minimum wage is a good way to go. I think you will find that they will vote for it. I guarantee you they will vote for it. Never have I been so sure of something in my life.

Washington State did this initiative four years ago. It was overwhelming. Nearly 66 percent said, yes, we want a minimum wage increase. I am tired of coming back every year and fighting the debate and winning most of the time only to lose it in the end. I truly believe the citizens of this state deserve the chance to say yes or no on this issue.

Should it go to the November ballot? Should it pass, minimum wage would go to \$5.75. The following year on January 1, it would go to \$6.25. It is not hard to understand. There is also a CPI included in it, but only when it gets to 5 percent would it go into an increase. It could be as much as two to three years before the consumer price index rose to that point.

I read in the *Bangor Daily* yesterday and I know many of us haven't had much time to read down here with all the paperwork we have before us, but state labor shortage inspires creative hiring. People are bending over backwards. The one thing they didn't say was we need to increase the wages. This was a business article. It is the one thing they didn't. They are sending out cards to 16 year olds so the 16 year olds will go to work for them when they graduate from high school. It is pretty creative. The one piece we are missing is the minimum wage in this state is too low. Others are going to rise and they are going to say we are going to be out of step. We are not out of step. There are six other states that have already raised it and there are three or four others that are now considering it. I think the referendum is the right way to go. I would ask you for your vote on this today. Send this to the people. Say yes and let your own constituents decide whether a minimum wage is important to them. If you don't, I guess you are telling your constituents that they don't know enough to vote on a minimum wage increase. I ask for your support. I thank you for your time.

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

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. I definitely want the creation of higher wage jobs in Maine, but I want that to be because people in Maine have earned higher wages, not because the government mandates what someone's wage should be. While I was a student at Chevrus High School, the minimum wage went up. I think at the time it went from \$3.15 to \$4.65 or some raise. I had two friends who were working at a gas station at that time. They liked their jobs. They were making a nickel or so over the minimum wage. They weren't getting rich, but they had enough money to take their girlfriends out on the weekend, by a pizza here or there and put a little money away for college. When the minimum wage increase occurred, my friends lost their job. I remember how upset they were. They told their boss that they were willing to work for our old wage. We are willing to work under the minimum wage. We will do it under the table. We want to keep this job. The employer said they couldn't. He was paying them a little more than he could. Their labor wasn't worth the new high minimum wage. As much as he would like to help them out, the jobs just weren't needed and he couldn't stay in business by continuing to give them a job.

Remember, an employer's goal is to make a profit and serve the public. If they can pay their employees more, of course they want to. The more you can pay your employees, the better employees you get. In many times there are marginal employees. There are people just starting out in the workforce, whether they are teenagers just getting their first job while they are still in high school for a little extra pocket money or whether it is a woman coming off welfare who needs her first job to move herself into a working environment. Some of these people have no skills and their labor is not worth more than the minimum wage. At my family's business, the scrap metal yard, we pay some people the minimum wage. People are on the minimum wage for no longer than a month. After a month, they either prove themselves and we give them a raise, or they prove themselves to be incompetent and we fire them. For many young people, they are not trying to earn a living. Many people who are the second wage earner in the family, they are just trying to get a little bit of extra money. They are trying to work their way up the ladder of success. This is their first job to get experience so they can move up and get higher wage jobs in the future.

This especially hurts people in rural areas. Franklin and Washington Counties still have extremely high unemployment. I have family in Washington County. Unemployment is around 8 percent there. There are lots of people that would be happy to get a minimum wage job because they would have a job and they would be working. As I have said, there are many things out there that people need done that doesn't pay the minimum wage because it is not worth \$6 or \$5 or however many dollars an hour to have the jobs done. Isn't it better to have these jobs out there at whatever level, than to have no jobs at all? Right now the economy is doing well. If we take a downturn in the economy, the State of Maine currently has the third highest taxes in the nation and the fourth slowest economic growth in the nation. If we have a downturn in the economy, Maine is going to be especially hard hit. Job growth in Maine is going to go down. There will be job losses in Maine. There will be many people out of work looking for jobs that would be happy to have a minimum wage job. If we raise the minimum wage, many of these jobs will not be there at all. The option will not be there. The government will be telling people we know you want to voluntarily work. The employee wants to work for \$5.25 an hour and the employer would like to work for \$5.25 an hour. Both sides agree, but the government comes in and tell them, you can't do that, even though you both agree, the employer and the employee to working for that amount of money. You both feel you would be better off by doing it. The government comes in and tells them we forbid you to work at that price. I think that is an atrocious use of government force.

Remember, a higher minimum wage does not create any new wealth. Someone on minimum wage may get a raise, but others may lose their jobs. It only shifts the money around. We are taking money from the small business owner's pocket and putting into the employee's pocket. Some of you may think that is appropriate, but I think that should be voluntarily discussed between the employers and the employee. This not only doesn't create any new wealth for that raise, but it slows and retards new wealth creation in Maine. We already have slow economic growth compared to the rest of the country. More things prohibiting the free interaction and voluntary cooperation between employers and employees will only hinder new growth in Maine. If we think a minimum wage of \$6 is so great, why

doesn't somebody propose a \$50 minimum wage or \$100 minimum wage? They don't do that because they know that that does not make any sense. There are many jobs worth being done under \$50 or under \$100 an hour. Why are we the ones making the judgment on the wage? Where is our arrogance to know what for some people \$4 an hour or \$5.50 may be appropriate, but for other maybe \$50 may be appropriate. I think it is quite arrogant of us to try to tell people what job and what pay they can get.

Finally, in response to the Representative from Skowhegan about sending this out to the voters. Need I remind you that our form of government is a republic? We are a representative form of government. There are 3,000 bills that come before us every year. Our job is to decide on those bills, prioritize them and make the laws. There are lots of other ideas out there that I would love to put to the voters. When I went door to door, a bill I put in to have a 5 percent income tax was very popular with the voters of Standish, Limington and Frye Island. I think if we put that out on the ballot, the voters would choose that as well. Our job in this Legislature is to set the tax rates and to set the laws. If the citizens feel strongly about something, there is the signature gathering process. They can gather signatures and put something on the ballot. I have not heard a groundswell of support for getting signatures to raise the minimum wage. That vehicle is there if they so choose to do it. I urge you to vote against the pending motion. It does not create any new wealth. It will hurt the Maine economy and those very people you are trying to help, the poorest people working at the minimum wage and the bottom runs of the economic ladder are the ones who will most be hurt by this bill.

Mr. Speaker, when the vote is taken, I request that it be taken by the yeas and nays.

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

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

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

Representative **SAMSON**: Mr. Speaker, Men and Women of the House. I rise in support of the Majority Ought to Pass as Amended Report. I listened carefully to the words that were just spoken and I hope that everyone here has, because it proves to me that we do need a minimum wage standard because evidentially there are employers out there that would be glad to pay much less than the meager minimum wage that is now paid to workers. I do agree that the nation is doing well. It is doing extremely well. Whenever we have debated minimum wage in this body, there has never been a great time to increase the minimum wage because times were bad and now because the times are good, it is a bad time to raise the minimum wage. The market is doing extremely well. It goes up and down. There are millionaires made very hour of the day because of what is happening in the markets.

I have to tell you any poll that I have ever seen conducted by anyone, whether it be union or by management or by Representatives here in this body by their constituents or anyone. I have never seen a poll that said that less than 65 percent of the people support an increase in the minimum wage. As I was leaving the House today, my wife said, you might be interested to hear that they conducted a poll, one of the networks, and it said that 68 percent of Maine people believe

that the minimum wage ought to be increased. That is 68 percent. I believe as a person that has worked for a living that if you work fulltime and you work hard, you ought to earn enough to take care of yourself and your family. That doesn't happen today because people in this state are paid too little for some of the work and some of the goods they produce.

Most of those who are earning minimum wage or close to it are female. Most of them have a family to support. You are telling me you can support a family on \$5.15 an hour and I am going to ask you how you can do it? You can't. It is time to do it and it is time to send it to the people. Let's see if those polls out there that show that 68 percent of the people favor a raise in the minimum wage or not. I am going to vote yes. Let's send it to them. Let's find out if it is 68 percent. I can understand why a lot of people would send it out because they know what the results are going to be. I say send it to the people and let them decide what the minimum standards in this state ought to be for working men and women.

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

Representative **TRACY**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to respond to the good Representative from Jay, Representative Samson, on how an individual can raise a family on \$5.15 an hour. It is very simple, ladies and gentlemen, we call it federal and state subsidies.

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

Representative **POVICH**: Mr. Speaker, Men and Women of the House. This comes into for whatever it is worth department. Coincidentally, I was going over some papers on my desk and there was a newspaper clipping. I had it and it just jumped right out at me, February 18, 2000. *The Weekly*, it is a newspaper out of Penobscot Valley, Bangor Area. Their question of the week on February 18, 2000 was should employers be required to pay a living wage? There were six people interviewed. There is no statistical margin of error here. One out of the six said, not they believe in free market. I don't believe government should intervene in business. Another person from Bangor said, yes, due to the rise in the cost of living it is almost necessary. Four other people went on to say they think the minimum wage should be higher. I think the minimum wage should be higher than what it is. This is a random opinion from people on the street. I did not come to Augusta to protect our citizens from their own opinion. I think in this case I wouldn't worry about what the people have to say in this matter. They are quite interested in this matter. I do have a worry about small Maine business and business in general. You have to look to the figures in our boom times and small business in Maine really hasn't ridden that tide of the rising economy in my opinion, maybe the new and innovative businesses that have tremendous markets. The markets, like the traditional stocks, haven't ridden that rising tide. You have to look to that, but in this matter at hand, I would support the pending motion to allow the people of Maine to speak. We shouldn't worry about what they have to say. Thank you.

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. You may not be surprised that I am opposed to the motion on the floor. I think minimum wage is a subject that should be addressed by our Congress in Washington, not by the individual states. I think that perhaps a rise in the minimum wage is warranted. It should, again, come

from Washington. If you feel strongly as you seem to that we need an increase in minimum wage, then we should be talking to our Representatives and our Senators to make that happen. There are areas in the country that perhaps should have a minimum wage above the base that is established by the federal minimum wage. I don't think Maine is one of those states. We don't have a high cost of living. We don't have a strong economy. I think raising our minimum wage in Maine above the federal level is going to be harmful to our economy. It is not going to produce the effect that we would like to see done. We all have good intentions. We would like to see the workers in this state earn more money. I would like to see the workers in this state earn more money, but I don't want to see us out of step with the federal minimum wage, because I don't think our economy is strong enough to support that. Right now the figures that I have heard say that there are 5,000 minimum wage earners in the State of Maine. These are figures from about eight months ago. Those 5,000 minimum wage earners, I don't have any statistics to prove this, but I would assume that most of those are students or entry-level people just getting into the labor market. They certainly are not union workers. They are certainly not experienced people who have been employed with a business for any period of time.

If we want to help our citizens, I think a way to help them even more than an increase in the minimum wage would be to give them some tax relief. If we really want to help the people in this state, that is what we need to do. It may not be news to you that we already have a minimum wage bill and it is down in Engrossing that will be coming back for enactment and now we have a second minimum wage bill. I guess the theory that if you throw enough of it in the air, some of it is going to stick would apply in this case. I don't think we need two minimum wage bills in one session of this Legislature. One of the points in this bill that may have already been covered and I apologize for repeating if it has, but it will allow the Bureau of Labor Standards to increase the minimum wage each year by the rise in the consumer price index. It won't be very many years in the future before we are going to see that the minimum wage in the State of Maine, if this passes, is going to be far ahead of the federal level and far ahead of any of the other New England States. That certainly is going to send a bad message, the wrong message, to anybody that intends to expand business in this state or intends to move to this state from elsewhere to start a business. I would strongly encourage you to vote against the Majority Ought to Pass on this bill.

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. 577

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

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

ABSENT - Brooks, Frechette, Madore, Matthews, McAlevey, Plowman, Shields, Sirois, Twomey.

Yes, 77; No, 65; Absent, 9; Excused, 0.

77 having voted in the affirmative and 65 voted in the negative, with 9 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-918) was READ by the Clerk and ADOPTED.**

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-918)** and sent for concurrence.

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

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. Had I been present when LD 357 was voted on, I would have voted yes.

Divided Report

Majority Report of the Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought Not to Pass** on Bill "An Act to Provide an Angling Season for Atlantic Salmon" (EMERGENCY) (S.P. 1011) (L.D. 2579)

Signed:

Senator:

KILKELLY of Lincoln

Representatives:

CHICK of Lebanon

TRAHAN of Waldoboro

HONEY of Boothbay

DUNLAP of Old Town

TRUE of Fryeburg

TRACY of Rome

COTE of Lewiston

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-590)** on same Bill.

Signed:

Senators:

RUHLIN of Penobscot

KIEFFER of Aroostook

Representatives:

PERKINS of Penobscot
 CLARK of Millinocket
 BRYANT of Dixfield

Came from the Senate with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-590)**.

READ.

Representative DUNLAP of Old Town moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. I hope you join me today in opposing the pending motion. The public hearing was only one group that came forward in support of this and that was the Sportsman's Alliance of Maine. What this amendment does if you do pass it is it opens three restoration rivers to catch and release salmon. They are the Penobscot, St. Croix and the Saco Rivers. A lot of people are very, very upset or nervous about passing this piece of legislation because they think it is going to send the wrong message to Washington, the federal government about the endangered species list and having the Atlantic salmon on that list. I beg to differ with them. I believe that if we do this, we are trying to protect our own fish with our anglers that angle Atlantic salmon. Atlantic salmon anglers are pretty good at catching and releasing Atlantic salmon. Just up on the Penobscot River, we heard testimony that a lot more Atlantic salmon may be damaged because of the restraint to have anglers on our rivers. We have stripper fishermen on that river as we speak. They are right below, probably about 100 or so, we have a salmon pool and we are afraid that people that are fishing for stripers will go and fish for Atlantic salmon and won't know how to catch and release properly through inadequate techniques. I hope you will support me in overturning the pending motion. Mr. Speaker, when the vote is taken, I request the yeas and the nays. Thank you.

Representative CLARK of Millinocket **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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

Representative **TRAHAN**: Mr. Speaker, Colleagues of the House. I rise today to speak to you in two parts. The first part I will speak of being a conservationist and how this bill will affect conservation within the State of Maine. First, I would like to address the seven Maine rivers. Because a river is listed as one of the seven Maine rivers does not mean that there are no Atlantic salmon in the State of Maine beyond those rivers. The Department of Inland Fisheries and Wildlife will argue that Atlantic salmon exist in the Penobscot River, maybe in small numbers, but there is a population there. I would like to ask members of this body that believe in conservation and environmentalism to imagine fishing in a river, in this case just possibly two rivers, for a very small population of salmon. In this case, the population in the Penobscot River could be 25 to 50 fish. Now you allow fishermen to only fish on these three rivers. You have a very small population of fish, with a lot of fishermen. There is a pretty good chance you might catch these fish two, three or four times. Very possibly the mortality rate that catch and release fishermen like to point to as a reason to allow this

fishing, could very well increase as you catch the fish more than once.

If these fish are the wild strain of Atlantic salmon in the Penobscot, as the department would argue they are, then you are fishing for an Atlantic salmon on the very edge of extinction. I do not believe anybody in this body would like to fish for a fish that is that close to being gone from the face of the Earth.

I would like to address now my other point. That is a realist. We all know there is a great debate going on at this very moment. I would like you to imagine that this debate is a house of cards with a card being placed on this House. As the debate continues, it is building. We are on the very edge of a listing. You have a biologist and a fisherman. The fisherman says we can catch and release these fish and you have a biologist from the department and you have people from the federal government that want to list the Atlantic salmon. Who do you believe will be hurt first, the fisherman or the biologist in the department when they say that we are harming fish? There are fish in the river that are native. Who do you think will be the one that is hurt? You then turn around and we have a season where there is a mortality rate, even in catch and release, and some will say that 5, 10 or 20 percent depending on how many times the fish is caught. Now you have a debate going on where you have a perfect opportunity to argue to list it as endangered. We are killing fish. I can stand here and argue all day long as a fly fisherman that catch and release is not a perfect mechanism. You will have mortality rate and the biologist will prove that. They will argue that these fish are being caught two and three times. Now we have a perfect argument to list the Atlantic salmon. This is a horrible to be even considering this. We have to be committed to the conservation of the Atlantic salmon, not in just seven Maine rivers, but in every river in the State of Maine. If there is even a chance that these fish in the Penobscot are natural fish, then we must protect each and every one of those. That is why I say to you today we cannot consider having an Atlantic salmon season. The risk is too great.

Imagine the risk we are taking. We are going to allow a few fishermen to experience catching a salmon. Now look at the other side. We could be possibly killing a fish that only has a few numbers left and we may be endangering our economy. I ask this body to choose on the side of conservation and commonsense and vote this bill down. Mr. Speaker, I make the motion that we **Indefinitely Postponement** this bill and all accompanying papers and I wish for a roll call. Thank you.

Representative **TRAHAN** of Waldoboro 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 Penobscot, Representative Perkins.

Representative **PERKINS**: Mr. Speaker, Colleagues of the House. This is one of those bills that at first glance it kinds of looks good, but you have got to look a bit deeper into this. First of all, the title is misleading. It should say "An Act to Continue Catch and Release Fishing." This title makes it sound like all of a sudden with all of the hoopla about the possible listing, now we are going to propose a salmon fishing season. That is not the case at all. Catch and release fishing has been going on for many, many years. This would allow it to continue on three of

the rivers, not under consideration for listing. It is good to have good healthy debate, but just make sure you understand what we are talking about here. The argument for keeping the fishermen who care about these fish on the river is profound. These are the people who have cared and have put their effort and money into this fishery for many, many decades. To get them off the river is very, very dangerous. There would be a slight mortality, of course, when you are handling fish, but there is a good chance that there would be less mortality if these caring fishermen are out there on these rivers. It was mentioned that you can fish for stripers on the Penobscot and without these caring salmon fishermen to be on the rivers, eyes and ears, I think we would be making a big mistake.

You just read in the paper the other day that Ed Bomb, the leading scientist for the commission resigned. A couple of weeks ago in Ellsworth he gave a talk at the soil and water conservation district banquet. He listed the things that are the biggest danger right now to salmon and of course they are dams, pollution, the degradation of habitat, but he also listed getting the advocates off the rivers. He did not come out and say he was in favor of the season. I won't put those words in his mouth, but he did say that the strongest advocates are these fishermen, getting them off the rivers, he felt was a detriment to the survival of the fish.

Somebody has mentioned that this would send the wrong message. I think it sends exactly the right message that we are letting people continue, the people who are going to watch out for these rivers, the people who are going to watch and maybe they are going to learn something. They have been learning for decades and maybe they will learn more. Every time they are out there they learn about predation. They learn what predators are increasing and so forth. It also sends a message to the feds that just because you are making rumblings doesn't mean that we are going to bow down and bend to you. I think the listing is heading, well you know where it is headed. It is going to be listed. This is going to have nothing to do with it, but it will at least say, wait a minute feds. As you come into Maine with your listing, you are going to be dealing with some people that have some backbone and are going to fight for our traditions. Remember, this is only on the three rivers. It has nothing to do with the rivers that they are talking about listing. Don't blame the fishermen. That is the biggest message. That is the most dangerous message this sends if we allow the shutdown of this catch and release fishery, we are sending the message that catch and release is harmful and maybe it has had something to do with the decline in salmon. That is the most dangerous thing here. We don't want to let that message out at all. Fishing has not caused the decline of this fishery. If we ban this catch and release fishery, we are going to be saying that it does have something to do with the decline. Thank you.

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

Representative **ETNIER**: Mr. Speaker, Men and Women of the House. I am frankly incredulous that this bill is even before us. I am amazed that it was even let in as an after deadline bill. Be that as it may, we have to dispense with this bill and support this motion and get this bill out of this building as fast as possible.

As one of the chairs of the committees have brought to you earlier this session, perhaps you have forgotten his fine day, Salmon Day. The good chairs of IF & W and the good chairs of Agriculture and the good chairs from my own committee brought

you that day as an educational experience to learn more about the potential listing and the biology of the Atlantic salmon and the risks that might be posed were it to be listed and, again, the biology behind it all. A number of you stayed throughout that day and listened attentively and we are appreciative for that. I can't understand why we are having this debate now. Do people honestly think in this House that the Endangered Species Act is some sort of joke? That certainly wasn't the impression I got the other day. Do people really think that they are just going to go away because we are going to allow some catch and release fishing and think those folks have got their fishery under control? They are allowing folks to fish on it. They have overturned the Atlantic Salmon Commission's recommendation that they temporarily suspend catch and release fishing for this year. That is what was overturned by this bill, a temporary suspension of the catch and release fishery for the Atlantic salmon out of respect for the fact that stocks are severely depleted. No one seems to be arguing that. There are very few people I know who argue that the Endangered Species Act passage and listing of the Atlantic salmon would not have some serious detrimental impacts on the economies of Eastern Maine.

I am incredulous because earlier this year with the guidance and the leadership of the good Representative from Cherryfield, Representative Dugay, we properly put \$800,000 plus one position in the Department of Environmental Protection toward the restoration of these fish docks and the protection of the watersheds. Last year, with the good guidance of the chair of the IF & W Committee, Representative Dunlap, we put another \$250,000 towards the same watershed protection and the Atlantic Salmon Commission. Earlier this year with the good guidance of the Representative from Holden, Representative Campbell, in the corner, I spoke on the floor and I begrudgingly supported his Joint Resolution, I believe it was, or Joint Order, memorializing Congress to please not list the Atlantic salmon. I spoke begrudgingly because I had some concerns with some of the language in there. I thought perhaps it was perhaps a little inaccurate. I spoke on the floor at the time because I am deeply concerned about the Endangered Species Listing on the impact of the economies of Eastern Maine primarily the aquaculture industry and I supported that at that time. We all supported it. Not all of it, but it certainly got the majority support here because it is a real threat. We should take it seriously and those of you who don't think so should have been here on Salmon Day because there were a lot of people here who felt strongly that way.

I think to pass this bill would be an affront, frankly a slap in the face, to those hundreds or thousands of Maine citizens who turned out at the public hearing, numerous public hearings, at the National Marine Fishery Service and the federal agencies held regarding this potential listing. People turned out from hearings, I believe, from Boothbay, Rockland area, Ellsworth, Bangor and all over the state to say, please do not list the salmon. If those folks had known that their Legislature was going to be down here a few months later acting in a fairly, what I would feel, cavalier manner towards this listing and treating it fairly lightly and those folks took days off from their work and went and spoke from their heart about the potential listing and the effect it might have on livelihoods and their families and their incomes, I think they would be rather shocked that we would consider pulling the rug out from under them just for the sake of a small catch and release fishery for the next year or so. Is it worth the risk? Nobody knows the answer, whether this is going

to impact the listing or not. There is no way that we would know if there was going to be a listing or if this is going to have an impact, negative or positive. I don't want to lead you astray on that. No one knows, but is it worth the risk that it will and subject the economies of Eastern Maine to that risk. I don't think so, not for a minute. I strongly urge you to support the Indefinite Postponement motion. Thank you.

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

Representative **TRACY**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to take a few brief minutes here to read part of the testimony of the Interim Executive Director of the Atlantic Salmon Commission opposing LD 2579. I will tell you what he said. "In late 1999 after diligent scientific research, extensive public dialog, two well advertised and well attended public hearings and acceptance of written public comment, I determined that the future well being of the Atlantic salmon in Maine would be best served by eliminating all recreational fishing for the species. Therefore, on December 22, 1999, I recommended and the board voted to pass into rule a prohibition on all recreational angling for Atlantic salmon in all Maine waters." I urge you to support the pending motion and cast your vote in that favor. Thank you.

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

Representative **HONEY**: Mr. Speaker, Men and Women of the House. I would like to take a little different tact here. First of all, the Senate sponsor of this bill is a highly respected angler. He has a lot of credibility in the sport fishing industry. However, I think he is dead wrong on bringing this forward here today. By the way, he and I both grew up in Bangor together and fished together. The reason I believe he is bringing it forward at the wrong time is given the cloud that is hanging over the State of Maine, I think it is just wrong to be bringing this bill forward at this time. Many people here have spoken before I got up. There are many, many people against this bill, the Atlantic Salmon Commission, Trout Unlimited, the Nature Conservancy, the Audubon Society and you name it, they are out there. They are against this bill. I heard a little bit of testimony regarding that it would be a good idea to have the fishermen out there simply because poachers would be taking some of the salmon. The Commissioner of the Department of Marine Resources has the authority to close any river for emergency purposes and I have spoken to him and he would be willing to do this if need be. I think that is a red herring, if you will. Regarding injury to salmon or stress, I think any of you people who ever fished for fish, be it mackerel, salmon or perch know that many of these fish once hooked, you release them and you have taken great care. They do parish either through stress or for mechanic injuries. The later in the season when the water warms up, the risk is much greater. I urge you people to support his Indefinite Postponement of this bill. Thank you.

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

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. I rise reluctantly to oppose the current motion. I would like to explain why. I think I absolutely support the Endangered Species Act. I think my record on the floor of the House reflects that. I think there is a very big distinction that we are missing in the debate. That is the distinction between wild rivers and wild fish and restored rivers and stocked fish. That is what this bill addresses. The sponsor is an incredibly well

informed and terrific fisherman, but also a terrific champion of conservation and all issues relating to the actual protection of this species. I think you will find he has been in the forefront of the restorative effort and the many millions of dollars and millions of hours of volunteer labor that has been forth particularly on the Penobscot River. When he brought this bill forth, I felt it was important to take a hard look at it.

I guess I have a couple of points that I would like to make. One is that on the Penobscot River and on the Saco River, particularly, there is a real legitimate question of whether there are wild stocks left or whether, in fact, the great majority of these fish that have returned and I think it has been documented, especially on the Penobscot, that these are stocked fish. They are stocked by the efforts of the Atlantic salmon anglers in that area. I would suggest that the reason that that river, even though it is not a particularly wild river in that section of it, even though the water quality is perhaps not as good as some of the other down east rivers, but that is the reason there is a returning amount to stocks there. It is because they have all been placed there. They have been stocked.

I guess I would like to bring up one more point and that is on the Saco River there is a private salmon club, of very dedicated individuals, whose goals are to bring Atlantic salmon back to the Saco River. They are doing that with their own money. They own their own hatchery and they are putting stocked fish into the Saco River. I would respectfully oppose this current motion, Mr. Speaker.

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

Representative **O'NEIL**: Mr. Speaker, Men and Women of the House. I am from Saco. I have had the privilege of doing a little traveling in my life. I have been in some pretty interesting places. Heck, I have even been to New Hampshire. One of my favorite places is the Saco River. It winds its way down from Mt. Washington down to Camp Ellis. I have done, ever since I was a kid, a ton of fishing there. The reasons I got up was the Representative from Gardiner just jogged my memory that I am a member of that club that he just mentioned. Second, I think it was either four or five years ago that I was fishing for stripers in the Saco River down around a bend we call Coolem's Corner. I hit a salmon. It was a beautiful fish. I was taken back, the adrenalin was pumping and I likened landing that salmon and the way I treated it to the day my daughter was born and the doctor said, "Here you hold her." I went, oh my. I held onto it. I extracted the hook under the water and released it. It was the only salmon I ever caught. I hope someday to catch another. The reason I mentioned that is to reiterate the comments of other folks that people are catching the fish. We had 89 fish return to the river last year. We know the lifecycle is a long one. We are looking at 10 years. Really to see good results you are talking 50 years. We did 800,000 fish two years ago and again this year. That is starting to bear fruit. Representative Colwell mentioned there are some dedicated folks. I am not one of them. I just kind of pay my dues and to the annual dinner and that sort of thing. The hatchery is a wonderful thing. This is a dedicated group of people that have gained statewide and national acclaim for what they have accomplished. They are a model. They are in the schools educating the kids to conservation. These guys and these ladies are interested. I am not saying their altruistic hearts are going to wane and they won't be interested in the future, but that interest will wane if we don't allow them to partake of the fruits of their labor. I think to

reiterate what the Representative from Penobscot said, you have got to let these folks take part in this resource management because if it weren't for these folks, there wouldn't be a resource right now. I oppose the Indefinite Postponement motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative LaVerdiere.

Representative LAVERDIERE: Mr. Speaker, Men and Women of the House. This is a difficult topic for me for a couple of reasons. One, I have a tremendous love of fly fishing. I have taught fly fishing. I have been fly fishing since I can remember. I love Atlantic salmon fly fishing. At the same time, I am painfully aware of all of the difficulties that we are having with the Endangered Species Act and what that may do to various parts of our state. I just want to remind folks of something that you have already heard and I think needs to be emphasized. That is that what we are talking about here are rivers where at one time there were very few Atlantic salmon. The fishermen who bought licenses paid for the restoration of salmon on those rivers. It wasn't paid for out of the General Fund for many, many years. It was paid for out of license fees. It was paid for by fishermen. They were pioneers in putting the salmon back in those rivers. They were doing it when people in this room were not as concerned about salmon as they are today. They were doing it because they loved the fish and they loved fishing. Through their efforts on these three rivers, the salmon have begun to return. If you look at the numbers, what you will see is those are the very rivers where salmon are the most plentiful. Why? Because of their efforts. How ironic it is that after all of their efforts and all of their money and time, now they are told, thank you, but you can't fish there anymore. I would ask that you join me in defeating the Indefinite Postponement because, in my opinion, we are only talking about those rivers that are stocked. Those salmon are already hatchery grown. Fishermen know how to deal with releasing these fish. I, for one, would be sincerely hurt if the fishermen who have done so much to bring salmon back, were denied the opportunity to continue the tradition that they have enjoyed for generations. Thank you.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Fisher.

Representative FISHER: Mr. Speaker, Men and Women of the House. I am particularly impressed with the comments from the Representative from Saco. I fished for salmon and plan on being out in two weeks doing just exactly that. I can tell you that is the same feeling I got. In fact, I might have expressed it another way, but we will discuss that at a different time. I know you have heard about genetics, you have heard about the economic impact to the fishermen. The Representative from Wilton just made a great statement. There was a comment made about the sponsor of this bill. Next to his family, the Atlantic salmon is his greatest passion. I guess the reason I am going to support this is that if there was any possibility that this could hurt the salmon fishery, he would not have submitted it. Senator Ruhlin, the Senator from Brewer, has been a passionate supporter of restoration of the salmon in the State of Maine. He has been a supporter of the salmon runs in Brunswick. He is a leading figure in this field. If he believes this can be done, then I am going to support it. Thank you.

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

Representative TRAHAN: Mr. Speaker, Colleagues of the House. There are a couple of really good points that I would like

to make to some of the previous testimony. First, I will begin with the advocate point and that these salmon fishermen are advocates of the salmon. Let me make this very clear people. We are the advocates of the Atlantic salmon. I believe in letting salmon fishermen, probably for the sportsmen's population, yes, being advocates for the Atlantic salmon. We have to make the tough decisions when a population is that the point where we cannot fish for it any longer. I will make a point that we use now when we manage the deer herd. There are portions of Maine where we cannot shoot does because the population is so low. We take away that ability to kill female deer because there is no population. It is a very powerful tool to restore wildlife.

As far as advocates on the river, we have law enforcement for that. We have game wardens. We have marine patrol officers. If these salmon are in danger, then they will be the advocates for stopping poachers. That is their job. Secondly, I would like to make another point. The 1999 Salmon Report indicates that the minimal level of salmon to maintain a population is 8,000 and only 900 returned.

The last and most important point that I would like to make is, yes, the Senator that advocates for this bill is a fine man and a fine fisherman and a great conservationist. Unfortunately, there are those that are not good conservationists. There is no way to stop those people from fishing on these rivers. If striped fishermen on the rivers are a concern, as many have told me that they will be out there killing these fish. We have the power to regulate these rivers and take away their ability to kill these fish by taking away the types of lures that they use to regulate the rivers the stretches of river to actually closing those sections of river if they contain these salmon. I say to you people this is not a good message. We cannot be fishing for these fish when people can argue and guarantee that some of these fish will die if we pass this law. Thank you.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House. The good Representative from Waldoboro, Representative Trahan said the Penobscot River should return about 8,300 fish salmon to the Penobscot River. He also said that according to federal studies only 900 have returned. Let me bring to your attention back in 1983, only 800 returned. In 1979, only 768 returned. From 1970 to 1977, on an average 500 fish have returned to the Penobscot River. Last year in 1999, 968 have been returned by the traps that they use to study these salmon were not set all summer so more would have been returned. In 1998, 1,210 returned. In 1997, 1,300 returned. In 1986, it was the biggest year, 4,125 salmon returned back to the Penobscot River. It is not just the federal studies that do anything. It is how the people on the other side feel. On our side, we feel that that the state waters belong to the people of the State of Maine and we should regulate those waters. Thank you.

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

Representative DUNLAP: Mr. Speaker, Men and Women of the House. I, too, appreciated the comments from the Representative from Saco, especially his comments on how he handled the salmon that he had caught. However, if that had been a physician handing me my child and it had a hook dangling out of its mouth, I might have given the Representative from Naples a call and said we have a winner. I think this whole debate sort of revolves around a series of central issues. The

first issue that has been talked about a lot is that issue of listing. It is an obvious conflict if the state takes this stand with the proposals as being brought forward by the federal government. Is that a reason for us to not go forward? Really, no. The federal government is going operate under its own guidelines regardless of what the state does. We can have a salmon season or not. It probably will have little impact upon the listing process. However, it is not much of a message to send. I would agree with that. To talk about that component of it with the amount of money that the state has put into salmon conservation in the last 50 years, you are talking about \$105 million over the last 53 years. That is \$105 million. That includes about 71 million salmon being stocked in Maine's rivers. Last year on the Penobscot River we had fewer than 1,000 return. That is not much of a return on your investment and not all of that was license fees. A lot of it was license fees. A lot of it was General Fund money. All the salmon money that we have put in the budget for the last four years has been General Fund money. We sold fewer than 1,000 salmon angling licenses last year at \$15 a piece. So, \$15,000 of the \$2 million we put into Atlantic salmon has come from license sales in the last couple of years. That is one central issue, I think, that issue of listing and the return on our investment.

Another one is really a political issue. Like it or not, salmon is our most political animal. It is an animal. Let's face it. The politics around it can be very polarizing. Some of you may not even remember, those of you who were even here, a couple of years ago the Fisheries and Wildlife Committee and then, finally, the full Legislature approved some additions to the Endangered Species List. One of them was fairly controversial. It was the listing of the harlequin duck, which occurs in two places in North America. That is off Alaska and off Maine. The population in Maine is probably a few hundred. A few years ago you could shoot eight a day. That was the bag limit. You could shoot eight harlequin ducks a day. There was a possession limit of 16. Well, I am a duck hunter so you would think that I would oppose such a closure because I want to shoot ducks, right. I didn't oppose it. I advocated for it. I believe in preserving that species. That is not to say there aren't 100,000 harlequin ducks on the west coast because there are. If we lost the ducks on the east coast, we would still have harlequin ducks somewhere in the world. You know something, I kind of like the idea of having them in Maine. That is why I advocated for their inclusion in the listing process. Amazingly enough, it did not result in a disaster.

Some information has come across your desk about how much this fishery is worth. It is worth millions and millions of dollars. Well, potentially it could be if we actually had a sustainable salmon fishery. As the Representative from Waldoboro correctly pointed out, we are about 90 percent below the return levels that we would need to have such a fishery. It is hardly what I would consider an argument to maintain such a fishery.

When you talk about this issue of restoration rivers versus preservation rivers, this is an old argument. It is one that has a fair amount of merit associated with it. You take the rivers like Narraguagus River and any of the down east rivers and those are what they call preservation rivers. They are rivers that never lost their natural runs. The Penobscot lost its natural run through pollution, dams and a number of other factors. An intense effort was brought forward to restore the Atlantic salmon to those rivers and it was successful, but it was not the native run. We are going to designate that a restoration river. We are going to

designate the Saco River a restoration river and the St. Croix. However, when you get in the Penobscot, it is interesting if you look at the Amendment, it is a restoration river above the Joshua Chamberlain Bridge. However, it is not a restoration river below the Joshua Chamberlain River Bridge in Brewer and Bangor. If your boat drifts, you are breaking the law under this bill. That is a little bit of a specious argument I guess I would have to say that those restoration rivers really don't mean anything.

We have been stocking these rivers for so many years that all of them are essentially restoration rivers, which brings me to my third point, which is the practical purpose of this whole process that we have been going through to conserve and protect Atlantic salmon, the practical purpose. This is, again, that issue of listing, not as the great boogie man out in the horizon that is going to come and shut down down east Maine. It is something we need to fight against to preserve our farms and our forestry and our traditional culture of fishing, hunting, etc. It is a practical aspect of it, which is we are on the brink of listing this species and we are talking about having a fishing season for it. Is that really something any of us, not matter how you cut it, consider a conservation measure? I fish for Atlantic salmon too. It is a great sport, but if you think of the argument being brought forward that somehow catch and release does no harm to these fish. Remember, when you catch that fish in the Bangor pool, it does not get a free pass up the river if you get caught at the Eddington pool or if you get anywhere up the river after that. Every time it gets caught, it gets stressed a little bit more or weakened a little bit more and are we really in a position where we could afford to lose those fish, whether they be truly wild or the result of years of stalking. Quite frankly, if we are going to talk about restoring the salmon fishery, I could care less who the parents of those fish are, if we are talking about having a recreational fishery. We should do everything we can to enhance and protect it. The returns are really truly just that low.

I guess that if we are going to reflect on the people that are the most affected by this, as the Representative from Penobscot, Representative Perkins described them, those caring anglers, the caring salmon fishermen. If they truly cared that much about this resource, can't we do like we did with the stripers and leave them alone for a while? Striped bass came back big time when we stopped fishing for them. Maybe the same thing could work now. I would urge your support of the pending motion.

The SPEAKER: The Chair recognizes the Representative from the Penobscot Nation, Representative Loring.

Representative LORING: Mr. Speaker, Men and Women of the House. I think I would be remiss if I didn't stand up and speak on this issue. I find it very ironic that this is up for a vote when, in fact, I noticed the headlines in the *Bangor Daily News* the other day that they are about to destroy 11,600 trout that are supposed to be restocked into the rivers. We are talking about destroying 11,600 healthy trout that have been certified healthy and now we are arguing about whether or not we should fish these rivers. It doesn't make sense to me that we had this many trout and then another 3,000 next year that Connor's Brothers are growing that will also be destroyed. I guess what I am saying is I think it really needs to be given a second look, the decision to destroy the trout out there. It does not make sense to pass this particular law at this time. Thank you.

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

Representative BRYANT: Mr. Speaker, Ladies and Gentlemen of the House. We debated this issue in committee a

long time. We had biologists that worked on a river for a long time on both sides of the issue. I think where the issue really struck me was that, in fact, we have been fishing Atlantic salmon for a long time and our numbers in the Penobscot are coming back. That is the real issue. The real issue here is, do you want to preserve Atlantic salmon? I believe that by allowing the fishermen to be on the river and work the river and make sure that those holding pools where the salmon are laying are protected. You are going to save more salmon in the long run than you are pulling them off the river. I think that is the bottom line. If it is truly what we want to do to protect the species at that point, you need to vote against the pending motion. Thank you.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I have never put a hook in the water and I wouldn't know a salmon if I found one in my lap. I do see a common theme about this issue that I understand very well. It is called the precautionary principle. It deals with a hypothetical adverse relationship to a serious problem, therefore, since it might make a difference, we better do it. In that case, we had better stop this fishing because it might make a difference to the return of the Atlantic salmon. The problem with the precautionary principle is there is just a generalization. It is very, very difficult to defend against when you go back home and somebody says that makes no sense at all that you would allow it. It is going to be hard to explain this to people why it is not wrong to fish for this particular species. If we can find the courage to do so and tell people after practical analysis about this, it is all right to catch and release salmon because we know that it is not wrong. I believe that although I am sure that many in this room will disagree with me on that on the catch and release program and so forth.

The problem with making public policy with a precautionary principle is that it is so easy, but it ultimately leads to poor decision making because every time it comes up, you say that we better do it because it might. You do it with one issue after another after another and then all of a sudden you look back and you have a string of these things and they are all ineffective decisions and they all ultimately disillusion the public that is supporting you. In this case, the public that I am most concerned about, are the sportsmen who say it is just not worth it anymore because nobody cares. For that reason, I hope that we vote to defeat this pending motion and do what makes sense, I believe, in the long run. It is difficult to explain, but makes sense in the long run. Thank you.

The SPEAKER: 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, Colleagues of the House. I would like to add a little bit to the word might. If we pass this piece of legislation, I will guarantee as I am standing here today, that we will kill Atlantic salmon. There is no might about it. You can take the best fly fisherman in the world and you can have him hook 100 fish and each time he hooks that fish or a fish, it will be hooked differently. It will fight differently. It will not always be a perfect landing. That fish will sometimes fall on a rock. That fish will sometimes be hooked in the eye. That fish will sometimes fight desperately for its life and exhaust itself and die after we release it. That is a guarantee.

As one of the previous speakers stated, I cannot believe that the Maine State Legislature is debating this issue. On all the things that I have stood here and spoke to in my two years, nothing has been so passionate to me as this issue. I ask each and every one of you before you cast your vote today, to think about this clearly. I ask you to put the Atlantic salmon first and the fishermen, which I am one of, second. I will gladly give up salmon fishing or fishing of any kind if it could eventually lead to that species extinction. Thank you.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Foster.

Representative **FOSTER**: Mr. Speaker, Ladies and Gentlemen of the House. I am not a fisherman. I don't have anything against fishermen. As a matter a fact, I don't have anything against non-fishermen. I was a fisherman years ago and I enjoyed it when I was. I guess the thing that troubles me more than anything else is there is a risk to listing the salmon, I think, on the Endangered Species List. I am not particularly thrilled with the Endangered Species List because it does not promote cooperation to those that it should where there is a species or a plant involved. That is beside the point. The risk, to me, is what is logical in Maine may not filter down to Washington as being logical. That concerns me more than anything else, particularly the agricultural business in Maine where it may be affected, the forestry business in Maine and also the blueberry industry. Those are the things that I think may be at risk if this particular piece of legislation passes. I thank you very much.

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

Representative **BRYANT**: Mr. Speaker, Ladies and Gentlemen of the House. I just want to add one more thought to the debate that we worked in committee on. The other issue here is it is going to be hard, I think in my mind, to argue against listing of these restorative rivers if, in fact, we make the decision here and now that we don't want to fish them anymore because they may endangered species there. I think we ought to think about that. I think the Chief Executive ought to think about that. When we go to debate this issue in the future, what are we going to say?

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

Representative **PERKINS**: Mr. Speaker, Colleagues of the House. Just one quick point, the timing of this I think is a crucial thing to look at. A couple years ago the feds said they were considering listing either under endangered or threatened and we had a big powwow out here in the rotunda. The feds came up, the Secretary of Interior and so forth. We said that we are wise enough. We have the wisdom to manage this so we sat up this management plan. By panicking now because they are rattling again, what does that say about our wisdom? Where were we a year ago? Why weren't we planning to shut it down, the fishing? We want to shut it down now to show that we are bowing to the feds on this. We know that they have the power over these salmon. The point is, we have got to show that we have some knowledge here. Where was our knowledge a year ago. Now all of a sudden we have wisdom. I think they can see this for what it is. That is not a good message to be sending to them. Thank you.

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

Representative **ETNIER**: Mr. Speaker, Men and Women of the House. Everyone else having spoken twice, I felt I had to

too. I will be incredibly brief. I think it is important that we realize that all we are saying here is that the uncertainties are too great and the risks are too great and we wish to temporarily suspend catch and release fishing, angling on this species of fish. You have heard a lot of talk about people who love to fish and their desire to go angling. I understand that I know they have done a great job and helpful in the restoration of these stocks. No one is saying, as you might have inferred from some of this, that anyone saying that some member of the other body is going to have to sell off his tackle in a lawn sale somewhere because this is the end of it, there will be no more. All we are saying and all the Atlantic Salmon Commission is saying is that let's just lay off for a bit and let the dust settle. Let's figure out exactly what the facts are and what the risks are. The risks they see at this point are too great. I would like to quote from the Atlantic Salmon Federation who testified against this bill. They said, "The Atlantic Salmon Federation scientists believe that numerous studies indicate a 3 to 5 percent rate of mortality associated with catch and release fishing. Maine's salmon populations are too vulnerable to allow any mortality associated with angling." Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **STEDMAN**: Mr. Speaker, Men and Women of the House. Could anyone tell me what the length of the season is? I would suggest that we may have missed it already.

The SPEAKER: The Representative from Hartland, Representative Stedman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Lebanon, Representative Chick.

Representative **CHICK**: Mr. Speaker, Ladies and Gentlemen of the House. My involvement with this particular sport has been during my whole life. I can recall people that I was employed with that built homes on some of these rivers we are speaking about here this afternoon when the fishing was good. About the time that they completed their homes, I began to hear about the fishing was not as good. In other words, they were not catching as many fish. I have served on this Fish and Wildlife Committee during my time here. I have listened to a great deal of information about the Atlantic salmon and fishing salmon in these rivers and what rivers produce better than others. As recent as this winter when we were discussing it out at the Civic Center, I recall something that I said in a committee. I don't remember that I have ever heard anyone else say this, but I will leave you with this thought for those that believe that they can have the best of two worlds. Untouched is unharmed. 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. 578

YEA - Baker, Berry RL, Bolduc, Bowles, Bragdon, Brennan, Bruno, Buck, Bull, Bumps, Cameron, Campbell, Chick, Clough, Cote, Cowger, Cross, Davidson, Desmond, Dudley, Dunlap, Etnier, Foster, Fuller, Gagne, Gerry, Gillis, Glynn, Gooley, Green, Hatch, Heidrich, Honey, Jabar, Jodrey, Jones, Joy, Labrecque, Lemoine, Lindahl, Lovett, MacDougall, Madore, Mailhot, Mayo, McDonough, McKee, McKenney, McNeil,

Mitchell, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, Peavey, Perry, Pieh, Plowman, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Samson, Savage C, Savage W, Saxl MV, Sherman, Shiah, Skoglund, Snowe-Mello, Stanwood, Stedman, Stevens, Tessier, Thompson, Tobin D, Tobin J, Townsend, Tracy, Trahan, Treadwell, Tripp, Twomey, Volenik, Watson, Winsor, Mr. Speaker.

NAY - Ahearne, Bagley, Belanger, Berry DP, Bouffard, Brooks, Bryant, Carr, Chizmar, Cianchette, Clark, Collins, Colwell, Daigle, Davis, Dugay, Duncan, Duplessie, Fisher, Gagnon, Goodwin, Jacobs, Kane, Kasprzak, Kneeland, LaVerdiere, Lemont, Mack, Martin, Marvin, McGlocklin, Mendros, O'Neal, O'Neil, Perkins, Pinkham, Povich, Rosen, Sanborn, Saxl JW, Schneider, Shorey, Stanley, Sullivan, True, Tuttle, Usher, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Williams.

ABSENT - Andrews, Frechette, Matthews, McAlevey, Murphy E, Shields, Sirois.

Yes, 92; No, 52; Absent, 7; Excused, 0.

92 having voted in the affirmative and 52 voted in the negative, with 7 being absent, and accordingly the Bill and all accompanying papers were **INDEFINITELY POSTPONED** in **NON-CONCURRENCE** and sent for concurrence.

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

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

UNFINISHED BUSINESS

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

HOUSE REPORT - **Ought to Pass as Amended by Committee Amendment "A" (H-1004)** - Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Create a New Category of Liquor License and to Exempt Pool Halls, Bowling Alleys and Off-track Betting Facilities from the Prohibition Against Smoking"

(H.P. 1807) (L.D. 2533)

TABLED - April 3, 2000 (Till Later Today) by Representative TUTTLE of Sanford.

PENDING - ACCEPTANCE OF COMMITTEE REPORT.

Representative KANE of Saco **REQUESTED** a roll call on the motion to **ACCEPT** the Committee 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 Saco, Representative Kane.

Representative **KANE**: Mr. Speaker, Men and Women of the House. Today and all this week we have celebrated Public Health Week. We continue to educate and sensitize our citizens about the benefits of exercise, diet and the threat to our health of alcohol and tobacco. It is ironic that today we find ourselves once again debating the issue of expanding smoking in public places. It is one of the greatest threats to public health. You have read and heard all of the statistics associated with this.

Men and women of the House, we are often reminded that Maine leads the nation in low infant mortality, but sadly we also lead the nation in teenage smoking. During the past several years, we have launched a comprehensive effort to discourage smoking among our youth and our adults, and will be spending millions of dollars to achieve that goal. Progress will be slow and difficult, but we must maintain our commitment and consistency in goals, strategies and messages to our citizens, adult and youth. That message has involved change in the way that public places operate and may represent some inconvenience for operators and customers who smoke.

We have determined in our public health policy to date, that the benefits of a smoke-free service and employment environment, more than offsets the inconveniences involved in protecting our citizens from the adverse effects of second-hand smoke.

When one considers the potential savings to taxpayers for the treatment of smoking related illnesses, the benefits are even more dramatic. I didn't expect that we would have to defend this Legislature's courageous action of a year ago, in passing the ban on smoking in restaurants. It is a law, which has been extremely successful with on three cases on non-compliance. The bill before us, ladies and gentlemen, would not only turn back the clock on our public health commitment to protect our citizens from the ravages of smoking, but it would allow smoking in public places that have been smoke free for a year.

The action of the 119th Legislature in 1999 was predicated to bring financial disaster to restaurants. The reality is that restaurant revenues have gone up 4.5 percent between 1998 and 1999. The 44,000 employees of the establishments to which we have extended protection from second hand smoke, have been unanimous in their gratitude for our boldness. Last year at this point, almost all employees in Maine are assured of a smoke-free environment. Statewide editorial opinion has reflected in the material before you this afternoon. It has been almost universal in pleading with us to protect our employees and children.

LD 2533 would create a very uneven playing field for those restaurants that do not have the square footage or financial resources to separately enclose a smoking room. In other words, it discriminates against mom-and-pop restaurants. Last year, these restaurants pleaded with us not to create this discriminatory policy and to support a total ban if, in fact, we are going to pass a ban. In fact, the wording of this bill is nearly identical to a 1997 restaurant bill that was opposed by the Maine Restaurant Association because of its uneven playing field effect.

The 1999 law created as even a playing field as possible until and unless smoking is banned in all public indoor places. It creates a smoke-free environment for all restaurants except those that according to their license requirements cannot serve minors under 21 years of age. Out of Maine's 900 existing establishments, there are about 325 that are currently exempt since they have one of these licenses.

I appreciate the Legal and Veteran's Affairs Committee and my good friend, the chairman from Sanford, to accommodate the pool halls. I cannot agree with this extension to bowling centers and restaurants. I cannot agree with the exposure of employees to second hand smoke and I cannot support exposure of children to second hand smoke, with or without their parents. Of even greater difficulty is my understanding of their proposed prohibition on our ban in restaurants. All of this is occurring

while we are still planning to commit millions of dollars to persuade our citizens not to smoke, to entice children not to smoke, to help our youth to stop if they are already smoking. It is a complete contradiction in public policy and in our message to you to spend \$47,000, as required in this bill, to facilitate smoking while we spend millions of dollars to discourage it.

While the committee may genuinely feel that they are only tweaking the smoking ban, I see this as a crack in the dike that threatens to wipe out all the progress that we have made in recent years. It sends a very confused message to our children and youth and changes the equation of our public health policy by placing operators and smokers convenience over the public health of employees and other customers. Dr. Dora Mills, Director of the Bureau of Health, in her testimony opposing this legislation and I spoke to her personally this afternoon to confirm that she did indeed oppose this bill. She urges us not to make any changes in an act where the ink is barely dry on the paper. She says, "We feel at this point that we should give time for businesses, patrons and employees to adjust to a smoke free environment in an establishment before taking any new steps. We implore you not to consider making any new or wider loopholes in the law since to do so would set us backward and eliminate much of the laws impact. However, if you do feel compelled to make any changes in the current law, we recommend strengthening it, rather than weakening it."

Let's celebrate Public Health Week by reaffirming our commitment to our smoking prevention campaign by voting against the pending motion. Thank you Mr. Speaker.

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

Representative TUTTLE: Mr. Speaker, Men and Women of the House. I would hope that in the deliberation on this issue that we would apply commonsense to this issue. I was a member of this institution a year ago when I did vote for this as many of you did. In all honesty, ladies and gentlemen, having been a member of this institution for over 20 years, I voted for a bill that I thought affected class A restaurants and class A restaurants alone. I have been an EMT for the last 25 years as many of you know and I am very aware of the ravages of smoking. I deal with patients on day-to-day basis. I do take this subject very seriously. I have always been one to believe that regulation works and prohibition does not. I would like to repeat that, regulation works and prohibition does not. By regulating it, I think we do solve those problems that we want to address by a total prohibition. If anything, history shows us that it defeats the purpose and many times does not solve the problem and sometimes makes it even worse. The present proposal before you, this proposal addresses what I call the unintended consequences of the smoking law, which passed last year. As many of you know, pool halls and bowling alleys have been adversely affected because they are not licensed as lounges and taverns. Lounges and taverns are exempt from the ban on smoking. The inequity that exists between different types of liquor licenses under Maine Statutes has resulted in lost business and jobs. That is why I think the Committee on Legal and Veterans Affairs has gotten involved with this issue from the liquor licensing aspect and it is something that if I would have known a few years ago, I hope that we would have been more active, but unfortunately it did not occur.

When the smoking ban was passed, those who moved the issue, in my opinion, did not fully understand the liquor laws or realize the impact upon certain establishments by the decision to

ban smoking. Proprietors that were concerned about the ban were assured last year and many of us remember this by the Department of Health officials and a committee that the smoking ban only applied to restaurants, not their lounges. These businesses were very surprised and I am sure many of you got calls like I did to learn that smoking was indeed banned in the lounges. Billiard halls and bowling centers are family places that we all know about. The businesses have been lost because a parent can no longer smoke there. This is a great loss to this type of family centered activity. The establishment could change that license to a class A lounge, but then minors would not be prohibited so they are sort of in a catch 22. Billiard rooms and bowling center proprietors have been forced between two options, which each result in lost revenues. To change the license to allow smoking and prohibit minors or to keep their current license complying with the smoking ban and losing their customers.

The law passed with an exception for tavern and lounges. This proposal does nothing to alter that legislative intent. In a class A restaurant or lounge a grandparent, aunt or uncle can not take a person under 21 out for a Sunday brunch because they are not a parent or a legal guardian and because the establishment was forced to change its license in order to stay in business. If I would have known that last year, Mr. Speaker, I believe a lot of us would not have voted for that bill. We have legitimate concerns.

Most pool halls do about 10 percent of their sales in food and 20 percent of their sales in alcohol and 70 percent in pool. They do not consider themselves restaurants. Typically a pool hall sells hamburgers, hot dogs and potato chips. As far as some of the arguments that say that the Maine restaurants revenues are up 4.5 percent in the last quarter. Well, from my figures it is great news, but, in my opinion, it does mask the fact that many customers simply took their business to lounges and to private clubs and to continue the detriment of a number of Maine companies that simply cannot compete under Maine state law.

It is my hope, Mr. Speaker, that once again we use commonsense. I think that many of us have received communications from different individuals throughout the state on this issue. I hope that commonsense will prevail. For that reason, I would ask that you would support the unanimous report of the Committee on Legal and Veterans Affairs. Thank you Mr. Speaker.

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

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

Representative QUINT: Mr. Speaker, Men and Women of the House. I rise to strongly encourage you to vote against the pending motion. I think the good Representative from Sanford stated that there were some unintended consequences and I think one of the things that lots of us will remember about last fall was getting phone calls from pool halls and bowling alleys. For me, as a legislator who sat on the Health and Human Services Committee, I had not even thought about pool halls and bowling alleys when we passed this law last year. At that time, I said, we really need to think about what we did because for me, that was an unintended consequence. When I saw this bill title and the

bill title said "An Act to Amend Liquor Laws to Define Bowling Center Lounges and Self-Contained Lounges and Create a New Category of Licensing for Pool Halls and Exempt them from the Prohibition Against Smoking," I said great. We are going to deal with bowling alleys and pool halls and we are going to have a real good discussion about entertainment establishments.

Was that the legislative intent to prohibit smoking from entertainment establishments? I think it is important that when you make your decision today that there is a difference in my mind between entertainment establishments and eating establishments. As a consumer, when you think of a bowling alley and you think of a pool hall, immediately if we were to consider lifting the prohibition on smoking in those places, you, as a consumer, would know that you would have to negotiate second hand smoke, which we all know has a detrimental impact on your health, the health of your family and whoever attends that establishment. If you so choose and want the choice to participate in the entertainment of bowling or playing billiards or pool halls, then you can make that choice. I think, quite frankly, if that was the only thing that we were considering today, then I would perhaps support that.

Ladies and gentlemen, that is not the only thing we are considering today. This bill was broadened in the committee process to include class A restaurants that also happen to have a lounge. To me, that steps over the line of what I knew exactly what I was doing when I voted last year. When I voted last year, my intention when I cast my vote was to prohibit smoking from eating establishments and class A restaurants in the State of Maine. There was no question in my mind that that is what I was doing. However, I had not thought about pool halls and bowling alleys because in my mind they are not eating establishments, they are entertainment establishments and there is a clear difference between the two, in my mind. I would ask you to think about that for a second.

If this bill passes and if you vote for this change and in my mind a setback, the only separation that is required in this new law is a doorway. What the law says is that the consumer need not pass through the lounge or pass an open entrance of that lounge. That is all that says. It is true. My recollection when you used to have smoking in lounges and when some restaurants said no smoking in the restaurants, I remember very clearly breathing second hand smoke. There is nothing in this bill that regulates the doorway, that provides for a proper ventilation and that prohibits second hand smoke from going from that lounge into the eating facility. There is absolutely nothing. What you will hear, some people will say, well, there is nothing in the law that requires ventilation now. Well, of course not. You cannot smoke in restaurants so there is no need for ventilation other than ventilation for proper working standards. When we passed the law last year, it did not include ventilation because there was no smoking in restaurants. It was prohibited.

If you want to consider broadening this to include smoking in restaurants that have lounges, then we need to seriously consider about ventilation. We need to consider how the doorways are supposed to be closed. Can they be propped open? What kind of doorways are they? This is much bigger than you can imagine.

I am just going to close. Yesterday both committees met together and I had somebody who was shadowing me. We were sitting in the audience because the Health and Human Services Committee was sitting in the audience and the Legal and Veteran's Affairs Committee was sitting around the table. It was

interesting. The person who was shadowing before was talking about how loopholes get created and how we talk about unintended consequences. Let me tell you right now that if we pass this the way it is, it is not an unintended consequence and we are knowingly committing a loophole for restaurants to create lounges to permit smoking in their establishments so that we will be exposed to second hand smoke. That was one of the strongest premises for passing the smoking ban on restaurants last year and this is a major setback. Once again, I would strongly encourage you to vote against the current motion. Thank you.

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

Representative BROOKS: Mr. Speaker, Ladies and Gentlemen of the House. This may seem to many of you, it does to me, seem like déjà vu all over again. I was one of the people who stood last year and predicted some of these unintended consequences. Here we are back a year later dealing with some of these things that we should have dealt with last year. I think we ought to pass this bill, as my good friend, the Representative from Sanford, Representative Tuttle suggests, let's accept the committee report.

Earlier this year we dealt with the bill in Health and Human Services that would have banned smoking practically everywhere. It was a step too far. It was rejected unanimously. Now we have an opportunity to face a bill that will allow us to clean up our act from last year. As a matter of fact, this bill was dealt with as an economic bill. It went to a committee other than Health and Human Services. I think that was very appropriate. I have a friend who runs a bowling alley in Brewer. There was a statement made on one of the yellow sheets that were handed out to you today that says they have been smoke free since 1994. He can attest to that. He claims he has lost \$50,000 a year, every year, since 1994 because the people who come and recreate at the bowling alley in Brewer have diminished significantly in numbers. Last year he worked with me a lot and we tried to figure out a way that we could continue to allow people to smoke in his establishment in his lounge. That didn't work. The law prohibited it. He spent another \$50,000 to renovate his place and he has a cubicle there that two people can fit in, it looks like the sound proof booth on Who Wants to be a Millionaire. It is all glassed in. I guess it is, Who Wants to be a Smoker. I have never been in that room, by the way, because I don't smoke. There are patrons who do go there and between games of bowling would like to be able to go into his lounge and have a beer and have a cigarette and they are not allowed to. This cleans up our act from last year. This will allow my friend to begin to recover some of the losses that he has experienced since 1994.

That is the argument that I tried to make last year. This is a small business decision to be made. This is an argument that we need to put forward to make sure that our pool halls and bowling alleys are able to survive. I haven't heard the number today, but there are numbers out there that will tell you how many have closed. I know of a couple of restaurants that closed. I know three restaurants in my district who were threatened by significant loss of business because of what we did last year, but we didn't want to exempt them. I know of one restaurant that hung up the roll call from this body and wrote on it that anybody who voted for this ban is not welcome in my restaurant, please leave. She catered to truckers and transient traffic. It was a decision that significantly affected her business. That is not

being dealt with today, but what is being dealt with is really restoring what is a level playing field in some of our entertainment business.

My good friend Representative from Portland, Representative Quint, talks about the door between the class A lounge and the restaurant where you can go in and have a cigarette. If you are sitting outside that door, you might likely be affected by the second hand smoke. Well, I don't like it any better than he does. Let's deal with that under some rule changes. Let's deal with that in another place and another time. If there are airlocks and I don't mean to say that this sounds like some science fiction movie, but if there is some way to block the air and not exchange the smoke filled air from the lounge to the restaurant, maybe we can figure out a way to do that. Let's not continue to punish the businesses that cater to these people. There is a place for this. I think we ought to follow the lead of Representative Tuttle. My light will follow his and I hope yours will too, not to create an unlevel playing field, but to put it back where small business people in communities that rely upon this kind of business can start to make some of that money back. Thank you Mr. Speaker.

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

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House. This is going to be, I would suspect a rather long and difficult debate. It is going to be a difficult decision for many in this chamber. I would like to start off as saying I am a former smoker, reformed person. Thank God I no longer smoke. I realize its problems and I did vote previously for legislation under which today we are operating. However, I personally feel that with regard to pool halls, bowling alleys and some restaurants that we did create an uneven playing field. Today, in the State of Maine all dining rooms are smoke-free. With the passage of this bill and its implementation, all dining rooms in the State of Maine will continue to be smoke-free. Today, in the State of Maine, there are lounges attached to restaurants that allow smoking within the law and within the current licensing provisions that are and have been in effect. They are self-contained. They have been self-contained and in the future they will be self-contained. They must have walls. They must have doors. In the pending legislation, the must not admit accompanied minors. The only change that is being made with regard to restaurants by this particular piece of legislation is that it will allow in the future in those dining rooms, which are smoke-free. It will allow a minor unaccompanied by his or her parent or guardian to have dinner in said restaurant.

Those of you who happen to represent college communities or communities where there is a prep school may have been called, as I have been, because in my community we have Hyde School, which is a private secondary school or prep school. Three weeks ago this coming Sunday, I had a father call me on a Sunday night. He is a New York City lawyer, practically screaming over the telephone at my stupidity as a legislator in the State of Maine for ever allowing the current legislation to have been passed. In attempting to calm him down and to find out the problem, I learned that his son who is 18 years old, a senior at Hyde, had taken his girlfriend, who is also 18, out to dinner at a restaurant in my community. They had been seated and subsequently someone realized that they might be under the age of 21 and asked them. They said that they were 18. They were asked to leave and explained why. The girl quickly was in tears. The gentleman was embarrassed. Later that evening after having eaten at a fast food restaurant fairly near the school,

he called his father and subsequently his father called me. That is a very hard thing to explain to a father why these two young people who had the money and the desire to eat out at a good restaurant were not allowed to do it.

This bill, which I hope you will pass this afternoon and follow my light and that of the good Representative from Sanford and the good Representative from Winterport and many others, deals with restaurant portion of it and it is entirely legal. The title of the bill has been changed, as is noted in the amendment. The self-contained lounge, I would repeat, must have walls and a door and it must be so constructed that you will not have to pass through that lounge to reach the dining room or to go to the restrooms.

It has not been an easy road for the Legal and Veterans Affairs Committee to travel in the last two months with regard to this legislation. Those of you who have followed the reports of the committee are fully aware of the fact that it does not often have a unanimous vote. However, this bill, which was worked long and hard by the committee, does have a unanimous report today. I would hope that the people in this body would respect the work that has gone into this bill, would respect the committee process and would support and follow this report. Thank you.

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

Representative **MCNEIL**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to echo the sentiments of the Representative from Bath, Representative Mayo. I voted for the ban last year, but I have since found out that people in my district are having a lot of trouble keeping their restaurants open because of it. Could I ask a question through the chair, Mr. Speaker? If the conditions of the door and how the door was fashioned and ventilation are important, then did the committee discuss that and is that something that can be put on this bill for the protection of our people that are suffering in their business?

The SPEAKER PRO TEM: The Representative from Rockland, Representative McNeil has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bath, Representative Mayo.

Representative **MAYO**: Mr. Speaker, Ladies and Gentlemen of the House. In answer to the question of the good Representative from Rockland, the committee did discuss the question of ventilation. The current statute, which under the liquor restaurant licensing does allow for lounges, did not contain any provisions for ventilation. The committee chose not to add that within the current bill that is before you today. It was not in the previous. It was not in what we operate under and the committee chose not to include it at this time.

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

Representative **MCKENNEY**: Mr. Speaker, Ladies and Gentlemen of the House. We heard from the Representative from Saco, Representative Kane that we shouldn't be concerned about the inconvenience of pool halls. I would submit to you folks that is pretty darn inconvenient to go out of business. I don't believe that any of you that voted for that smoking ban would have voted for it if you knew these people were going out of business. Some of them have and more of them will and it is an ongoing process. We heard and the good Representative from Rockland, Representative McNeil mentioned, we have heard a laundry list of various equipment that might be added to this to make it more palatable. I say enough is enough. We shouldn't go down the road of trying to micro-manage Maine's

restaurants and pool halls. We have banned smoking in restaurants. That is enough. Let these businesses decide how to best reconfigure their property in a way that allows them to stay in business and compete with other lounges. This bill requires walls and doors. How much more enclosed can that be? That is enough. Let the Restaurant Association work with their members to come up with a way to control the way lounges and restaurants work. They need to satisfy their customers. We shouldn't be hampering them with complicated hurdles to jump through with a plethora of equipment and things to use. Restaurant owners know full well that if they don't make a substantial and good faith effort in this regard, someone will force the next Legislature to act. Let's accept this unanimous committee report. Thank you.

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

Representative **ETNIER**: Mr. Speaker, Men and Women of the House. Forgive me for being up so much today, salmon, smoking and I don't know what will be next. I am glad that my good friend the Representative from Bath has returned to the chamber because I didn't want him to miss my soliloquy. If the Representative from Bath really wanted to change and alter the existing restaurant smoking law, which is a very legitimate thing to want to do, then the thing for him to have done would have been to put in a bill that offers to do that and have a public hearing on a bill that has that in it and then let the public come and comment on it to perhaps address the concerns that were raised by the bill and have restaurants actually in the bill that the public hearing is held on. That is what I would suggest that the good Representative do if he wants to alter Maine's restaurant smoking laws. The bill that they held the public hearing on, I will read the title to you, "An Act to Create a New Category of Liquor License and to Exempt Pool Halls, Bowling Alleys and Off-Track Betting Facilities from the Prohibition Against Smoking," there certainly were not restaurants in the title. In the original bill there was not mention of restaurants anywhere. Had there been, I suggest the public hearing might have gone a little bit differently.

There was a mention earlier about the phone calls people have gotten regarding pool halls and bowling alleys. I got some of those last fall and I respect their concerns. I think that is a very legitimate issue that we should be dealing with. Remember a year ago the many, many calls that a lot of us got regarding support for the restaurant smoking ban, well those came in and that is why we voted the way we did because the public felt strongly that this was the right thing to do and they weighed in because they knew there was a bill before the Legislature that allowed them to do so. They contacted folks throughout the state and urged them to support the bill at that time. I suggest that the good Representative from Bath talked about respecting the committee process, I have a great deal of respect for the committee process. It is the heart and soul of the Maine State Legislature. I also have a great deal of respect for the public process and the idea of having committee amendments that relate to the bill that is before them, I know this is Committee Amendment is germane to the title, I am not going to fight that, but put all the issues of second hand smoke and pool halls and bowling alleys and restaurants to one side and think if we need to make this change at this time since this law has been in effect since September, the restaurant smoking law, for seven months. Do we need to make this change now without adequate public input and without any public participation in the public hearing regarding a change in the restaurant law because there was

public notice that there was going to be any changes? I call that, with all due respect, a lack of respect for the public participation and I urge that we don't accept the committee report for that very same reason.

I think the issue about the pool halls and the bowling alleys, I think that is a legitimate concern. That is way inadvertent and that is what this bill was meant to change. That is what the bill should change and that change alone. Since it has restaurants in it, I have to address that point too. Forgive me for being so long. I remember back in 1997 when I first had a bill in this Legislature to prohibit smoking in restaurants. That bill had in it language that said that smoking was only allowed in a separate, enclosed and separately ventilated section of a restaurant. Other than that, it was off limits. I don't think they spoke out at the public hearing, they even sort of pretended not to oppose it, but they worked very diligently to defeat that bill. The argument against it was that it was not a level playing field. That was our friends in the Maine Restaurant Association. They had legitimate concerns. They fought hard to defeat that bill. Why? Because they said it would create an unlevel playing field. Why? Because a lot of restaurants would not have the space, let alone the money to do what is suggested by this Committee Amendment and that is to construct a separate, enclosed area. That was the argument that the Maine Restaurant Association and restaurants around the state made in 1997 that this was an unlevel playing field that was going to be created by my bill that helped to defeat it. Yet, today, all of a sudden it is not so bad after all. So, I ask you if that is the right approach either?

There is a lot of talk in this building, in this House, on either side of the aisle about concern for worker's health. I think it is a tremendously important debate that we have on a day-to-day basis about workers in the state and that they work in a safe working environment. That is a large part that often gets neglected in the discussion about one of the important parts about the smoking ban. Those are my primary reasons for supporting that and bringing the bills forward two years in a row was the concern for the workers in those facilities and their health. We have this law on the books. It is a ban on smoking in public places and all other public places throughout the states, except until last year, restaurants.

I think the issue about worker's health is a very real one and the issues about second hand smoke are documented and to pretend that restaurant employees should not be covered by the same protection we offer all other public people who work in public places is a fallacy. Along those lines getting back to my good friend from Bath, I couldn't resist his sad story about the Hyde School students and their disappointing dinner. The only real solution to that is to not roll back the law that we passed last year in a hasty fashion. The only real way to deal with their dilemma is to put a statewide no smoking ban on all restaurants and taverns. The liquor laws in this state are frankly a mess. That is why we had to do the bill we did last year because there was no clean way to do what we wanted to do. It was a very awkward situation. That is why we are in the mess we are in and that is how pool halls and bowling alleys got swept in here inadvertently. Let's not roll back the clock on what we did last year. Let's allow the law to continue. If someone wants to put in a bill next time to change the smoking ban, let them do so and let's have a full public participation in the process. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Pittsfield, Representative Jones.

Representative JONES: Mr. Speaker, Men and Women of the House. I would like to echo what the good Representative from Winterport, Representative Brooks, had to say. I have a similar story and I would like to say a few words on behalf of one of my constituents. He and his father before him have operated a bowling alley in my town for well over 60 years. They have paid thousands and thousands of dollars in local taxes. They are excellent citizens and an excellent family. They do a lot for the community. They sponsor leagues for little fellas, Little League age right up through high school. They have the senior league and they have the couple's league and they just do a lot. It is a great place full of activity in the Town of Pittsfield. He is very much concerned about what this smoking ban has done to his business. It may not put him out of business, but it could well put him out of business. He has a separate lounge. He also has a separate laundromat. Again, it is a very active place for folks to go to participate at the laundromat. In his lounge he recently spent around \$5,000 to put in this little booth. It is a little bigger than Representative Brooks talked about. He said only two, but ours in Pittsfield, four can fit comfortably in there and have their smokes. He would like now to tear that out. He has already closed in his lounge area and there is a door. Young folks can come into the bowling area of all ages and they cannot smoke out there, but they can go through this door into the lounge and smoke, drink or whatever. It causes no problem at all. Never once has this family been involved with the law. They are just good abiding citizens. The Representative from Bath referred to that this was going to be a difficult decision. Not for me, folks. I am going to represent my constituent and vote with the committee and press that red button. Thank you.

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

Representative QUINT: Mr. Speaker, Men and Women of the House. I can't resist addressing the good Representative from Bath and his constituents from New York State and their children. I think one of the things that is important to note is I don't even know what establishment these constituents from New York were in, but they were not in a restaurant that was licensed as a restaurant. I think that is a clear distinction. What you need to know also is that when the smoking ban went into effect, establishments had a choice. They could keep the restaurant license and have no smoking in their establishment, this is all strictly a business decision, that business owners had the opportunity of doing or they could change their licensing and become a bar or a tavern and allow smoking in their facility. That was a decision that we made when we voted on the bill last year. It was to ban smoking in restaurants, but not to ban smoking in taverns or lounges. I think it is 98 or 105 restaurants in the State of Maine that made a business decision based solely on their own will that they wanted to change their licenses from a restaurant license to a bar or tavern. When they did that, it was possible for them to allow smoking in that facility, but the consequence of that, by changing their license, was to not allow unaccompanied youth under the age of 21 in that facility. That is what happened. It is not because this individual went into a restaurant that was a licensed restaurant.

I think there are some nuances here, but you can be a restaurant if it is a tavern. If you are a tavern, many taverns license themselves as a tavern, lounge, bar, which also serves food. It does not meet the licensing requirements of a restaurant because they have made a decision in order to allow smoking in their establishments to choose a lounge or a bar license, which

allows them to do that, but once you make that business decision, you cannot allow unaccompanied youth under the age of 21.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Oxford, Representative Heidrich.

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

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

Representative HEIDRICH: Mr. Speaker, Men and Women of the House. Is an enclosed hotel lounge, which is now allowed, any different from the proposed restaurant lounge?

The SPEAKER PRO TEM: The Representative from Oxford, Representative Heidrich has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bath, Representative Mayo.

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House. I will attempt to answer what I think is the Representative from Oxford's question. Two of the exclusions, there were more than two, in the legislation under which we currently operate dealt with taverns, which are really bars and lounges in motels. Both of which were allowed to have smoking. There is still, and I think there has been for at least a year, some confusion over the liquor licensing. I can appreciate the confusion in this regard because I have been on the Legal and Veterans Affairs Committee now for two years and I have to go back to the rulebook. I have asked on more than one occasion, the good Representative True, who served on the committee for a lot longer than I have or will. What the good Representative from Portland was referring to a minute ago, I wish he was here to receive the clarification, he is talking about a class A restaurant/lounge license that some establishments in this state made the change to. That was a decision of theirs. In many instances the reason for the change from a class A restaurant to a class A restaurant/lounge license was because of competition of taverns and bars within a stone's throw of these class A restaurants where food could be served, smoking could take place and liquor could be served. With the bill that you have in front of you, LD 2533, with regard to the issue of restaurants, there will be no change, even those that have gone to class A restaurant/lounge license situation. The restaurant portion currently is and will be in the future smoke free. It makes no change.

While I am on my feet, if I may, Mr. Speaker, I would like to answer a couple of the comments of the good Representative from Harpswell, whom I appreciate sitting in the chamber at this time. Having served for six years on the Banking and Insurance Committee and only two on Legal and Veteran's Affairs Committee, I am aware that many times in the six years that I have been in this body that the Banking and Insurance Committee after a public hearing has either deleted or added to the bill before us. It is not something that is new and this is the first time in the history of this body that we have seen such action. I would suspect that the good Representative from Harpswell has seen it on the committees on which he serves. At the public hearing on this particular LD, 2533, at least two people from the restaurant community who own restaurants testified. The American Cancer Society was in the audience and testified. Dr. Dora Mills was in the audience and she testified. This did not come as a great surprise to anybody. I am interested in hearing from the Representative from Harpswell and the Representative from Portland that the way to solve this issue is to prohibit

smoking in all public accommodations. I believe there was a bill before the Health and Human Services Committee this year to do, in fact, that particular thing. I may be wrong and if I am, I would appreciate somebody correcting me. It is my understanding from committee members and from the individual herself that Dr. Mills testified neither for nor against that particular piece of legislation. That may have been ahead of its time. I suspect we will see similar legislation in the future. Until that time, let's level the playing field. Let's correct the mistakes that were made previously and move on. I urge your support of the unanimous committee report. Thank you.

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

Representative LOVETT: Mr. Speaker, Ladies and Gentlemen of the House. I really feel that this is a great discussion for Maine to have during Health Week. I have heard about how they had a hearing. I have heard from my constituents that they did not know about this bill. I look at the title and I just want to share with you the title of the bill that was advertised in the paper is "An Act to Create a Category of Liquor License and to Exempt Pool Halls, Bowling Alleys and Off-Track Betting Facilities from the Prohibition Against Smoking." I don't see anything in that that says restaurants. We had taken care of that problem last year. It was a health problem and that is why it came to Health and Human Services. I am very concerned how this thing snuck in and how we have repealed something that we didn't intend to and the people have not had a chance to voice their opinion. I am going to tell you that the polls that have been taken, an overwhelming amount of Maine people are in favor of having smoke-free restaurants. The way to correct this imbalance, ladies and gentlemen, is not to change the law in a way that it will cost more Mainers their lives. Remember, this bill does not kill business. It kills people and those are our constituents and our friends. Thank you.

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

Representative TRUE: Mr. Speaker, Ladies and Gentlemen of the House. I wasn't going to speak and I sincerely mean that because my voting record on trying to get people to stop smoking is perfect, because I have never voted to make them stop. I am a little upset about some of the things that have been said. One was saying that the public wasn't invited or the words of that nature. I have only been here eight years, but I can think of a lot of times when we didn't have the public to make a decision. Number two, it was set that there were meetings and everyone spoke against it. What does everyone mean, five, six, 100 or 1,000?

As far as the amendment is concerned, I don't know, take a look at your desks right now. All though the eight years that I have been here, we have had all sorts of amendments that didn't come before the committee that were passed off here. Now all of a sudden we are upset about it. As I read the amendment, it is taking the type of restaurant that perhaps would do harm to people and trying to straighten it out. Therefore, if they do this, isn't that what we are looking for? I have been around long enough to remember when we passed something for drug-free schools, which included cigarettes and smoking. I haven't seen anything said and yet 98 percent of the schools you go to, you can see all sorts of people, young people or students, smoking outside, but they are over the boundary. People will tell you they can't be touched. If I remember correctly, we have two laws other than the drug-free schools and it states any student who

rides in school buses or rides in cars and they come onto the school grounds, then the schools are responsible for those kids, young students, until they get back home. Just a couple of years ago we passed, I believe, a law that said there were certain young people at a certain age should not have in their possession cigarettes. Why shouldn't people call their Town Police or whomever and pass out a few tickets because they are breaking the law? I believe that the committee acted in good faith in trying, again, to do what is best. I felt when we started with some of these laws regulating, I thought the idea was that it would not harm the businesses economically. We find that there have been sections of some of those other particular things other than restaurants and we made a mistake, why not right that wrong? I thank you.

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

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. I urge you to vote in favor of the pending motion. There is a great inequity out there. There is a pool hall in my district that has lost over 40 percent of their business since this law has been put in place. The inequity is that someone can go to a bar with a pool table, have a cigarette and play a game of billiards. If they are a smoker, they cannot go to a billiard hall to have a game of billiards and smoke their cigarette. Not only is this unfortunate because a business in my district will be going other if this law is not put in, but there is not much to do in Limington, Maine, at night and there is a lot of kids out there in Limington and Standish who go to this billiard hall. They are not out on the road causing trouble. They are at a safe place. It is one of the local hangouts for the high school kids. I fear that these kids may be off causing trouble and doing other things if this billiard hall goes out of business. This smoking ban is the difference between this establishment staying in business or going out of business. Already a few miles from my home in Windham, there is a restaurant that has gone out of business because of the smoking ban. Let's try to help the few we can. The smoking will be separated and, as I said, there is a great inequity with billiard halls and bars with a pool table. Thank you. I urge you to vote for pending motion.

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

Representative **FULLER**: Mr. Speaker, Ladies and Gentlemen of the House. I, too, am very disappointed that we are undoing the good work that we did in 1999 when we passed this law to prohibit smoking in restaurants. I would remind you that second hand smoke, which is really the reason behind this law, kills an average of one non-smoker every day in Maine and many of whom were exposed on the job. Second hand smoke is a class A carcinogen. It is the most toxic form of cancer causing chemicals. It causes a variety of health problems. We are spending millions and millions of dollars treating those health problems and almost all employees in Maine are assured of a smoke-free environment with very few exceptions, except those who worked in restaurants up until last year. Maine workers and patrons deserve a smoke-free environment. We are also investing millions of dollars in trying to reduce smoking, smoking cessation programs, public education and all kinds of things going on to help people reduce smoking and here we want to expand the opportunities for smoking.

The primary purpose of the 1999 law was to make a non-hazardous environment for employees so they are not exposed to second hand smoke. This bill would turn the clock back and

expose additional Maine workers. Employees have said to me that they appreciate the ban that went into effect on smoking. They said that more than a few already had respiratory problems from second hand smoke.

I would remind you of the actual hard data, the effect of the new law, was Maine restaurant revenues were up 4.5 percent in the last quarter of 1999 compared to the same period in 1998. Compliance has been wide spread. I have seen what has happened in some of the lounges and restaurants that I frequent. When the law first went into effect, there was a decrease in the number of patrons at the bars. I will tell you that those bars are full again now and the patrons have come back and the business is up and, in fact, it is better than it ever was in many of these same places.

I would also support the arguments that the title of that bill was misleading. I did not know that the restaurants were added to this bill in the process of going through the legislative process and I certainly would have testified had I known that they added restaurants to their bill. I think this is a significant change.

I am particularly concerned about restaurants, but I think it is unfortunate to see the clock turned back on bowling centers and pool halls. I understand all the issues about smokers playing pool and bowling. I would submit that these establishments could still have a separate enclosed area where people could and smoke, but let the food service area and where the games actually take place be a smoke-free environment. We argue that this is a family kind of sport, where families go together and where young people go. How can we condone smoking in these areas where young people go? We know we have a problem with youth smoking and not try to make it harder for them to go ahead and have their smokes and at the same time we are spending millions of dollars trying to reduce smoking. I urge your rejection and that you vote Ought Not to Pass on this committee report. Thank you.

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

Representative **KANE**: Mr. Speaker, Ladies and Gentlemen of the House. Before we press our buttons, the red or the green, I would like to remind us of Dr. Dora Mills, the health officer for the State of Maine. In her testimony imploring us to give this law a chance to work. It is only seven months old. Let us give it a chance to work. Let us make whatever modifications that are required to be made not in the waning hours of the session, not with a piece of legislation that was rushed right through, that the Health and Human Services Committee never had a chance to review. We are the committee of jurisdiction of health. The committee of jurisdiction of health did not have the opportunity to have a hand in the shaping of this legislation until well after the fact. I urge you to think about the message that we are sending to our children. Think about it. We are sending a message to our children that if it is inconvenient, if it is difficult, then you can smoke. That is not the message I think we want to send to our kids, but I think in a state, which has the highest incidence of smoking among teenagers, if we are ever going to reverse that tide, we cannot send this kind of message. I join Dr. Mills in imploring you to give this law a chance to work. Thank you Mr. Speaker.

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. As you know, I am also a member of the Health and Human Services Committee and I am one of the

members that doesn't agree with my fellow members. I really believe that the Legal and Veterans Affairs Committee has done an excellent job with this bill. I believe that we have gone a little too far and I feel that people need a choice. I think this is the entertainment field. I believe there should be a place for people to go that are able to smoke. Smoking is still legal in this state. I think we keep forgetting that. It is still a legal substance.

I don't smoke. I have never smoked. I hate smoking. I do believe that people have a choice. I believe this is a business matter. I hope that you will all agree with the committee and show it in your vote. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brewer, Representative Fisher.

Representative FISHER: Mr. Speaker, Men and Women of the House. Two or three comments, I hate to repeat what other have said, but I want to reflect on a couple of thing I have heard in the last couple of minutes. First of all there was mention of Dr. Mills. Dr. Mills was there at the meeting where we discussed this bill. I hope I am not misrepresenting her, but, as I recall, she did not have any statement in particular in one way or the other. Second reflection, most of the parties were represented there at the hearings. The restaurant people were there. There were people from the Medical Association there. There were people from all walks there. The third reflection, if we are going to talk about changes, I have three inches of papers that have come on my desk in the last week to 10 days. Many of them gut legislation or completely change what the legislation that was worked in the committee had. We are going to start talking about people not having an opportunity, we have to start thinking about what we do with these amendments. To go along with the same line of thought, there are 18 pieces of new legislation that have come across my desk in the last five days. I am going to venture to guess that the piece of legislation we are talking about today had a lot more fairer hearing than those. Will they have adequate notice? Will the public have adequate opportunity to come in and talk about those pieces of legislation that have come across our desks in the last week or should we just reach out and throw them in the wastebasket today?

Two more little bits of reflection. I have two good friends who were in the restaurant business, I should say were in the restaurant business, not fly by night restaurateurs who come into business underfunded and went out of business a week later. These were people who had been in the business for a long time. Within the last four months both of them looked me in the eye and said, "You killed my business." We are talking about two restaurateurs. We are talking within a handful of either 30 to 40 employees, one of whom I happened to run into in a convenience store the other day. She said to me that when she was working in that smoke-filled environment, I was able to support my family and now I am working at minimum wage. Thank you.

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

ROLL CALL NO. 579

YEA - Ahearne, Belanger, Berry DP, Bolduc, Bouffard, Bowles, Bragdon, Brooks, Bruno, Bryant, Buck, Bumps, Cameron, Campbell, Carr, Chick, Chizmar, Clark, Clough, Collins, Cote, Cross, Dugay, Duncan, Dunlap, Fisher, Foster, Gagne, Gerry, Gillis, Glynn, Goodwin, Gooley, Hatch, Heidrich, Honey, Jacobs, Jodrey, Jones, Joy, Kasprzak, Kneeland,

Labrecque, Lemont, Lindahl, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey, McKenney, McNeil, Mendros, Murphy E, Nass, Nutting, O'Brien JA, O'Brien LL, O'Neal, Perkins, Perry, Pinkham, Plowman, Povich, Richard, Richardson E, Richardson J, Rosen, Savage C, Saxl JW, Schneider, Sherman, Shorey, Snowe-Mello, Stanley, Stanwood, Stedman, Tessier, Thompson, Tobin D, Tobin J, Trahan, Treadwell, True, Tuttle, Usher, Volenik, Waterhouse, Wheeler EM, Wheeler GJ, Winsor.

NAY - Andrews, Bagley, Baker, Berry RL, Brennan, Bull, Cianchette, Colwell, Cowger, Daigle, Davidson, Davis, Desmond, Dudley, Duplessie, Etnier, Fuller, Gagnon, Green, Jabar, Kane, LaVerdiere, Lemoine, Lovett, Mailhot, Martin, Matthews, McDonough, McGlocklin, McKee, Mitchell, Murphy T, Muse, Norbert, O'Neil, Peavey, Pieh, Powers, Quint, Samson, Sanborn, Savage W, Saxl MV, Shiah, Skoglund, Stevens, Sullivan, Townsend, Tracy, Tripp, Twomey, Watson, Williams, Mr. Speaker.

ABSENT - Frechette, Rines, Shields, Sirois, Weston.

Yes, 92; No, 54; Absent, 5; Excused, 0.

92 having voted in the affirmative and 54 voted in the negative, with 5 being absent, and accordingly the **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-1004) was READ** by the Clerk.

On motion of Representative SAXL of Portland, **TABLED** pending **ADOPTION of Committee Amendment "A" (H-1004)** and later today assigned.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

HOUSE DIVIDED REPORT - Majority (6) **Ought to Pass as Amended by Committee Amendment "A" (H-1024)** - Minority (5) **Ought Not to Pass** - Committee on **LABOR** on Bill "An Act to Ensure Just Cause Termination in Employment"

(H.P. 1503) (L.D. 2147)

TABLED - April 4, 2000 (Till Later Today) by Representative HATCH of Skowhegan.

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

On motion of Representative BRYANT of Dixfield, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** and sent for concurrence.

HOUSE DIVIDED REPORT - Report "A" (8) **Ought to Pass as Amended by Committee Amendment "A" (H-1061)** - Report "B" (3) **Ought to Pass as Amended by Committee Amendment "B" (H-1062)** - Report "C" (2) **Ought to Pass as Amended by Committee Amendment "C" (H-1063)** - Committee on **BANKING AND INSURANCE** on Bill "An Act to Establish a Patient's Bill of Rights"

(H.P. 543) (L.D. 750)

TABLED - April 6, 2000 (Till Later Today) by Representative SAXL of Bangor.

PENDING - Motion of same Representative to **ACCEPT** Report "A" **OUGHT TO PASS as Amended by Committee Amendment "A" (H-1061).**

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

Representative **SAXL**: Mr. Speaker, Men and Women of the House. It is my pleasure to present to you for your consideration the patient's bill of rights. It has been two years that the members of the Banking and Insurance Committee have wrestled with these complex issues. I want to thank the committee members for having done such a great job coming to agreement on the vast majority of the recommendations. Managed care is a very real concern for thousands of Mainers. This is an omnibus bill. It is one that contains several safeguards to protect the rights of Maine patients. Members of the committee will present a very brief summary of the bill and its provisions. I believe that Representative Perry may want to speak next.

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

Representative **PERRY**: Mr. Speaker, Ladies and Gentlemen of the House. We worked a long time on this bill and we broke it down item-by-item and I just want to outline two pieces. You may have heard that Maine is out in front on access standards with managed care. That comes from Rule 850 that we worked very, very hard on in the 118th Legislature. In the patient bill of rights we seek to codify Rule 850 into law. We also put into the patient bill of rights that any enrollee who is deaf, hearing impaired or visually impaired would receive assistance dealing with the HMOs and any appeals that they might have. With that, I will let another committee member speak on the next couple of issues. Thank you.

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

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. I stand before you today in presenting pieces of the patient's bill of rights that are important, as they all build up to protect Maine citizens and to allow them the best possible care that they are paying with premiums. This bill of rights allows for emergency care as put into the Rule 850 that you just heard the Representative from Bangor, Representative Perry, talk about. If you need to go to emergency care, there are certain things that must be paid for and must be given to you if it is deemed by a prudent layperson that you are in need of emergency care. You cannot go and then have your carrier say that you are not covered for that. Even more importantly is the provision that a patient will be able to carry his or her insurance if the carrier leaves the state if the carrier stops offering insurance. It allows you and it can best be shown as to what just happened with the state insurance policies. On March 31, if you were in the middle of treatment for anything, mental illness or pregnancy, when the state changed their carrier to Blue Cross and Blue Shield on April 1, you will be guaranteed by this piece of legislation to continue with the report that you have built with your doctor and be allowed to continue regardless if that doctor is in the network of the new one. It is a patient's right. You have taken the time and you have played by the rules and your insurance company has changed. You still have a right to maintain that relationship with a doctor that started treating you for whatever. I am going to keep this short and allow another member to speak. Thank you Mr. Speaker.

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

Representative **DUDLEY**: Mr. Speaker, Men and Women of the House. I rise to speak to you briefly today on two provisions

within LD 750, the access to prescription medications and the access to clinical trials. The prescription drug provisions require health plans that provide coverage for prescription drugs to do three things. When developing the drug formulary, which is a list of covered medications, HMOs must ensure the participation of physicians and pharmacists. Second, the exceptions to the formulary must be allowed when non-formulary drugs are medically indicated. Third, the health plans covering prescription drug and medical device coverage may not deny coverage for prescribed drug or device because that drug is investigational, so long as that prescription use meets the labeling standards authorized by the Food and Drug Administration.

To quote from the Bureau of Insurance study that surveyed the four largest HMOs in Maine, "All survey participants find that the access to prescription drug provisions would not materially change their current practices. Further, these plans appear to currently be already in compliance with the provisions."

The access to clinical trial provisions prohibit health plans from denying or limiting coverage for routine patient costs for an individual with a life threatening illness. It prohibits them from allowing them to participate in an approved clinical trial. If approved, what we mean is a study that is approved and funded by the National Institutes of Health or a group affiliated with the NIH. I would like to add that all 13 members of the committee supported these two provisions.

The SPEAKER: The Chair recognizes the Representative from Pittsfield, Representative Jones.

Representative **JONES**: Mr. Speaker, Men and Women of the House. As a member of the Banking and Insurance Committee, I rise to oppose the pending motion and let me tell you why. Number one, this LD without a doubt will increase the cost of health care insurance. Number two, Congress is presently working on a federal bill of rights, which if and when passed, will satisfy most of our concerns. Number three, our Executive Officer has appointed a Blue Ribbon Commission to look into the total health care issue and their findings are to be available prior to the next legislative session. Number four, LD 750 affects only those of us who are fortunate enough to have insurance. I fear that money will be taken away from those whom we want to help the very most. Right to sue was a major topic of discussion in our committee. Presently state employees, there are 40,000 plus, have the right to sue. Guess what, we were told that last year not one person took advantage of that provision. Number six, a Blue Cross representative informed the Banking and Insurance Committee that passing this LD would necessitate an increase in premium to the State Employee Health Plan of \$900,000 plus. That is just a little bit short of \$1 million. To the other providers it would amount to 2 and 3 percent increase in annual premiums. Number seven, Maine would become one of only five states, just four other states would have such a plan that is being proposed under LD 750.

Men and women of the House, please follow my light in voting on this issue. Thank you very much.

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

Representative **O'NEIL**: Mr. Speaker, Colleagues of the House. I have a couple more things that this bill will do for you and for all of us. Really quickly, standing referrals to specialists is an important piece of this because let's take an example of an cancer patient who needs to see an oncologist in order to eliminate the extra cost and administrative hassle of having to go see the primary care physician on a repeated basis every time

the patient needs to see the Oncologist. This bill is going to allow the primary care physician to allow that patient to go to maybe five visits without having to pass go. That is an important aspect of it. Probably one of the most important aspects and the one in which I took a great interest and have for a couple of years is the external review process. As most of you know, if an adverse health care decision comes down from the HMO, the enrollee right now has the opportunity to appeal. Some folks don't do that, but most of them do follow that with the help of their provider. The appeal comes in two levels and often times it is reversed if there is a good argument. If after jumping through those two hoops, the patient is not made whole, then the patient may, according to this bill, once this bill is enacted, partake in the external review process. You would have to write to the bureau and ask for it. It can't be done frivolously. The external review panel, the IRO, would rule on the case. It is almost like an arbitration or a mediation position. It would be binding on the HMO and there will be no conflicts. Once that happens, if you can find a patient who will push all the way to that level, you will probably have a meritorious case. If it were a frivolous case, I would submit to you that probably wouldn't get that far because most people will quit. As an example, the State of Connecticut has had this for over two years now and in that time only 15 cases have reached this level. Then, and only then, if the patient was still adversely affected, could the patient take the next step, which would be to seek remedy for a limited cause of action. I thank you and we will debate it more I am sure. Thank you.

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

Representative RICHARDSON: Mr. Speaker, Men and Women of the House. As Representative O'Neil stated, you must exhaust external appeal prior to filing suit. External review is vital to a system of health care, but it must have more than that. There must be delivery and execution. Concepts of justice embodied in the right to sue, must have hands and feet or they remain sterile abstractions. The hands and feet we need are sufficient means and methods of redress. I came upon a famous quote, which supports the right to bring suit. "A prince favors a few, but justice is a virtue which must be shared by all."

While partisans of the debate will offer dark predictions of what would happen if the Legislature adopts such a law, only one state provides a glimmer of actual evidence, because, so far, the lobbyists have been long on allegations and short on facts.

Let's look at all the facts. Three years ago, Texas became the first state to eliminate the legal quirk by passing a right to sue provision in the patient bill of rights. The experience so far suggests that the ripple effects are fairly gentle.

The insurance lobby spent millions of dollars in Texas warning that it would be dangerous to give patients the right to sue HMOs arguing the courts would be deluged with baseless litigation and health care would become affordable. In Texas, there have been five lawsuits from among four million Texans who belong to HMOs despite the insurer's dire predictions. There are no facts that medical costs are rising faster in Texas than elsewhere in the country. In fact, a lobbyist and general council for the state's HMO trade group in Texas stated. "There is no effect in Texas."

When asked to identify health plans in Texas that have been forced by the right to sue to raise prices or give expensive medical services they don't really need, the lobby could not find an example. Governor Bush was quoted as saying, "If

Americans have the right to sue for a damaged fence or an unsafe product, they should have the right to sue if their life or health has been damaged."

Doctors and hospitals already face liability, but often their decisions are forced upon them. It's only fair that insurance plans be held to the same accountability. Is it good for HMOs to disrupt care by forcing patients to switch doctors or denying coverage? Is it good to create financial conflicts of interests between patients and physicians? Is it good to encourage assembly-line medicine? There is a widespread frustration with the state of health care in Maine. Anger with managed care has penetrated Maine culture so deeply that it drowned out long and well-funded protests by insurance and business lobbyists. Even for a state with ebbing faith in many of its basic institutions, managed care hold an exceptionally low berth in public esteem.

Health policy experts are constantly talking about rationing and setting limits on costs and benefits. However, when we are sick, we want treatment and we want compassion and not excuses. We don't want to be told we need to wait. The Congressional Budget Office performed a cost estimate of the right to sue at .02 to 1.2 percent. That is without the caps that we placed into this bill. I want you to remember something as you consider voting on this particular piece of legislation. Remember that you, as a state employee, have the right to sue. Under EIRSA, there is an exemption, which allows state, county and municipal employees to sue their HMOs. How are we going to go back to our constituents at home and tell them that we have the right to sue our HMO, but we won't provide it to you? Without the right to sue, the patient bill of rights would be more properly named the patient bill of unenforceable rights. We have no putative damages in this particular bill. We have a \$400,000 cap on pain and suffering. We have a three-year statute of limitations. We didn't try to make the trial lawyers happy when we put this together, nor did we try to make the HMOs happy. We tried to do what was in the best interest of the people of Maine. Thank you Mr. Speaker.

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

Representative GLYNN: Mr. Speaker, Ladies and Gentlemen of the House. I rise this afternoon in opposition to the pending motion and ask that you defeat it and move on to Minority Report "B." I don't ask this of the House lightly. The debate in front of Banking and Insurance has been going on for roughly a year and a half on this patient bill of rights issue. I have to say that for most of the time the debate was excellent. We worked nearly a year and a half through the provisions of the patient bill of rights and I believe in a very bipartisan and cooperative manner. In fact, if you look at the language of the amendments before you, there are three reports. Each and every report is identical in every respect with the exception of one distinguishing issue and that issue being the provisions of suing.

When we look at health care and health care in Maine, what really is the crisis in health care? It is not the quality of care. We have absolutely wonderful quality of care in Maine. What the issue is, is the cost and the affordability of health care in Maine. Ladies and gentlemen of the House, we have 160,000 Maine people that presently do not have health insurance. To them, the patient's bill of rights means nothing, absolutely nothing. It will do nothing for them. What they need is health insurance. If you believe, as I believe, that passing on high costs and raising the costs of health insurance is, in fact, going to make it more

unattainable for them, you will join with me in defeating the pending motion and move onto the Minority Report. A patient's bill of rights only can help those that can help themselves by having health insurance.

When you look at the actual cost of health insurance, I have asked to have distributed to the members of the House information provided to the Office of Fiscal and Program review by Blue Cross and Blue Shield our health insurance carrier. They did an assessment from their actuary of the cost of the right sue provision. That is the only thing that is different between these two reports. This is all about lawsuits unfortunately instead of about health care today. In the information they provided they are projecting that based on the language that there will be a \$900,000 increase annually in the health insurance costs that the state pays to Blue Cross and Blue Shield. That is nearly a million dollars we are going to have to cut from programs in this state or from tax cuts back to our people and for what? To me, the most persuasive part of the patient bill of rights is the external review portions of the bill, which means when any one of our constituents has a problem with their HMO and not everybody in Maine has an HMO, but those people that do have problems with their HMO, they are going to be able to have an internal appeal to try and straighten it out. If they can't get it straight through an internal review, they are going to be able to appeal to a doctor's board. We are going to have doctors making health care decisions.

The Majority Report that is being pushed through this body today wants the final decision, not to be made by the doctors, it wants it to go one further step into the courtroom and be made by lawyers. When members of this body stand up and say to you that this is not a lawyer's bill and this isn't a trial lawyer's bill, that it is false. I know it is false because the Trial Lawyers Association endorsed it. This is a trial lawyers provision, but the patient bill of rights is a good bill. It is something that our constituents need. It will enhance the quality of care. Lawsuits and suing doesn't help anybody except billable hours for attorneys. Thank you.

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

Representative **SCHNEIDER**: Mr. Speaker, Men and Women of the House. You may be surprised to find out that members of HMOs already have the right to sue the HMOs for the health care decisions that they make. There is a strong line of cases in federal court, including a federal district court case and a third circuit court of appeals case. Both of which held that members of HMOs have the right to sue the HMO for decisions that are medical malpractice. Those are the decisions that we are concerned with here. The only prohibition against a person suing their HMO right now is EIRSA. It is the Employee Income Retirement Security Act. These cases have held that EIRSA is not all encompassing and does not prohibit all suits against HMOs. Suits based upon decisions by HMOs that are medical malpractice can proceed and can go to conclusion against the HMOs. This patient bill of rights is an important bill. The external review that it will provide is very important to subscribers of HMOs. I urge you to pass by Report "A" and go on to Report "B" and enact Report "B," which has the important parts of the patient's bill of rights, but does not enact the unnecessary statutory right to sue because the right to sue already exists in common law. Thank you.

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

Representative **NUTTING**: Mr. Speaker, Men and Women of the House. It is not often that you see the Banking and Insurance Committee members come before the House because we operate a little differently. We are located, if you haven't come to visit, on the fourth floor way down to the other end. There is not much down there. You wouldn't find us unless you were looking for us or unless you were looking for something else on this side and got twisted around somehow. We work our bills hard, generally, and generally come out with a consensus. Divided reports are foreign to us. A lot of the topics that we discuss are not very flashy. While you deal with gun issues, we talk about mortuary trust funds. While you deal with lobster laws, we talk about mutual fund holding companies. While you talk about salmon bills, we talk about viaticles. I never knew what a viaticle was until I came here. I am not going to tell you. I will tell you later. They are not exactly buzzwords for the 6:00 news. Banking and Insurance departments receive their funds from fees and licenses rather than the General Fund. We don't have much interaction with the Appropriations Committee either. You shouldn't be surprised today to see all of the members of the House that serve on that committee standing to speak on this issue. There is a lot of pent up debate up there.

This bill should have been the jewel of the Banking and Insurance Committee this year. There were a number of provisions that were proposed to the bill originally. Some were of a housekeeping variety and some were more substantive. There were a few mandates tossed in. During the polishing and the cutting of this jewel, we cut out some ideas that didn't belong. We touched up some areas that need to be modified. In the end, nine of the 10 provisions, which everyone agreed to include, came after compromise. That wasn't the unanimous rush right in and all nine people liked them. We compromised on those issues. Compromise often involves holding one's nose while working through the compromise.

There were two particular parts here that were nose holders for me. The first issue was the provision of coverage for all prescription drugs. It may seem strange for me, a pharmacist, to be arguing against the inclusion of all prescription drugs. What it does is it gives a cart blanche to the drug manufacturers and says, in effect, if you can bring a drug to market, we will make the insurance company pay for it, no matter how much it costs and no matter how much value it serves in the course of medical therapy.

The second issue is the one that requires to pay for all costs associated with clinical trials. It sounds like a great idea. It is not a bad idea. You should know and I am quoting from the mandate study done by the Bureau of Insurance, "There is a financial burden associated with these trials that is shared by the National Institutes of Health, other government agencies, firms that develop drugs and medical devices, individual researchers, health care institutions and insurers. The proposed law would increase the funding from insurers. It is not a good idea, I think, if you are interested in really trying to halt the increase on insurance premiums. There has been quite a bit of talk about that.

Going back for a second, there has been quite a bit of talk and you may have seen something in the hall today about the price of prescription drugs. I would suggest that giving the drug manufacturers an open invitation to develop whatever they want and assure them that they would be paid for it maybe is not the right approach to keep down the cost of prescription drugs.

Having said that, we all compromised on nine items. You have heard them all. The other members of the committee have gone through them and I won't bore you with them again. I won't bore you, I don't mean they bored you with them. The only controversial issue really is the right to sue. I know there are several attorneys in this body. There are three of them on my committee. Each and every one of them has earned my respect in the last two years. Some of my very best friends are attorneys. I can't help but think of what we might see on the television commercials should we pass this bill in the present version with the right to sue. You have seen the commercials. There is a young man, nice looking, three piece pin stripped suit, sitting on the corner of his mahogany desk, nothing but law journals in the background and he says something like, have you ever been sick? Do you know anybody who has been sick? Would you like to be rich? Can you spell HMO? Call us. We have an 800 number. It is in Massachusetts, but don't worry, we are licensed to practice in Maine as well. You don't pay us a dime until you get all the money that is coming to you.

Is the jewel of the Banking and Insurance Committee spoiled? I suggest that it is not. I suggest that it still lies hidden in amendment "B." In my pharmacy practice, I hear people complaining about insurance companies being hard to deal with, giving people the run around. I hear about the cost of their premiums. I hear about services not being covered, but I have never once stood in front of a patient and heard them say, I wish I could just sue my insurance company.

To finish and to wrap this up here without taking anymore of your time, I would say that when you vote, I would ask that you do so for the elderly in your district who can't afford more increases in their premiums, to do so for the young mother in your district who is worried sick about getting sick because she can't afford insurance and to do so for the small business person who knows how important insurance is to his or her employees, but doesn't know how much longer he or she can provide it. Somehow that lawyer on that mahogany desk, he will get by somehow. I urge you to reject Report "A." Thank you Mr. Speaker.

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

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

The SPEAKER: The Representative may pose his question.

Representative SAXL: Mr. Speaker, Men and Women of the House. To Representative Glynn, I am looking at Committee Amendment "A", the Majority Report, and I am looking at Page 19. I am looking at the fiscal note. I am wondering where on it he sees anything other than an allocation for \$15,000 all other provides for the allocation of funds to contract the approved independent review organization to conduct external reviews? Besides that \$15,000 on the Committee Amendment I was wondering where he came up with \$900,000 on the Committee Amendment?

The SPEAKER: The Representative from Portland, Representative Saxl has posed a question through the Chair to the Representative from South Portland, Representative Glynn. The Chair recognizes that Representative.

Representative GLYNN: Mr. Speaker, Ladies and Gentlemen of the House. In response to the good Representative's question regarding the fiscal note on the bottom of the HMO legislation, the fiscal note that was calculated at the bottom also contains incalculable costs. I decided to not accept

that fiscal note at face value and really go down into the Office of Fiscal and Program Review and find out what derives that number and where is it coming from and why don't they know? When I went to Jim Clair's Office, I received a copy of this memorandum from Blue Cross and Blue Shield that has been distributed to all of you. The information was provided to the Office of Fiscal and Program Review and it states on the second page in the second paragraph and I quote from the memorandum. "Applying this estimate to the projected HMO premium of \$118 million for the state employees health plan results in an estimated incremental cost of \$0.9 million for the plan year beginning April 1, 2000 if this legislation was in effect for the entire year." That is where I received the number from our health insurance carrier. I may add to respond to that question that if we truly want to know the cost of the effect of this legislation, we need to go and ask the people that actually do our work for us if we want option "A", option "C", or option "D," which ever of these committee reports. We need to ask them, the people that are billing us, that fiscal note.

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

Representative SAXL: Mr. Speaker, Men and Women of the House. I will respond to the Representative from Portland's question. The Representative from South Portland has indicated the figure that a lobbyist has provided him. That is a lobbyist who has been working very hard. Many of the insurance lobbyists have been working very hard against this bill. It is not a surprise to find such an inflated figure. The fiscal note on the bill actually is for \$15,000 and as we indicated earlier, the experience with the state employee's plan, which has a right to sue, has not provided an increase, nor has there been an increase do to the right to sue in Texas. Those really are the existing experiences. Thank you Mr. Speaker.

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

Representative SAXL: Mr. Speaker, Men and Women of the House. Very briefly in response to the Representative from South Portland, Representative Glynn. The reason the fiscal note says \$15,000 is because we have an independent, non-partisan group that writes fiscal notes in the State House in the State of Maine. They evaluate all the information that comes before them. The Fiscal and Program Review doesn't take the sides of either the industry or the consumers or the Democrats or the Republicans or anybody in these battles. They take the side of commonsense and they come out with a fiscal note as they see it.

The other issue that has been brought before you is the question of cost. I agree. The question of cost is an important one in the State of Maine. The question of the cost of mandates is an important one in the State of Maine. Let me just go through with you, first of all, groups under 20 in individual plans in the State of Maine, the cost of mandates in the State of Maine are under 3 percent. Would you believe that from the debate we have heard today? It is under 3 percent. It is 2.96 percent for HMOs in groups of 20 or fewer and 2.86 percent for individuals. What do you get for this? Let's see. You get maternity benefits. That is good. You get family coverage for children born while the coverage is in force. You get efforts with alcohol and drug dependency. You get mammography. You get dealing with reconstruction for both breasts if you have had breast cancer. You get pap tests. You get gynecological exams. You get breast cancer treatment. You get prostate cancer screening.

What do you get for your mandates? You get health insurance coverage. Isn't that a fabulous thing?

Ladies and gentlemen of the House, health care insurance, which doesn't provide coverage for sick people isn't worth anything. When an insurance company takes a decision away from a doctor and a patient in that sacred relationship, then the patient should have some recourse. If you can sue McDonalds today when you spill a hot cup of coffee on your lap, you darn well ought to be able to sue an insurance company, which says that your child can't have access to the kind of drug or the kind of treatment they need.

I hope you will listen hard to this debate and go on and protect each and every family in the State of Maine who needs to have the protection and needs to protect that relationship between the physician and the doctor and get the kind of health care they are paying for.

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

Representative **MAYO**: Mr. Speaker, Ladies and Gentlemen of the House. I had questioned, given the previous debate, whether I would rise on the patient bill of rights, but as the only House member of the Banking and Insurance Committee who hasn't spoken at least once on this issue, I think I should let you know where I am at this point.

As some of you in this body know, when the bill was originally voted in the Banking and Insurance Committee instead of it being an 8 to 3 to 2 split, which is the current vote, it was a 9 to 3 to 2 split. I was with what is today the Majority Report. My concern with the Majority Report deals with the amount of the cap on the right to sue. I do not share the feelings of those who support Report "B" with regard to the right to sue. I attended two of the three public hearings that the committee held around the state. I went to Saco and I went to Lewiston. I have talked to my constituents and I have had calls, e-mails, letters and rightly or wrongly, those people who have contacted me and one of the things that I heard in Saco and in Lewiston loud and clear was that citizens by enlarge equate the right to sue with the patient bill of rights. Is that correct or is it incorrect? Is it a good way to look at it? That is up to you to make your own decision. It is my feeling that we have a majority, not a large majority, but we have a majority of the people in this state that day in and day out tie those two issues together.

We have heard that this is a trial lawyers bill. They have endorsed it. There are many other groups that have endorsed this particular piece of legislation. The Maine Medical Association has endorsed it. The AARP has endorsed it. The Consumers for Affordable Health Care have endorsed it. That is a group that is made up of over 20 consumer groups in the State of Maine. It does have rather wide support. The report that I signed onto, which is Report "C", I would be very surprised if it saw the light of day in this body, at least at this point on the 7th day of April. We may see it at a later time. That forces me to cast a vote either for or against Report "A." We have heard from my seatmate on the left that he had problems with some of the items in Report "A" prior to when we got to the right to sue. He held his nose and went along with those issues. I think this afternoon, at least at this point, with regard to LD 750, I shall hold my nose and vote green. Thank you ladies and gentlemen.

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

Representative **O'NEIL**: Mr. Speaker, Colleagues of the House. Often times our debate boils down to that four letter

word, cost. Cost, we all know, has to be looked at. We really have to look at it in the context that the Representative from Portland in the corner introduced. Cost is one thing, but we really should be considering value. We have to ask ourselves how valuable health coverage is only to healthy people. Is it valuable to those who are ill if they cannot, in fact, follow through with the care that they have it for? As we go about in our communities and we talk to our constituents about this bad bill on the right to sue, limited as it is, we have to ask ourselves how many of them can really value that? How many of them would ever really need it? Very few, I submit. If they do need it, if a hand was lost as a result of the decision by the HMO to send the patient to a different hospital and the delay caused the hand to come off, well that one person in my district to whom that will happen, will find value in the remedy available to them if we pass Report "A." It comes down to a value, as the good Representative from Bath mentioned, and I understand the consignment that he was in over this. Whether one values Maine people's lives and hands and health care and health in general and \$150,000 or \$400,000 is kind of a silly question to ask? You really have to ask if either one of those is appropriate? We had to do something. I submit to you that the \$400,000 value, I guess, makes me appreciate those values a little more.

The underlying problem that I had when we were doing this and I think the Representative from Bath had the same problem, was that placing any cap at all on this pain and suffering, we are putting the HMO in the position of weighing the health of the enrollee versus the relative cost of treating that health. It may be a \$2 million procedure out there to help fix somebody who is sick. Maybe it is a cancer treatment that will cost \$2 million. I am being arbitrary. If that person is going to be sick in six months, there are good people at these HMOs, don't get me wrong, but if they have to make that decision as to whether or not to spend the \$2 million on the treatment, especially when this person is likely to be dead soon or take their chances and roll the dice on a maximum penalty of \$400,000? That will weigh on their minds a little bit I would think. When we talk about cost, I look at it if you take the good Representative from South Portland's estimate at its face value, if is a factor of .08. Go out to dinner. Get a nice meal and spent \$50. The waiter comes by and says here is your bill. It is \$50. You go to pay it. You enjoy that bill. You willingly pay for it because they can do it better than you can do it at home. You get value. Then, look at the other side of the coin and you buy health insurance from an HMO and you buy it because you need it. You buy it because it provides value. It is expensive just like the dinner is.

Let's say you are in the restaurant and you say to the waiter that I want to make sure that in case that jambalaya I just ate is bad and I get sick and die, am I going to be covered? Are you guys going to cover my family? The waiter will say, sure, that is taken care of. That \$50 meal that you just bought is a factor of .08, if we didn't have that coverage, it would cost you \$49.60. We added on 40 cents on to your tab just to make sure that this chef, who doesn't have a really good track record, there are a lot of dead people in his wake, just in case you get sick from that jambalaya. That 40 cents provides you value. If, we don't really have evidence it will be that much, it does increase premiums by less than 1 percent or whatever the estimate might be, the question is value. Do you think it is worth it to have that coverage, the recourse to keep accountable those entities in whose hands your life and health rests?

The last thing I want to say because I don't want to get up a third time, Mr. Speaker. We checked with the Department of Criminal Justice and I say this because it is pertinent to the whole issue of whether you place a cap at \$400,000 or whatever the cap would be. We have a life sentence available to criminals in Maine. A life sentence isn't handed out all that much. Currently there are 38 people in the Maine State Prison who are serving life terms. In 1999, there was one conviction for life. In 1998, there was one. Very rarely does it happen, but it is available to the judge or it is available to the jury. It, as we all know, serves as a deterrent. Knowing that \$400,000 cap is there versus no cap or even a lower cap, I submit to you that it provides that deterrent also for the best care that we can get. With that, I appreciate the indulgence of the body and hopefully we can move on and accept Report "A." Thank you.

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

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

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

Representative SULLIVAN: Mr. Speaker, Men and Women of the House. I attended all three of the public hearings that we had and I would only correct Representative Mayo from Bath on one. While Saco is my hometown, you actually came to my district, Biddeford, that I share with Representative Frechette and Representative Twomey. It doesn't really change the outcome at all, except I wanted to say something good about Biddeford.

One of the things that we received was from the NFIB, the National Federation of Independent Businessmen. It was a wonderful handout. I kept it since December. There was a survey. It was done by the Kaizer Harvard Program. It was a national survey of small business executives. There are many pages, but I want to give you the results of two that I think are vastly important. We are talking to probably the most effected group and that would be small business. Ninety percent of our businesses in Maine are small businesses and that fact is not lost on our committee. It is certainly not lost on me. One of the questions was, would you still favor this law, the patient bill of rights, if you heard it might increase the cost of people's health insurance premiums? While there is a whole chart, I will tell you that 51 percent of the people would favor the bill if it allowed patients to sue a health plan for malpractice like they can now sue a doctor. That is 51 percent of business people. Also, there was a question even more important. If your share of health insurance premiums for a single employee increase by \$1 to \$5 and \$15 to \$20, what would your company be most likely to do? Over 50 percent for the \$1 to \$5 per month per employee said they would absorb the additional cost. Fifty percent of small business people in this survey handed out by the lobbyist for NFIB said that if their premiums were to go up \$1 to \$5 per employee per month, they would absorb that cost. It is absolutely astounding to me. I have to tell you that I am not sure I would have answered it this way if I were a small business owner. If it were to increase \$15 to \$20 per month per employee, then 45 percent of the small business executives responded that they would absorb the cost. I think business executives have realized it is important to keep your employees healthy, happy and consequently productivity and moral go up. I have this available and I certainly would share it with anyone that would like to see it. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Pittsfield, Representative Jones.

Representative JONES: Mr. Speaker, Men and Women of the House. In regard to a fiscal note, I think I may have something here that may be helpful. It went out to all members of the Banking and Insurance Committee. It is from our legislative analyst and I have to compliment her. I think we have one of the best. She is certainly non-biased. She will help either side. She has done one terrific job. I would also say that at the very last of several meetings, I think I attended them all, I was courteous, polite, patient and listened a great deal. At the very last meeting, I kept telling myself that I suspect that this is going to necessitate an increase in premiums. It never came up. At the very last meeting I said I have to be asking some questions. I asked our chairman and they looked at the department representatives in the audience and they didn't really know. They couldn't tell at this point. I mentioned that maybe one of the providers might help out. I asked if I might have permission to ask the provider. I was told to go ahead. I did. That is where I got the \$900,000 figure from Blue Cross that I referred to earlier.

Let me quote and then I will be done. This is dated March 31 and it was in regard to the fiscal note on the patient bill of rights legislation. "You will note that the fiscal note indicated that the right to sue provision may increase the employer cost to the State Employee Health Insurance Program, but that the amount of the potential increase in the fiscal year in which additional funds may be required from the General Fund because of those increases cannot be determined at this time. The fiscal note states that any additional cost as a result of the provision will depend on the number of lawsuits filed and the damages awarded. Finally, the fiscal note states that there is limited data available to estimate the cost impact of the state's share of the health insurance program." Thank you very much.

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

Representative DUDLEY: Mr. Speaker, Men and Women of the House. In response to the Representative from Pittsfield, Representative Jones, I would say that since the State Employees Health Plan went to a managed care plan there have been 50 second level appeals of health plan decisions. From those there have been two suits against the state plan since 1993. Both of those suits were decided in favor of the insurer. It is important to remember here that the state employees already have the right to sue. With that right to sue, zero dollars have been awarded by courts in Maine to those employees suing. Relevant to the words of the Representative from South Portland, Representative Glynn earlier in the debate, he mentioned that this has nothing to do with those 160,000 Mainers or perhaps even more that don't have health insurance. He is absolutely right. It is a completely separate issue. What we are talking about now is the quality of health care coverage for those people in Maine who are lucky enough to have it. I think it is important for us to remember here that when we are talking about a lawsuit, we are talking about somebody who has been denied coverage related to their health and that they feel their health plan ought to have covered. We are talking about people who have made it to the courts after going through two levels of internal appeals at their insurer, one level of external appeal and not until they reach that point can they sue in the courts. They have jumped through all the hurdles. We are not talking about a lot of people. Since 1993, again, state

employees who already enjoy that right to sue, there have been two cases. Relevant to that \$900,000, I don't understand. If there have only been two cases and neither or them were decided in favor of the plaintiff, if the insurer won in both cases, why then would a new right to sue, which the state employees already have, suddenly create a \$900,000 burden on the state? It just doesn't add up to me.

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. During this session, I have been on the Labor Committee and we have heard many, many bill in regards to workers' compensation. One of the biggest things with workers' compensation was the prevail bill and the trial lawyers getting involved in the Workers' Comp System. When we made the workers' comp reforms, the biggest thing to bring down the cost of workers' comp in Maine was getting the trial lawyers out of the Workers' Comp System. There were some workers' comp lawyers who used to make millions of dollars suing on workers' comp cases. In place of all the workers' comp trial lawyers, we had the Workers' Comp Board set up. The Workers' Comp Board is very similar to the external review provisions in the patient's bill of rights. The Workers' Comp Board is doing an excellent job processing cases and deciding things fairly and as far as an external review for the patient's bill of rights, I think that just makes sense. If the HMO makes a mistake, there should be someone outside of the HMO making that decision. I don't think we need to let trial lawyers back into this so they can make millions of dollars in health care lawsuits that they can't make in workers' comp anymore.

The good Representative from Portland, Representative Saxl, reminded me of the case where a lady down somewhere made millions and millions of dollars in a lawsuit against McDonalds for spilling coffee on her lap. I think such a lawsuit and such an award was absolutely outrageous. I bet we are going to see a lot more outrageous damage awards in health care lawsuits.

Also, the Representative from Biddeford, Representative Sullivan, had talked about how many businesses would cut off their employee's health care if the cost went up and how many would keep providing it. She provided numbers on how many would keep providing it. If I am correct, if the cost went up \$1 to \$5, 50 percent would still provide that health care coverage. If it went up \$15 to \$20, 45 percent would still provide that coverage. I am not a math expert, but if 50 percent are going to keep doing the coverage, then there must be 50 percent that is not going to do the coverage anymore or undecided. There are too many workers in Maine who are already not covered by health care and many businesses that are on the brink of deciding whether or not to provide health care for their workers. A patient's bill of rights for health care is wonderful, but if the patient's bill of rights with the right to sue provision is going to mean that the rights these patients have is that their employers will not longer cover them for health care, I don't think that is very good.

Finally, when we had the debate on the prevail bill earlier this year. At the end of the public hearing in the Labor Committee all these hoards of trial lawyers that came in were leaving the committee and I asked one of my other committee members where they thought all these trial lawyers were going. He looked over at me and said, "They are going up to Banking and Insurance. They are doing the patient's bill of rights there. They

want the right to sue." Again, I urge you to vote against the pending motion. Thank you.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. I rise for the 160,000 people who do not have insurance and who do not a voice here today. I congratulate the Banking and Insurance Committee for the hard work that they have done. It is a beginning. They came to Biddeford and I was very pleased that they did. The people in Biddeford that I represent, not all have health insurance. This is a beginning. We have all heard the horror stories of HMOs and I have had my own personal experience with HMOs. It is a beginning. It doesn't go far enough. I will say single-payer for as long as I am in this House. I am singing Representative Volenik's song. He has found an ally in me. I wanted to be on the record to say that I will support this. I will support the right to sue. I want to go on the record as saying I want the patient's bill of rights for every single person in the State of Maine. There are 160,000 who have no insurance, single-payer, single-payer, single-payer. Thank you Mr. Speaker.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. To clarify a couple the points that have been made, especially in regard to the figures provided by the Office of Fiscal and Program Review by Blue Cross and Blue Shield. I thought perhaps I could better answer the question of the discrepancy in the amount of money. Obviously the right to sue is something that Maine people have under common law and have had. The difference between what we currently have and the current draft this Report "A" before us for consideration is that we are putting a placard of advertising lawsuits to the State of Maine and to the people of the State of Maine and worse, the Trial Lawyers Association and trial lawyers in general. The figure of \$9 million was arrived at as an annual figure by actuaries for Blue Cross and Blue Shield. That information was provided to our office of Fiscal and Program Review. Blue Cross and Blue Shield has been hired to be our health insurance provider for the State of Maine. I have heard a number of members cast disparaging remarks about the information that has been provided to that office as being dishonest or inaccurate. Before I would make that leap in supposition and that is a quantum leap, I would remind members that when we ask the question of how much something costs sometimes we get answer we don't like.

I remember when I order a pizza the other day I asked the deliveryman, how much is a cheese pizza and how much is a loaded pizza? He said a cheese pizza is \$9 and a loaded pizza was \$14. I could have chosen to not believe him, ordered the loaded pizza and been surprised when the pizza arrived. I would like to regard this the same as the health care insurance. We have asked our health care insurance provider how much will it cost for this right to sue provision, this placard advertising suing rights in the State of Maine? Their actuaries supplied the information to our office of Fiscal and Program Review as being \$900,000 annually. I would not be surprised to see this bill, ladies and gentlemen, when we return. I would like to remind you that it is an unfunded liability for the next Legislature. Exactly what grounds will we stand on and how surprised can we be when they told us if you do this, this is going to be the bill?

What will be our ability to fight that bill? I would say about zero, ladies and gentlemen.

Lastly, I would like to leave you with the most important thought and that is the 160,000 of uninsured people. We are going to raise the cost of health insurance in the State of Maine if Committee Amendment "A" is adopted. When you raise the cost of health insurance, the people that cannot afford health insurance will have a greater amount of difficulty in affording that health insurance. If there is a right here that is being abridged, it is the right of the poor to have access to health insurance and that is not going to be accentuated by raising the cost of health care. Let's work together, united, for agreement. We have bipartisan 100 percent agreement on our committee for the provisions contained inside of the Committee Amendment "B" draft. The problem comes when we start advertising lawsuits and raising the cost of health care for our people. Thank you.

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

Representative COLWELL: Mr. Speaker, Men and Women of the House. I feel compelled to speak about this although I am not an actuary. I am not an advertising executive. I am not a trial lawyer. I do wonder though after the good Representative from Portland's very eloquent and reasoned explanation of the current state insurance system that we have in place knowing state employees, I do represent a fair number of them. They are not an unsophisticated bunch. I am sure they are well aware of this placard that is on our current insurance policy that allows them the right to sue their HMO. Given that, I am just very curious how we can extrapolate from these potential actuarial figures from a large insurance company in relationship to the actual experience that the good Representative from Portland has pointed out in that since 1993 when my constituents and many of your, state employees, went on managed care and had the right to sue in their insurance policies. There have only been two cases costing the State of Maine and costing the insurance companies is actually zero dollars. I am puzzled by that. There seems to be a little disconnect for me.

Regarding the confusion over the statistics question by the good Representative from Standish, presented by my friend and colleague from Biddeford, Representative Sullivan, I believe she stated that in that survey given the choice that the businesses would choose to absorb the extra \$5 to \$10 increase. I don't think the question was really asked whether they would drop coverage. I just have to say that the good Representative from Oakland, Representative Nutting said that he has heard a lot of his customers at the drug store with countless complaints about their insurance coverage, being denied coverage, being denied coverage for prescriptions and on and on and on. I have too and although I am not a pharmacist, we have all heard from distraught constituents. Perhaps the mom who as a last resort tried to get her terminally ill child to a specialist who wasn't on the HMO list and was denied. I guess for me it really boils down to how can I tell that mom when her child is denied that treatment that she can't sue her HMO, but she can sue her car insurance company if they won't restore her automobile to appropriate pre-fender bender state? Thank you Mr. Speaker.

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

ROLL CALL NO. 580

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

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

ABSENT - Frechette, Marvin, Shields, Sirois.

Yes, 87; No, 60; Absent, 4; Excused, 0.

87 having voted in the affirmative and 60 voted in the negative, with 4 being absent, and accordingly Report "A" Ought to Pass as Amended was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (H-1061) was READ by the Clerk.

Representative SHOREY of Calais PRESENTED House Amendment "A" (H-1077) to Committee Amendment "A" (H-1061), which was READ by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Shorey.

Representative SHOREY: Mr. Speaker, Ladies and Gentlemen of the House. Now that we have passed a patient bill of rights we now need to help the people of Maine to pay for their medical needs. This can be accomplished though establishing a medical savings account. This account will allow Maine residents to put pre-tax dollars away to pay for eligible medical expenses, which would include, health insurance premiums and deductibles. If we are establishing a patient bill of rights, then let's give the residents of the State of Maine a way to pay for their medical needs without the additional burden or using after tax dollars. This would help make health care in the State of Maine more affordable to all the residents of the State of Maine. Thank you.

Representative O'NEIL of Saco moved that House Amendment "A" (H-1077) to Committee Amendment "A" (H-1061) be INDEFINITELY POSTPONED.

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

Representative O'NEIL: Mr. Speaker, Men and Women of the House. First of all, I salute the future member of the other body from Washington County. I think this is a neat idea. I think the committee thinks it is a neat idea. As a matter a fact, it was introduced very late in the deliberations on this bill. It has been introduced to this Legislature several times over the years and the time was never right to set up medical savings accounts. That was the consensus of the Legislature. It was just not the right time. Given the circumstances of health care today,

insurance and taxation, just maybe this is the time to give it that consideration. That consideration will entail a whole lot more introspection than we can give it right here today. In addition to saluting the Representative from Calais, if I am lucky enough I will be back again here the next time around and I will work with him to bring it up and to give it that consideration that it deserves. Please support my motion. Thank you.

Representative SAXL of Portland **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-1077) to Committee Amendment "A" (H-1061)**.

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

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-1077) to Committee Amendment "A" (H-1061). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 581

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

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

ABSENT - Frechette, Fuller, Marvin, Shields, Sirois.

Yes, 75; No, 71; Absent, 5; Excused, 0.

75 having voted in the affirmative and 71 voted in the negative, with 5 being absent, and accordingly **House Amendment "A" (H-1077) to Committee Amendment "A" (H-1061)** was **INDEFINITELY POSTPONED**.

Representative **MACK** of Standish **PRESENTED** **House Amendment "B" (H-1084) to Committee Amendment "A" (H-1061)**, which was **READ** by the Clerk.

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

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. What this amendment does would allow mandate free catastrophic care plans to be sold in the State of Maine. This amendment is about equal access. Right now through an HMO you can't get one of these plans with a high deductible and no mandates to cover you in case of an emergency. Some people, however, in Maine can get them. If you are self-insured because of the federal EIRSA law, the big, big companies who self-insure their workforce can offer these mandate free plans and pick which mandates they want to cover their employees with. I think that it is important that we have

equal access to all workers and all people in Maine to be able to get these plans. If the next election doesn't go to well for me, I am going to be on the market shopping for health insurance. My situation is I am young. I am in relatively good health and I don't want to spend a huge amount of money on health care. I would rather use my money on other things. What I do worry about is catastrophic care. If something really bad happens to me, if I get cancer, if I lose a leg, if I need a dependence taken out, some huge cost that I wouldn't be able to afford for health care. I want to make sure that my health care plan covers me in case of that emergency. If a little thing happens, if I twist my ankle or I need to get my annual checkup, I can pay for that. It is an unfortunate little thing that may happen. My ideal plan would be low cost with a huge deductible. Sort of what some people get for their car insurance. I would be covered if something bad happens, but the little things I can handle. It is sort of like shopping for a car and on the lot there are many choices and on one end you have a great brand new Cadillac and on the other end you have an old Dodge. I would love to get that Cadillac. It has fancy tires, leather seats, a CD player, some new electronic gizmo I haven't figured out, this thing in the corner that lets me see infrared and all these bells and whistles on the Cadillac that is wonderful. It is sort of like the HMO health plans with all the mandates we have.

The good Representative from Portland, Representative Saxl, listed all these great things we can get in a health plan. Some of them I may want and some of them I may not. The old Dodge, on the other hand, doesn't have a leather seat, doesn't have a CD player and, in fact, it has an old 8-track with an am radio in it. It is not the best looking car in the world, but you know what, it will get me to work and home and take care of what I need. It is very similar to health plans. Individuals should be able to choose what things they want in their health plans and what things they don't need, especially people who are uninsured. They tend to be younger like myself and not have a lot of disposable income to spend on health insurance and other things. People my age would tend to want to plan that doesn't cost them too much, but will protect them in case of an emergency. I think we can trust the people of Maine to choose what things they want in their own plans. I guess you can say I am pro-choice when it comes to health care coverage.

I think it is important that we have these plans available just like anybody who works for a big company can get where they can choose what they want and what they don't want. Having these low-cost plans available by the very definition of low cost means that more people will be able to afford health care in Maine. Isn't that a goal we all strive for? I urge you to vote for this amendment and I thank you very much.

Representative **SAXL** of Portland moved that **House Amendment "B" (H-1084) to Committee Amendment "A" (H-1061)** be **INDEFINITELY POSTPONED**.

Representative **GLYNN** of South Portland **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "B" (H-1084) to Committee Amendment "A" (H-1061)**.

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

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "B" (H-1084) to Committee Amendment "A" (H-1061). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 582

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

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

ABSENT - Frechette, Fuller, Marvin, Shields, Sirois, Wheeler EM.

Yes, 79; No, 66; Absent, 6; Excused, 0.

79 having voted in the affirmative and 66 voted in the negative, with 6 being absent, and accordingly **House Amendment "B" (H-1084) to Committee Amendment "A" (H-1061) was INDEFINITELY POSTPONED.**

Representative GLYNN of South Portland **PRESENTED House Amendment "C" (H-1092) to Committee Amendment "A" (H-1061), which was READ by the Clerk.**

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

Representative GLYNN: Mr. Speaker, Ladies and Gentlemen of the House. Before you is House Amendment "C," which provides for a \$900,000 appropriation in our budget to cover the cost of the increased health care for the patient bill of rights. On your desk there is a handout from Blue Cross and Blue Shield of Maine stating that if we pass the patient bill of rights that, in fact, our health insurance cost is estimated to rise \$900,000 annually. This is to provide for that so that we do not have a structural gap when we return in the 120th Legislature. My good friend from Portland, Representative Saxl, had stated that this memorandum in front of you was a threat. I counter to you, my fellow members, this is not a threat, this is a promise. This is a bill and let's provide for that bill. Thank you.

Representative SAXL of Bangor moved that **House Amendment "C" (H-1092) to Committee Amendment "A" (H-1061) be INDEFINITELY POSTPONED.**

The same Representative **REQUESTED** a roll call on her motion to **INDEFINITELY POSTPONE House Amendment "C" (H-1092) to Committee Amendment "A" (H-1061).**

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

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

Representative MACK: Mr. Speaker, Right Honorable Men and Women of the House. I urge you to vote against the pending motion. If the bill is not \$900,000 like the letter the good Representative from South Portland has passed to us, I suspect

it would be something very well in that ballpark. The Office of Fiscal and Program Review said it was incalculable costs. I would guess that those costs are going to be very, very close to the \$900,000. The people who are going to bill us have told us that they will be in fact billing us. I think it is a very prudent measure to set aside \$900,000 in case, the people who bill us for our health care, actually increase our costs by the amount that they told us they would bill us, even though that is an incalculable amount. I think while we are talking about insurance that planning for insurance that we will be paying off the likelihood to reduce the risk of whatever the bill is and I think it is very likely to be \$900,000. I urge you to vote against the pending motion.

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

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

The SPEAKER: The Representative may pose her question.

Representative MCNEIL: Mr. Speaker, Men and Women of the House. Since I did vote for the patient bill of rights, I think it is only responsible to find out where the money is coming from and how are we going to account for this so that I will be able to know as we make the budget deliberation? Thank you.

The SPEAKER: The Representative from Rockland, Representative McNeil has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bangor, Representative Saxl.

Representative SAXL: Mr. Speaker, Men and Women of the House. The cost can be absorbed within the existing parameters of the budget.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House. It was just about a year ago and about at that same looking toward the goal post and finishing up point of a session that we began talking about cost overruns, problems that that could create. At that time, it was Medicaid. As we were doing that full budget, we were talking about the possibility of an \$80 to \$100 million overrun on Medicaid. We heard, don't worry. It won't happen. We were about \$15 million off, but you were \$65 million off. We are hearing warning signals here of a \$900,000 cost. As the Appropriations Committee works now, they are also dealing with the consequences of health insurance costs that are dramatically above what we projected a year ago. Looking towards the future, you are hearing a cautionary word of a \$900,000 possible bill. It is echoes of a year ago. Thank you Mr. Speaker.

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

Representative GLYNN: Mr. Speaker, Ladies and Gentlemen of the House. In response to the good Representative from Rockland, Representative McNeil's question of where the cost overrun will come from, by House Amendment "C" it dictates that this amendment will increase the General Fund cost for the bill by \$900,000 for fiscal year 2001. Therefore, it will be coming from the General Fund.

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

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

The SPEAKER: The Representative may pose her question.

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. Did the Representative from Bangor, Representative Saxl, in her answer when she said that the cost could be absorbed within the budget. Is the budget in this statement, our state budget, General Fund or the already budgeted amount for paying for health insurance benefits?

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

Representative **SAXL**: Mr. Speaker, Men and Women of the House. What I was indicating was that the cost will be absorbed from existing resources.

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

Representative **CLOUGH**: Mr. Speaker, Ladies and Gentlemen of the House. We have been told and we have evidence from Blue Cross and Blue Shield that there will be added costs. It may be \$900,000 or it may \$850,000 or it may be some other number, but it certainly will be substantial. I ask you today to do the fiscally responsible thing and vote against the pending amendment and support putting aside the money to pay this bill.

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

Representative **O'NEIL**: Mr. Speaker, Men and Women of the House. The good Representative from Bangor was making reference to the official fiscal note that we have from the Office of Fiscal and Program Review. It says an allocation of \$15,000 from what we call Other Special Revenue Funds from the Bureau of Insurance will be needed. That will be absorbed. That does not come out of the General Fund at all. That is the fiscal note on the bill. We don't really make up our own fiscal notes. They do.

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

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

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

Representative **MCNEIL**: Mr. Speaker, Men and Women of the House. What I am asking is one person is telling us to \$900,000 and did I understand the Representative from Saco, Representative O'Neil, to say that the fiscal note was only \$15,000?

The **SPEAKER**: The Representative from Rockland, Representative McNeil has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Saxl.

Representative **SAXL**: Mr. Speaker, Men and Women of the House. In answer to the good Representative's question, the non-partisan office of Fiscal and Program Review wrote a fiscal note. In the fiscal note it stated that the cost that they could estimate would be \$15,000. They did say that there would be costs potentially that they couldn't determine. It is the opinion of the chair of the committee that those costs will fall within the existing contract that we have today, that we are actually allocating funds for, hopefully this session, for the state employees health insurance and that it would fall within those revenues.

Let me just add for one brief moment that the state employees, as a matter a fact, have the right to sue today. It is

part of their existing contract. There has never been a suit by a state employee against Blue Cross and Blue Shield. It is the thought of the Office of Fiscal and Program Review, since there never, in fact, has been suit and that that right is still availed of those people that there isn't going to be a fiscal impact that cannot be absorbed within the existing cost, the existing budget, today.

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

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

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. To the Representative who said that \$15,000 would be available from special revenues to pay for the extra cost. If it comes from a special revenue account, out of the Bureau of Insurance, then I would assume that these are not to pay for direct costs associated with our contract, but to pay for some other purpose. Would you please tell me what that other purpose would be?

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

Representative **SAXL**: Mr. Speaker, Men and Women of the House. As the fiscal note says, all other, which is the special dedicated account, for \$15,000 provides for the allocation of funds to contract with approved independent review organizations to conduct external reviews of adverse health care treatment decisions and to render decisions. I believe external review is included in both pieces of legislation.

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

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

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

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. To anyone who cares to answer, if this cost can be absorbed through either the existing contract with Blue Cross and Blue Shield or through existing resources, would somebody please tell me why there hasn't been an investigation why Blue Cross and Blue Shield is charging us an extra \$900,000 or where in state government there is an extra \$900,000 is currently sitting to absorb this?

The **SPEAKER**: 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 Portland, Representative Saxl.

Representative **SAXL**: Mr. Speaker, Men and Women of the House. From the mirthful look on a friend of mine in the gallery, I don't believe that they are charging us an extra \$900,000. I don't believe there is an extra \$900,000 and I don't believe there will be an extra \$900,000. Thank you very much.

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. I think we heard those same assurances last year and if those comments would have been followed up saying I guarantee it and I will pay for the difference out of my own pocket, this budget would be a lot easier to do with that \$60

million overrun in their for Medicaid not being there and picked up by people who made the guarantee.

I would like to share with you some advice as a much younger person and an old timer who always went to Kennebunk Town Meetings and had always shared with me when I would go to Town Meetings. He would say that when things are unclear, the main way when they don't make the facts clear, sonny, just vote no. Tonight no would be red.

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

Representative **NUTTING**: Mr. Speaker, Men and Women of the House. Just one parting thought here. If you have had the opportunity to check recently on what it costs for a state employee for a family membership, it is approaching \$1,000, I believe. In my business I have Blue Cross and Blue Shield policy too. I don't have the Cadillac policy, but the family plan is somewhere in the neighborhood of \$600 or \$650 a month. I would submit to you that perhaps the fact that state employees are able to sue Blue Cross and my employees are not, is one of the reasons for the \$300 discrepancy. One of the things that bothers business the most is not the fixed cost, it is not the cost of goods, it is not the electricity, it is not the cost of heat in the winter, it is the things you can't predict. That particularly bothers insurance companies. They like to know down to the fifth decimal point what their cost of service is going to be. When you throw something into the mix like the right to sue, then they have to buffer their costs for what are unknown. I would suggest that we have already seen the difference in the cost to sue based on the state employees premiums. Thank you.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Glynn. 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 **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I rise just to point out that the Office of Fiscal and Program Review does not bill the Maine State Legislature for health insurance. Blue Cross and Blue Shield of Maine does. The actuary from Blue Cross and Blue Shield of Maine filed a statement with the Office of Fiscal and Program Review, which is on you desk, stating that if the right to sue privilege that you just adopted is adopted, premiums will increase by \$.9 million beginning April 1, 2000 if it is enacted. That seems very straightforward to me and, again, it would only seem prudent that we would not pass this kind of deficit onto the 120th Legislature. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. I apologize if I am asking a question that has already been asked, but the right to sue that we, as state employees, currently enjoy and the right to sue that is being passed, what are the differences in damages as we have enjoyed as opposed to the new plan? Can anyone tell me what my rights would have been up until today with the right to sue?

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

A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "C" (H-1092) to Committee Amendment "A" (H-1061). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 583

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

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

ABSENT - Frechette, Fuller, Marvin, Shields, Sirois.

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

76 having voted in the affirmative and 70 voted in the negative, with 5 being absent, and accordingly **House Amendment "C" (H-1092) to Committee Amendment "A" (H-1061) was INDEFINITELY POSTPONED.**

Subsequently, **Committee Amendment "A" (H-1061) was ADOPTED.**

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-1061)** and sent for concurrence.

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

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

BILLS IN THE SECOND READING
House

Bill "An Act Concerning Certain Contracts Affected by Electric Industry Restructuring" (EMERGENCY)
(H.P. 1937) (L.D. 2680)

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

Bill "An Act to Reduce the Release of Mercury into the Environment from Consumer Products"

(S.P. 734) (L.D. 2084)
(C. "A" S-648)

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

On motion of Representative JOY of Crystal, was **SET ASIDE**.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House. I would like to just tell you what this bill does and doesn't do. In essence, it creates two new positions within the Department of Environmental Protection. It sets up study committees with the dentists and with the automobile manufacturers to come up with a plan to deal with products that contain mercury down the road. The only thing that it really does is put a restriction on disposal of fluorescent bulbs. The problem that this is going to create is more pollution in the environment. There is a fee for the disposal of each one of these bulbs and at present there is only one place in the state and it is pilot project in Auburn that is taking these back to dispose of them. There is supposed to be a program of training for all the other ones, but they are going to ignore the possibility of developing a plan for disposing of these fluorescent bulbs. There is hope that other people will get into the business of taking care of these so that there is some way to dispose of them. Hopefully, you will be able to take them to your local landfill, but that is not in the immediate future. What is going to happen to these bulbs is that rather than pay a fee to dispose of them, they are going to wind up out on some back road somewhere that somebody is just going to chuck them out of the window of their car or their truck and you are going to have that mercury back in the environment. It is a very poor bill. Mr. Speaker, when the vote is taken, I request the yeas and nays.

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

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

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

Representative MARTIN: Mr. Speaker, Members of the House. Let me just first indicate that this is a 10 to 2 report from the Committee on Natural Resources. Obviously the agreement between the Representative from Crystal, Representative Joy, and myself sort of fell apart after last night. Let me point out that right now under federal law about 90 percent of the mercury lamps, by law, have to be collected. They are collected through a system throughout this state. What we are doing is going the rest of the way and when we have a system in place, then we will be able to pick them up. We are not trying to do what has been suggested. I would point out that one of the most important elements we can create in this state is moving towards elimination of mercury in our waste system. It is one of the more harmful ones. I think if this bill becomes law and it works the way we think it will, it will do what this state has done as a leader in taking care of dioxin. I think it is that major. I really think that the work that this committee did in trying to get to the report that we have before you is, in itself, amazing. When we began, of the 13 people, there were 13 positions. We were literally all over the place. We worked together to craft, I think, a piece of legislation which will work towards achieving the goal that we want to do and that is to become as mercury free as we can in

this state. I certainly urge you to vote for passage to be engrossed of this document tonight.

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

Representative TWOMEY: Mr. Speaker, Men and Women of the House. I apologize to Representative Martin, but I do need to go on record on this issue. This is talking about mercury and one of the largest releases of mercury comes from incinerators, which Biddeford hosts. The light bulbs are just a small portion of the waste stream that has mercury. There are batteries. There are all kinds of products that get thrown into the waste stream. We have no trash police in Biddeford. When those trucks come in from New York, Pennsylvania, Massachusetts and as far as Texas, we are importing mercury, because we are importing this waste and there is no way for those people to open the garbage bags and look to see what is in them. Two weeks ago we just had an explosion of a propane gas tank. They couldn't even find that. Mercury is an issue. We have the greatest releases of mercury through incinerators and I really support this and I needed to go on record for my constituents. Thank you Mr. Speaker.

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

Representative DAIGLE: Mr. Speaker, Ladies and Gentlemen of the House. I am on this report in favoring the Ought to Pass. I will remain so. My only interest in speaking tonight is to be completely and technically accurate in all matters. We reviewed the discharge of mercury from waste incinerators in this state. There are four. The incinerators in Orrington and Biddeford are responsible for 18 pounds each, per year. The incinerator serving the City of Portland and surrounding areas is responsible for approximately 200 pounds of mercury each year. Campfires are responsible for approximately 500 pounds of mercury each year. Thank you.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Tobin.

Representative TOBIN: Mr. Speaker, Ladies and Gentlemen of the House. The Representative from Crystal, Representative Joy, is correct. This does authorize a study to be done. The study is to be in to our committee before the rest of this is implemented. The reason for that is to make sure that the infrastructure that is needed to implement this plan is in place. Thank you Mr. Speaker.

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

ROLL CALL NO. 584

YEA - Ahearne, Andrews, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gagnon, Gerry, Glynn, Goodwin, Gooley, Green, Hatch, Heidrich, Honey, Jabar, Jacobs, Jodrey, Jones, Kane, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, Madore, Mailhot, Martin, Mayo, McAlevey, McDonough, McGlocklin, McKee, McKenney, McNeil, Mendros, Mitchell, Murphy T, Nass, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Pieh, Plowman, Povich, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Rosen, Samson,

Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Shorey, Skoglund, Snowe-Mello, Stanley, Stanwood, Stevens, Sullivan, Tessier, Thompson, Tobin D, Tobin J, Townsend, Tracy, Trahan, Tripp, True, Tuttle, Twomey, Usher, Volenik, Waterhouse, Watson, Weston, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Buck, Cameron, Campbell, Foster, Joy, Kasprzak, MacDougall, Mack, Murphy E, Pinkham, Schneider, Stedman, Treadwell, Wheeler EM.

ABSENT - Frechette, Gillis, Marvin, Matthews, Muse, Norbert, Perry, Shields, Sirois.

Yes, 128; No, 14; Absent, 9; Excused, 0.

128 having voted in the affirmative and 14 voted in the negative, with 9 being absent, and accordingly the Senate Paper was **PASSED TO BE ENGROSSED as Amended** in concurrence.

ENACTORS

Emergency Measure

An Act to Provide Assistance in the Cleanup of the Plymouth Waste Oil Site

(H.P. 1672) (L.D. 2339)

(C. "A" H-1040)

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

Representative STEDMAN of Hartland **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken.

ROLL CALL NO. 585

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

NAY - NONE.

ABSENT - Bolduc, Frechette, Gillis, Marvin, Matthews, Muse, Norbert, Perry, Rines, Savage C, Shields, Sirois.

Yes, 139; No, 0; Absent, 12; Excused, 0.

139 having voted in the affirmative and 0 voted in the negative, with 12 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act Regarding Lifetime Hunting and Fishing Licenses

(H.P. 1924) (L.D. 2670)

(H. "A" H-1064)

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

Emergency Mandate

An Act to Revise the Salaries of Certain Kennebec County Officers

(H.P. 1933) (L.D. 2677)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 124 voted in favor of the same and 6 against, and accordingly the Mandate was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Promote Maine's Dairy Industry

(H.P. 1696) (L.D. 2402)

(S. "A" S-562 to C. "A" H-858)

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 4 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Mandate

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 2000

(H.P. 1934) (L.D. 2678)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 126 voted in favor of the same and 6 against, and accordingly the Mandate was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Resolves

Resolve, to Require the Board of Environmental Protection and the Maine Land Use Regulation Commission to Adopt Consistent Rules Regarding Cutting and Removal of Vegetation

(H.P. 1868) (L.D. 2604)

(C. "A" H-1072)

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

Resolve, to Provide Temporary Relief from the Excise Tax on Diesel Fuel

(H.P. 1832) (L.D. 2568)
(H. "A" H-912 to C. "A" H-901)

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

On motion of Representative JOY of Crystal, was **SET ASIDE**.

Subsequently, the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Acts

An Act to Limit Mandatory Overtime

(H.P. 729) (L.D. 1019)
(S. "A" S-630 to C. "A" H-893)

An Act to Amend the Franchise Law

(S.P. 681) (L.D. 1931)
(S. "A" S-642 to C. "A" S-554)

An Act Concerning Eligibility Requirements for State Employees, Teachers and Participating Local District Employees to Purchase Military Service Credit

(H.P. 1649) (L.D. 2318)
(C. "A" H-1075)

An Act Regarding Oil Storage Facilities and Groundwater Protection

(H.P. 1731) (L.D. 2437)
(H. "A" H-1049 to C. "A" H-877)

An Act to Revise the Law Protecting Farmers' Right to Farm and to Provide for Nutrient Management Plans to be Confidential

(H.P. 1861) (L.D. 2596)
(C. "A" H-1069)

An Act to Require Nutrient Management Plans for Fish Hatcheries Except for Aquaculture

(S.P. 1052) (L.D. 2642)
(H. "A" H-1051 to C. "A" S-629)

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

(H.P. 1909) (L.D. 2657)
(H. "A" H-1073)

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

An Act to Increase the Minimum Wage in Maine

(S.P. 425) (L.D. 1262)
(S. "A" S-620 to C. "A" S-534)

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

On motion of Representative HATCH of Skowhegan, was **SET ASIDE**.

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

Emergency Measure

An Act to Correct the Inadvertent Repeal of the Abandoned Property Disposition Process for Municipalities

(H.P. 1845) (L.D. 2582)
(C. "A" H-1000; H. "A" H-1085)

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

Emergency Measure

An Act to Clarify the Enforcement Authority of the Manufactured Housing Board

(S.P. 1059) (L.D. 2650)
(C. "A" S-649)

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.

Emergency Measure

Resolve, to Improve the Quality of Long-term Care Services

(H.P. 33) (L.D. 42)
(C. "A" H-1089)

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

Representative KANE of Saco **REQUESTED** a roll call on **FINAL PASSAGE**.

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

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

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken.

ROLL CALL NO. 586

YEA - Ahearne, Andrews, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Brennan, Brooks, Bruno, Bryant, Buck, Bull, Bumps, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Foster, Fuller, Gagne, Gagnon, Gerry, Gillis, Glynn, Goodwin, Gooley, Green, Hatch, Heidrich, Honey, Jabar, Jacobs, Jodrey, Jones, Joy, Kane, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Martin, Mayo, McAlevy, McDonough, McGlocklin, McKee, McKenney, McNeil, Mendros, Mitchell, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Pieh, Pinkham, Plowman, Povich, Powers, Quint, Richard, Richardson E, Richardson J, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Sherman, Shiah, Shorey, Skoglund, Snowe-Mello, Stanley, Stanwood, Stedman, Stevens, Sullivan, Tessier, Thompson, Tobin D, Tobin J, Townsend, Tracy, Trahan, Treadwell, Tripp, True, Tuttle, Twomey, Usher,

Volenik, Waterhouse, Watson, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - NONE.

ABSENT - Frechette, Marvin, Matthews, Muse, Norbert, Perry, Rines, Shields, Sirois.

Yes, 142; No, 0; Absent, 9; Excused, 0.

142 having voted in the affirmative and 0 voted in the negative, with 9 being absent, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Acts

An Act to Enhance the Enforcement of Civil and Criminal Violations

(H.P. 182) (L.D. 260)
(C. "A" H-1056)

An Act to Establish the Child Ombudsman Office and Improve Child Protective Procedures

(H.P. 397) (L.D. 528)
(C. "A" H-1080)

An Act to Improve the School Administrative District and Community School District Budget Development and Approval Process

(H.P. 949) (L.D. 1346)
(C. "A" H-1079)

An Act to Expand Pretrial Services for the Bail and Supervision of Criminal Defendants Statewide

(H.P. 1446) (L.D. 2067)
(C. "A" H-1070)

An Act to Generate Economic Development Through Community Service and Education

(H.P. 1761) (L.D. 2467)
(C. "A" H-1083)

An Act to Provide Payment for Overtime Amounts Due and to Reimburse for Costs Incurred in an Action to Recover those Amounts

(H.P. 1803) (L.D. 2530)
(C. "A" H-1076)

An Act to Implement the Recommendations of the Blue Ribbon Commission to Establish a Comprehensive Internet Policy

(S.P. 995) (L.D. 2557)
(C. "A" S-632; H. "A" H-1050)

An Act to Implement the Recommendations of the Court Unification Task Force

(H.P. 1829) (L.D. 2563)
(C. "A" H-1081)

An Act to Repeal Certain Inactive Boards and Commissions and to Amend Certain Laws Governing Boards and Commissions

(H.P. 1932) (L.D. 2676)
(H. "A" H-1091)

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

An Act to Improve School Safety and Learning Environments
(S.P. 298) (L.D. 870)
(C. "A" S-657)

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

On motion of Representative STANLEY of Medway, was **SET ASIDE**.

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

An Act Regarding Length of Service, Retirement Age and Retirement Benefits for State Police Officers and Certain Other State Employees

(S.P. 911) (L.D. 2363)
(C. "A" S-643)

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

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

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

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

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

ROLL CALL NO. 587

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

NAY - NONE.

ABSENT - Brooks, Frechette, Marvin, Matthews, Muse, Norbert, Perry, Rines, Savage C, Shields, Sirois.

Yes, 140; No, 0; Absent, 11; Excused, 0.

140 having voted in the affirmative and 0 voted in the negative, with 11 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act Relating to Eligibility for the Elderly Low-cost Drug Program

(H.P. 1900) (L.D. 2644)
(C. "A" H-1088)

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

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

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

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

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

ROLL CALL NO. 588

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

NAY - NONE.

ABSENT - Ahearne, Brooks, Frechette, Marvin, Matthews, Mayo, Muse, Norbert, Perry, Shields, Sirois.

Yes, 140; No, 0; Absent, 11; Excused, 0.

140 having voted in the affirmative and 0 voted in the negative, with 11 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Joint Order (S.P. 598)

Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Establish the Council on Children and Families and to Ensure the Continuation of the Governor's Children's Cabinet"

(S.P. 1076) (L.D. 2679)

Reporting **Ought to Pass** pursuant to Joint Order (S.P. 598).

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

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

The Bill was **READ ONCE**.

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED** in concurrence.

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

(H.P. 1858) (L.D. 2593) Bill "An Act to Extend the Use of Emotional Disability as an Indicator in the Identification of Exceptional Children" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass**

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

There being no objection, the House Paper was **PASSED TO BE ENGROSSED** and sent for concurrence.

ORDERS

On motion of Representative GAGNE of Buckfield, the following House Order: (H.O. 41)

ORDERED, that Representative Tarren R. Bragdon of Bangor be excused Tuesday, March 14 and Monday April 3, 2000 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Robert A. Daigle of Arundel be excused Monday, April 3, 2000 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Roger D. Frechette of Biddeford be excused Thursday, March 23, 2000 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Roger D. Frechette of Biddeford be excused Tuesday, March 28, 2000 and Wednesday, March 29, 2000 for health reasons.

READ and **PASSED**.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-661)** on Bill "An Act to Protect the Health and Well-being of a Nursing Infant of Separated or Divorcing Parents"

(S.P. 888) (L.D. 2307)

Signed:

Senators:

LONGLEY of Waldo

BENOIT of Franklin

TREAT of Kennebec

Representatives:

THOMPSON of Naples

JACOBS of Turner

MITCHELL of Vassalboro

NORBERT of Portland

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

Signed:

Representatives:

LaVERDIERE of Wilton

BULL of Freeport

PLOWMAN of Hampden

MADORE of Augusta

WATERHOUSE of Bridgton

SCHNEIDER of Durham

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-661)**.

READ.

CONSENT CALENDAR
First Day

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

Representative PLOWMAN of Hampden **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 Hamden, Representative Plowman.

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. This bill came before the Judiciary Committee as a result of a well-publicized case this summer. Some parents couldn't come to the terms and a judge couldn't come to terms with how to handle the visitation to the father of a nursing infant. This adds another paragraph or another item that a judge has to consider when looking at the well being of a child in a divorce or custody arrangement. The people on the Minority Report believe this is already covered under all of the other items. This would add paragraph P. This carries through everything in A through O as to what would be best for the child. It might have been just a matter of sensitivity training on the part of the judge. It is not necessary for us to add another whole paragraph when it comes to this issue. I would ask you to reject the pending motion and keep what is before the judge as the best interest of the child and not complicate the statute. Thank you.

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

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. Briefly, the current law is and will continue to be what is in the best interest of the child. Under current law, there are a list of a number of factors that the court takes into consideration when looking at custody issues and this is just to place an issue that says when a woman is breast-feeding a child under one year of age, only, that it is a factor that the court should consider when making a custody determination. It does not create any kind of a presumption or anything like that. It just says that it is a factor that the judge should consider. The majority of the committee felt that was a reasonable approach to this and I would ask for you to support the Majority Ought to Pass Report.

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. 589

YEA - Ahearne, Bagley, Baker, Berry RL, Bolduc, Bouffard, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Cross, Davidson, Desmond, Dudley, Dugay, Etnier, Fisher, Fuller, Gagne, Gagnon, Gerry, Goodwin, Green, Hatch, Jacobs, Kane, Mailhot, Martin, Matthews, Mayo, McDonough, McGlocklin, McKee, Mitchell, O'Brien LL, O'Neal, O'Neil, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Saxl JW, Saxl MV, Shiah, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, True, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Belanger, Berry DP, Bowles, Bragdon, Brennan, Bruno, Bryant, Buck, Bull, Bumps, Cameron, Campbell, Carr, Cianchette, Clough, Collins, Daigle, Davis, Duncan, Dunlap, Duplessie, Foster, Gillis, Glynn, Gooley, Heidrich, Honey, Jabar, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett,

MacDougall, Mack, Madore, McAlevey, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Plowman, Richardson E, Rosen, Savage C, Savage W, Schneider, Sherman, Shorey, Snowe-Mello, Stanwood, Stedman, Sullivan, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Brooks, Frechette, Marvin, Muse, Norbert, Perry, Shields, Siros.

Yes, 67; No, 76; Absent, 8; Excused, 0.

67 having voted in the affirmative and 76 voted in the negative, with 8 being absent, and accordingly the Majority **Ought to Pass as Amended Report was NOT ACCEPTED.**

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

Divided Report

Majority Report of the Committee on **LABOR** reporting **Ought Not to Pass** on Bill "An Act to Change the State Retirement System from a Defined Benefit Plan to a Defined Contribution Plan"

(H.P. 1484) (L.D. 2124)

Signed:

Senators:

DOUGLASS of Androscoggin
LaFOUNTAIN of York
MILLS of Somerset

Representatives:

HATCH of Skowhegan
GOODWIN of Pembroke
MATTHEWS of Winslow
SAMSON of Jay
DAVIS of Falmouth

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1094)** on same Bill.

Signed:

Representatives:

TREADWELL of Carmel
MacDOUGALL of North Berwick
MACK of Standish

READ.

Representative HATCH of Skowhegan moved that the House **ACCEPT** the Majority **Ought Not to Pass Report.**

Representative MACK of Standish **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass Report.**

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

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

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. I urge you to vote against the pending motion so that we may pass this bill. What this bill does is it helps state employees. It gives them a more secure retirement and gives them a choice on their retirement. What this bill would do is allow all state employees to have a choice between a defined contribution and a defined benefit plan. What we have now for state employee retirement is a defined benefit plan. A defined benefit plan is where we define the benefits of what you get when you retire. Right now we tell state employees if you work for so long and you follow the rules, here is what you get when you retire. What this bill would do is give the state

employees the choice of the existing plan or allow them the option of a personalized retirement account. The personalized account is called the defined contribution plan. It would give all new employees the choice of staying in this plan or going to the new plan. All existing employees would have the choice of staying in the plan where they are in now or of going towards the new defined contribution plan.

The benefits of a personalized defined contribution account are many. The first is that instead of saying here is what you get when you retire, we tell all state employees here is how much money we are going to contribute towards your retirement. The state employees would then get to invest that money in the market and mutual funds and bonds or whatever they feel is their best investment. At retirement, they not only get the benefit coming to them, but they own their whole plan. They get more money for their retirement. There are some handouts going around from the good Representative from North Berwick and the good Representative from Carmel that show the different amounts of money that someone would get at retirement if they were in some of the different types of plans.

A defined contribution plan is also very portable. Right now you have to vest five or 10 years to get into state employee retirement. With a personalized plan, you vest instantly as soon as you start working you get 7 percent of your pay towards your retirement. That starts getting benefits from you investments instantly. Also, if someone wants to work for the state, they can switch jobs. They can work for the state after working somewhere else or they can leave state employment and go to the private sector if they want. This plan is very portable. We had many different people come to the Labor Committee on a myriad of different retirement bills this year. The Maine School Superintendent's Association commented on a retirement bill about the teachers. They said that the present system is bad public policy. We need to attract the best and brightest into this profession. Many other states realize this and are making provisions so educators may retire without a penalty at age 55 or a combination of a number of years and age. With this plan you don't have to worry about that. You can retire whenever you want. There are no retirement penalties because if you are not working longer, you don't get any more contributions towards your retirement account. If you choose to work longer, 7 percent of your pay goes to your retirement.

As I said, unlike the defined benefit plan, the current plan, this plan that state employees may choose if a state employee were to retire at age 65 get in an accident and die two weeks later, they would be out of luck and their family would be out of luck under the current plan. Under this plan, they own all the money from their retirement plan. They can leave the entire plan to their spouse, their children, to charity or if someone even wants to they could even leave that money to the State of Maine.

The benefits for the taxpayers are many also. As I said, we are not forcing anybody to go into this plan, but if state employees choose this plan, there will be no long-term liability. We have a problem with the unfunded liability in the state employee retirement right now, but if someone has a personalized retirement where we contribute the money while they work to their retirement. We don't owe them anymore when they retire. We have already paid for their retirement. It is impossible to have a long-term liability. The next generation won't have this liability, this potential debt and these payments to make hanging over their head.

As I said, there is a problem with the unfunded liability currently. Currently when someone works for the state we contribute 11.5 or 12 percent of their pay towards paying off the unfunded liability in state employee retirement. That is a wonderful idea and that will still continue under this plan. We don't change that. Another benefit for state government is it is very easy to budget. It is much easier to budget. You get 7 percent towards your retirement and then all the many different complicated types of retirement plans we have and trying to figure out how long people are going to work, actuarial tables and other plans. It makes the budgeting much easier. I am sure members of the Appropriations Committee will appreciate the stability in knowing how to budget future retirement costs.

Also, like I have shown from the teachers, having a portable plan that gives employees a much better retirement makes it much easier for the state to attract the best and brightest to come work for the good people of Maine. Last year we passed a landmark piece of legislation in the Labor Committee that I was very proud to support. It dealt with state employees retirement and said that we could never again raid state employee retirement like we did in the early '90s. That was a shame when it happened and we should never take a benefit away from a state employee once they have earned it. This bill won't take any benefits away from them. In fact, it gives them a new choice. They can stay in the existing system or go to the new personalized defined contribution plan. We are not forcing anybody to switch and we are not taking away anything from state employees and we are giving them something new.

One of the problems with the current state employees plan is the level of technological sophistication used at the retirement office. Right now if a state employee who is working wants to find out what benefits do I get when I retire or what is the present value of my benefits? The retirement system said that within two months they may possibly be able to figure that information out for you. I have a little 401K plan and a few stocks. I could go into the retiring room and up to the second tell you the value of my retirement. For state employees, they have to wait two months and that is a good response from the retirement system. That is a shame. The Minority Report on this bill, includes an appropriation so that we can computerize state employee retirement and let them know the value of their retirement and what benefits they would have. Just like anybody in the private sector, they have the knowledge of what is in their retirement and whether a state employee chooses to stay in the existing plan or get the new personalized plan, they will have that information. The state employees will get all that information about what is in their retirement.

I want to rap up by repeating something one of the members from one of the government teacher's unions said when they came to testify on one of the many bills before the Labor Committee about retirement. They said that a secure retirement is the ultimate for our membership. I couldn't agree more. I was proud to be the sponsor of this bill to allow every single state employee or teacher or participating local district member to have the benefits of these personalized plans so they can get a much stronger retirement. Thank you and I urge you to vote against the pending motion.

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

Representative HATCH: Mr. Speaker, Ladies and Gentlemen of the House. I am not going to go on at length. I think we have had a lot debate today, but I do want to pick up

two different issues. First of all, having served on the Retirement Committee for eight years, I think I know a little bit about the retirement system. Number one, we have a fairly sizable unfunded liability that we have to pay off no matter what we do. Number two, we have made some significant improvements in the last few years in the retirement. Yes, we did pass landmark legislation last year in regards to not touching benefits again. I am glad for that. Often when we were in trouble in the state we were robbing Peter to pay Paul and more often than not, we were robbing the retirement system or not paying the retirement system the required amount.

You have to think about that unfunded liability. No matter what we do, we are going to have to pay that unfunded liability and that is going to add to the cost of doing anything new. I urge you not to take the used car salesman's word for this because we do have a responsibility to all those people who belong to the retirement system currently to make sure that we don't make any mistakes in the next few years and that that unfunded liability is paid quickly.

In regards to the Representative from Standish, Representative Mack's concern and interest in the retirement systems automation, it is appreciated, but it is something that is shared by many of us. The retirement system knows from its own actual painful experience that the road to an automated retirement system is not paved with outside contracts. The system's initial automation efforts, which they tried just a while back, were in the hands of outside contractors and they failed. Only by bringing automation in house under the direct responsibility and control of the staff has the system made substantial gains in the last few years. In making progress, the system has occasionally used outside contractors and will continue to do so for specific defined pieces of work. It will continue to do so when it is cost effective. Automation is costly, as Representative Mack's proposal suggests. The dollars he provides would not be nearly enough to buy outside contractors even if their use was the road to automation, which as the retirement system and this member of the retirement committee knows from experience, it is not. I would ask you to follow my lead and vote for the Majority Ought Not to Pass Report. Thank you.

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

Representative TREADWELL: Mr. Speaker, Ladies and Gentlemen of the House. Very briefly I would like to mention that the unfunded liability, the Minority Report, would pay 12 percent of the employee's salary to retire that unfunded liability. That is what the state is doing right now. I think that we will find in the future that we are going to see the defined benefit retirement plans are going to be like the dinosaurs. Most companies are switching to defined contribution plans. Defined benefit plans are disappearing. Representative Mack has alluded to that, but very briefly I would just like to go through some of the differences between the two systems that, the three major differences, as I see it.

With the current system there is no portability. You can take your money out of the plan if you leave government service, but you leave everything else. The state's contribution is left there unless you have been vested and in that case you leave the money until you reach normal retirement age and then you can draw a small benefit. With the defined contribution plan, you can take that money with you wherever you go and it belongs to you. Right now the state has exposure to unfunded liability and in the

future if the stock market goes south, there is going to be additional unfunded liability because of investment losses. Under the defined contribution plan there will be no state liability. We, right now, on the Labor Committee have a continuous stream of state workers that are constantly coming in for modifications in their retirement plan. That is the nature of the beast with a defined benefit retirement plan.

We just had a bill today, as a matter a fact, to improve the State Police retirement. Under the defined contribution plan, those people have any number of different options available to them for their retirement. I think that is probably enough. I urge you to vote against the Ought Not to Pass report and go with the Minority Report.

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

Representative DAVIS: Mr. Speaker, Ladies and Gentlemen of the House. I think Representative Mack's plan has some merit. It is one I disagree with. I am reminded of the movie I saw recently, Dr. Zhivago where a very wealthy man had his plantation confiscated by the Russian Revolutionaries. When he went to the country estate, he got there and he said you can't use this house, the people have taken it over. I would remind my good friend that I am one of the people. This is my retirement system he is talking about. As we all know, the retirement system was raided in the 1990s. It is now slowly getting better. The teachers are stirred up about the fingerprinting. We don't need to stir them up again about some new retirement plan. I think we ought to leave it as it is and try to keep improving it. The question that I guess I would leave you with is this. If you go off with another plan with a lot of young teachers coming in, wouldn't that weaken the fund generally, less money coming into it? I think it would weaken the fund. I don't think this is the time for it. I hope you will defeat the motion even though I think my good friend from Standish has thought this out, worked hard, done a good job and I thank him for it. I just don't agree with at this time. Thank you Mr. Speaker.

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

Representative SHERMAN: Mr. Speaker, Ladies and Gentlemen of the House. I may not be allowed back in caucus, but I have to speak on this item. I think the concept is good. I know that some nations of the world now are doing some sort of combined retirement system. Six little items came to mind among others and I draw attention to the Maine State Retirement System and I was on the early retirement saving board. I picked up a little bit with the retirement system. I was around teaching when the retirement system itself was investing very well. They were investing in 3 percent bonds in Boston Bank, years ago. They had very poor returns back in the '60s and '70s and that has subsequently been changed. Really there are six full items that I want to talk about. This will confess to the fact that I still hold a teaching certificate. I heard the term if you had a good retirement system you would get the best and the brightest. I think if you paid those individuals who are working in your schools, you would get the best and the brightest. Question about choosing beneficiaries, it was said if you retired on the Maine State Retirement System and you die, your beneficiary is out. There are five options for picking beneficiaries. You can do it in all sorts of ways. Those are the current ones that I know of. I mentioned the unfunded liability and I guess that was already mentioned. We know the raids that took place and never were paid back. I understand that maybe on the Appropriations Table

there might be a process of putting more money into that to save almost a billion dollars. That is another issue I guess. I mentioned about the poor retirement system couldn't tell when people were going to retire and how long they are before they are going to retire. If you ask them what the average age of teachers retiring, they will very quickly tell you. Teachers and state workers obviously couldn't tell how much they were going to get. That is 2 percent every year for every year you teach. It is pretty easy to do the math there and you can get within probably \$500 or \$600. You know what you are going to get. On the business of 401Ks, if this were a mutual fund and you were trying to run this yourself, I think you open yourself up to great liability. My understanding is there are more mutual funds kicking around if you are using a mutual fund, then are stocks. It is something around the order of 10,000 and 70 percent of those don't beat the market. You have 30 percent of those beating the market. If someone were going to become their own investor, great times in the last two years, but if you look ahead 35 or 40 years, I think they might not be so great times. I don't know how I am going to vote, but I think I do.

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

Representative MENDROS: Mr. Speaker, Ladies and Gentlemen of the House. I fail to see what is wrong with offering an option. When you look at these numbers here, \$36,000 a year, assuming a 4 percent return, \$36,000 a year annual annuity as opposed to 18 to 24, allowing the option to get double retirement money. We have heard the 4 percent real return on investment figures suspect. I think they are absolutely absurd. Anybody who knows anything about long-term investments knows what you can expect over a 40 year period. I have sold annuities and I have sold life insurance for two years, over a 40 year period you can invest in blue chips and stocks and expect a 6 to 8 percent return. You can invest in triple A bonds that aren't going anywhere and you can get a 6 percent return. These figures that the good Representative from Standish, Representative Mack, has before us are absurd. They are way too low. Triple A bonds, which are the safest things out there will give you a better return than this. We are not talking about randomly investing somewhere. I think we are doing a great disservice to our state employees by not giving them this option. When I look at the returns that we must be getting in the other plan, we are lucky they don't have the ability to sue us for violating our fiduciary responsibility in giving them such a terrible return.

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

Representative MACDOUGALL: Mr. Speaker, Ladies and Gentlemen of the House. In answer to my good friend from Falmouth, Representative Davis, a reminder that the bill allows choice for the employees. That is an important feature of it. The future workforce, more and more, will be one of comprised individuals who have had several jobs, several enterprises that they will have in their backgrounds. The average employee going into some studies say that that employer will have an average of seven jobs during their working life. It will be a considerable asset to have this broad background going into the new economy to fit a particular company's needs or an employees needs. I think it is a very positive future in that regard. In my case, the company that I worked at for 19 years this past week, I passed an anniversary and it is interesting to note that I did call tonight to tell them I wouldn't be in tomorrow

and I still do have a job, which is kind of nice. At any rate, 19 years is a long time to be at a place. It is getting to be more and more the exception, not the norm as it used to be. In fact, my friends and my peers back home don't have that kind of longevity. Times have changed. They are changing and they will continue to change. The portability feature that Representative Mack's bill presents is very, very important for what is actually happening and what is going to happen in the foreseeable future.

The defined contribution plan is therefore vital for the workforce of the 21st Century. You know, the University of Maine System has adopted a defined contribution plan. This session we have passed it for the Technical Colleges. Already in this state folks are seeing the merits of a defined contribution plan. Another feature to contrast between the defined benefit and defined contribution plan is that the retirement earnings from a defined contribution plan can be passed on to your heirs. The retirees actually own the investment vehicles that provide their income. In the defined benefit plans, the retirement contributions are absorbed into the system after they die instead of for their beneficiary, depending on what they had chosen.

In the Labor Committee we have spent a lot of time on retirement issues. In fact, often times we have consensus in this area. Earlier today we passed LD 2363, which dealt with the retirement issue for the State Police. In fact, at the public hearings we had several bills involving mental health workers, DEP workers and a host of others. As you try and serve the people, the employees of the state in a fair and equitable way, one of the challenges is to maintain that fairness without bankrupting the bank. As soon as you think you fix something and got it under control, like in that particular bill, we ended up combining the State Police, mental health workers, Capitol Security and some DEP workers that were first responders. That took a lot of compromise on the committee's part. I, for one, really wanted the mental health workers as part of that picture, but I wasn't necessarily on board with the DEP workers, but in order to get the ball of wax, I went along with it. I am glad I did. In fact, on that very bill that we passed today, there were three reports. It went under the hammer, but there were three reports, which shows the complexity of the retirement issue in its entirety. It is a little bit like a faulty plumbing system, if you will. All of a sudden there is a leaky pipe. If you are like me and not really a plumber, you get the soldering iron out or whatever and try and repair the leak and hope you can get by until the plumber shows up.

In the retirement system issues, if you fix one leak, all of a sudden you get that under control and something springs down the pipe or down the road a little bit. Eventually you can do that and do a lot of patchwork, but eventually the plumbing system needs to be replaced. This particular bill doesn't replace the defined benefit system that we currently have in place. It just adds an important option. Ladies and gentlemen of the House, the defined contribution plan gives choice and options for our state employees and this will go a long way to improve the overall system.

Where I work we offer a 401K plan to our employees. It is a wonderful benefit. Indeed we have young men and women from Maine who come in, often times some of them don't even have a high school degree, they go on to get one as time goes on, but we often times have young people that really don't have any focus of what they want to do with their lives as far as a working life. Our company, fortunately, offers a trade where they can

learn all kinds of opportunities. They also get to join a 401K plan at the same time. These are people that certainly are not financial people in any stretch of the imagination. I am sure they would all admit that. Yet, they are all doing very, very well.

Just today on one of our breaks I spoke with an employee who actually turned into a good friend. He has been at the company for 10 years and because the economy is working well, at least for this young man, he has taken a job at Hancock Lumber. He has worked out a new career possibility. As I mentioned earlier, this is going to be more and more the norm in the economy as we go into the 21st Century. I spoke to him just to wish him well. He leaves a big hole in the company. He really had developed into a great professional, but he takes with him his 401K plan and will add to it in his new job. It rolls right over. What a wonderful thing for him. In the meantime this hole we have to fill as the defined contribution plan catches on throughout the economy, it is going to be more and more likely that his replacement, if it isn't from within the company, we hire from without, is going to come with their own combined contribution plan, 401K plan or perhaps some other, but, if not, that person is going to be able to come on board and enter into a defined contribution plan at our company. It is a win, win, win because they have ownership of their own retirement plan, which leaves open options for career or whatever may come along that they may want to give an attempt or try and at the same time they are being fiscally responsible for their retirement years.

It is a choice of self-determination and knowledge of their assets, that I submit is wonderful. Let's offer that to our enrollees, our state workers in the Maine State Retirement System. Thank you.

Representative **POVICH** of Ellsworth **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 Skowhegan, Representative Hatch.

Representative **HATCH**: Mr. Speaker, Ladies and Gentlemen of the House. I just would like to bring to your attention one small point. In all this great talk about how wonderfully off you will be with a 401K plan or a defined contribution plan, remember this, under Social Security and the Maine State Retirement System, should you die while you are in service, for whatever reason, whether it is sickness, an illness or an accidental death, that your family will taken care of. None of these plans that have been outlined to you, unless they buy a private insurance policy, outside of this defined contribution plan, are the spouses or the children taken care of. Think about it. Thank you.

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

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

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

Representative **BUCK**: Mr. Speaker, Men and Women of the House. To the chair of the Labor Committee, in your earlier remarks you discussed the unfunded liability, what caused the unfunded liability? It is my understanding that it was because the state, at some point in the last decade or so, took money out of the retirement fund for the operation of state government or is it because the retirement system itself didn't have the proper actuarial tables? What of those two conditions caused the unfunded liability?

The **SPEAKER**: The Representative from Yarmouth, Representative Buck has posed a question through the Chair to the Representative from Skowhegan, Representative Hatch. The Chair recognizes that Representative.

Representative **HATCH**: Mr. Speaker, Men and Women of the House. This will be very brief to the Representative from Yarmouth, Representative Buck. In regards to the unfunded liability there are two major reasons. Number one, when the system was implemented they took on what they called the old teachers. There was no money put aside for them when they retired because the retirement came very quickly after they opened the system up. Number two, to semi-balance the budget in the last few years, although the employee's amount was put into the fund, the state's amount was withheld and that added to the unfunded liability. It wasn't the total of it, but that is what it was. It had nothing to do with actuaries. It had nothing to do with the way they invest their money. It had everything to do with what we have done. There are times we have given out more and better things than we have taken and put back into the fund. Those are the reasons for the unfunded liability. It has nothing to do with the actuaries. It is you and me that did this. That is the reason for it. I won't say anymore. I think the debate has gone on far too long. I think it is time to vote. Thank you.

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

Representative **CLOUGH**: Mr. Speaker, Ladies and Gentlemen of the House. I am reminded as I listen to this conversation that when I entered the workplace it was a lot different than it is today. You took a job with a company and you probably worked with that company for most of your working lifetime. If you were lucky and you get a job with the state or with Central Maine Power or the telephone company, you had a retirement program that would be available when you got to retire. Things have changed. It is not uncommon now for people to change jobs and even careers every two or three years. I think that this defined contribution concept offers a lot of potential and we should strongly consider it. It is optional. You can decide whether you want to stay where you are if you are in a plan now or you can decide if you want to get in a defined contribution plan. Most companies today are either already offering or plan to offer a defined contribution plan. If you are changing jobs, you are going to be able to move freely from on job to another and carry the benefit that you have accrued with you. I think we should give this bill serious consideration and I would urge you to defeat the Ought Not to Pass Report.

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

Representative **MATTHEWS**: Mr. Speaker, Ladies and Gentlemen of the House. We have heard from the good gentleman from Standish and others that support this concept. I would say that they have made a good case. However, it is important also to remember that the individuals that are retiring and working for the state, our teachers and others, are also important to listen to in this discussion and debate. My comment or two about the good Representative from Standish is that sometimes although his eloquence and involvement in hard work on issues is for real, sometimes I think he forgets about those who his decisions or policies would affect. We are hear to listen to the state employees and teachers and others and listen to their spokesmen and spokeswoman who work for them here at the State House. We have in the Labor Committee. It is

important, I think, to also listen to the retirement system about this idea.

It says here in the letter that we got from the Maine State Retirement System in opposition to the good gentleman from Standish's plan that one question to ask is how does the possibility of doing better stack up if the entire risk of doing worse to the individual? That is a critical question for our individuals, for society and I believe for this Legislature to think about. One can't pretend that the risk of not doing well enough to provide for one's self in retirement affects only one's self or even only one's self and one's family to the extent that our society doesn't just let those who can't provide for themselves to simply fall by the wayside. I am reminded, I guess, the good Representative from Falmouth being a history teacher, history does teach us lessons. I am glad we have had the good gentleman from Falmouth on the Labor Committee. Social Security, you know we have heard a great deal of proposals by the minority party in Congress about Social Security over the years and about doing away with Social Security. A great many American citizens stood up and said wait a minute. You are not going to do away with my social security and my retirement. As the good Representative from Skowhegan mentioned, Representative Hatch, we ought to think about those families that will be affected, not just the retiring worker, but what about the spouse, the children. What about their lives? What about a benefit for them? Do we want to simply give an opportunity to risk it all and maybe lose it all? I guess I would put my faith in the retirement system, my faith in this Legislature to do the right thing and to thoroughly go through this issue and discuss it. I don't believe this issue has been discussed thoroughly in any shape or form. It does have some good ideas and some merit in some cases, but we have a lot of people that are depending on their retirement, a lot of children, a lot of families, spouses and others. I don't think we ought to simply eradicate them from the equation here or just sweep them under the rug as I think happens. I would carefully consider the good gentleman's questions from Standish and I would also look strongly at the majority members of the committee, bipartisan majority members of the committee, and I think we have done the right thing and I would urge you to support the Ought Not to Pass report. Mr. Speaker, thank you.

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

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. If anyone has read the summary of this bill, and I hope that you have, there are words like this bill is optional for state employees. It provides for a range of investment options for participants, provides for disability and death benefits. It requires continued payment of the unfunded liability and it also sets up someone who can help manage the plan for those who might not understand how to manage their money. I guess I would argue that I don't think that it is a bad choice to let people operate their own money and make their own decisions. I hope that you will vote to pass this bill. Thank you.

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

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. Like the Right Honorable Representative from North Berwick, Representative MacDougall has stated, this plan is being used in many private industries. One industry in particular that uses this plan are used car dealers. I know because even though I am not fortunate enough

to be a used car dealer like others may have suggested, my Uncle, Basil Chang, Jr., who was born in Kingston, Jamaica, is a great success story. He is now in America. He is running Car World in Miami and he sells used cars. For my family members and the others at that private sector industry, they have a defined contribution retirement plan. Even though I am not privileged like him to be in that great industry and that I am in real estate, I know that my industry as well uses defined contribution plans.

In response to the Right Honorable Representative from Skowhegan, she has made a perfectly plausible argument until you take the facts into consideration. If she had bothered to read the Minority Report of the bill, she would have seen that, in fact, we do take account for death and disability benefits for state employees who choose the defined contribution plan. The initial bill did not have that, but during the public hearing and work sessions a lot of state employees had concerns that the death and disability benefits were not there. Actually this plan, the Minority Report, is a hybrid. It has the defined contribution system, but makes sure that we maintained the death and disability benefits for state employees. Some people have testified against this. The retirement system testified against this bill and also some of the state employee union bosses testified against this. Isn't it interesting that the people who would lose control and lose turf over so much money would testify against something that would take away some of their power and control. I found that odd and interesting. Every single state employee that I talked to loved this bill and they might not all want to go into it, but they have the choice. They like the fact that we are not forcing them into it and that they have the choice.

There are some people like the good Representative from Winslow who are worried about a possible downturn in the market. I share his concern, but if you look at the returns that you get in historical facts over investments and the handouts that were passed out, you can get four or five times better retirement benefits under a defined contribution plan and you own the capital. You own the principle underneath if something were to happen. Your family has much more security. There are some people who have concerns who came to our committee that the state employees out there, on average, weren't very intelligent and couldn't handle this type of plan. First of all, I found that offensive because I know from the pages in here to all the thousands of state employees, hardworking and serving the good people of Maine, they are some of the most intelligent people that I have ever met. I know they can handle their own retirement. Just in case there are some worries about risk of the market, we took those concerns into consideration and we made sure that that the list of investments available, that 80 percent of them, are chosen by the administration. The Department of Professional and Financial Services will put out to bid for private sector companies to offer different plans and investment options. They get to okay what plans people invest in. That can range anywhere from a bond fund to a growth fund. The state employees get to choose which funds they have within those options that the administration and someone will oversee for them. Only one-fifth, 20 percent of their investments are self-directed.

There have also been concerns about the unfunded liability. As I have stated, I share those concerns. The unfunded liability is something awful hanging over their heads of all the taxpayers in the State of Maine. That is why we continue to pay 11.5 or 12 percent of all the state employees pay towards paying off the unfunded liability. As I have said, we cannot create anymore

unfunded liability because once you have a personalized retirement, when the state makes their contribution to your retirement, the state is out of the picture and the taxpayers don't have that long-term liability hanging over their heads. People like my baby sister and future generations won't have that enormous liability that can possibly come back to haunt them.

The greatest test of a defined contribution system is how many state employees would choose such a system. In other states where this has been proposed, about one-third to 65 percent of state employees have chosen such a system. I think we should give them that choice. Others have talked about the computerization and failed attempts in the past by the retirement system to get the computerization done for retirement records. I share the concern that there have been failed attempts by the retirement system to computerize their records, whether it is by themselves or through outside bidding. Their incompetence is without question in this matter. That is why we are putting in an extra appropriation to make sure the computerization and modernization of these records gets done. We can't have any less for our state employees.

If the Maine State Retirement System wants to be one of the bidders or we put this modernization out to bid, then they are very welcome to do it. Also, like the good Representative from Carmel had said, if there is anybody here who understands every single state employee retirement plan, they are far more intelligent and far smarter than I am. There are hundreds and hundreds of different employee retirements. We heard from the State Police today who have just gotten a well-deserved new retirement plan. The mental health workers and the environmental department wanted to get in. Teachers have one thing. Others have another thing. It is all so very confusing and as the good Representative from North Berwick said, each time we change it for one group, eight other groups want a retirement plan like the other one. This will simplify that quite a bit. If you want more money towards your retirement, you work longer and 7 percent of your salary goes towards your retirement.

To sum it all up, this bill will give state employees an additional choice in the retirement system. We are not forcing them to do anything. No one wants to force the state employees into anything for their retirement or take anything away. This would simplify all the plans out there. It would give the state employees and their families and their children a much stronger retirement. It would lower the long-term liability for the taxpayers and makes the State of Maine competitive with other states in the private sector for hiring the best and brightest to work for the good people of Maine. Thank you very much and I urge you to vote against the pending motion.

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

Representative DAVIS: Mr. Speaker, Men and Women of the House. I just have two facts I want to leave you with before you vote. One, I am sure that the Representative from Fryeburg could back this up, Representative True, my first salary was \$3,600. I had three children. How much money are you going to be able to play the stock market with? I was lucky to keep body and soul together. Secondly, the good Representative from Yarmouth, Representative Buck, teaches that janitors and custodians live longer. That is one of the things that the retirement system may not have taken into consideration. We are living longer. When I first started teaching, people taught until they were 70 and then they died. Now they are living to 80

or 90 and there are some retired teachers that are 100. I just thought I would bring that out. Thank you very much.

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

Representative BUCK: Mr. Speaker, Ladies and Gentlemen of the House. I will be extremely brief. I just want to leave you with thought, a question if you will. If this is such a bad idea, why is it in use on the municipal level today? It has been in use for at least a decade that I know of and it is very successful. If it works at the municipal level, why won't it work at the state level?

Representative TUTTLE of Sanford moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

Representative MacDOUGALL of North Berwick REQUESTED a roll call on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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

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

ROLL CALL NO. 590

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

NAY - Bowles, Bragdon, Buck, Bumps, Campbell, Cianchette, Clough, Collins, Daigle, Duncan, Foster, Gillis, Glynn, Heidrich, Jodrey, Jones, Joy, Kasprzak, Lindahl, Lovett, MacDougall, Mack, McAlevey, McKenney, McNeil, Mendros, Murphy T, Nass, Nutting, Pinkham, Plowman, Rosen, Schneider, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Winsor.

ABSENT - Frechette, Kneeland, Marvin, Muse, Norbert, Perry, Shields, Sirois.

Yes, 100; No, 43; Absent, 8; Excused, 0.

100 having voted in the affirmative and 43 voted in the negative, with 8 being absent, and accordingly the Bill and all accompanying papers were **INDEFINITELY POSTPONED** and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH** with the exception of matters being held.

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.

SENATE DIVIDED REPORT - Majority (8) Ought to Pass as Amended by Committee Amendment "A" (S-544) - Minority (4) Ought Not to Pass - Committee on TAXATION on Bill "An Act to Stimulate Job Creation and Investment in Maine by Amending the Income Tax Apportionment Formula"

(S.P. 360) (L.D. 1064)

- In Senate, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-544)**.

TABLED - April 5, 2000 (Till Later Today) by Representative SAXL of Portland.

PENDING - ACCEPTANCE OF EITHER REPORT.

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

The **SPEAKER**: The Chair recognizes the Representative from Waterville, Representative Gagnon.

Representative **GAGNON**: Mr. Speaker, Men and Women of the House. After that stimulating debate on defined benefit plans, I would like to now explain to you how we calculate the corporate income tax in the State of Maine. I will be brief.

The corporate income tax in this state, as in most states, is calculated on three factors. They are the factors of the corporation, the property that they own in the state, the payroll that they pay in the state and the sales in the state. Many states, 17 in fact, use what is called equal weighting. They will weigh each one of those factors equally. Some years ago Maine moved away from that and we gave more advantageous waiting to sales, which benefits corporations that do interstate sales. That was an advantage to them at the time. Initially what this bill did is it proposes to move to a single sales factor apportionment. Meaning that we are only going to consider one factor, which are the sales within the state. This would be a tremendous advantage to those corporations that have many sales out of the State of Maine. Unfortunately when the fiscal note came forward it was fairly large. It ended up being about \$20 million a year. We learned that, in fact, very few states go to the single sales factor apportionment. There are only four, in fact. Massachusetts I guess is coming on board over a period of time. Most of those states are out in the Midwest.

What this bill has since become or how it was amended, it actually amended out most corporations. By the way, this only applies to sub C corporations, regular big corporations that we are talking about here. What eventually ended up happening with this bill being too expensive it was decided that it should be narrowed so we couldn't include in all the corporations, only just a few. Those ended up being the mutual fund industry and the high-tech industries. The largest of all in that category being the pulp and paper industry. We received sheets. On the sheets that I have here there are over 100 different industries that are listed. On them, most of them are not included in this tax break.

Upon further examination, what the committee determined was that some of these corporations, the pulp and paper industry, in fact, some of them, in fact, had a disadvantage by moving to the single sales factor apportionment. They would, in fact, be paying more in taxes, which is what happens in those states that have single sales factor apportionment. Another amendment was added that would allow the corporation, the pulp

and paper industry, to select which option they would like, whichever one that they would be paying the least tax on. Ladies and gentlemen of the House, we are really trying to narrow this. This is becoming very specific for a specific industry and only those who choose to select that process.

My fear, besides this being a very specific targeted tax break for one particular industry, there are others in there, the high-tech and mutual fund, but as maybe some of you had at your meals tonight, garnish to make the plate look a little bit better, but the main meal here, of course, is the pulp and paper industry. The problem, of course, is why just them? As we have heard many times in our Tax Committee and I am sure we will be hearing again in the future if this bill passes, it will become a fairness issue. In fact, I suggested that one particular industry, the shirt makers of the state, of which there is a very prominent one in my industry, will probably be the first in line asking for fairness under this option.

Keep in mind that this option of choosing between one or the other and Maine moving to the single sales apportionment means that we would be only one of five or six states that would have this option, but if we by providing the option of either or, we would be the only state in the nation that provides that option.

Ladies and gentlemen, I would encourage you to defeat this bill and vote for the pending motion. There is no accountability in this bill either, even though we heard claims that it would do this and create jobs or whatever. There is no accountability. There is no coming back and reporting. There is no review. There is review on another aspect of the bill, but it has nothing to do with the success or failure of this aspect of it. I would encourage you to, once again, think about what the values of Maine people are and whether or not we want to provide a tax break for one industry, probably many industries in your districts that would require it. If we did provide it, by the way, to all the industries with this option, the cost would be closer to \$30 million a year. We are looking at a pretty large tab. I would encourage you to accept the **Minority Ought Not to Pass Report**. Thank you Mr. Speaker.

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

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. I rise today to speak in favor of the Majority Report, a 9 to 4 report from the Taxation Committee. I find myself in the unusual position of opposing my colleague who I have tremendous respect for, Representative Gagnon, on this issue. I do it for a good reason. I don't view this as a give away or a corporate welfare bill at all. As a matter of fact, I view this and it is because of my work as co-chair of the commission that studied this factor, this single sales factor. I view it as a very important defensive position for the State of Maine. This measure is absolutely critical as a defensive tactic to protect Maine workers and businesses from the actions of other states that seek to divert jobs and investment from states like Maine that use a three factor, property, payroll and sales formula that the good Representative from Waterville mentioned.

He did mention that only four states have a total single sales factor formula, but what he did not mention was that about 12 states have various forms of this approach. Originally most states enacted the three factor equal formula to determine how much a multi-state corporation's income should be apportioned in tax in each particular tax. The good chair is correct. It contains three fractions, property, payroll and sales. The ratio of property, payroll and sales in a particular state compared to that

of the company and the rest of the world determines how much income gets apportioned and taxed within that state. My heart is still pounding from the previous bill's debate so please excuse me.

Under the payroll and property components of that, creations of jobs and investment in a state subject that company to more tax in the state. Over time, many states, indeed our state, realize that when we changed to a double weighted sales component to our formula, we realized that that formula discriminates against the creation of jobs and investment in plant and equipment in the state. That is a very important point. Our current formula discriminates against and discourages investment in companies who have a lot of payroll or a lot of capital investment in the means of production, ie. manufacturing.

I don't know about you, but I was not elected or sent to the State House to send any jobs to Alabama, Georgia, New Hampshire, Massachusetts, Rhode Island or many of those other states. My original position on this bill was exactly the same as the Representative from Waterville and the Minority Report. As I studied it more and more, I realized that if we are going to encourage manufacturing, let's fact it, we lost 30,000 manufacturing jobs, good paying jobs in the State of Maine in the last decade, then we need to take a hard look at how we are doing it and what our tax policy does.

Going to a single sales factor would not only eliminate the discrimination, but it would also create a very powerful incentive for job creation and business expansion within the state. As I said, states who have switched to a single sales factor apportionment in some form in the last few years include, this is important to my defensive position in supporting this bill, they include several states in our own back yard, Massachusetts, Connecticut, Rhode Island and New Hampshire has been looking at this issue very carefully. These are New England states, which Maine must compete with for jobs and investment. To retain our three factor formula in the face of this trend towards single sales factor in these neighboring states, I believe, would unfairly punish Maine workers, particularly in the manufacturing sector and would discourage some new businesses, ie, the high-tech businesses that we have yet to be able to really lure to the State of Maine from investing in Maine. To me, that is totally unacceptable. I believe the longer we wait to fix the problem, the less successful we are going to be. Even more states will have switched to a single factor apportionment by the time we get around to solving the problem.

After careful analysis on the commission that I co-chaired, a strong majority of the commission felt that Maine should adopt some form of the single factor apportionment. The kind of companies that will benefit from single factor are those that invest in facilities and equipment in Maine and employ Maine people but the companies, which export their products and services to other states and foreign companies, the very value added kind of production companies that we all want to see grow here in the State of Maine.

This bill represents a very cautious, narrow tailored approach to single sales factor apportionment. It is a go slow approach. That is why it is so narrow. It was the will of the majority of the committee and indeed the commission that we take a look at this and see what it really is going to do, see how it affects our high-tech industry, see how it affects our most important manufacturing industry in the State of Maine, the pulp and paper industry. Only certain carefully targeted industries would be eligible under this bill. It is not a broad brush. At some point,

perhaps this Legislature in the future, would choose to make it such. Each of the industries that are targeted in this bill are extremely important to the state's economy. They are the kind of industry that Maine needs to attract and retain. LD 1064 provides single sales factor apportionment on an elective basis, because of that and this is a criticism of the House Chair, but I don't quite see it that way, because no Maine company will see a tax increase due to this legislation. There will be no losers. There will be no winners. We will be able to evaluate whether it is working.

For these reasons, the Majority Report out of the Taxation Committee is Ought to Pass and I urge you to support this bill. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Monmouth, Representative Green.

Representative GREEN: Mr. Speaker, Ladies and Gentlemen of the House. The good Representative from Gardiner, Representative Colwell, says there are no losers. Well, there are non-winners. We have passed a bill in Taxation and in this House, LD 2400, targeted specifically at an industry that is not here. It is the same industry that Massachusetts has given single sales and Rhode Island and Connecticut. It is the mutual fund industry. It is high-tech. It can operate out of almost a closet and we don't have it now. It will be interesting to see what happens. However, LD 1064 expands this idea and it does discriminate. The key here is that we are a group of taxpayers. They are businesses. You have a sheet on your desk that lists the way in which businesses are taxed in all 50 states. Nineteen other states use the same system that Maine does. In many tax evaluations, it is judged to be one of the best.

If all of the businesses in the state are being taxed a certain way and then you pass a law that says a few businesses can choose how they would like to be taxed, although in the final analysis, other businesses may not be taxed more, some businesses will be taxed less. I don't know if they are actually losers, but they sure as heck aren't winners.

Lest you are left with the feeling that poor industry in the State of Maine just gets dumped on all the time. I would like to give you what I call the Miller's Buffet of tax incentives. We have the business and equipment tax rebates. We have tax increment financing. We have the investment tax credit. We have the high-tech investment tax credit. We have the research expense and development tax credit. We have the super credit for substantially increased research and development. We have the sales tax exemption on equipment used in manufacturing. We have the sales tax exemption on electricity used in manufacturing and we have the ever-popular ETIF. Lest you believe that we are giving away all our money, I want you to know that this particular tax scheme would not be appropriate for the small, one, two, three, five person businesses that many of us have. My local plumbing and heating contractor, no, it wouldn't work for him. My local beautician, no, it wouldn't work for her. Service industries including the hospitality industry, small retail, wouldn't work for them. What are we doing? Do they get BETR, TIF, ETIF, R & D, Super R & D? No, there may not be any losers, but there are an awful lot of non-winners.

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

Representative CIANCHETTE: Mr. Speaker, Ladies and Gentlemen of the House. I feel like I would like to begin by thanking the good Representative from Monmouth, Representative Green, for reminding us of all the good work the

Tax Committee has done over the years by going through the laundry list of these wonderful incentives and we have an opportunity tonight to add one more to that list.

I urge you tonight to reject this motion so we can support the Majority Report. This is an important bill, but as you can tell from the previous speakers, the details are as dry as the Texas sand. I am not certain that I ever envisioned a Friday night at 10:00 that I would be debating tax policy as mundane as this in some ways. Ideally, we wouldn't even have to be here doing this tonight, but we are not in control of what other states do. Other states, as you have just heard, have changed and are changing their tax policy. It has a direct affect on us.

I see this bill as essentially a defensive measure. This is certainly for carefully targeted industries only. It would have been my preference to have it for all businesses. I think it would have been unrealistic for us to believe that would have been fashioned into our current budget. This bill is meant to be a impact, but move slowly towards a single sales factor apportionment approach. As you heard, only certain targeted industries would be affected. These are important industries. We know that it includes the pulp and paper industry. It also includes the mutual fund industry and high-tech industry that includes bio-tech businesses, composite materials, software development, marine sciences and on and on. Many of those have been targeted by the Maine Economic Growth Council as industries that we want and need to develop in Maine and an incentive to be here.

Think about these industries for a moment. Each of these is desirous for a Maine economy. It uniquely blends the cornerstones of our traditional economy with the best hopes for the high technology new economy. We talked a bit earlier about mutual funds. We should want mutual funds in this state. This bill targets them. Our current tax structure is a disincentive for mutual funds to do business in Maine. Financial services and mutual fund companies represent an exciting potentially new and strong industry here in Maine. We have almost no mutual fund industry in Maine. I believe in the tally we have one domestic company here in Maine in the mutual fund business. There are others that want to locate here. Our committee heard that time and time again during the witnesses and the testimony that we heard on this bill. There are companies that want to be here, but they tell us our tax code just does give them incentives to be here. These are good jobs. These are jobs we should want to bring to the State of Maine. They are high salaries. They are clean. They are safe and they are in a growth industry. Think about the mutual fund industry for a minute. If we bring it to Maine, it employs our tremendous telecommunications system and our education infrastructure at its highest and best use. Best of all, it keeps Maine people here working in Maine and selling mutual fund products around the country and around the world. Eliminating the other two factors, we have talked about them so I won't get into any of the details, creates a strong incentive or at the very least levels the playing field to create jobs and to expand businesses here in Maine.

As we have heard, other states including many of our other New England States have made this change because they understand it encourages investment in their state and investment in their employees. That is what we would be doing with this too if we do it here. I believe this is a necessary defensive move to protect our workers, our businesses and our communities from the actions of other states. Continuing with the current three factor formula while other states are moving

toward a single factor is only going to unfairly punish Maine workers and discourage businesses from investing here in Maine. I don't know about you, but I don't think we ought to sit by or sit idle and watch other states eat our lunch. This is not an issue where we should have blinders on pretending that we don't see what is going on in other states. Ladies and gentlemen, as the saying goes, sometimes the best offense is a good defense. This is a good defensive move. I encourage you to support the Majority Report. Mr. Speaker, I request the yeas and nays.

Representative CIANCHETTE of South Portland **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought Not to Pass** Report.

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

The **SPEAKER**: The Chair recognizes the Representative from Holden, Representative Campbell.

Representative **CAMPBELL**: Mr. Speaker, Men and Women of the House. SSFA, as we have heard from the previous speakers this is a very, very complicated issue. I would like to rise tonight to commend the Tax Committee for their hard work on this very difficult issue. This is both an offensive and a defensive bill. In terms of offense, this will strengthen Maine's economy and create jobs. Defensively this benefits companies that compete nationally and not only nationally, but globally for investment capital. We hear how our pulp and paper mills are always going to the corporate officers and encouraging them to invest in our mills. Except for some of the programs and for a program like this, they are unable to compete with those demands to invest elsewhere. With New Hampshire and other New England states considering SSFA, we can't afford to sit still. It makes sense, if you will, to have a pilot project. Targeting these very important industries, pulp and paper, where we are losing manufacturing jobs, high-tech where we all know these are the jobs of the future and mutual funds, who are actually knocking at our door to come and do business here in Maine. Again, I want to thank the Taxation Committee for their hard work and I would encourage you to oppose the motion and go on to accept the Majority Report. Mr. Speaker, if you would, please read the report.

Representative **CAMPBELL** of Holden **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 Hallowell, Representative Cowger.

Representative **COWGER**: Mr. Speaker, Colleagues of the House. Since we are throwing acronyms around tonight, EDIC. I recall we had a debate last night regarding an environmental compliance bill and BETR. I understood from discussions at that time that the EDIC, which is the Economic Development Incentives Commission is going to be taking a look at all sorts of tax breaks that are around and that the EDIC would actually be reviewing all the tax incentives out there. Mr. Speaker, may I ask a question? My question is, will the Economic Development Incentives Commission be taking a look at this tax incentive as well?

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

Representative **GAGNON**: Mr. Speaker, Men and Women of the House. In response to the good Representative's question, there was another flaw in this bill. No, there is no reporting at all

required in this bill. EDIC will not be looking at this program. It was not incorporated in that part of the law. There will be no review. There is no accountability. Essentially, this industry can take the money, lay off people, leave the state and do whatever they want. There are no requirements at all on this bill. It is just a tax break.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I won't try to comment on tax policy. I will just share with you an experience I had personally. About three years ago when as a member of the operating committee for a manufacturing facility in southern Maine, I was assigned to a team competing for capital investment by our parent corporation. There are several manufacturing locations in the country. The company that decided that they would significantly expand somewhere and they basically threw it out to us and the plans to compete amongst ourselves. I tried my best with our team to put a package together for the State of Maine. We lost. We lost about a \$35 million investment. One of the things that shocked me when I went head to head with our sister facilities was that the tax structure in the State of Maine would make the cost four times higher than the competing facility, which won the project. What we lost was not only \$35 million of capital being invested, but we lost approximately 50 high paying skilled jobs that would have paid over \$50,000 a year plus benefits. We lost the ability to push a major amount of manufacturing product to our system. The local supplier of wood pallets who would have been building thousand and thousands of pallet to ship our materials didn't get the job. The local truck drivers who would have moved our products to market didn't get the jobs. The corrugated plant in Biddeford that made packaging boxes didn't get the work. The service technicians of electricians and other service people who would have worked on our equipment forever to calibrate and maintain it didn't get the job. Together, I have to believe that the economic impact had to be so much greater than the tax differential between the State of Arkansas, which got the work and the State of Maine. I believe we lost out a lot. I am just glad that I came here and tell you from personal experience that is exactly how it happens because the corporate headquarters in New Jersey were being responsible to the stockholders when they decided where to put that money. It did not matter that Maine was a wonderful place to come and raise your kids. It only mattered where the return on investment would be because that was their job to spend the company's money wisely. I only hope that the economic situation in Maine turns around so that the next time my former employer considers a similar investment that perhaps the next team that puts together a package and goes down to New Jersey and makes the presentation and says, please spend it in Maine. I hope that they win. A lot of the luck that they will have would be determined by what we do here tonight. Thank you.

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

Representative **MURPHY**: Mr. Speaker, Ladies and Gentlemen of the House. This is not a tax break. This is critical step in protecting Maine's economy and job base. LD 1054 proposes that Maine apportion the income of multi-state business by a single sales factor apportionment. It can best be characterized as a defensive measure. I say this because there is a trend developing relating to the way that states tax a multi-state business. We are not talking about businesses, which are

within the State of Maine. We are talking about multi-state businesses here, therefore, it doesn't pertain to some of our smaller businesses because they are not multi-state. If we don't do this trend, Maine will be at a disadvantage competitively. Maine and most other states have historically calculated the amount of income of a multi-state business taxed by apportioning all of the business income based on a ratio. That ratio has been based on payroll, sales and property. It is also based on the sales everywhere. Back in the early '90s we debated this bill and we put on the double weight for the income. Now the time has come when other states have changed that formula. They have done it with the single sales. Therefore, if we don't go with the same trend as they go, especially those states to the south of us who are going that way. Massachusetts has gone. It started small the same way we are trying to start. New Hampshire is thinking seriously of it. We have to do business with those states. That is the way it is. Other states have gone also and if Maine doesn't go, we will not have any investment in this state. It will hurt our big businesses. I am going to be brief and I am just going to say I hope that you will vote against the pending motion so that we can go on to pass the Ought to Pass. Thank you.

The SPEAKER: The Chair recognizes the Representative from Medway, Representative Stanley.

Representative **STANLEY**: Mr. Speaker, Ladies and Gentlemen of the House. I rise today because I feel this is a pick and choose tax policy. We are picking one industry over another, which is not a good way to be doing tax policy in the State of Maine. If we were going to do a pick and choose tax policy, then I say we do a targeted tax policy to make the benefit of what we are going to do and to go in the areas that really need it. I stand before you now and we look at the labor market for the State of Maine on unemployment as of January of this year. In Belfast, unemployment is 6.3 percent. Bucksport 6.4 percent. Calais, 12.5 percent. Dexter/Pittsfield, 9.8 percent. Dover-Foxcroft, 7.7 percent. Ellsworth/Bar Harbor 9.6 percent. Farmington 7.9 percent. Fort Kent, 6.6 percent. Greenville, 7.7 percent. Jonesport/Beals, 13.3 percent. Lincoln/Howland, 6.3 percent. Machias/Eastport, 6.8 percent. Madawaska, 6.5 percent. Millinocket/East Millinocket, 6.8 percent. Norway/Paris, 6.6 percent. Outer Bangor area, 6.8 percent. Patten/Island Falls, 8.6 percent. Rumford, 6.0 percent. Skowhegan, 7.8 percent. Van Buren, 8.8 percent. The average for the State of Maine is 4.7. The national average is 4.5 percent for the month of January. Of a market study of 35 areas that they studied, 20 of them have a rate that is almost 1.5 points over what the state average is. We are doing a tax policy that is going to pick out industries. It is going to pick and choose. What we ought to be doing is taking a policy that targets tax relief for people in these areas. I don't think we ought to take existing businesses that are doing good and having the option to choose which way they want to pay their taxes. I think that if we are going to do a change in our tax policy, then it ought to be targeted to the areas that need the help. The reason why I say that is because it is an awful crying shame for a person to have to travel four or five hours to come and see their grandchildren. It is not a very good situation for the State of Maine. The State of Maine is only one state. I think we ought to start doing things to help other areas of the state that need the help. By doing what we are doing, we are not helping the parts of the state that need it. If we were going to do anything, I would target the relief that we should be doing. I will tell you, you have areas in this state that need some jobs and

it doesn't take very many jobs to bring down these figures. I think that we should not be looking at pick and choose tax policy, but a tax policy that is fair for the people of the State of Maine. If it is a pick and choose, then pick and choose and put it in the area that needs the help. Thank you.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House. Last night I stood in front of this body praising the BETR program against environmental fines. Tonight, I am with the pending motion. The reason being is the pick and choose tax policy. Like the good Representative from Medway said, Representative Stanley, I agree with him 100 percent. If we are going to do something, do it across the board. That is why the good Representative from Gardiner, Representative Colwell, said that he was a co-chair of the study committee to look at this tax policy. If that was the case, why didn't they do it across the board instead of picking and choosing throughout the state? Another thing is we have to make sure if we try to pick and choose, it is going to come back and hurt us in the long run. It is going to explode just like a cannon going off. We have to make sure that people in this state are taxed fairly and taxed across the board. I urge you to vote for the pending motion. Thank you.

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

Representative VOLENIK: Mr. Speaker, Men and Women of the House. I guess when my constituents sent me here they said they would like to see tax reductions. In this bill there are some pretty hefty tax reductions, \$593,000 fiscal year 2000, \$1.488 million fiscal year 2001, \$1.516 million fiscal year 2002 and 2003. There is a substantial tax reduction there. They may be happy with that. I am not sure that they sent me here for a reduction in state municipal revenue sharing, which we will see in those three fiscal years of \$30,000, \$75,000 and \$77,000, but maybe they would like that reduction in revenue sharing for their towns. They said that when you have this tax reduction, we want it to go to carefully targeted industries, please. We don't want a broad brush here. We want carefully targeted industries, specifically resin, synthetic rubber, artificial and synthetic fibers, filaments manufacturing, pharmaceutical and medicine manufacturing, computer and peripheral equipment manufacturing, communications equipment manufacturing, audio and video equipment manufacturing, semi-conductor and other electronic component manufacturing, navigational measuring electro-medical and control instrument manufacturing, they especially wanted that one, magnetic and optical media manufacturing and reproducing, software publishing, on-line information services, data processing services, custom computer programming services, computer systems design services, computer facilities management services, other computer related services, scientific research and development services, medical and diagnostic laboratory services and, this is what they really wanted, the pulp and paper industry. That was their number one choice. This bill has a lot for them in it. I am still a little unsure as to whether I am going to support it, but Mr. Speaker, I would like to pose a question if I may? My question is this, our corporate tax system used to bring in as much revenue as our income tax system. Now it only brings in about one-sixth as much. Does this bill begin to correct this imbalance or will companies now simply have a choice between paying little in taxes or less in taxes? Thank you.

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

Representative GAGNON: Mr. Speaker, Men and Women of the House. Thank you for the question. I suspect that this will bring in even less in corporate taxes. As people have talked about before, this is kind of a race to the bottom. With this bill we will be in first place in terms of corporate taxes. Someone suggested out in the hallway a couple of days ago when this bill was coming up that maybe the best thing to do is to simplify the bureaucracy and just send out a form, tax form, to the pulp and paper industry and put down what you think you would like to pay us and that would be a lot easier and it would save us a lot of time. Ladies and gentlemen, this is a bill, as you can tell, we have had a little fun with it tonight. The Taxation Committee doesn't get to have a lot of fun a lot of times. This is a serious bill and this is a bill that is finely tailored by a group that wants a specific tax break. It doesn't really help businesses that are in most of your communities. In fact, those businesses will end up having to foot the bill to help these folks. I would encourage you to support the pending motion. Thanks.

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

Representative DAIGLE: Mr. Speaker, Ladies and Gentlemen of the House. I really am amazed at how we can see the same things at such different angles and with such different opinions on it. A moment ago I described you a situation where economic expansion was directed elsewhere. I believe the key factor was a tax policy. The income tax paid by the workers who didn't get the job would have equaled the tax difference that I was referring to. The first time those workers got paid, let alone, the time they spent those salaries at the grocery store or bought a new car or did anything else to siphon the money around over and over again and supplies they would have purchased in the local community would have been additional salaries and spending, each one generating tax revenues at every step. We talk about pick and choose. The particular part of Maine that this money would have been spent is not one of the most economically depressed areas. The reality is that the money invested and cycled through the economy would have generated a surplus into the tax coffers from the difference in taxes that were involved. It wouldn't have cost you money. It would have paid you money. The reality is the way the money cycles through. If you want to take this revenue into the state General Fund and direct it to some other part of the state, it would have been there. That is what happens when money is invested and it spins around and around in our economy. It doesn't cost. It pays. You probably don't see that when you aren't attending the meeting and listening to the decision that says it is not going to be spent here. It is what doesn't happen. I guess there are those of you who are still willing to have an open mind with this. Let me tell you, I saw it not happen. I know it must not happen in a lot of other places that think of it the same way.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House. I promise I won't talk very long. It is very late. Most everybody would like to go home. I find it disheartening to see the attitudes that I have seen here tonight, the sarcasm, the glibness. They don't seem to have any place in my mind when we are talking about trying to save jobs. We

heard a lot of unemployment figures. Interestingly enough, a lot of those unemployment figures we heard were in communities that would benefit from this. I don't know where the disconnect is and the understanding is that a healthy business, especially in a one-horse town, is healthy for the employees as well. We have heard that the individual income tax versus the corporate income tax is out of line. I dare say that has a lot to do with the manufacturing jobs that we have driven out of this state. We don't seem to think that is a problem. Rural Maine is suffering, ladies and gentlemen. We have an attitude that the paper companies are a fun target. Let's beat them up. Everybody hates them. They do everything wrong. They destroy the forests. They pollute our rivers. They pollute our air. They do absolutely everything wrong. Let's beat them up. They are an easy target.

I wish some of you could sit where some of us sit and see month after month after month the returns come back in the negative. You will hear it is all on paper. It is not true. Ladies and gentlemen, it is true. Foreign competition is eating our lunch. You don't want to hear it, but that is the reality. It is fun to blame it on the CEO because his salary is too big, but the reality is that everyone of us that works in the paper industry earn some of the best salaries in the State of Maine. That CEO doesn't live in Maine so it has little to do with us. How many jobs do we have to lose in that industry before there is a belief that there is a problem? The attitude that somebody will come to this state and spend hundreds of millions of dollars for the entertainment of shutting machines down and laying people off makes little or no sense to me. The facility that I work in was purchased by the company that I now work for three years ago from \$600 million. If you took that \$600 million and put it in a bank, even at the bank's horrible interests rates, at 5 percent, that is \$30 million a year. We are not making \$30 million a year. To encourage people to invest, you need to be making 15 to 18 percent. It is not happening. I am not saying that is the state's responsibility. It is our responsibility, not the people in this hall, but those who live in those industries to make them successful.

Will this help us? Yes, it will help us. If it fails, will it die? It is another incremental piece that would help us be successful. I have seen the papers go through this place about the BETR Program and this company got this much and laid this number off and got this much and laid this number off. That wasn't the plan. Nobody enjoys laying people off. Any of you who have been through it will understand what a painful process it is for everybody. Those that suffer the loss and those that have to make the decision. I have yet to meet anybody in the facility that I work in that is smiling on those days. They are our friends and they are our family. It is not fun. To sit here and listen to people talk about that being part of the plan and taking all of this money and then laying people off like it was a glib decision is disheartening. I apologize for talking as long as I have. I would ask you to defeat the pending motion. Manufacturing, ladies and gentlemen, are the jobs that pay the most money. They are the ones that our families and our children and their children's children will be able to have the best lives. Thank you very much.

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

Representative **CIANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. I apologize for getting up a second time on this. I know it is late, but our committee has worked very hard on this. I think it is worthy of debate. There are just a

couple of points I would like to make. There was a question by the good Representative from Hallowell, Representative Cowger, regarding the EDIC. I would just respond by saying that that commission is charged with looking at seven very specific programs. There are literally hundreds of other programs that are not under its purview. Many programs including various tax incentives or subsidies that are not under the purview. The BETR Program is one of those. With respect to accountability, we have heard tonight that there is no accountability in this measure. While I think the term accountability is very important, I would suggest to this body that it is fairly obviously that the Legislature has not defined, in a unanimous fashion, what the term accountability means. There have been lots of discussions, but I think each one of us has our own definition and our own thoughts on what it means. I don't mean to be smart or glib when I suggest that the Majority Report does pick and choose. We have heard that this is a pick and choose policy. I think the majority of the committee members believe they were picking certain industries as a low-risk targeted pilot program that is very important for our economy of tomorrow. We picked those industries because we choose to have good jobs in strong communities. I would finish by saying that if this is a good idea, then why have we seen numerous states just recently change their tax policy to allow either single sales factor or something very close to it, but move away from the three factor approach? Many have gone to it already and many are studying it and are on the verge of doing it. I ask you what might their motives be?

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

Representative **DUDLEY**: Mr. Speaker, Men and Women of the House. I have been looking at the Majority Report here and I noticed in section six, the report directs the state tax assessor and the commissioner of Economic and Community Development to report to the Taxation Committee on the benefits to the state, if any, of repealing or modifying Title 36, Section 5211, Subsection 15. It suggests to me that there is an element to this bill that is experimental. We are exploring the idea to see if it works or if it is a good idea or to see if it does what it is trying to accomplish. I also look just below that to the fiscal note and through fiscal year 2002-2003, it seems to me the cost is around \$3.6 million. I would suggest to the House that perhaps there is a cheaper way to figure out if this is a good idea or if this will accomplish the goals it sets out to accomplish cheaper than \$3.6 million. Thank you.

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

ROLL CALL NO. 591

YEA - Bagley, Baker, Berry RL, Bolduc, Brennan, Brooks, Bryant, Bull, Chizmar, Clark, Cote, Cowger, Desmond, Dudley, Dunlap, Duplessie, Etnier, Fuller, Gagnon, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Mailhot, Martin, Matthews, McDonough, McGlocklin, McKee, Mitchell, O'Neil, Pieh, Povich, Powers, Quint, Rines, Samson, Savage W, Shiah, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Twomey, Usher, Volenik, Watson, Williams, Mr. Speaker.

NAY - Ahearne, Andrews, Belanger, Berry DP, Bouffard, Bowles, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carr, Chick, Cianchette, Clough, Collins, Colwell, Cross, Daigle, Davidson, Davis, Dugay, Duncan, Fisher, Foster, Gagne, Gerry, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy,

Kasprzak, Labrecque, Lemoine, Lemont, Lindahl, MacDougall, Mack, Madore, Mayo, McAlevy, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, O'Brien LL, O'Neal, Peavey, Pinkham, Plowman, Richard, Richardson E, Richardson J, Rosen, Sanborn, Savage C, Schneider, Sherman, Shorey, Snowe-Mello, Stanwood, Stedman, Sullivan, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tuttle, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor.

ABSENT - Frechette, Kneeland, Lovett, Marvin, Muse, Norbert, Perkins, Perry, Saxl JW, Saxl MV, Shields, Sirois, True.

Yes, 55; No, 83; Absent, 13; Excused, 0.

55 having voted in the affirmative and 83 voted in the negative, with 13 being absent, and accordingly the **Minority Ought Not to Pass Report was NOT ACCEPTED.**

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

The Bill was **READ ONCE. Committee Amendment "A" (S-544) was READ** by the Clerk and **ADOPTED.**

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-544)** in concurrence.

SENATE DIVIDED REPORT - Majority (8) **Ought to Pass** - Minority (5) **Ought Not to Pass** - Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Amend and Clarify the Powers and Duties of the Lake Arrowhead Community, Incorporated" (EMERGENCY)

(S.P. 1061) (L.D. 2655)

- In Senate, Majority **OUGHT TO PASS Report READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED.**

TABLED - April 6, 2000 (Till Later Today) by Representative AHEARNE of Madawaska.

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

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

Representative **AHEARNE:** Mr. Speaker, Ladies and Gentlemen of the House. This is by no means a simple issue. It is quite a complex issue. What this bill addresses is an omission in the legislation that was enacted in 1995 dealing with the Lake Arrowhead Community. The 1995 legislation was introduced to provide the Lake Arrowhead Community with the ability to collect fees from lot owners or members of the Lake Arrowhead Community. In the early 1990s the Lake Arrowhead Community could not collect these fees from its members, mainly because they refused to pay these fees and the law that they were following did not provide them with any type of authority or the ability to collect these fees. This led to financial problems because they were unable to collect these fees. Both communities, Waterboro and Limerick, supported the 1995 legislation with the understanding and were assured by the Lake Arrowhead representatives that the 1995 legislation would not negatively impact the towns. It should be known at this point that both towns do own lots within the Lake Arrowhead Community obtained through tax liens for abandonment. The 1995 legislation passed and was signed into law. It was not until 1998, three years after the special law was enacted, that the towns began to receive assessments. The central issue is

legislative intent of the 1995 law. Having served on the State and Local Government Committee in 1995 when we saw this law, I firmly believe at any moment of the discussion during the work session had the issue of a town being required to have assessed and paid membership fees, an immediate amendment to exempt the towns would have been attached to the bills. I cannot imagine any municipality that would allow itself to be assessed and be charged fees by a private corporation and not be permitted to enjoy any of the benefits that go with paying those fees. I ask you to support the pending motion so that we can correct this omission. Mr. Speaker, I request the yeas and nays.

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

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

The **SPEAKER:** The Chair recognizes the Representative from Brewer, Representative Fisher.

Representative **FISHER:** Mr. Speaker, Men and Women of the House. I just wanted to thank the good Representative from Old Town for passing out this information from the Maine Municipal Association, which takes a neither for nor against position on this. It certainly clarified the issue for me.

The **SPEAKER:** The Chair recognizes the Representative from Machias, Representative Bagley.

Representative **BAGLEY:** Mr. Speaker, Ladies and Gentlemen of the House. I rise to support the Ought to Pass motion on this bill. In 1995 the Lake Arrowhead Community Association came to the Legislature for the authority to assess and enforce fees on private property in their association. At that time a communication to Representative Jon Rosebush of the State and Local Government Committee from the Lake Arrowhead Community stated and I quote, "This legislation will have no affect on the towns of Waterboro and Limerick." Legislators who served on that committee at that time and those who still serve in this body provided public testimony at our hearing on Monday of this week. They testified that it was very clear to them that the legislative intent in the 117th was that there would be no affect on the towns. Things have changed.

The Town of Limerick has received assessments from the Lake Arrowhead Community in the amount of \$208,000 for maintenance surcharges and fees from 1997 through 2000. A communication has been received indicating that the town may be charged for earlier assessments. The assessments are based on the assumption that the town is liable by virtue of the ownership through the tax lien process or by lots that have been voluntarily signed back to the town. In fact, the towns are performing their governmental function by taking the proper action on liens and on lots returned to the town. Lake Arrowhead Community, Inc. provides amenities such as clubhouses, tennis courts, indoor and outdoor swimming pools and a waterfront beach area to its members. These amenities are not available to the Limerick residents. The Town of Limerick is being asked an astronomical amount in surcharges and fees, but are not obtaining or enjoying the benefits of membership. To my colleagues who represent towns that have village corporations, private subdivisions or condominium communities, I would caution you to consider the impact on your community that an Ought Not to Pass vote on this legislation would cause. Could your towns absorb an \$8,000 plus, early appropriations to support a private corporation? I know it would

be an insurmountable burden for any of my towns. I ask for your support on the Ought to Pass motion.

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

Representative **MCALLEVEY**: Mr. Speaker, Men and Women of the House. I rise tonight to ask for your support in this legislation. It was a complex issue and I appreciate the time and effort that the State and Local Committee put into this. There are an awful lot of dynamics that went into where we are now and I won't go through that. What I will say is I and then Senator Willis Lord had been approached to put this legislation in. The committee maintains 55 miles of road in a water district. It is in the best interest of the towns involved and the members who live in that community that the Lake Arrowhead Association maintains their waterworks and their roads. They were having problems collecting their dues. We brought it before the State and Local Committee. Initially I was asked to put in legislation giving them service corporation authority, but the State and Local Committee changed what we had requested and crafted legislation that allowed them to become a condominium association type outfit. I was promised prior to the legislation in the hearing that they had no intention of billing the towns. The Arrowhead Association leadership stated that at the committee hearing. I reiterated what they said. There was no intent to do that. I don't believe they lied to the committee. I think what happened was after the legislation was enacted, which, by the way, went under the hammer in both the House and the other body. I was in error. Had I done this then and read into the record our legislative intent, we wouldn't be here tonight. I own up to that. Once they realized what they had, they decided to build the towns.

Limerick, a beautiful little town with 11,000 voters in that town, adults registered to vote. Their budget is \$620,000 a year, excluding the millions they send to the school district, which educate children in Arrowhead. Their bill is \$208,000. I entered into discussions with the Arrowhead officials as to why they changed their mind. The first point that was made to me was they have no choice. It is the law and they have to do it. I won't reiterate what I told them, because that would be against our decorum here. The discussions continued and I was told that we ran out of money. We need the money. They ran out of money and the number of people in that community could not afford to pay their assessment of \$500 or \$600 a year. They worked out arrangements with a community to pay on a time payment. The community agreed to do it and then they reneged on it and threatened to shut their water off. They, in fact, shut people's water off to force them to pay their assessments when we already gave them the authority to lien the property. A number of people complained. A number of people came forward. They received letters from the association, certified letters, declaring them persona non grata and telling them if they showed up at the corporate offices, they would be arrested. Not everyone on that association is a pirate, but a few people are acting like pirates. With the law we gave them came the responsibility, the authority to lien the property and to borrow money to work on their water district and build a water tank. With that comes the responsibility to act responsible.

Today Limerick and Waterboro and tomorrow Eagle Lake, Sherman, Vassalboro or your town. Some say we are trying to take away their authority. What the Legislature giveth, the Legislature taketh away. We don't want to take away their authority, but we want to reiterate what the intent of that

legislation was that they acknowledged before the hearing. We want to make it very clear to them what our intent is and that is not to bill these towns. This has been an assault against the legislative process, this body and this institution.

When I finally got them to admit to me why they were doing this, they finally said, we really didn't know the authority we had until we read the law and had it explained to us by attorneys. We are going ahead with it because nobody can stop us. I am asking you tonight not to stop that authority that they have, but to make it very clear what our ground rules and what our intent is so that it no longer becomes a burden on the towns of Waterboro or Limerick and sets into legislative record forever the intent of this legislation so it doesn't come back and haunt you and your communities. If they get away with this, every Lake Association in this state will become a condominium project and your towns will go bankrupt. Thank you very much.

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

Representative **BUMPS**: Mr. Speaker, Men and Women of the House. Before the debate is done, the only thing you may come to dislike more than retainage is the Lake Arrowhead Association legislation. Let me just start by saying that regardless of which side of the issue you are on, there are two things that are true. The first is, you are probably not on the wrong side of it because it is hard to tell what the right side is. The second is, this issue is so big and so thick and so long and its history is so sorted and the emotions run so high that you couldn't know if you were on the right side or the wrong side. Anything I am about to say, there is no reflection on the people who have spoken before me, all my committee members who are on the opposite side of the issue, because, quite frankly, when we cast this vote in our committee, I think it was one of the most difficult we have passed all session. I will tell you why.

In 1979, there was a court case and in that court case there was the division of some land and this is when this whole problem began. There was some land that was sort of isolated from the Town of Limerick and some land that was isolated from the Town of Waterboro. It sort of laid out in a very complicated and legalistic way who had responsibility for what. The Lake Arrowhead Association, as one could imagine with 55 miles of roads and some water district services to maintain over a period of time, that is those 20 intervening years now had some difficulty maintaining those services. There wasn't a financial base with which to do it. They said to themselves, how are we going to do this? What is the most common way? It is the way we do it here. You raise money to do it so the association said they needed to impose fees. It came to the Legislature in 1995, after struggling for a long time to provide these services, and the Legislature gave the Lake Arrowhead Association the right to impose fees on property owners to provide these services.

In 1995 the legislation was created. There were all sorts of lobbying, not much unlike what you have seen with this bill. There was the exchange of reams of paper back and forth. Lawyers wrote letters. The good Representative from Madawaska quoted from one of those letters, maybe it was the Representative from Machias, at any rate, the debate was long. It went on for a while. Imagine yourself, just for a moment, being a municipal official. You were a municipal official in Limerick and you were a municipal official in Waterboro. You were sitting in the State and Local Government Committee and the Legislature was about ready to permanently remove from your control a section of your town. That same committee in that same

Legislature was about ready to give that little entity that it was creating the authority to charge fees.

What would have been the first question that popped into your mind if you were a municipal official? Would you have thought to yourself, I wonder if I will get charged fees? In fact, that question was asked and the question was answered. It was answered with the letter that the Representative from Machias, Representative Bagley, quoted from. It said, quite simply, that the towns would suffer no impact. Imagine that, we are pulling some of the towns of Waterboro away. We are pulling some sections of the Town of Limerick away and the attorney writes, the towns will suffer no impact. Who in their right mind would believe that? Think about that. We are taking part of your town away and we are going to give the association the right to charge fees and yet is going to have no impact on the town.

In 1998, the association still having trouble providing these services to its folks sends letters to the Town of Limerick and the Town of Waterboro and it says we just can't do it anymore so we are going to start charging fees even now to the towns on these parcels of land that the town owns inside the association territory. This is February 1998, this is important. In the second session of the 118th Legislature and the first session of the 119th Legislature and the second session of the 119th Legislature there is not a piece of legislation introduced to do what is being asked of you tonight, but the second session of the 119th Legislature, a week away from adjournment and suddenly there is emergency legislation allowed into the committee and a hearing hastily scheduled. The hearing was held. A work session was scheduled the very next day. An hour goes on and the people in the committee start scratching their heads saying this is complicated. It goes on for 20 years with people charging fees. Let's vote Ought to Pass. The bill came out. The debate in the committee lasted no more than an hour. The bill comes out. There is an aggressive lobbying campaign. You all know there is something up with Arrowhead. The bill is here and here we are. Now, the last and compelling piece. The piece you haven't heard anything about from the other folks who have spoken on this issue.

Ladies and gentlemen of the House, there is a lawsuit pending in this case.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative McAlevey and would ask for what reason does the Representative rise?

Representative MCALEVEY: Mr. Speaker, I rise for an objection. *Mason's Manual* Rule 111 states that we are not to make any reference at any time in this chamber to any pending lawsuits; Section 3, Page 84. I think.

Representative McALEVEY of Waterboro **OBJECTED** to the comments of Representative BUMPS of China, stating that pursuant to Rule 111, Section 3, Page 84 of *Mason's Manual* it is not proper to make reference to pending lawsuits in the chamber at any time.

The SPEAKER: The Chair would rule that the *Mason's Manual* simply says that any matter awaiting adjudication in a court should not be debated or discussed in a legislative body. It is the chair's opinion that the Representative from China was simply referencing the lawsuit and not discussing it. As long as he simply references it, the chair does not find it out of order.

The Chair **RULED** that whereas Representative BUMPS of China was simply referencing the lawsuit and not discussing it he was not out of order.

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

Representative BUMPS: Mr. Speaker, Men and Women of the House. As I was saying, there is a lawsuit pending in the courts on this very issue that is before the Legislature. The peculiar thing about this lawsuit though, I mentioned at the beginning there are two towns, the Town of Waterboro and the Town of Limerick, there is only one town named in the lawsuit. It is the Town of Limerick. You would say to yourself, as the committee did, why is that? The answer is simply that the Town of Waterboro asked the association to waive the fees that they are being faced with. The association agreed. They said you don't need to pay the fees, but we need to have a dialog about how we continue to maintain the roads and how we continue to provided the water to the people in the Lake Arrowhead Association jurisdiction. The Waterboro folks set down with the association people and this is the dialog that is ongoing. The association claims, I can't testify to the validity of this, because, again, it has all happened so quickly. The association claims they couldn't have that same dialog with the Town of Limerick. They felt their only recourse was to place the case before the court.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative McAlevey and would ask for what reason does the Representative rise?

Representative MCALEVEY: I object Mr. Speaker. I object to the good Representative's last comments as a substantive issue that is pending before the court and that is a legal point that the court will be deciding upon and that does, I believe, in my opinion, enter into Rule 111.

Representative McALEVEY of Waterboro **OBJECTED** to the comments of Representative BUMPS of China, stating that pursuant to Rule 111 of *Mason's Manual* it is not proper to make reference to pending lawsuits in the chamber at any time.

Subsequently, Representative McALEVEY of Waterboro **WITHDREW** his **OBJECTION**.

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

Representative BUMPS: Mr. Speaker, Men and Women of the House. The case is sufficiently made. The point that the Representative from China was trying to make was simply that there is a case pending before the courts and for the Legislature to intervene in that case at a time when the court is getting ready to close the discovery phase is simply not prudent. I would ask that you vote against the pending motion and allow the courts to finally decide in this matter. Thank you very much.

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

Representative MCALEVEY: Mr. Speaker, Ladies and Gentlemen of the House. I thank the Representative from China for full disclosure in regards to this case. It is the court's responsibility, the Judiciary, to decide the law, elements of the law, whether it be criminal or civil. It is this body's responsibility to decide public policy. We set public policy. We set it with this legislation. A group of people have chosen not to follow that public policy. I submitted Arrowhead legislation at the beginning of this session. It didn't go anywhere for lack of support. That legislation was too broad.

Let me clarify one thing if I may. The properties within Arrowhead are a Lake Association. They are parts of the Towns of Waterboro and Limerick. Waterboro and Limerick provide county taxes. They levy taxes against these residents in form of

property taxes for which they pay county taxes for police services, fire service, rescue and dump transfer and not to mention all the social service agencies. There is a matter of perception. I perceive that the LAC as a Lake Association. A group of people who enjoy a body of water and have joined to support their efforts of living there. They don't. They think they are a little town. I have for years been trying to get them to feel as if they are part of Waterboro and Limerick, because everybody else does. We take their money in the form of taxes and we provide them services. The reality is intent. That is the hang up. Thank you.

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

Representative **MCDONOUGH**: Mr. Speaker, Men and Women of the House. I know it is late so I will be very brief. First I would like to compliment my good friend, the Representative from China, Representative Bumps, on his explanation and the background that he has presented tonight to this body. I am not going to get into that or repeat any of it. I am thankful that it is fishing season because we have opened up a can of worms here. A couple of points that swayed me to take the position on the minority side of this issue and that is the refusal of the Town of Limerick to negotiate. Representative Bumps made mention of that. The timeliness of the legislation is a great deal of concern to me. The pending action before the judicial system is another thing. The opportunity after the court case is heard for the town and its supporters to bring this legislation back to the 120th Legislature to deliberate on. I think those are the issues that we have all listened to tonight. I think in the issue of fairness and previous precedent that this body has really stood for about not getting between the court case and the legislation on any issue, I think it is a good one and I would hope that you will support the motion of the minority on this issue. Thank you.

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

Representative **MCALVEY**: Mr. Speaker, Ladies and Gentlemen of the House. The analogy of a can of worms, in all due respect, is inaccurate. Lake Arrowhead is fly fishing only.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. I know it is late, but I just want to share my concerns and what I learned. I was on the Minority Report, Ought Not to Pass. My concern was the late hour that we received this legislation and the fact that I was concerned that the people who live in the Lake Arrowhead Association were not notified. I asked those questions right off. I was tough. I listened to the debate and as Representative Bumps said, it was difficult. The one fact that stayed with me is why I decided to change my vote and I will now be supporting the Majority Ought to Pass Report. I do not feel it is fair for the small towns of Limerick and Waterboro, those people should not have to pay association dues to Lake Arrowhead. The people in Limerick and Waterboro do not have access to the tennis courts or any facilities that that private development has. I really don't think it is fair for the small towns to have to have that burden to go to litigation when the intent a few years ago was to let them keep their charter. They came before our committee, I was not there, but the people that

were before me heard this legislation and they wanted to help the people in the development at Lake Arrowhead because a developer had come in and took all this money and left and left it in a big mess. Now these people are held with this mess and they came and said we want to keep our charter together. Our committee said, yes, we think you should keep your charter together, but they did not intend to do this. The intention here is where I have changed my mind. I support the Majority Ought to Pass Report. Thank you very much.

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

Representative **GERRY**: Mr. Speaker, Ladies and Gentlemen of the House. I served on the committee that first heard this piece of legislation. When it came in front of our committee, I didn't like it. I didn't like it because this was the fourth attempt of trying to set up this community. Each step along the way, different deeds had different clauses. What this Arrowhead Community wanted to do was to change everybody's deeds to say that they now have to pay dues. I was told in committee that they had to do this to help provide the services. I was assured in committee that they only wanted to get this power to collect dues from tenants that are now there living in the community and future tenants when they purchase their properties, whether from the towns or from individuals who sold the property. They wanted the power to collect the fees. They did not say one word about collecting them from the towns. Everything was, we want to collect the fees from those that are living in the town.

This community, on paper, looks fantastic. You see plenty of roads and trees and stuff, but it is not that way. A lot of the property that the town owns is swampland and undeveloped land. You can't use it. Most of the roads are paper roads. They are on paper or they are on tracts. They are not clear-cut roads. The towns should not be told that they have to do these fees. Why should they pay maintenance for stuff that is not there and for not being able to have the privilege of letting the people in these other two communities come down into the property? Like has been said, you can't use the tennis courts. You can't use the swimming pools. You can't go down around the lake. You can't do anything. Why penalize these towns? If we vote against this motion and let Arrowhead Community tax the towns for these fees, all it is going to do in the end is bring up the property taxes for everybody else in the whole town, which is not right. I won't belabor the issue, but I ask of you to please support the Majority Report. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **DUPLESSIE**: Mr. Speaker, Men and Women of the House. Before the court case was filed, did the town or Lake Arrowhead Association, was there any discussion as far as entering into a mediation phase to try to resolve this dispute? Since the case has been filed, when is the discovery due to be closed? Thank you.

The SPEAKER: The Representative from Westbrook, Representative Duplessie has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from China, Representative Bumps.

Representative **BUMPS**: Mr. Speaker, Men and Women of the House. I am not going to talk about the court case. I refuse. With regard to the mediation, there was mediation. The mediation failed and a court case was filed and is pending and it is not the place of the Legislature to intervene in that matter.

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

ROLL CALL NO. 592

YEA - Ahearne, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Brennan, Brooks, Bruno, Bryant, Buck, Cameron, Campbell, Carr, Chick, Cianchette, Clark, Clough, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Dudley, Dugay, Duncan, Dunlap, Etnier, Fisher, Foster, Fuller, Gagne, Gagnon, Gerry, Gillis, Gooley, Hatch, Heidrich, Jacobs, Jodrey, Jones, Joy, Kane, Kasprzak, Labrecque, Lemoine, Lemont, Lindahl, MacDougall, Mack, Mailhot, Martin, Matthews, Mayo, McAlevey, McGlocklin, McKee, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, O'Brien LL, O'Neal, O'Neil, Peavey, Pieh, Pinkham, Plowman, Povich, Richard, Rines, Samson, Sanborn, Savage C, Savage W, Shiah, Shorey, Skoglund, Snowe-Mello, Stanley, Stanwood, Stedman, Sullivan, Tessier, Tobin D, Tobin J, Tracy, Trahan, Twomey, Usher, Volenik, Waterhouse, Watson, Wheeler EM, Williams, Mr. Speaker.

NAY - Bragdon, Bull, Bumps, Chizmar, Desmond, Duplessie, Glynn, Honey, Jabar, LaVerdiere, Madore, McDonough, Mitchell, O'Brien JA, Powers, Quint, Richardson E, Richardson J, Rosen, Saxl MV, Schneider, Sherman, Stevens, Thompson, Townsend, Treadwell, Weston, Winsor.

ABSENT - Andrews, Frechette, Goodwin, Green, Kneeland, Lovett, Marvin, Muse, Norbert, Perkins, Perry, Saxl JW, Shields, Sirois, Tripp, True, Tuttle, Wheeler GJ.

Yes, 105; No, 28; Absent, 18; Excused, 0.

105 having voted in the affirmative and 28 voted in the negative, with 18 being absent, and accordingly the Majority **Ought to Pass Report** was **ACCEPTED**.

The Bill was **READ ONCE**.

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

Representative **AHEARNE** of Madawaska **PRESENTED House Amendment "A" (H-1090)** which was **READ** by the Clerk and **ADOPTED**.

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-1090)** in **NON-CONCURRENCE** and sent for concurrence.

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

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Eliminate the Use of MTBE in Maine" (H.P. 11) (L.D. 21)

Majority (9) **OUGHT TO PASS AS AMENDED** Report of the Committee on **NATURAL RESOURCES READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1067)** in the House on April 6, 2000.

Came from the Senate with the Minority (4) **OUGHT TO PASS AS AMENDED** Report of the Committee on **NATURAL RESOURCES READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-1068)** in **NON-CONCURRENCE**.

On motion of Representative **MARTIN** of Eagle Lake, the House voted to **ADHERE**.

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Joint Order (S.P. 1044)

Report of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Require Rules on Temporary Campgrounds to be Major Substantive Rules"

(S.P. 1077) (L.D. 2681)

Reporting **Ought to Pass** pursuant to Joint Order (S.P. 1044).

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

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

The Bill **READ ONCE**.

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED** in concurrence.

Divided Report

Majority Report of the Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1095)** on Bill "An Act to Modify Adjustments in Property Valuation" (**EMERGENCY**)

(H.P. 1887) (L.D. 2626)

Signed:

Senators:

DAGGETT of Kennebec

RUHLIN of Penobscot

MILLS of Somerset

Representatives:

GAGNON of Waterville

DAVIDSON of Brunswick

COLWELL of Gardiner

STANLEY of Medway

LEMOINE of Old Orchard Beach

LEMONT of Kittery

MURPHY of Berwick

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

Signed:

Representative:

CIANCHETTE of South Portland

READ.

Representative **GAGNON** of Waterville moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

The **SPEAKER**: The Chair recognizes the Representative from Waterville, Representative **Gagnon**.

Representative **GAGNON**: Mr. Speaker, Men and Women of the House. This is a bill that came to us from the good Representatives from Westbrook for the City of Westbrook because of some severe hardships that they were facing with some major equipment that was leaving that town that affected

their property tax rate. We were prepared to pass this bill and then the City of Westbrook came upon some good news and some equipment, very quickly, just before April 1, in fact, moved into the town resulting in at least a partial increase in that valuation so that they would not qualify for the severe and sudden impact that is currently in law. We received a letter from the City of Westbrook saying that they didn't need it any longer. I really applaud that municipality for doing the right thing for us. I would encourage you to vote for the motion. Thank you Mr. Speaker.

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

Representative DUPLESSIE: Mr. Speaker, Ladies and Gentlemen of the House. To expedite the process, I would encourage you to vote for Indefinite Postponement of this bill. We have been very fortunate for the good news that did happen for the city and we would like to thank everyone for the good work of the Taxation Committee in trying to help us out. Thank you.

Subsequently, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** and sent for concurrence.

COMMUNICATIONS

The Following Communication: (S.C. 631)

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

April 7, 2000

The Honorable Joseph W. Mayo
Clerk of the House
State House Station 2
Augusta, ME 04333

Dear Clerk Mayo:

Please be advised the Senate today Adhered to its previous action whereby it Indefinitely Postponed Bill and its accompanying papers "An Act to Change Laws Pertaining to the Loring Development Authority of Maine" (H.P. 1498) (L.D. 2142).

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

CONSENT CALENDAR

First Day

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

(H.P. 1910) (L.D. 2658) Resolve, Regarding Legislative Review of Chapter 1: Rights of Recipients of Mental Health Services Who are Children in Need of Treatment, Section A-VII, Rights to Due Process With Regard to Grievances and Section A-IX, Confidentiality of and Access to Mental Health Records, a Major Substantive Rule of the Department of Mental Health, Mental Retardation and Substance Abuse Services (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass**

(H.P. 1658) (L.D. 2327) Resolve, to Establish a Commission to Study Teacher Recruitment and Retention Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1097)**

(H.P. 1740) (L.D. 2446) Bill "An Act to Encourage Energy Efficiency in Government Facilities" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1098)**

(H.P. 1913) (L.D. 2659) 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) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1099)**

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

There being no objection, the House Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **CRIMINAL JUSTICE** reporting **Ought Not to Pass** on Bill "An Act to Amend the Unlawful Sexual Contact Penalties"

(H.P. 1926) (L.D. 2672)

Signed:

Senators:

MURRAY of Penobscot

O'GARA of Cumberland

DAVIS of Piscataquis

Representatives:

SHERMAN of Hodgdon

TOBIN of Dexter

POVICH of Ellsworth

PEAVEY of Woolwich

MUSE of South Portland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1101)** on same Bill.

Signed:

Representative:

FRECHETTE of Biddeford

READ.

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

Representative TRACY of Rome moved that the House **RECONSIDER** its action whereby the Minority **Ought Not to Pass** Report on Bill "An Act to Protect the Health and Well-being of a Nursing Infant of Separated or Divorcing Parents"

(S.P. 888) (L.D. 2307)

Was **ACCEPTED.**

On further motion of the same Representative, **TABLED** pending his motion to **RECONSIDER ACCEPTANCE** of the Minority **Ought Not to Pass** Report and specially assigned for Saturday, April 8, 2000.

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

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

Representative **SAVAGE**: Mr. Speaker, Men and Women of the House. Had I been in the chamber, I would have voted yea on LD 2339.

On motion of Representative LOVETT of Scarborough, Representative CLOUGH of Scarborough and Representative COWGER of Hallowell, the House adjourned at 11:39 p.m., until 10:00 a.m., Saturday, April 8, 2000 in honor and lasting tribute to Dr. Warren G. Hill, alumnus of the University of Southern Maine and Norman P. Ledew, of Hallowell.