

# MAINE STATE LEGISLATURE

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Senate Legislative Record  
One Hundred and Nineteenth Legislature  
State of Maine

Volume 2

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May 6, 1999 to June 18, 1999

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STATE OF MAINE  
ONE HUNDRED AND NINETEENTH LEGISLATURE  
FIRST REGULAR SESSION  
JOURNAL OF THE SENATE

In Senate Chamber  
Wednesday  
May 12, 1999

Senate called to order by President Mark W. Lawrence of York County.

Prayer by Rabbi Raymond Krinsky of the Beth Israel Congregation in Waterville.

**RABBI KRINSKY:** Almighty God, we pray Your blessing upon our Senators as they continue to promulgate the Laws for our state. May they remain steadfast in their resolve to achieve fairness and justice for our citizens even while they are caught up in the give and take of political realities. May they vigorously pursue the intent of their principles while recognizing that compromise can also be heroic. May their earnest commitment to their constituencies continue to enhance their concern for the compelling needs of the larger community. Give them the strength to sail beyond the lands of familiar ideologies and the courage to explore the uncharted waters of novel ideas. Give them the vision of a greater day for the State of Maine and the will to bring to it their considerable talents for its realization. And may we, whom they represent, also contribute substantially of our civic sensibilities by becoming informed, concerned and involved constituents. Amen.

Reading of the Journal of Tuesday, May 11, 1999.

Off Record Remarks

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Bill "An Act to Amend the Charter of the Dover-Foxcroft Water District"

H.P. 993 L.D. 1391  
(C "A" H-242)

In Senate, May 3, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-242)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-242) AND HOUSE AMENDMENT "A" (H-521)**, in **NON-CONCURRENCE**.

On motion by Senator **PINGREE** of Knox, the Senate **RECEDED** and **CONCURRED**.

**Non-Concurrent Matter**

Bill "An Act to Improve Access to Dental Care for Children"  
H.P. 1226 L.D. 1755  
(C "A" H-274)

In Senate, May 3, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-274)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-274) AND HOUSE AMENDMENT "A" (H-529)**.

On motion by Senator **PINGREE** of Knox, the Senate **RECEDED** and **CONCURRED**.

**Non-Concurrent Matter**

HOUSE REPORTS - from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Ensure Compliance With Disability Access Laws by the Baxter State Park Authority"

H.P. 1189 L.D. 1699

Majority - **Ought Not to Pass** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-381)** (2 members)

In House, May 6, 1999, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-381)**.

In Senate, May 7, 1999, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

On motion by Senator **NUTTING** of Androscoggin, the Senate **ADHERED**.

**COMMUNICATIONS**

The Following Communication: H.C. 192

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
AUGUSTA, MAINE 04333

May 11, 1999

Honorable Joy J. O'Brien  
Secretary of the Senate  
119th Legislature  
Augusta, Maine 04333

Dear Madam Secretary:

The House voted today to adhere to its former action whereby it accepted the Minority Ought Not to Pass Report of the Committee on Health and Human Services on JOINT ORDER - Relative to Establishing the Task Force on Transportation Access, Air Pollution Reduction and Family Self-sufficiency (S.P. 612)

Sincerely,

S/Joseph W. Mayo  
Clerk of the House

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

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**SENATE PAPERS**

Bill "An Act to Expand Membership on the Maine Tourism Commission"

S.P. 824 L.D. 2227

Sponsored by Senator BENNETT of Oxford.  
Cosponsored by Representative COWGER of Hallowell and  
Senators: DAVIS of Piscataquis, MacKINNON of York,  
PENDLETON of Cumberland, Representatives: MARVIN of Cape  
Elizabeth, SHOREY of Calais, TRIPP of Topsham.  
Approved for introduction by a majority of the Legislative Council  
pursuant to Joint Rule 205.

**REFERRED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and ordered printed.

Sent down for concurrence.

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Bill "An Act to Provide for Alternative Treatment of Biomedical Waste" (EMERGENCY)

S.P. 825 L.D. 2228

Sponsored by Senator PARADIS of Aroostook.  
Cosponsored by Representative MARTIN of Eagle Lake and  
Senators: CASSIDY of Washington, GOLDTHWAIT of Hancock,  
Representatives: BAGLEY of Machias, PERKINS of Penobscot,  
SHOREY of Calais, STANWOOD of Southwest Harbor.  
Approved for introduction by a majority of the Legislative Council  
pursuant to Joint Rule 205.

**REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed.

Sent down for concurrence.

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**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Make Certain Provisions for Exceptional Students Consistent with Federal Laws and Regulations"

H.P. 1419 L.D. 2026

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-471).**

Signed:

Senators:  
BERUBE of Androscoggin  
MURRAY of Penobscot  
SMALL of Sagadahoc

Representatives:  
RICHARD of Madison  
WESTON of Montville  
STEDMAN of Hartland  
ANDREWS of York  
BAKER of Bangor  
BELANGER of Caribou

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-472).**

Signed:

Representatives:  
WATSON of Farmingdale  
DESMOND of Mapleton  
BRENNAN of Portland  
SKOGLUND of St. George

Comes from the House with the Bill and accompanying papers **COMMITTED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS.**

Reports **READ.**

On motion by Senator **PINGREE** of Knox, Bill and accompanying papers **COMMITTED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**, in concurrence.

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**Divided Report**

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Establish a School Voucher Program"

H.P. 1520 L.D. 2170

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

BERUBE of Androscoggin  
MURRAY of Penobscot  
SMALL of Sagadahoc

Representatives:

RICHARD of Madison  
WESTON of Montville  
WATSON of Farmingdale  
STEDMAN of Hartland  
DESMOND of Mapleton  
BRENNAN of Portland  
BAKER of Bangor  
BELANGER of Caribou  
SKOGLUND of St. George

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-470)**.

Signed:

Representative:

ANDREWS of York

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

On motion by Senator **BERUBE** of Androscoggin, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

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**Divided Report**

The Majority of the Committee on **LABOR** on Bill "An Act to Amend the Workers' Compensation Law as It Pertains to Employer-selected Health Care Providers"

H.P. 555 L.D. 776

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-359)**.

Signed:

Senators:

DOUGLASS of Androscoggin  
LaFOUNTAIN of York

Representatives:

HATCH of Skowhegan  
GOODWIN of Pembroke  
FRECHETTE of Biddeford  
MATTHEWS of Winslow  
SAMSON of Jay

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Senator:

MILLS of Somerset

Representatives:

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

Comes from the House 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" (H-359)**.

Reports **READ**.

Senator **LAFOUNTAIN** of York moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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**Divided Report**

The Majority of the Committee on **LABOR** on Bill "An Act to Restore State Funding for Mediation Services Provided by the Maine Labor Relations Board"

H.P. 564 L.D. 785

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-357)**.

Signed:

Senator:

DOUGLASS of Androscoggin

Representatives:

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

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Representatives:  
MacDOUGALL of North Berwick  
MACK of Standish  
TREADWELL of Carmel

Comes from the House 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" (H-357)**.

Reports **READ**.

Senator **LAFOUNTAIN** of York moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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**Divided Report**

The Majority of the Committee on **LABOR** on Bill "An Act to Require the State to Pay Medicare Costs for Retired State Employees and Retired Teachers"

H.P. 663 L.D. 919

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-358)**.

Signed:

Senators:  
DOUGLASS of Androscoggin  
LaFOUNTAIN of York

Representatives:  
MUSE of South Portland  
GOODWIN of Pembroke  
FRECHETTE of Biddeford  
MATTHEWS of Winslow  
SAMSON of Jay  
HATCH of Skowhegan  
DAVIS of Falmouth

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Senator:  
MILLS of Somerset

Representatives:  
MacDOUGALL of North Berwick  
MACK of Standish  
TREADWELL of Carmel

Comes from the House 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" (H-358)**.

Reports **READ**.

Senator **LAFOUNTAIN** of York moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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**Divided Report**

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Prohibit Lobbying by Government Agencies"

H.P. 1271 L.D. 1832

Reported that the same **Ought Not to Pass**.

Signed:

Senators:  
DAGGETT of Kennebec  
CAREY of Kennebec

Representatives:  
TUTTLE of Sanford  
CHIZMAR of Lisbon  
FISHER of Brewer  
MAYO of Bath  
SHIAH of Bowdoinham

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-415)**.

Signed:

Senator:  
FERGUSON of Oxford

Representatives:  
GAGNE of Buckfield  
LABRECQUE of Gorham  
PERKINS of Penobscot  
HEIDRICH of Oxford  
McKENNEY of Cumberland

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

Senator **DAGGETT** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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**Divided Report**

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Establish Procedures for the Awarding of Loans and Grants to Municipalities and Other Entities"

H.P. 885 L.D. 1242

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-374)**.

Signed:

Senator:

DAVIS of Piscataquis

Representatives:

RINES of Wiscasset  
TWOMEY of Biddeford  
BUMPS of China  
KASPRZAK of Newport  
JODREY of Bethel  
GERRY of Auburn

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Senators:

PENDLETON of Cumberland  
GOLDTHWAIT of Hancock

Representatives:

AHEARNE of Madawaska  
BAGLEY of Machias  
McDONOUGH of Portland  
RICHARDSON of Greenville

Comes from the House 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" (H-374)**.

Reports **READ**.

Senator **PENDLETON** of Cumberland moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

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**Divided Report**

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act to Create the Bicycle Safety Act"

H.P. 1096 L.D. 1543

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-378)**.

Signed:

Senators:

O'GARA of Cumberland  
PARADIS of Aroostook

Representatives:

FISHER of Brewer  
SANBORN of Alton  
CAMERON of Rumford  
WHEELER of Eliot  
JABAR of Waterville  
BOUFFARD of Lewiston  
SAVAGE of Union

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Senator:

CASSIDY of Washington

Representatives:

COLLINS of Wells  
LINDAHL of Northport  
WHEELER of Bridgewater

Comes from the House 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" (H-378)**.

Reports **READ**.

Senator **O'GARA** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

**Divided Report**

The Majority of the Committee on **TRANSPORTATION** on Bill  
"An Act to Ensure the Continued Operation of an Information  
Center in Fryeburg"

H.P. 1259 L.D. 1813

Reported that the same **Ought to Pass as Amended by  
Committee Amendment "A" (H-434).**

Signed:

Senators:

O'GARA of Cumberland  
PARADIS of Aroostook  
CASSIDY of Washington

Representatives:

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

The Minority of the same Committee on the same subject  
reported that the same **Ought Not to Pass.**

Signed:

Representatives:

SANBORN of Alton  
LINDAHL of Northport  
JABAR of Waterville

Comes from the House with the Bill and accompanying papers  
**INDEFINITELY POSTPONED.**

Reports **READ.**

Senator **O'GARA** of Cumberland moved to **INDEFINITELY  
POSTPONE** the Bill and accompanying papers, in concurrence.

On motion by Senator **BENNETT** of Oxford, **TABLED** until Later  
in Today's Session, pending motion by Senator **O'GARA** of  
Cumberland to **INDEFINITELY POSTPONE** the Bill and  
accompanying papers, in concurrence.

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**Divided Report**

The Majority of the Committee on **TRANSPORTATION** on Bill  
"An Act to Repeal the Mandatory Seat Belt Law if Approved at  
Referendum"

H.P. 1397 L.D. 2002

Reported that the same **Ought Not to Pass.**

Signed:

Senators:

O'GARA of Cumberland  
PARADIS of Aroostook

Representatives:

FISHER of Brewer  
SANBORN of Alton  
CAMERON of Rumford  
WHEELER of Eliot  
LINDAHL of Northport  
JABAR of Waterville  
BOUFFARD of Lewiston  
SAVAGE of Union

The Minority of the same Committee on the same subject  
reported that the same **Ought to Pass as Amended by  
Committee Amendment "A" (H-377).**

Signed:

Senator:

CASSIDY of Washington

Representatives:

COLLINS of Wells  
WHEELER of Bridgewater

Comes from the House with the Majority **OUGHT NOT TO PASS  
Report READ and ACCEPTED.**

Reports **READ.**

Senator **O'GARA** of Cumberland moved the Senate **ACCEPT** the  
Majority **OUGHT NOT TO PASS** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in  
Today's Session, pending motion by same Senator to **ACCEPT**  
the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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**Divided Report**

The Majority of the Committee on **TRANSPORTATION** on Bill  
"An Act to Amend Motor Vehicle Title Laws"

H.P. 1506 L.D. 2149

Reported that the same **Ought to Pass as Amended by  
Committee Amendment "A" (H-379).**

Signed:

Senators:

O'GARA of Cumberland  
PARADIS of Aroostook  
CASSIDY of Washington



Representatives:

FISHER of Brewer  
 COLLINS of Wells  
 SANBORN of Alton  
 LINDAHL of Northport  
 JABAR of Waterville  
 BOUFFARD of Lewiston  
 SAVAGE of Union  
 WHEELER of Bridgewater

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Representatives:

CAMERON of Rumford  
 WHEELER of Eliot

Comes from the House with the Bill and accompanying papers **COMMITTED** to the Committee on **TRANSPORTATION**.

Reports **READ**.

On motion by Senator **O'GARA** of Cumberland, Bill and Accompanying Papers **COMMITTED** to the Committee on **TRANSPORTATION**, in concurrence.

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**SECOND READERS**

The Committee on **Bills in the Second Reading** reported the following:

**House**

Resolve, Regarding Legislative Review of Chapter 311: Renewable Resource Portfolio Requirement, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY)  
 H.P. 546 L.D. 767

Bill "An Act to Revise Hunting and Fishing License Revocation Laws"  
 H.P. 554 L.D. 775

Bill "An Act to Preserve the Medicaid Home Health Benefit"  
 H.P. 1086 L.D. 1533

**READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, in concurrence.

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**House As Amended**

Bill "An Act to Clarify the Responsibility of a Municipality in Enforcing Personal Watercraft Regulations"  
 H.P. 16 L.D. 26  
 (C "A" H-510)

Bill "An Act to Allow the Use of All-terrain Vehicles on the Extreme Right of a Public Way" (EMERGENCY)  
 H.P. 97 L.D. 110  
 (C "A" H-511)

Bill "An Act to Secure Wounded Deer"  
 H.P. 181 L.D. 259  
 (C "A" H-512)

Bill "An Act to Require a Minor Who is the Underlying Cause of a Liquor Violation to Provide Identification to a Law Enforcement Officer"  
 H.P. 274 L.D. 382  
 (C "A" H-313)

Bill "An Act to Extend the Open Water Fishing Season"  
 H.P. 530 L.D. 737  
 (C "A" H-513)

Bill "An Act to Amend the Laws Governing Commercial Shooting Area Hunting Licenses"  
 H.P. 561 L.D. 782  
 (C "A" H-514)

Bill "An Act to Amend the Laws Pertaining to the Maine HIV Advisory Committee"  
 H.P. 806 L.D. 1129  
 (C "A" H-371)

Bill "An Act to Secure Environmental and Economic Benefits from Electric Utility Restructuring"  
 H.P. 1000 L.D. 1398  
 (C "A" H-522)

Bill "An Act to Control the Sale and Display of Tobacco Products"  
 H.P. 1123 L.D. 1582  
 (C "A" H-370)

Bill "An Act to Clarify Certain Laws Administered by the Department of Environmental Protection, Bureau of Remediation and Waste Management"  
 H.P. 1140 L.D. 1625  
 (C "A" H-519)

Bill "An Act to Strengthen Maine's Research and Development Capacity in Renewable Energy Resources"  
 H.P. 1152 L.D. 1649  
 (C "A" H-523)

Bill "An Act to Improve the Marketability of Real Estate Titles"  
 H.P. 1415 L.D. 2022  
 (C "A" H-507)

Bill "An Act to Amend the Laws Relating to Slash Disposal along Highways and Railroad and Utility Corridors"  
 H.P. 1445 L.D. 2066  
 (C "A" H-524)

Bill "An Act to Implement Funding the Recommendations of the Interagency Task Force on Homelessness and Housing Opportunities in the November 1997 Task Force Report"  
 H.P. 1471 L.D. 2111  
 (C "A" H-294)

Bill "An Act to Fund the Costs Associated with Determining Eligibility for Certain Marine Resources Licenses"

H.P. 1544 L.D. 2198  
(C "A" H-517)

**READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

Bill "An Act to Clarify Roles and Responsibilities in the Child Development Services System" (EMERGENCY)

H.P. 931 L.D. 1308  
(C "A" H-525)

**READ A SECOND TIME.**

On motion by Senator **PINGREE**, of Knox, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

Bill "An Act to Establish a Fund to Promote Acadian Cultural Tourism for St. Croix Island"

H.P. 1029 L.D. 1451  
(C "B" H-272)

**READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

**Senate As Amended**

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

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

Bill "An Act to Establish a Framework for Management of Emerging Fisheries"

S.P. 378 L.D. 1079  
(C "A" S-264)

Bill "An Act to Amend the Lobbyist Registration Fee Provisions"

S.P. 503 L.D. 1504  
(C "A" S-263)

Bill "An Act to Ensure that Displaced Workers Have Access to Appropriate Job Training, Education and Employment Services through a Peer Support Program"

S.P. 594 L.D. 1718  
(C "A" S-242)

**READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED.**

Sent down for concurrence.

Off Record Remarks

**ENACTORS**

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

**Emergency Measure**

An Act to Promote the Recycling of Fish Scales as Agricultural Fertilizer

S.P. 204 L.D. 593  
(C "A" S-183)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

**Emergency Measure**

An Act to Conform the Maine Tax Laws for 1998 With the United States Internal Revenue Code

H.P. 1053 L.D. 1484  
(C "A" H-387)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

**Emergency Measure**

An Act to Consolidate Traffic Movement Permits within the Department of Transportation

S.P. 756 L.D. 2132  
(C "A" S-167; S "A" S-192)

On motion by Senator **O'GARA** of Cumberland, placed on the **SPECIAL HIGHWAY TABLE**, pending **ENACTMENT**, in concurrence.

**Emergency Measure**

An Act to Allow the Fort Kent Utility District to be Dissolved and Combined With the Town of Fort Kent

H.P. 1538 L.D. 2193

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Emergency Resolve**

Resolve, Regarding Legislative Review of Chapter 380: Energy Conservation Programs by Electric Transmission and Distribution Utilities, a Major Substantive Rule of the Public Utilities Commission

H.P. 569 L.D. 790  
(C "A" H-400)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with 1 Senator having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Emergency Resolve**

An Act to Create the Business Advisory Commission on Quality Child Care Financing

S.P. 486 L.D. 1446  
(C "A" S-179)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in concurrence.

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Off Record Remarks

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**Emergency Resolve**

Resolve, Regarding Legislative Review of Certain Sections of Chapter II, Section 67, Nursing Facility Services, of Chapter 101: Maine Medical Assistance Manual, a Major Substantive Rule of the Department of Human Services

H.P. 1535 L.D. 2188

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Emergency Resolve**

Resolve, Regarding Legislative Review of Chapter 231: Rules Relating to Drinking Water, a Major Substantive Rule of the Department of Human Services

H.P. 1536 L.D. 2189

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Emergency Resolve**

Resolve, to Establish the John H. Reed-Kenneth M. Curtis Peace Fellowship

S.P. 789 L.D. 2201  
(C "A" S-195)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in concurrence.

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**Mandate**

An Act Concerning Recreational Clam Harvesting Licenses

S.P. 262 L.D. 757  
(C "A" S-164)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Mandate**

An Act to Ensure Support Services for Teachers Serving Under a Certification Waiver

S.P. 461 L.D. 1348  
(C "A" S-165)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Mandate**

An Act to Modify the Juvenile Code with Regard to the Service of Juvenile Summonses

S.P. 690 L.D. 1936  
(C "A" S-193)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Acts**

An Act to Add to the List of Mandatory Reporters of Suspected Child Abuse Children's Summer Camp Administrators and Counselors

H.P. 75 L.D. 88  
(C "A" H-441)

An Act to Amend the Laws Relating to Long-term Care Insurance and to Require Disclosure to Insurance Consumers that Long-term Care Insurance Policies are Tax-qualified for Purposes of Federal and State Income Tax

S.P. 140 L.D. 376  
(C "A" S-197)

An Act to Require that the State of Maine Comply with Federal Law Requiring Reasonable Efforts

H.P. 297 L.D. 405  
(C "A" H-440)

An Act to Require Certain Disclosures by Providers of Funeral Services

H.P. 525 L.D. 732  
(C "A" H-398)

An Act to Amend the Animal Welfare Laws

H.P. 535 L.D. 742  
(C "A" H-444)

An Act to Ensure Adequate Funding of Certain Public Safety Programs of Occupational or Professional Licensure Boards

S.P. 398 L.D. 1189  
(C "A" S-178)

An Act Regarding the Effective Date of Guardian Ad Litem Training

H.P. 856 L.D. 1213  
(C "A" H-439)

An Act Relating to Automobile Rental Supplemental Liability Insurance

H.P. 861 L.D. 1218  
(C "A" H-341)

An Act to Allow Sharing of Information for Child Protective Investigations

H.P. 1038 L.D. 1460  
(C "A" H-438)

An Act to Clarify the Definition of Terms Relating to Scheduled Drugs

H.P. 1107 L.D. 1566  
(C "A" H-420)

An Act to Require the Holder or Servicer of a Mortgage to Record the Discharge Within 60 Days

H.P. 1127 L.D. 1586  
(C "A" H-382)

An Act to Amend the Abandoned Property Laws

H.P. 1162 L.D. 1673  
(C "A" H-436)

An Act to Extend Certain Survivor Benefits to the Spouses and Children of Emergency Medical Services Providers

H.P. 1197 L.D. 1707  
(C "A" H-366)

An Act to Amend the Home-release Monitoring Program

H.P. 1198 L.D. 1708  
(C "A" H-417)

An Act to Clarify the Law Governing Disbursements from the Groundwater Oil Clean-up Fund

H.P. 1201 L.D. 1711  
(C "A" H-426)

An Act to Update the Laws Concerning Prearranged Funerals

H.P. 1248 L.D. 1777  
(C "A" H-342)

An Act to Clarify 7-day Evictions in Tenancies at Will

S.P. 623 L.D. 1788  
(C "A" S-127)

An Act to Amend the Definition of Lender Under the Uncontrolled Hazardous Substance Sites Law

H.P. 1254 L.D. 1808  
(C "A" H-423)

An Act to Limit the Imposition of Excise Taxes on Watercraft

H.P. 1284 L.D. 1845  
(C "A" H-385)

An Act Allowing the Appointment of Temporary Guardians of Minors

H.P. 1299 L.D. 1860  
(C "A" H-437)

An Act to Revise Procedures for Probation Revocation

H.P. 1310 L.D. 1871  
(C "A" H-427)

An Act to Prevent Conflicts of Interest

H.P. 1337 L.D. 1920  
(C "A" H-288)

An Act to Protect Beneficiaries of Structured Settlements  
S.P. 680 L.D. 1930  
(C "A" S-203)

An Act to Maintain Protection of Sand Dunes Under Existing Law  
H.P. 1442 L.D. 2063  
(C "A" H-424)

An Act to Protect Library Materials in Circulation  
H.P. 1449 L.D. 2070  
(C "A" H-416)

An Act to Amend the Charter of the Richmond Utilities District  
H.P. 1459 L.D. 2091  
(C "A" H-399)

An Act to Require Legislative Approval to Lease Certain Land to  
the Federal Government  
H.P. 1460 L.D. 2092  
(C "A" H-363; S "A" S-225)

An Act to Amend the Laws Concerning Life and Health Insurance  
S.P. 765 L.D. 2157  
(C "A" S-182)

An Act to Amend the Calculation of Service Credits Under the  
Maine State Retirement System Pertaining to the Comprehensive  
Employment and Training Act of 1973 Employees  
S.P. 792 L.D. 2204  
(C "A" S-177)

**PASSED TO BE ENACTED** and having been signed by the  
President were presented by the Secretary to the Governor for  
his approval.

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An Act to Provide State Funding for the Wells National Estuarine  
Research Reserve  
S.P. 68 L.D. 171  
(C "A" S-166)

On motion by Senator **MICHAUD** of Penobscot, placed on the  
**SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in  
concurrence.

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An Act to Require the State to Be Responsible for the Costs of  
School Employee Criminal History Records Checks and  
Fingerprinting  
H.P. 628 L.D. 878  
(C "A" H-405)

On motion by Senator **MICHAUD** of Penobscot, placed on the  
**SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in  
concurrence.

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An Act to Amend the Tax Law Regarding Tax Liability of Innocent  
or Injured Spouses  
S.P. 308 L.D. 910  
(C "A" S-173)

On motion by Senator **MICHAUD** of Penobscot, placed on the  
**SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in  
concurrence.

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An Act to Make Courses that Teach English as a 2nd Language  
Reimbursable by the State

H.P. 860 L.D. 1217  
(C "A" H-373)

On motion by Senator **MICHAUD** of Penobscot, placed on the  
**SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in  
concurrence.

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An Act to Raise Penalties for Cases of Cruelty to Animals or  
Birds

H.P. 903 L.D. 1281  
(C "A" H-419)

On motion by Senator **MICHAUD** of Penobscot, placed on the  
**SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in  
concurrence.

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An Act to Establish and Fund Conflict Resolution Education and  
Civil Rights Team Programs in the Public Schools  
H.P. 928 L.D. 1305  
(C "A" H-317)

On motion by Senator **MICHAUD** of Penobscot, placed on the  
**SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in  
concurrence.

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An Act to Clarify the Sales Tax Exemption for Food Service in  
Educational Institutions

S.P. 534 L.D. 1596  
(C "A" S-174)

On motion by Senator **MICHAUD** of Penobscot, placed on the  
**SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in  
concurrence.

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An Act to Make More Uniform the Training of Firefighters  
S.P. 656 L.D. 1878  
(C "A" S-194)

On motion by Senator **MICHAUD** of Penobscot, placed on the  
**SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in  
concurrence.

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An Act to Update the Statutes and Provide for the Basic Needs of  
the Maine Conservation Corps

S.P. 735 L.D. 2085  
(C "A" S-171)

On motion by Senator **MICHAUD** of Penobscot, placed on the  
**SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

An Act to Improve the Effectiveness of the Driver Education and Evaluation Programs

H.P. 1546 L.D. 2202  
(C "A" H-403)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

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**Resolve**

Resolve, Creating a Commission to Study the Multicultural Education Needs of Maine Teachers to Ensure Multicultural Awareness and Understanding for All Maine Students

H.P. 1230 L.D. 1759  
(C "A" H-319)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in concurrence.

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**ORDERS OF THE DAY**

**Unfinished Business**

The following matters in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (5/5/99) Assigned matter:

**JOINT ORDER** - relative to the Joint Standing Committee on Banking and Insurance and the Joint Standing Committee on Health and Human Services jointly reporting out legislation to the House that delays the implementation of changes to the mail order prescription plan under the State of Maine health insurance program required under the Maine Revised Statutes, Title 5, chapter 13, subchapter II

H.P. 1571

Tabled - May 5, 1999, by Senator **PINGREE** of Knox.

Pending - **PASSAGE**, in concurrence

(In House, May 4, 1999, **READ** and **PASSED**.)

(In Senate, May 5, 1999, **READ**.)

On motion by Senator **PINGREE** of Knox, **INDEFINITELY POSTPONE**, in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/5/99) Assigned matter:

**HOUSE REPORTS** - from the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Provide Funds for a New Historical Atlas of Maine"

H.P. 901 L.D. 1279

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-297)** (8 members)

Minority - **Ought Not to Pass** (5 members)

Tabled - May 5, 1999, by Senator **MICHAUD** of Penobscot.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence

(In House, May 4, 1999, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-297)**.)

(In Senate, May 5, 1999, Reports **READ**.)

At the request of Senator **HARRIMAN** of Cumberland a Division was had. 17 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator **MICHAUD** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (H-297) **READ** and **ADOPTED**, in concurrence.

**TOMORROW ASSIGNED FOR SECOND READING.**

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The Chair laid before the Senate the following Tabled and Later (5/11/99) Assigned matter:

Bill "An Act to Include the Income of a Lessee for the Purpose of Determining Eligibility in Farm and Open Space Tax Laws"

H.P. 1077 L.D. 1524

Tabled - May 11, 1999, by Senator **PINGREE** of Knox.

Pending - **PASSAGE TO BE ENGROSSED**, in concurrence

(In House, May 10, 1999, **PASSED TO BE ENGROSSED**.)

(In Senate, May 11, 1999, **READ A SECOND TIME**.)

On motion by Senator **RUHLIN** of Penobscot, Senate Amendment "A" (S-265) **READ** and **ADOPTED**.

**PASSED TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later (5/11/99) Assigned matter:

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Resolve, Authorizing the Family of Adam Wilson to Sue the Town of Rockport  
H.P. 1345 L.D. 1945

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-348)** (6 members)

Tabled - May 11, 1999, by Senator **DAGGETT** of Kennebec.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence

(In House, May 10, 1999, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 11, 1999, Reports **READ**.)

On motion by Senator **DAGGETT** of Kennebec, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

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The Chair laid before the Senate the following Tabled and Later (5/11/99) Assigned matter:

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Amend the Illegal Transportation of Liquor Law"  
H.P. 706 L.D. 973

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-383)** (6 members)

Tabled - May 11, 1999, by Senator **RAND** of Cumberland.

Pending - **FURTHER CONSIDERATION**

(In House, May 7, 1999, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-383)**.)

(In Senate, May 10, 1999, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

(In House, May 11, 1999, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.)

Senator **PINGREE** of Knox moved the Senate **ADHERE**.

Senator **FERGUSON** of Oxford moved the Senate **RECEDE** and **CONCUR**.

The Chair ordered a Division. 18 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **FERGUSON** of Oxford to **RECEDE** and **CONCUR**, **PREVAILED**.

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Off Record Remarks

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Senator **LONGLEY** of Waldo was granted unanimous consent to address the Senate off the Record.

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Senator **PINGREE** of Knox was granted unanimous consent to address the Senate off the Record.

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Senator **AMERO** of Cumberland was granted unanimous consent to address the Senate off the Record.

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Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

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Off Record Remarks

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On motion by Senator **PINGREE** of Knox, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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Out of order and under suspension of the Rules, the Senate considered the following:

#### **PAPERS FROM THE HOUSE**

##### **House Papers**

Bill "An Act to Permit Certain Referrals by Health Care Practitioners" (EMERGENCY)

H.P. 1578 L.D. 2225

Comes from the House, **REFERRED** to the Committee on **BANKING AND INSURANCE** and ordered printed.

**REFERRED** to the Committee on **BANKING AND INSURANCE** and ordered printed, in concurrence.

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Bill "An Act Relating to Remedies for Unlawful Housing Discrimination"

H.P. 1579 L.D. 2226

Comes from the House, **REFERRED** to the Committee on **JUDICIARY** and ordered printed.

**REFERRED** to the Committee on **JUDICIARY** and ordered printed, in concurrence.

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Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Require that the State Planning Office Report to the Committee on State and Local Government"

H.P. 619 L.D. 859  
(C "B" H-323)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-322)** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-323)** (4 members)

In House, May 7, 1999, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-322)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-322) AS AMENDED BY HOUSE AMENDMENT "A" (H-505)** thereto, **AND HOUSE AMENDMENT "A" (H-496)**.

In Senate, May 11, 1999, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-323)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-323)**, in **NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

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Senate at Ease.

Senate called to order by the President.

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Senator **PENDLETON** of Cumberland moved the Senate **ADHERE**.

Senator **BENNETT** of Oxford moved the Senate **INSIST** and **JOIN IN A COMMITTEE OF CONFERENCE**.

The Chair ordered a Division. 10 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **BENNETT** of Oxford to **INSIST** and **JOIN IN A COMMITTEE OF CONFERENCE**, **FAILED**.

Senator **BENNETT** of Oxford moved the Senate **RECEDE** and **CONCUR**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **RECEDE** and **CONCUR**.

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Out of order and under suspension of the Rules, the Senate considered the following:

**COMMUNICATIONS**

The Following Communication: S.C. 246

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

May 12, 1999

The Honorable Joy J. O'Brien  
Secretary of the Senate  
State House Station 3  
Augusta, Maine 04333

Dear Secretary O'Brien:

With reference to the Senate's action whereby it insisted and joined in a Committee of Conference on the disagreeing action between the two branches of the Legislature on the Bill, "An Act to Allow a One-time Double Exemption for Income Tax Filers Who Adopt a Dependent Child" (H.P. 295) (L.D. 403)

I have appointed as conferees on the part of the Senate the following:

Senator Beverly C. Daggett of Kennebec  
Senator Richard J. Carey of Kennebec  
Senator S. Peter Mills of Somerset

Sincerely,

S/Mark W. Lawrence  
President of the Senate

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

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Out of order and under suspension of the Rules, the Senate considered the following:

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **CRIMINAL JUSTICE** on Bill "An Act to Amend the Victims' Compensation Fund Law"  
H.P. 1229 L.D. 1758

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-421)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-421) AS AMENDED BY HOUSE AMENDMENT "A" (H-465)** thereto. Report **READ** and **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-421) **READ**.

House Amendment "A" (H-465) to Committee Amendment "A" (H-421) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-421) as Amended by House Amendment "A" (H-465) thereto, **ADOPTED**, in concurrence.

**TOMORROW ASSIGNED FOR SECOND READING.**

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Out of order and under suspension of the Rules, the Senate considered the following:

**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass As Amended**

Senator **DOUGLASS** for the Committee on **LABOR** on Bill "An Act to Allow Workers' Compensation Board Advocates to Prioritize and Decline Cases"  
S.P. 741 L.D. 2100

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-268)**.

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

**READ ONCE.**

Committee Amendment "A" (S-268) **READ** and **ADOPTED**.

**TOMORROW ASSIGNED FOR SECOND READING.**

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Out of order and under suspension of the Rules, the Senate considered the following:

**REPORTS OF COMMITTEES**

**Senate**

**Divided Report**

The Majority of the Committee on **LABOR** on Bill "An Act to Require That Workers' Compensation Coverage Be Equitably Applied to the Timber Industry"  
S.P. 248 L.D. 670

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-269)**.

Signed:

Senators:

LaFOUNTAIN of York  
MILLS of Somerset

Representatives:

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

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (S-270)**.

Signed:

Representatives:

MacDOUGALL of North Berwick  
MACK of Standish  
TREADWELL of Carmel

Reports **READ**.

Senator **DOUGLASS** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-269)** Report.

On motion by Senator **AMERO** of Cumberland, **TABLED** until Later in Today's Session, pending motion by Senator **DOUGLASS** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-269)** Report.

**ORDERS OF THE DAY**

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Establish Procedures for the Awarding of Loans and Grants to Municipalities and Other Entities"

H.P. 885 L.D. 1242

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-374)** (7 members)

Minority - **Ought Not to Pass** (6 members)

Tabled - May 12, 1999, by Senator **PENDLETON** of Cumberland.

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**

(In House, May 11, 1999, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-374)**.)

(In Senate, May 12, 1999, Reports **READ**.)

Senator **AMERO** of Cumberland requested a Division.

**THE PRESIDENT:** The Chair recognizes the Senator from Piscataquis, Senator Davis.

Senator **DAVIS:** Thank you Mr. President, I would rise in opposition to this motion. This Bill, or the Amendment on the Bill would merely bring some accountability to those heads of Departments in our State Government that have discretionary funds that they can hand out to different communities, and different entities for the purpose of doing studying and these types of things. As the current law is right now there is no restrictions on them whatsoever, they can give them out as they see fit to whoever they want to. This Amendment is a lot simpler than the Bill was. The Bill was quite bureaucratic in nature, set up a bunch of rules, and what this does is basically just causes the different Commissioners and heads of Departments to lay out the reasons why they gave out the money. So that if you live in one community and you see something going on with State funds in another community, and you learn that it is a grant, you can find out why it was given to that community. It puts it all in writing. That is all it does. Thank you very much.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Pendleton.

Senator **PENDLETON:** Thank you Mr. President. Men and women of the Senate, I just would like to mention in this Amendment under Number 3 all grants that are awarded pursuant to 5 MRSA, Section 1831, are exempt from the provisions of this Section. All loans and grants governed by criteria and procedures established into the Federal or State Law that are in conflict with the provisions of the Section are exempt from the Section. The reason that we went along with the

Minority Report in the end was basically because the Amendment really doesn't do a whole lot of anything with that little part that was added on to the end. It just kind of exempts everything out that we were trying to do. So I hope that you will stay with the Ought Not to Pass Report. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Piscataquis, Senator Davis.

Senator **DAVIS:** Again I would say that this Bill merely brings accountability in a government where the money is and the people have free use of it. It makes them a little more accountable for how they use it.

At the request of Senator **AMERO** of Cumberland a Division was had. 18 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **PENDLETON** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED**.

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **TRANSPORTATION** on Bill "An Act to Create the Bicycle Safety Act"

H.P. 1096 L.D. 1543

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-378)** (9 members)

Minority - **Ought Not to Pass** (4 members)

Tabled - May 12, 1999, by Senator **O'GARA** of Cumberland.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence

(In House, May 11, 1999, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-378)**.)

(In Senate, May 12, 1999, Reports **READ**.)

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Off Record Remarks

Senator **CASSIDY** of Washington requested a Division.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Libby.

Senator **LIBBY**: Thank you Mr. President. Men and women of the Senate, I want to stand briefly and say I'm awful glad I lived in a time in the state of Maine when I could ride my bike without a helmet. I think it's important to have those memories, because apparently that's all there's going to be is memories. There'll be no kids growing up in the state of Maine that are going to have the opportunity to ride their bicycle without being told by the State exactly what to do. We are not these kids parents. If the parents want these kids to wear helmets, than let them tell them that. Why we're doing that is beyond me. We have other Bills that we're going to be considering, like seatbelts in the backs of trucks and other things I think relate to this issue. And I think that probably my position, maybe it's a minority in this Chamber, but I'm not going to let that stop me from saying I enjoyed growing up in a time in this state when there was some freedom to do the things you wanted to do. I could ride my bicycle through a dirt road in the middle of the woods and have a heck of a time with my friends. If you want to take that away and make them wear helmets, you go right ahead but it's wrong. Thank you.

**THE PRESIDENT**: The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT**: Thank you Mr. President. Ladies and gentlemen of the Senate, it's one thing to enjoy the wind blowing through your hair. It's another thing to have the wind blowing through your head. That is what can happen if you ride a bicycle without a helmet. This kind of injury is one that has been most resistant to progress medically as far as being able to solve the problem of head injuries. We can fix a lot of things. We can fix broken arms and legs and chest injuries and belly injuries. The head injury has been the most resistant to significant treatment and the unfortunate thing about head injury is it is far more likely to occur in the young male population. That means as opposed to some of the other illnesses that plague people at the end of their lives, it's an injury that frequently happens very early in your life to an otherwise healthy person. That is a person that is often left with a healthy and functioning heart but not a healthy and functioning brain. It is a tragedy. It is an enormous drain on medical resources in terms of sustaining that person for the rest of their life. This Bill has a very light touch. It does not have heavy fines or jail terms for anybody for not wearing a helmet. What it does do is it reinforces the existing programs statewide that have been undertaken, usually at the community level, usually by volunteers whether it's nurses, police departments, YWCAs, YMCAs. Or people have gotten together and undertaken good public education, bike rodeos and a real strong campaign to have kids wear helmets. The question is, why isn't that enough? Why don't we leave it at that? It is these very people who are turning to us and saying you could help the work that we've put into this. You could help by adding this statement of public policy in Maine state statute saying that we really believe that children really should be wearing helmets to protect themselves. Yes it's a function of parental responsibility. But on the other hand sometimes even parents need an extra push and an extra incentive. Helmets are made available through a variety of programs so that cost will not be an object. Kids will have accessibility to helmets whether they can afford the cost of going to the store and buying one or not. I think this a reasonable measure to take in terms of the safety of our children and I would urge your support for the pending motion.

**THE PRESIDENT**: The Chair recognizes the Senator from Franklin, Senator Benoit.

Senator **BENOIT**: Thank you Mr. President. May it please the Senate, you can't judge a book by it's cover and appearances can sometimes be very deceiving. Looking at me you probably don't appreciate the fact that I am a mountain bike madness man. Judy and I are avid mountain bikers. We live in Sandy River Plantation. We have very little pavement area on our roads around the house. We enjoy mountain biking to almost an extreme. My daughter Anne, at one point in her college career, achieved in her racing at UNH, was the second fastest racer in the country with a bike and has taught Judy and I a lot about bike safety. The good Senator from York, Senator Libby, is right. Times have changed. The opportunities that he enjoyed can not be enjoyed today it seems and it's a shame. We have people out there who exercise, what we call, road rage. Our young people are supposed to get out there with their bicycles in these areas where road rage exists. I feel, in conclusion, Mr. President, if we are of a mind to spend our time, and perhaps it is time well spent, in Enacting a State Soil we certainly can Enact a statute that would have as it's understanding the safety of our children riding bicycles along our rights of way. Thank you Sir.

**THE PRESIDENT**: The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY**: Thank you Mr. President. I'm a reluctant supporter of this measure. And as one who has flown over my handle bars and spent the next seven months feeling that I was sick every single day, I understand how quickly you can do great damage to your head. My reluctance is because of the lack of teeth, the lack of enforcement. But I've come to the realization that isn't enough to oppose this important measure to protect Maine's kids. I'd like to go on the record as saying down the road I would love it if, at the municipal level, or if necessary at the State level, we add some teeth. Add some baby teeth to the effect like three warnings and then a five dollar fine. My reason for that is we hear time and again those kids that violate the law get to laugh at us because we often don't enforce it on them and I think teaching the lesson of consequence is a real important lesson. I'll be supporting it, but I'll be looking for more, hopefully at the municipal level to add some of what I would call "baby teeth" in terms of enforcement. Thank you.

**THE PRESIDENT**: The Chair recognizes the Senator from Cumberland, Senator Harriman.

Senator **HARRIMAN**: Thank you very much Mr. President. Good afternoon ladies and gentlemen of the Senate. I hope you will join my good friend from York, Senator Libby, in defeating the pending motion. This Bill seems to me to be well intended. I certainly understand and agree with the rationale that probably brought this Legislation before us. But it also appears to me to be a Bill that is discriminatory. Why are we saying that children who ride a bicycle must wear a helmet, but those who go skiing, horseback riding, rollerblading, skateboarding and other activities that other youngsters engage in don't have to. I think that is the point Mr. President. We seem to have gotten to a place in history where it's the government's responsibility to protect the children. And while I certainly agree in many instances that it is, it's certainly not in this one. Our children are taught by their parents. If not, they hear it at school. If not, they hear it from local Police

Departments, Rotary Clubs, Lions Clubs and other organizations that engage in the activities in our communities to make sure that our neighborhoods and local communities are safe, not just from falling off a bicycle, but from other harms that can come to children. I respectfully suggest that while this Bill is well intentioned it's not necessary. Thank you Mr. President.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Douglass.

**Senator DOUGLASS:** I speak in favor of the motion. I believe it's a public health measure that will do us all good. I think it's a lot like the ban of tobacco smoking in public restaurants that we did Enact this Session. I have to say as a parent that I have some experience with kids who wore helmets and thereby by saved cracking their brains open. In particular, I have a son who went just up the road about four or five doors to a friends house. While coming back, and he did wear a helmet, he got his sweatshirt stuck in the front wheels which stopped the bike, which put him over the handlebars and he landed in the road right on his helmet. I have to tell you I was a bit ambivalent about making him wear the helmet. It was the bicycle manufacturer from whom we bought the bike that gave me the impetuous to say to them you have to wear your helmet, even though your only going to our neighbors. His words were something like this, if I told you tomorrow you were going to die because you catapulted into a rock headfirst, you'd wear your helmet tomorrow wouldn't you. He said do you know when your going to die? Of course not. I don't think the message was especially well taken by my children and I'm not sure I even took to heart the full effect of it. But I thought well, it's my job as a parent to do the right thing. And I've learned that what I thought of as the right thing, getting them on their bikes for some fresh air without the helmet or with, was not enough. I've learned I have to do more and I'm glad I did. I think it's time to stand up and say so to those who are in our state. I hope we Enact this as a public safety measure. I know there are lots of programs to provide the helmets for kids and we will be saving some kids a life of agony by doing this.

**THE PRESIDENT:** The Chair recognizes the Senator from Arostook, Senator Paradis.

**Senator PARADIS:** Thank you Mr. President. Men and women of the Senate, I wasn't sure if I was going to stand up on this issue because in one of the headlines over the Tom Webber column the headline was "this is a no brainer". I kept hearing people refer to their childhood days of the freedom of riding bikes when very few of my friends never had any bikes. There's a lot of children that can't afford bicycles, so let's put that to rest. It's not a memory we all share. The biggest issue, besides being confronted this week especially with the look of a parent who's child has suffered permanent damage from a bike accident. I never want to see another look like that looking at me. We are as a State asking the tax payers of the state to pick up 4 million dollars. That's what it will take to take care of a child for the rest of their lives. When you have a perfectly healthy child, a child who in one second is forever damaged, parents have told us repeatedly in the Committee that if we do it as a State it will be much easier for them to take their responsibilities. This would give them the heads up if everybody in the same place was expected to wear their helmets. I really urge us all to vote on this very important topic.

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Bennett.

**Senator BENNETT:** Thank you Mr. President. Fellow members of the Senate, I've given this Bill a lot of consideration and didn't until a moment ago have my mind made up on how to vote on this. This is a feel good Bill, I think we all acknowledge that. Generally I think there's a burden against filling up our statutes with Legislation which is designed to make us feel good. And Frankly I think if this Legislature were really to be serious about bicycle safety there's a lot more things that we should do aside from just passing this measure which makes all feel warm and fuzzy inside. I think we should look at more aggressively making our roadways safe. I know we're undertaking some of those things. But there is a lot more we can do in widening out shoulders and making bicycle lanes and that sort of thing. Probably as well on the education side, although we're doing a lot there as well. I took the liberty of calling my wife who is an occupational therapist. I thought she'd be a good one to talk with on this because she works with a lot of kids who have injuries, some traumatic, some head injuries of which we've heard. She also has a very strong Libertarian streak and she's generally against adding laws, particularly against ones that are designed to make us feel good. She said one thing which really hit me in deciding to vote with the Majority Ought to Pass Report and that is, others have said it in different ways, kids are kids and they don't always exercise the best judgment and one moment of indiscretion can really lead to a lifelong tragedy. If this Bill, feel good as it does, lets one or two or three, who knows how many kids, pause just a bit at their front door and say, well maybe I'm going to go back upstairs and dig out the helmet and put it on before I go out and that saves a kids life or a lifelong injury then, to spite this being just a feel good Bill, this might actually be more than that and it might actually save a family and an individual a lifelong of trauma. For that reason I'll be voting for the Majority Report. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator O'Gara.

**Senator O'GARA:** Thank you Mr. President. Ladies and gentlemen of the Senate, in all of the years I have been in the Legislature, a large number in the other Body and now here, I hear Legislators on a regular basis talking about their concern for the pressure we put on tax payers and the different things we do and we don't have tax payers in mind. I wonder if it can't be argued at least somewhat, that anyone who supports this Bill with the evidence that it shows that a lifetime cost of a brain injury to a child, in this kind of situation we're talking about here is a minimum of four million dollars. There is an incident here recorded by the Maine Medical Association of one youngster, a 15 year old boy, who sustained a brain injury as a result of being thrown from a bicycle without wearing a helmet, was almost \$84,000 for one month's bill.

Now ladies and gentlemen of the Senate, and especially those of you who consider yourselves to be protectors of the Maine taxpayers and the cost they sustain in a variety of ways. Who do you think pays in some part or another for those kinds of costs in our own cost of insurance or healthcare? The same taxpayers that we are professing to be concerned with on a regular basis. Point one.

Second thing I want to talk about is this Bill being an attempt to be parents to all these children. In a different world ladies and gentlemen, perhaps the world that I grew up in which makes me a little older than the Senator from York, perhaps in that world when we didn't have to feed children in schools and teach them how to brush their teeth and provide daycare and a variety of other things. In a different world, in a different time, then a lot of these responsibilities could certainly be laid at the feet of parents. The fact of the matter is the world we live in now, and I suspect the world that we continue to live in, things don't happen quite like that. There are times and this is one of them when we as law makers have to take an action, however it can be called, in place of parents we have to take the action, this is one of those. If for no other reason than to protect the taxpayers and the citizens and try to keep the cost that they incur in healthcare and other things down. In New Jersey, a state that has a law quite similar to ours, the reduction to these kinds of injuries and I'm not sure if it was 70% but in the range between 60% to 70% reduction in a period of four years.

I'd also remind you that not too many years ago our fellow citizens, many including perhaps some of us in this room, rebelled against the idea of putting our children in seatbelts when they were in the car as we were traveling at a fairly good rate of speed down a highway. I suspect that no parent worth his or her salt would even bat an eye or have it any other way today. I'm sure that those of us who, and I am not a sportsman or boater so I don't wear the different color life preservers or blaze orange in the woods, but I can recall there was protest against those. I can't imagine any hunter really thinking about going into our woods today without wearing that type of protection and certainly out in boats. I don't think this is a situation where we are taking the place of somebody. We are doing our job as Legislators and Lawmakers and in my judgment, my support for this Bill is in fact not only a means of protecting children who, as it has just been pointed out by the previous one or two speakers, may not really be capable of making that judgment themselves and their parents may not be around. This is an education thing. We didn't put a fine in it because some of you will remember the last time this Bill came across there was a fine and people objected to the Bill because of that. It is an Education Bill. It is a Bill that doesn't put police officers in a position of ticketing children and fining children. It puts them in a position of educating children. Ladies and gentlemen of the Senate we had an overwhelming public hearing. There were people there that were not just there for their own special interest. There were people there who deal with children on a regular basis as Senator Bennett has just said a few minutes ago. They are concerned and they believe that this Bill is the first good step in the right direction. I urge you to support the Majority Ought to Pass Report.

**THE PRESIDENT:** The Chair recognizes the Senator from Washington, Senator Cassidy.

Senator **CASSIDY:** Thank you Mr. President. Men and women of the Senate, when I asked for a Division on this Bill I thought I would spare you all this. I wasn't even going to say a word. I can't believe in some wonderful discussion and some great thought, I need to add a little bit though. It was very exiting to hear some of the testimony at the public hearing. We've got some wonderful things going on here in the state on bicycle safety. We had folks come in and talk about some of the accomplishments we've made. I think the gentlemen from the Maine Bicycle Coalition, or one of those groups, said they had

been up at Mars Hill the day prior with some safety for the children in grade four or five and they were going to be in Westbrook the next day. A lot of great things going on. Another number I remember, Bluecross Blueshield has provided thousands of dollars worth of money to help families to buy these helmets and I think it's tremendous that the kids are wearing these today and that the parents are aware of it. I hope we continue to see that happen because the last thing we need to do is see children hurt. The next to last thing we need to do is to create a Bill that does nothing. I want to read part of this Amendment in case you didn't happen to read it. It says a passenger on a bicycle of a public way shall wear a helmet. Further down it says a law officer may provide public safety. This is under violation of enforcement by the way. It says a law officer may provide bicycle safety information to the person who violates this section or may also inform the person's parents. If I'm not mistaken I think we could probably, when it says may, we could do that now. I think if a police officer in Westbrook was going down the road and happened to see a child without a helmet he could stop and say I think it would be nice if you wore a helmet. We don't need a law to do this and I can't imagine we create Legislation that has no meaning. I think we need to continue to promote bicycle safety. I think that perhaps we could make National Maine Bike Safety Week or something, a Resolution or do whatever.

A couple of other things I want to say to you. We've had quite a discussion here in the years gone by with safety of the children in Tobacco use. And we know that we're trying all sorts of laws and rules and regulations and hopefully we're going to be able to use some of the money that we will be receiving in the future to help curb 18 year olds and under from smoking. I see this thing goes all the way up to 16 year olds. And I want to say to you, I see so many times that we try to control them and younger from smoking. What do you think a 16 year old or a 15 year old is going to do with a Bill that he knows has no penalty? I can't believe that we are even considering making something like this into Legislation.

Lastly, I must tell you all these things aren't perfect. I was listening to the news on the way to Augusta one morning three or four weeks ago and I had seen this Bill was coming before our Committee and it reminded me of this Bill. The State of Illinois, and I'm going to say it was probably the first of April or late March, that I heard the national news, the State of Illinois, that date of this year of 1999 had lost two children wearing bicycle helmets. The reason those children died was because they were little kids, they had put their helmets on, they peddled to the local playground and got on some of the implements that kids play on and apparently hung themselves. It was the second one, because there was no parent there or police officer there to say take your helmet off before you get on this implement. I like to always quote, we can't make life so perfect that it's not worth living and I think that's what we try to do with all these Bills. We can create this law, a kid could get killed maybe, at a playground with a helmet. I just can't support this, I know where this Bill is going I just can't believe we would create something like this. I think we need to continue to promote bike safety. I think we need to encourage, I think we need to thank all the companies that are willing to provide these helmets. I can't vote to make this a law. Thank you Mr. President.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Amero.

Senator **AMERO**: Thank you Mr. President. Ladies and gentlemen of the Senate, I want to add my voice to the debate on this Bill because I think some of the issues that have been raised about concerns of discrimination, concerns about riding bikes on dirt roads and all, we need to realize that this Bill refers only to the riding of bikes on public roadways. I think with all the competing uses of our public roadways, it is so important that we protect our children by requiring by State law that children 16 and under wear helmets. I think it's a very positive approach for our state to take. I also want to commend the Committee for the way in which they are asking the enforcement community to address this issue. It's by having a positive relationship with a child who is stopped by a police officer for not wearing a helmet, a police officer then can say to the child do you know that there is a State law that requires you to wear a helmet and it's for your own safety. The law enforcement officer can then alert the parent to the importance of that law as well. I think for our police officers to serve in an educational role for children this age is an extremely positive approach. One that we've taken in the DARE program and other programs in trying to have police officers serve as educators as well as law enforcement officials. One other factor that I'd like to mention is according to one of the sheets that was distributed under Senator O'Gara of Cumberland's name, bicycle crashes are one of the most frequent causes of injury related death for young children. I see it as a very appropriate action for this Legislature to take. If in fact we can do something to cut down the number of injuries in young children simply by passing a law that those children must wear a helmet when they are riding their bikes on a public roadway. Thank you Mr. President.

**THE PRESIDENT**: The Chair recognizes the Senator from Franklin, Senator Benoit.

Senator **BENOIT**: Thank you Mr. President. May it please the Senate, I'll be brief, but I did want to comment concerning the remark by the Good Senator from Cumberland, Senator Harriman, who said he believed this measure if Enacted would be discriminatory and mentioned the skiers situation. It's not discriminatory at all. I say that respectfully because I have occasion to frequently go up the Saddleback Mountain during the ski season where my wife is quite an accomplished downhill skier. I noticed this past season nine out ten adult skiers, and young people as well, were wearing helmets. Judy says it's contagious. She had to have a helmet this year. We had to go over to Kingfield and shop for one and we did. You will not find very many folks on the slopes in Maine; Sugarloaf, Saddleback, Sunday River whatever, but what they are helmeted. Quite likely in that area no statute like this, which is an educational measure, is necessary. I would like to conclude Mr. President by noting a remark that I heard today that made some sense to me on the subject. Somebody said, you know, I know some young people who have a helmet when they ride their bike, but their friend believes it kind of whimpy to put on the helmet and talks them out wearing the helmet. This law on the books seems to me will help with that kind of peer pressure, will allow the young people to say OK you think it's whimpy, well it's the law. It's an educational thing to me that has ramification such as educating young people in a safety measure and to respect the law. Thank you Mr. President.

**THE PRESIDENT**: The Chair recognizes the Senator from York, Senator Libby.

Senator **LIBBY**: Thank you Mr. President. Men and women of the Senate, I'll be brief as well. I guess I didn't make myself clear enough earlier as to one of the major reasons why I just absolutely do not condone Bills like this, but particularly this Bill. You need to understand something. This is what your passing today. Your going to have a high school freshman required to wear a helmet when they ride a bike and a high school sophomore not required to wear a helmet when they ride a bike. A high school freshman. If this Bill said anything like for example we should have kids who are in elementary school wear helmets on their bike I'd be the first one to vote for it. You're talking about high school freshman here. Your discriminating by class. I think it's the most ridiculous Bill I've seen in the Legislature in my seven years. This is why the age is ridiculous. What we need is a Bill that talks about elementary school kids, maybe teaches them at a young level, maybe they'll carry that on as they get older. But to go up to age 15, this is an over reach. You're welcome to vote for it and it looks to me like it's going to pass today. But if I were in high school and I was a freshman I'd look at this Legislature and laugh. Thank you very much ladies and gentlemen.

At the request of Senator **CASSIDY** of Washington a Division was had. 27 Senators having voted in the affirmative and 4 Senators having voted in the negative, the motion by Senator **O'GARA** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (H-378) **READ** and **ADOPTED**, in concurrence.

**TOMORROW ASSIGNED FOR SECOND READING.**

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The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **TRANSPORTATION** on Bill "An Act to Repeal the Mandatory Seat Belt Law if Approved at Referendum" H.P. 1397 L.D. 2002

Majority - **Ought Not to Pass** (10 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-377)** (3 members)

Tabled - May 12, 1999, by Senator **O'GARA** of Cumberland.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence

(In House, May 11, 1999, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 12, 1999, Reports **READ**.)

Senator **CASSIDY** of Washington requested a Division.

**THE PRESIDENT:** The Chair recognizes the Senator from Washington, Senator Cassidy.

Senator **CASSIDY:** You'll see that there were three of us on the Committee that opposed this Ought Not to Pass motion. The reason that we did that was because, as you all know, a few years ago we did go out to Referendum for the folks of Maine to decide whether they would like to require seatbelts in this state. And by a very slim margin that Bill passed. I must tell you I wear seatbelts always when I travel back and forth to Calais and I think their wonderful. I must say to you though that after we passed that at Referendum we came back here in the 118<sup>th</sup> and changed that Legislation as to the way it was when it went out to Referendum. I didn't think that was fair to the people of the state of Maine. What this Bill would do is send it back out to Referendum under the current law and let the people make that decision. That is why I oppose this motion. Thank you Mr. President.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator O'Gara..

Senator **O'GARA:** Thank you Mr. President. Ladies and gentlemen of the Senate, you might recall that yesterday, I guess it's all right to refer to yesterday here, I took a position on sending an item back out to Referendum, that in my judgment, the citizens of Maine had already voted on. Regardless of the margin of the vote, the citizens of Maine took a position. I urge you to support the Majority Report.

At the request of Senator **CASSIDY** of Washington a Division was had. 20 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion by Senator **O'GARA** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

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Out of order and under suspension of the Rules, the Senate considered the following:

#### **ORDERS**

##### **Joint Order**

On motion by Senator **PINGREE** of Knox, the following Joint Order: S.P. 826

**ORDERED**, the House concurring, that the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Health and Human Services jointly report out to the Senate a bill establishing a fund to receive and use money received by the State in settlement of or in relation to the lawsuit State of Maine v. Philip Morris, et al., Kennebec County Superior Court, Docket No. CV-97-134.

#### **READ.**

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Michaud.

Senator **MICHAUD:** Thank you, Mr. President. I'd like to pose a question through the Chair?

**THE PRESIDENT:** The Senator may pose his question.

Senator **MICHAUD:** This Joint Order talks about the Appropriations and Health and Human Services Committee to report out a Bill. If the Committees were currently discussing this and if the Committees cannot agree unanimously on the Bill, would that prohibit them from reporting out a Minority Report or 3 reports or however many?

**THE PRESIDENT:** The Chair would answer that this would allow the Committees to Report out a Bill and the Minority Report could be an Amendment to that Bill as subsequent Reports, similar to the way Bills are Reported out now with the Majority and Minority Reports. So it does not restrict the ability of the Committee to come up with more than one option.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Harriman.

Senator **HARRIMAN:** Thank you very much, Mr. President. I rise to ask for your opinion. We presently have a Bill on our Calendar dealing with this issue. Would that affect this Joint Order as well?

**THE PRESIDENT:** The Chair would answer in the negative.

Senator **HARRIMAN:** We've already Reported out a Bill.

**THE PRESIDENT:** The Chair would answer this Order is Passed with the prospective reporting out of the Appropriations Committee Reporting out a Bill, not retroactively.

At the request of Senator **BENNETT** of Oxford a Division was had. 20 Senators having voted in the affirmative and 9 Senators having voted in the negative, **PASSED**.

Sent down for concurrence.

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Out of order and under suspension of the Rules, the Senate considered the following:

#### **REPORTS OF COMMITTEES**

##### **House**

##### **Divided Report**

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act Concerning Ownership of a Rafting Company"

H.P. 879 L.D. 1236

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

KILKELLY of Lincoln  
RUHLIN of Penobscot  
KIEFFER of Aroostook

Representatives:

DUNLAP of Old Town  
TRAHAN of Waldoboro  
HONEY of Boothbay  
TRUE of Fryeburg  
CLARK of Millinocket  
BRYANT of Dixfield  
COTE of Lewiston  
PERKINS of Penobscot

The Minority of the same Committee on the same subject reported that the same **Ought to Pass**.

Signed:

Representatives:

CHICK of Lebanon  
TRACY of Rome

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

On motion by Senator **KILKELLY** of Lincoln, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

**ENACTORS**

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

**Emergency Measure**

An Act to Clarify the Regulation of Viatical Settlement Contracts When Sold as Investments

H.P. 1182 L.D. 1693  
(C "A" H-402; H "A" H-474)

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with no Senators having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

**Mandate**

An Act to Amend the Androscoggin County Budget Process  
H.P. 758 L.D. 1048  
(C "A" H-321)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 28 Members of the Senate, with no Senators having voted in the negative, and 28 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

**Mandate**

An Act to Amend Juvenile Corrections Laws and to Establish a Juvenile Records Repository  
H.P. 1002 L.D. 1400  
(C "A" H-428; H "A" H-475)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 29 Members of the Senate, with no Senators having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

**Acts**

An Act to Reclassify Certain Waters of the State  
S.P. 319 L.D. 953  
(C "A" S-220)

An Act Relating to Uninsured Vehicle Coverage  
S.P. 421 L.D. 1258  
(C "A" S-201)

An Act Regarding Hospital Cooperation  
S.P. 536 L.D. 1598  
(C "A" S-221)

An Act Concerning Standards for Operation and Maintenance of Radio Antenna Towers  
S.P. 633 L.D. 1800  
(C "A" S-180)

An Act to Require the Display of the Prisoner of War - Missing in Action Flag  
H.P. 1287 L.D. 1848  
(C "A" H-369; S "A" S-231)

**PASSED TO BE ENACTED** and having been signed by the President were presented by the Secretary to the Governor for his approval.



An Act to Facilitate Compliance with the Federal Communications Act of 1996

S.P. 141 L.D. 377  
(C "A" S-175)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

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An Act to Amend the Requirements of Full-time Students for State-funding Purposes

H.P. 573 L.D. 813  
(C "A" H-372)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

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An Act to Allow the Surviving Veteran Spouse of a Veteran to Continue to Receive the Property Tax Exemption

H.P. 1128 L.D. 1587  
(C "A" H-388)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

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An Act to Renew Maine's Economy

S.P. 569 L.D. 1636  
(C "A" S-190)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

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An Act to Fund a Minimum Level of Services for Deaf and Hard-of-Hearing Persons in all Regions of the State

S.P. 693 L.D. 1939  
(C "A" S-206)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

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An Act to Clarify Underinsured Motor Vehicle Coverage

S.P. 723 L.D. 2043  
(C "A" S-204)

On motion by Senator **BENNETT** of Oxford, **TABLED 1** Legislative Day, pending **ENACTMENT**.

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## Resolve

Resolve, to Conduct and Report on a Comprehensive Needs Assessment for Coordinated School Health Programs

H.P. 1196 L.D. 1706  
(C "A" H-365)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**.

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Out of order and under suspension of the Rules, the Senate considered the following:

## REPORTS OF COMMITTEES

### Senate

#### Ought to Pass As Amended

Senator **KIEFFER** for the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Amend the Maine Milk Laws"

S.P. 667 L.D. 1889

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-272)**.

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

**READ ONCE**.

Committee Amendment "A" (S-272) **READ** and **ADOPTED**.

**TOMORROW ASSIGNED FOR SECOND READING**.

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Senator **NUTTING** for the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Reestablish the Maine Meat Inspection Act"

S.P. 780 L.D. 2190

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-274)**.

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

**READ ONCE**.

Committee Amendment "A" (S-274) **READ** and **ADOPTED**.

**TOMORROW ASSIGNED FOR SECOND READING**.

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Senator NUTTING for the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Resolve, Authorizing Certain Land Transactions by the Department of Conservation, Bureau of Parks and Lands

S.P. 805 L.D. 2218

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-273)**.

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

**READ ONCE**.

Committee Amendment "A" (S-273) **READ** and **ADOPTED**.

**TOMORROW ASSIGNED FOR SECOND READING**.

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**ORDERS OF THE DAY**

The Chair laid before the Senate the following Tabled and Later (5/4/99) Assigned matter:

HOUSE REPORT - from the Committee on **TRANSPORTATION** on Bill "An Act Regulating the Transportation of People and Dogs in Pickup Trucks"

H.P. 1179 L.D. 1690

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-239)**

Tabled - May 4, 1999, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF THE REPORT**, in concurrence

(In House, May 3, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-239) AS AMENDED BY HOUSE AMENDMENT "A" (H-289)** thereto.)

(In Senate, May 4, 1999, Report **READ**.)

Report **ACCEPTED**, in concurrence.

**READ ONCE**.

Committee Amendment "A" (H-239) **READ** and **ADOPTED**, in **NON-CONCURRENCE**. Subsequently, **RECONSIDERED**.

House Amendment "A" (H-289) to Committee Amendment "A" (H-239) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-239 as Amended by House Amendment "A" (H-289) thereto, **ADOPTED**, in concurrence.

**TOMORROW ASSIGNED FOR SECOND READING**.

The Chair laid before the Senate the following Tabled and Later (4/13/99) Assigned matter:

JOINT ORDER - relative to establishing the Committee to Address the Recognition of the Tribal Government Representatives of Maine's Native Sovereign Nations in the Legislature H.P. 1524

Tabled - April 13, 1999, by Senator **RAND** of Cumberland.

Pending - **PASSAGE**, in **NON-CONCURRENCE**

(In House, April 8, 1999, **READ** and **REFERRED** to the Committee on **JUDICIARY**.)

(In Senate, April 13, 1999, **READ**.)

On motion by Senator **PINGREE** of Knox, under unanimous consent on behalf of President **LAWRENCE** of York, Senate Amendment "A" (S-271) **READ** and **ADOPTED**.

**PASSED AS AMENDED BY SENATE AMENDMENT "A" (S-271)**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later (5/6/99) Assigned matter:

SENATE REPORTS - from the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Limit Children's Access to Firearms" S.P. 178 L.D. 532

Report "A" - **Ought Not to Pass** (10 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "A" (S-208)** (2 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "B" (S-209)** (1 member)

Tabled - May 6, 1999, by Senator **MURRAY** of Penobscot.

Pending - motion by same Senator to **ACCEPT** Report "A", **OUGHT NOT TO PASS**

(In Senate, May 6, 1999, Reports **READ**.)

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Rand.

Senator **RAND:** Thank you Mr. President. Men and women of the Senate, I would urge you to Reject the pending motion, which is Ought Not to Pass, so that we can go on to Accept Report "B". This Bill is exactly what the title claims it to be. It's an Act to limit children's access to firearms. In Maine 48% of the households with children have guns. 38% of these guns are kept unlocked and 3% of these guns are kept loaded. A survey of 6th to 12th graders in Maine produced these startling results. 5% have carried a handgun. 4% carried the handgun within a year of the

survey. 2% had brought a handgun to school within the year. 25% thought it would be easy to get a handgun. 9% considered it cool to do so. 26 Maine students were disciplined for bringing guns to school during the '97-'98 school years.

If any of you happened to see the Portland Sunday Telegram this past week, a survey, I think, possibly renewed interest because of the terrible tragedy in Colorado which I do not believe, by the way, this law would have prevented. A survey was again done by the Press Herald and two startling results. There, 13% of Maine school children who interviewed said they knew of kids who had brought guns to school. 48% of that 14% did not tell the school officials or their parents. This Bill would do two simple things. It would mandate that people who own firearms and have any reason to believe that children under the age of 16 will be coming in contact with those firearms should keep these guns locked up or have a trigger lock on them. I don't think this has a thing to do with eroding Second Amendment rights. I do not believe it has anything to do with government control over all guns and the removal of guns from private ownership. Nothing could be further from the truth. This I believe is a safety issue, a public health issue. A step that 16 other states have chosen to go, as they call it CAP, Child Access Prevention laws. 16 other states passed these laws. The first one being the state of Florida in 1997. That had the full and open support of the NRA. Also the Bill, when it was brought up in the Wisconsin Legislature, received strong NRA support. Something has happened between then and now to convince this gun lobby not to be supportive of Legislation and certainly they are not in support of the Legislation that is being proposed here in Maine. I would argue that the children of Florida and the children of Wisconsin are every bit as important as the children in Maine. Maine children deserve this type of responsible action from particularly the 3% of, I would have to say, very irresponsible gun owners who leave their guns unattended and loaded. As the second tier, the 38% of Maine gun owners who do have children in their homes who leave their guns unsecured and certainly with no trigger locks.

This Legislation has received the support of District Attorneys from around the state, from the Maine Women's Lobby, the Maine Children's Alliance, the Maine Medical Association and the National Association of Social Workers. I would urge you to try to look past all of the rhetoric that's out there and look beyond the argument that opponents to this Bill will give us that education is the key. If we educate our children they will not be irresponsible and will use guns wisely. This does not take into consideration the number of suicides that are committed that happen in the state of Maine particularly among young men. Young boys with the hand gun being, unfortunately, the prime method they use. I think it's very interesting that we did the bicycle helmet law today because I heard some very interesting remarks from my fellow Senators. One, I think, speaks directly to the education piece. I have nothing against educating if your children are going to have guns for hunting or target shooting. Naturally any responsible person is going to encourage education for these kids so they know how to use these guns. I would like to quote the good Senator from Oxford, Senator Bennett, when he said, kids are kids and don't always use the best judgment and one moment of indiscretion can cause a lifetime of trauma. And I would add my own words here and say maybe even death. I would urge you to Reject the pending motion, do the right thing for the kids in this state like 16 other states have done previous to this and reject this motion so we can go on to Accept Report "B". Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator Washington, Senator Cassidy.

Senator **CASSIDY:** Thank you Mr. President. I would like to pose a question through the Chair to anyone who wishes to answer it.

**THE PRESIDENT:** The Senator may pose his question.

Senator **CASSIDY:** I'm not really familiar with the penalty on this. I just wondered what the penalty would be if this came into effect?

**THE PRESIDENT:** The Senator from Washington, Senator Cassidy poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Penobscot, Senator Murray.

Senator **MURRAY:** Thank you Mr. President. The proposed penalty is to make this a class "D" crime.

**THE PRESIDENT:** The Chair recognizes the Senator from Franklin, Senator Benoit.

Senator **BENOIT:** Thank you Mr. President. May it please the Senate, if I could pose a question please through the Chair?

**THE PRESIDENT:** The Senator may pose his question.

Senator **BENOIT:** Thank you sir. To anyone who may be able to answer as to enforcement. Since the weapons we are discussing are found in homes and we're talking about these trigger locks or the weapons are under lock and key, how is this going to be enforced? Will the law enforcement community be able to go into homes and see if the law is being followed? Just how is enforcement going to be addressed?

**THE PRESIDENT:** The Senator from Franklin, Senator Benoit poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Rand.

Senator **RAND:** Thank you Mr. President. No there would not be "gun police" going around checking people's homes. Unfortunately, as is with most laws we have on the books, the investigation as to where the guns were and how the person under 16 gained access to them. None of this would kick in unless something happened. An injury or a death occurred and then the authorities would have this statute on the books which they would then investigate. It would be an after the fact situation.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Harriman.

Senator **HARRIMAN:** Thank you very much Mr. President. Recently Mr. President and ladies and gentlemen of the Senate, I received a letter on this issue and I have yet to wrestle in my own mind how to answer it and maybe this is the form in which it can be. The letter in essence said it was his family's Constitutional right to defend his life and property. His question to me was if

this Bill, and I certainly agree with it's intent, were to Pass and his weapons were trigger locked and someone was intruding into his home with the intent to do bodily harm to his family, how would he be able to defend himself or herself if the weapons had to be under lock and key? I'm still wrestling with the answer. Thank you Mr. President.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Murray.

Senator **MURRAY:** Mr. President I don't know if that was a question that was being posed. I'm not here to respond to that if it was a question.

**THE PRESIDENT:** The Chair did not interpret that as a question.

Senator **MURRAY:** Mr. President, men and women of the Senate, I rise today to urge you to support the Majority Report of this Committee. The ten to three Report, Ought Not to Pass on this measure. I do so because it's a difficult issue and I want to convey to you that the Criminal Justice Committee struggled mightily with this issue. Because, as I'm sure you can understand and respect, the Committee understood and acknowledged the issue that's brought to us with this Bill is one that is of the greatest significance, and perhaps greatest potential, as far as loss and danger. There is no question that mixing guns and minors, especially young children, has the potential to create great hazard and the greatest of loss because those two don't mix. They especially don't mix without the proper controls, education and measures that we hope are undertaken by all of the adults in the state of Maine who choose to maintain weapons within their homes.

Having said that, however, the Committee also struggled with the idea, if there is the recognition of the danger, how does one best address this public policy question that is presented to us. One thing that we first had to look at is, is there something unique to guns as opposed to anything else? The first thing we were struck with, after spending a good deal of time on that question, is the answer that we have to frankly give to ourselves is no. There is no question but that a minor who has access to a box of matches that is maintained in the kitchen cupboard presents himself or herself with great potential danger, including the potential loss of life. There's no question that the minor who has access to a bottle of liquor that's maintained in the liquor cabinet in someone's home is presented with great potential harm and hazard to himself and others. There is no question that a minor who is presented with access to a car in the driveway with a full tank of gas is presented with a potential of great harm and hazard to himself and others. There is nothing inherent about the actual product itself, whether it be a gun, a vehicle, a box of matches, a bottle of liquor, that necessarily might not lead to great tragedy up to and including death of that individual child and others. If that's the case then we have to ask ourselves do we amend our criminal code to a degree that we focus in on the instrument in such a way? Is that warranted and if not than what is the other solution? The other solution we, and at least personally, I ultimately came to, was that we look to the broad mandates of the criminal code in restricting what type of conduct we do or we don't want to make a crime in this state. Looking at those broad perspectives of the criminal code we're left with our current law dealing with child endangerment. That current law does not focus on the particular instrument of endangerment. It doesn't specify gun, vehicle, box of matches, whatever you might

add to the list. It focuses rather broadly, and appropriately so, on whether or not under the facts of any situation the conduct of a parent is reckless enough so that they are endangering the welfare of a child. If so, the penalty under our criminal code is the exact same penalty that is proposed by this Bill. In other words, a class D crime that I think in my own particular opinion and the opinion of the majority of this Committee is the appropriate way to approach this issue. Why not to focus on one in particular component of the potential harm? You look at the broad harm, you make that kind of conduct in any fact pattern that may be brought by a district attorney or others. The issue that will be decided by a judge and/or a jury. I don't know what the other 16 states, that may have Enacted the Legislation similar to this, has as far as their own criminal codes. Whether they have the kind of broad language that we have in our criminal code that I think can address the type of egregious conduct that we really want to limit. Maybe they've got them, maybe they don't. But I know in the state of Maine that endangerment statute is on the books. It's there for a reason, I think that's the appropriate avenue to take. The alternative creates not only a situation where we are filling our criminal code with individual fact pattern type situations that is always going to leave something out. We're also opening ourselves to the potential downside that I think the good Senator from Cumberland, Senator Rand, referred to as the rhetoric. I agree there is a great deal of rhetoric on this issue. Some of it unjustified I will admit. There are certainly unanswered questions that we put into the code if we start walking down this path of creating unique niches of criminal law. In my opinion, and in the opinion of the majority of the Committee, the current broad code is there. It's there to address the egregious conduct that we want to have addressed. I would urge you to support the ten members of the Criminal Justice Committee that voted with the Majority Ought Not to Pass.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Kieffer.

Senator **KIEFFER:** Thank you Mr. President. Ladies and gentlemen of the Senate, I've sat here today and I guess I'm in some kind of amazement that my wife and I were able to raise seven children and any of them ever grew up. We didn't protect them from riding their bicycles and we put enough band aids on them sometimes to think they were taped together, but they all made it. I'm reminded of all of this great care we're giving our children of a situation that occurred well before most of your days back in the late 30s and early 40s in Germany. You know the leadership over there took good care of their children. They took them away from their parents and they put them into boot camp. They gave them hard toed shoes to wear so they didn't hurt their toes if they stumbled. They taught them to wear helmets and to be very healthful as we're trying to do today to our children. They educated them, like we're trying to do and we ended up having them lead us into the Second World War. How far can we go in this over regulation of the family life? During our children's growing up days I hunted and fished. I'm a licensed Maine Master Guide, up until last December. I had a federal fire arms license. Our children were taught how to use guns. They were taught respect for them. Why can't that be done today, what's different? I took more fishing hooks out of the back of their ears and lures out of their necks, and I suppose the next thing we'll be doing is mandating that they wear helmets when they go fishing. I just can't believe what I have heard here today. Probably the

next thing if we pass this is we can put a lawn sign on our lawn notifying that the thieves and crooks out there that our door is unlocked, that our guns are all locked up so come on in and help yourself. Is that the way we're going? I would ask you to support the Majority Report on this Bill. Thank you Mr. President.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Rand.

**Senator RAND:** Thank you Mr. President, men and women of the Senate. I would like to respond to comments made by the good Senator from Cumberland, Senator Harriman. There is nothing in this Bill that prevents a person who is in a situation similar to the one described by the good Senator from literally carrying the weapon around with them. It does not have to be locked up if the gun owner is there. That scenario is one that if somebody was indeed in fear of their lives, first of all I would recommend they called the local police. Secondly, if they are in that much fear, they can have their gun there. They don't have to keep it locked up. This Bill simply requires if your not going to be there and kids can be around these guns, make sure they're locked up or have a trigger lock. Also in response to something that the good Senator from Penobscot, Senator Murray mentioned, current law does not require that guns be stored safely. It would be amazing to me that anyone could be prosecuted for breaking the law if indeed the law does not exist. We have no law in Maine that requires guns to be stored safely. This law would do it. I urge you to Reject this motion so we can go on to Accept Report 'B'. Thank you.

Senator **BENNETT** of Oxford requested a Roll Call.

**THE PRESIDENT:** The Chair recognizes the Senator from Lincoln, **KILKELLY**

**Senator KILKELLY:** Thank you Mr. President. Men and women of the Senate, the issue here is really education and information. I think any time that we hide information and education we create a situation which we think everything is going to be fine, because we've in fact taken something away, we've prevented access, we've prevented children in this case from being able to get to something. In this case guns. My concern is that's a false sense of security and what we really need to do is make sure we have provided clear and informative education for children so they know what to do around guns. I was raised in a family where everyone hunted, there were always guns in the house. I raised my children in a house where there were guns. My children were taught what to do and what not to do, and how to handle situations. They knew they were not allowed to touch the guns at a certain age unless they were supervised, unless they were out target practicing or getting ready to go hunting. I think that's really where we need to go. We need to provide that information. We also need to take seriously the responsibility of parents and others. And we need to take seriously that parents have taken seriously their responsibility to educate their children about firearms and other issues and not overstep that. I'm concerned that if this law were to pass it would create some very challenging situations in which children may, in fact, find a way to get to the guns which may be in one place, and to the ammunition which may be in another place. Because they've figured out a way to do that. Does that mean the parents are responsible? Even though the parent has done all the things they were suppose to do, but now we have a law in the books that says you maybe

broke a law because this has happened. Parents who find themselves in tragedies, and feel they've done everything they should. I think we need to move on from that. If we provide good education for our kids, if we provide them with information, if we don't hide things from them I think they are going to be better off in general. It's my understanding that the Chiefs of Police Association and the Sportsman's Alliance of Maine has agreed they will work on an education program. We know there are education programs that deal with gun safety. In a lot of the work I have done as Chair of the Inland Fisheries and Wildlife Committee, one of things I have encouraged many of the hunting and fishing clubs to do around the state is in fact to provide opportunities for children to safely use firearms. Because I believe very strongly that having that information, knowing the dangers of firearms, knowing how dangerous they can be when they're not used properly, is in fact, the way to go and I've encouraged them to do that. To provide opportunities for kids to have a shooting experience that is in fact supervised and carefully monitored. I believe when children have that information, they will understand. They won't have a need to experiment. They won't have a need to go find something that's locked up and kept secret, but they'll in fact know what it is they're supposed to do. I also want to comment on our current law. Endangering the welfare of a child does include in a section, otherwise recklessly endangers the health, safety or welfare of a child under 16 years of age by violating the duty of care or protection. Certainly someone who is absolutely reckless in terms of how guns are stored in their house, will in fact have violated that standard. I think we have already covered it very carefully and clearly in our law, but we haven't outlined all the different ways in which that happens. We've left that to a judge and a jury and a district attorney. That's their role. Our role is to develop the standard, and a broad standard has been developed in current law. I would urge you to support the Majority Ought Not to Pass Report, because I believe we already have covered this issue. I think we need to provide an opportunity for education and I encourage that to happen. Thank you.

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Off Record Remarks

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**THE PRESIDENT:** The Chair recognizes the Senator from Washington, Senator Cassidy.

**Senator CASSIDY:** Thank you Mr. President. Men and women of the Senate, just briefly, listening to the debate today and I think I can see the intent of this Bill as to provide safety to our children. But I too was lucky enough to be brought up in a family, and have raised my family to enjoy sportsmanship of owning guns, hunting with guns, shooting skeet and all the things we do. I really think my wife and daughter, and sons and I probably, if not now I've had enough guns in our past, we could probably give you all one this afternoon and we could go out and do a little target shooting. Guns are very familiar in our family. I think the key here that the good Senator from Lincoln, Senator Kilkelly, mentioned is that safety is taught. As a child as you grow up with your family, to understand what guns are used for. There's also the aspect of safety. I can remember two years ago, with great concern, reading in the paper one of the constituents in Senator Ruhlins' area was shot six times and I'm sure that person assumed when

they left the gentlemen would not live. There's times when we need to use these as safety as well to protect our own lives. Unfortunately that happens all too often in this country. I think Maine has been traditionally a state that's enjoyed it's heritage and to raise our family and to let them appreciate the enjoyment we have with all this great forest land, and the enjoyment we often derive from that. I think it's just another situation where the intent here is great but again, I don't know how safe we can make all of us in our lives and unfortunately things are going to happen. As I was listening to the debate today I was thinking maybe if the helmet wasn't kept with the bicycle we need to put a lock on the bicycle in case the kid gets hit and we're not home, I don't know where we end this thing. I certainly couldn't support a law like this, and I will be supporting the pending motion. Thank you Mr. President.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Douglass.

Senator **DOUGLASS:** Mr. President, women and men of the Senate, some bills get you where you live. This is one of them. My husband is a hunter, we have guns in the house. They're locked in a cabinet He doesn't want me to vote for this, nevertheless, I must. I'm going to catch heck for this when I go home I'm sure. Plus my rating as an "A" member from SAM is going to go down as well. We do this not for our children, I think. Most of us here are so dedicated to public service and safety of others that we've probably taught our children well. But in our communities there are those who have not. There are those who have died because something like this didn't exist. Because we don't regulate guns as to their safety through industrial standards we apply to every other item in our life now. I agree. I feel sometimes appalled that we have lighters that won't click when you want to use them because they're child proofed. These are lethal weapons. I fully support our right to have them, but in so far as we should protect children and I'm going to say that there are many in our urban environment, and my district includes some urban areas who just have not been taught, education is the key. I agree with the good Senator from Lincoln, Senator Kilkelly. I won't go naming anyone else since I may forget which County they are from. But I thought I better explain myself on the record.

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Off Record Remarks

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**THE PRESIDENT:** The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you Mr. President. Ladies and gentlemen of the Senate, I do want to say that contrary to a previous speaker I do think there is something unique about guns. That is they require only one bad decision which is picking it up and pulling the trigger for a disaster to happen as opposed to bottles of alcohol, vehicles with full tanks of gas, matches which usually require a serious of bad decisions on the part of a child, and are sometimes redeemable by various intervening features. Having said that I will be supporting the Majority Ought Not to Pass Report today. I wanted to offer my two reasons.

One is because the other options, the other reports on this Bill, create a good effort at addressing a serious problem but they're not preventive because we will not have inspections of homes being done. That means that only after an unfortunate incident occurs will there be an ability to enforce or convict perhaps an adult of negligence based on the provisions in the Bill. Because of the lack of the preventive measures, and also because of the thoughts expressed by the good Senator from Penobscot, Senator Murray, who's opinion I respect regarding the legal aspect of this in terms of it being a narrow based approach, rather than the broader based provisions in the existing criminal code, I'll support the Majority Report.

But my other life as an emergency room nurse compels me to offer a public service announcement and that is this, do not ever think your best education efforts with a child will suffice in regards to guns or any other dangerous objects. They are kids, they make bad decisions for a lot of reasons. They put peas up their nose, they eat their allowance, they eat boxes of cat worming capsules, and if they find a gun the hundreds of times that you had the safety discussion, and had them repeat to you that that yes, they understand they must never touch it can all go out the window in a heartbeat and could mean the end of a heartbeat for your child, or for another child. Please don't ever assume education takes the place of preventing a child from the ability to get their hands on a gun because it doesn't work. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Franklin, Senator Benoit.

Senator **BENOIT:** Thank you Mr. President. May it please the Senate, I want to apologize to you Mr. President. I as you know, I hit my talk button six times and closed it off five. I hadn't intended to speak on this, but I do want to say briefly, a remark to the good Senator from Hancock, Senator Goldthwait's remark that she believes guns are unique. Maybe there are many who believe that, but many lives are lost through the use of a knife. I guess the O.J. Simpson case is a good example of the use of a knife in such an egregious, heinous manner. Two folks died through the use of a knife. I would ask, and I don't mean to factious in asking, in light of that case, what is next? Knife lock? Is locking up knives going to help? When we all know it's the dingbat, the dodo behind the gun and behind the knife that's the real problem. The good Senator from Cumberland, Senator Rand, I thought made a very good response to the question I posed as to enforcement. But her answer, good as it is, and it was a good answer, the only answer you can give, we don't have a lot of enforcement here. We can't have people running around into homes with or without search warrants looking for guns with safety locks, keys, and cabinets. But her answer in there being no enforcement until after the fact, if something happens and the gun wasn't locked up, then you know it. This brings to mind the old adage, if the barn door is open the horse is gone, and then you lock up the door. I cannot support that kind of Legislation Mr. President. Thank you.

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The Chair noted the absence of the Senator from Cumberland, Senator **KONTOS** and further excused the same Senator from today's Roll Call votes.

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On motion by Senator **BENNETT** of Oxford, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#88)**

YEAS: Senators: **ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, CAREY, CASSIDY, CATHCART, DAGGETT, DAVIS, FERGUSON, GOLDTHWAIT, HARRIMAN, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PENDLETON, RUHLIN, SMALL, THE PRESIDENT - MARK W. LAWRENCE**

NAYS: Senators: **DOUGLASS, PARADIS, PINGREE, RAND, TREAT**

EXCUSED: Senator: **KONTOS**

29 Senators having voted in the affirmative and 5 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **MURRAY** of Penobscot to **ACCEPT** Report "A", **OUGHT NOT TO PASS, PREVAILED.**

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later (5/11/99) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Provide a Paralegal Assistant to Each Workers' Compensation Advocate"

H.P. 598 L.D. 838

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-350)** (9 members)

Minority - **Ought Not to Pass** (4 members)

Tabled - May 11, 1999, by Senator **DOUGLASS** of Androscoggin.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence

(In House, May 11, 1999, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-350).**)

(In Senate, May 11, 1999, Reports **READ.**)

On motion by Senator **DOUGLASS** of Androscoggin, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.  
**READ ONCE.**

Committee Amendment "A" (H-350) **READ** and **ADOPTED**, in concurrence.

**TOMORROW ASSIGNED FOR SECOND READING.**

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The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Amend the Workers' Compensation Law as It Pertains to Employer-selected Health Care Providers"

H.P. 555 L.D. 776

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-359)** (7 members)

Minority - **Ought Not to Pass** (5 members)

Tabled - May 12, 1999, by Senator **LAFOUNTAIN** of York

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence

(In House, May 11, 1999, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-359).**)

(In Senate, May 12, 1999, Reports **READ.**)

Senator **MILLS** of Somerset requested a Division.

Senator **MILLS**: Mr. President, this is an issue that sounds on the surface like a fairly minor thing, but it has a long history. I'll give you just the highlights. Under current law, as it was written in 1992, among the many changes that were made by the Blue Ribbon Commission during the summer of 1992 when they re-wrote the Workers' Compensation Laws from scratch, one of the odd provisions that they put into the law was the provision that lies before you in this Bill, or the Repeal of which is before you in this Bill. The provision says that the employee who is injured; his access to medical treatment for the first 10 days following the injury is limited to those doctors that are paid for, or they are selected rather, by the employer. Now at first blush you might say that sounds a little intrusive. Why can't the employee go to his or her family physician for guidance? Why can't he just go to the emergency room, if that is where he chooses to go? Why can't he go to somebody else? I guess the quick answer is the employee can, it's just that the employer is not obliged to pay for that medical treatment. The employer under Workers' Compensation is obliged to pay for only the medical care and medical evaluation that is selected by the employer, during the first 10 days following the injury. After that the employee can go to whoever he wishes to for treatment and care. And if it is related to the injury it will be paid for. So, you ask yourself what

is the reason for this intrusive rule? Why are we confining the employee's choices at a critical time in his life right after a trauma at work? The reason is that they found under the older law, and the laws that existed prior to January 1, 1993, that if the employee had the freedom to go to just any doctor, or any source for medical treatment that he chose, that quite frequently he would find himself under the care of someone who was perhaps unfamiliar with the treatment of workplace injuries, and unfamiliar with the workplace in which the employees job is performed. For that reason quite frequently the response of a Generalist would be to take that person out of work as sort of a protective measure, almost a reactive stance. So very commonly somebody would have a back strain, an arm difficulty, a repetitive motion difficulty, or some sort of perhaps minor or temporary injury and the response of the Generalist would be out of work one week or 10 days, see me later.

In the last 15 or 20 years we have had a growth in medical care practitioners who have a specialty in managing workplace injuries. I would like to say that this movement started in Skowhegan with a specific doctor whom I know and I think that would be a fair statement. In the last 10 years or so throughout the state we have seen Occupational Medicine Specialist come to the fore in the treatment of Workers' Compensation injuries. When a person goes to such a specialist, these are the kinds of people that are typically selected by insurance carriers and employers, these specialists in workplace or occupational injuries are aware of, they hold themselves out at least as being aware of, the circumstances that prevail in the workplace. They know instinctively whether it is appropriate to send a person back to work with a given injury and if so under what restrictions? How narrow they should be, how broad and so forth. So as a result, because of the current practice that we have under the current law, employees are customarily sent to somebody who specializes in on-the-job or workplace injuries. These people more frequently will send the person back into the workplace under suitable restrictions. Is there an opportunity for such a system to be abused? Yes. Has the system been abused? My observation of it, which admittedly is selective, has been that the system works reasonable well. The doctors who specialize in managing workplace injuries have their own sense of integrity for the most part. They succeed or fail in this profession, by virtue of how they preserve their credibility in front of the Workers' Compensation Board. It is important to them to have an honest and reputable reputation. For that reason, and for other professional reasons, it seems to me that this system, as it is presently formulated under present law, works.

Now, if we were to repeal this provision, we have had testimony from the actuaries who work for the insurance industry that the cost to the system would be elevated. I can't give you the numbers right now, but the figure, the cost figure associated with Repeal of this provision, is rather phenomenal. I don't put a lot of stock in what the actuaries tell us about the impact of one division or another, but among all of the things that you might choose to change about the current Workers' Compensation System, in order to ameliorate its current impact on injured people I suggest to you that this is not high on the list. And that if you were someone serving on the Labor Committee, and were concerned about the ways in which the current system might be changed in order to provide a better menu of benefits for injured workers, I must say to you that this would not be the thing that is highest on my list. For that reason I chose to vote against it in Committee. I think that the cost of Repealing this provision outweighs any potential detriment to the employees through

abuses that may occur in isolated cases. I just can't bring myself to say that we should impose those costs on the employer community in this state. If I had received evidence that the current system is being abused I would readily change my opinion and vote the other way, but that is not the circumstances I see at present. For that reason I would urge you to vote against the pending motion so that we could go on and Accept the Ought Not to Pass Report. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY:** May I pose a question through the Chair please?

**THE PRESIDENT:** The Senator may pose her question.

Senator **LONGLEY:** Thank you. I guess my question would be to the good Senator from Somerset, through the Chair. I could swear I heard you speak just as forcibly on the other side of this issue last year and I need help remembering how to distinguish your two arguments, if that is possible.

**THE PRESIDENT:** The Senator from Waldo, Senator Longley, poses a question through the Chair to anyone who may be able to answer. The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** I have just asked if anybody has followed my policy for ambulating that closely because I have no memory whatsoever of what I said last year, except I vaguely remember supporting the other side. I probably said a lot of things that would embarrass me at the present moment. It isn't the first and won't be the last.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Douglass.

Senator **DOUGLASS:** Women and men of the Senate, this item should not cost anymore because the Workers' Compensation System has a schedule for payment of doctors. What this allows is the injured individual to continue using their family physician during those critical first 10 days after an injury. It is the employer's right to ask for a second opinion and that would still continue. Therefore, I found myself surprised looking at the NCCI educated guess that this would increase compensation cost by 5% to 8%, which I would provide to Senator Mills. That's based on a conclusion, that somehow, because an individual has chosen his or her own doctor the cost goes up. I don't think that conclusion is warranted. As for the State's side, the State indicated that there is a possibility of increased cost, but no specific figure was given. I submit to you that really all you are doing is substituting a doctor with whom the injured party is familiar for one that is mandated by the employer. It's my understanding that many large employers actually permit their employees to select their own physician. This would give that permission statewide to all employees. As a matter of health policy, it's better health policy.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator LaFountain.



Senator **LAFOUNTAIN**: Thank you Mr. President. Men and women of the Senate, I rise and ask you to support the Majority Ought to Pass Report. For me this issue boils down to common sense. As Chair of Banking and Insurance for the last three years I've heard numerous times from the citizens of Maine that many are unhappy with managed care. The way managed care works, as you all know, you have a limited choice as to who you can see. But virtually you do have a choice through managed care because there are a number of physicians within the network to choose from. However, under the Workers' Compensation System you don't have a network you can go to. You go to the physician that the employer sends you to, and remember, this is when you are actually sick and injured. You have no choice. Personally I would prefer to go to a physician that knew my total history, who had access to my file, knew if I had high blood pressure, and knew if I suffered from any other diseases. The employers physician doesn't always have this information readily available to him. For those of you who are concerned that the cost may increase as a result of this there is a mechanism within the current statute, and also included in this Amendment, that allows the employee to file an objection if their employer asks them to go to a doctor who the employee is not happy or satisfied with. As a result of that objection, a mediation is held and a Hearing Officer has the power to either order the employee to pay his own cost to the treating physician or for the employer to pay the cost.

**THE PRESIDENT**: The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING**: Thank you Mr. President. Ladies and gentlemen of the Senate, I rise today to ask you to oppose the pending motion so we can go on an Accept the Minority Ought Not to Pass Report. I do feel there is a small problem in the group of specialist doctors that employers can request that injured employees go to see. But in this Legislator's opinion, that problem is not best addressed by this LD. But it is going to be addressed, I believe, hopefully very soon in this Body by a separate idea which is in the back of our Calendar right now, but I can't say any more about that I understand. I think there is a way we can improve the specialist that injured employees are asked to see, but I think it is best addressed by a different idea rather than this one. Thank you.

**THE PRESIDENT**: Is the Senate ready for the question? The Chair recognizes the Senator from Aroostook, Senator Kieffer.

Senator **KIEFFER**: Thank you Mr. President. Ladies and gentlemen of the Senate, I just wanted to comment briefly on something I heard here earlier about the savings that do not occur within this 10 day period from the medical side, and I do agree with that. However, the savings that does occur is by getting these injured employees to the proper specialist, and getting them back to work in a manner in which that injury will not re-occur. That is where the true savings will occur. Thank you Mr. President.

On motion by Senator **BENNETT** of Oxford, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#89)**

**YEAS:** Senators: CAREY, CATHCART, DAGGETT, DOUGLASS, LAFOUNTAIN, LONGLEY, MICHAUD, MURRAY, PARADIS, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

**NAYS:** Senators: ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, CASSIDY, DAVIS, FERGUSON, GOLDTHWAIT, HARRIMAN, KIEFFER, KILKELLY, LIBBY, MACKINNON, MILLS, MITCHELL, NUTTING, O'GARA, PENDLETON, SMALL

**EXCUSED:** Senator: KONTOS

14 Senators having voted in the affirmative and 20 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **LAFOUNTAIN** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later (5/6/99) Assigned matter:

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act Requiring Doctors Giving 2<sup>nd</sup> Opinions in Workers' Compensation Cases to be Certified"

S.P. 350 L.D. 1054

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-218)** (9 members)

Minority - **Ought Not to Pass** (2 members)

Tabled - May 6, 1999, by Senator **PINGREE** of Knox.

Pending - motion by Senator **DOUGLASS** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report

(In Senate, May 6, 1999, Reports **READ**.)

On motion by Senator **DOUGLASS** of Androscoggin, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-218) **READ**.

On motion by Senator **LAFOUNTAIN** of York, Committee Amendment "A" (S-218) **INDEFINITELY POSTPONED**.

Under suspension of the Rules, **READ A SECOND TIME**.

On motion by Senator **LAFOUNTAIN** of York, Senate Amendment "A" (S-275) **READ**.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator LaFountain.

Senator **LAFOUNTAIN:** Thank you Mr. President. This Amendment which I have spoken to with the Sponsor of the legislation together with the other two members from this Body who serve on the Labor Committee includes the chiropractors, requires them to be licensed by the Board of Chiropractor Licensure and also allows them to provide a second opinion when the initial opinion was given by a chiropractor.

Senate Amendment "A" (S-275) **ADOPTED**.

**PASSED TO BE ENGROSSED AS AMENDED**.

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Restore State Funding for Mediation Services Provided by the Maine Labor Relations Board"

H.P. 564 L.D. 785

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-357)** (6 members)

Minority - **Ought Not to Pass** (3 members)

Tabled - May 12, 1999, by Senator **LAFOUNTAIN** of York.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence

(In House, May 11, 1999, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-357)**.)

(In Senate, May 12, 1999, Reports **READ**.)

Senator **MILLS** of Somerset requested a Division.

**THE PRESIDENT:** The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** This Bill has a little bit of history behind it. Up until about 1991 when a bargaining unit and a public entity, typically a town or a school district, and less commonly the State itself. When these entities are not able to agree on resolving a contract dispute, there is a cascade of external remedies that are available to them. And the first stage of resolving conflict on contract issues is to go to mediation. If you can't solve your problem at the bargaining table face to face and you begin to need external help you employ a mediator whose powers are not to decide the case or the issue for you, but to bring you together

to caucus with each of you separately when appropriate, and to suggest creative ways in which to break the impasse that lies between you. Up until 1991 or 1993, I forget which, it was the practice of the State of Maine to provide this service at State expense, at General Fund expense without cost to the disputants so that the local Fire Department bargaining group that is intentioned with the Municipality Town Council could go take their contract problem to a mediator provided by the State, and the first three days would be provided at State expense. Those services of the mediator would be provided at State expense. Under the funding crunch of the early 90's this provision was repealed, and the law was put into place that we now have, which is that each of the parties had to pay half. The service was provided, of course, by the State, but the cost of it from day one would be provided by those who were unable to resolve their dispute with each other. And that remains the current status of things. This Bill, which has been here, was here two years ago I think probably in exactly the same form, if you pass this Bill it would go back to providing at State expense the first three days of mediation services. And only after the third day would the parties begin to have to divide the cost between them.

Now I rather like the current state of things. I think it is good to have the two disputing parties pay this relatively small expense right from the beginning. And why? Number one, I think it encourages people to stay at the bargaining table and get the dispute resolved for themselves rather than to have them arrive at a point where either is forcing the other to incur a mutual expense. I think the existence of the expense induces compromise at the bargaining table which is where it should occur, or it encourages compromise at that less elevated level. It seems to me if there is three days of free mediation waiting for the parties, available at the instigation of either, may encourage the bargaining parties to take advantage of that option too frequently. And perhaps to incur the delays that are associated with invoking the mediation process when delay is to the advantage of either party. And perhaps increase the frequency with which these services are provided. I would just as soon leave it the way it is. It's not an expensive thing. It is shared by each of the parties equally, and if they can't resolved their dispute at the bargaining table let them pay for the services that we provide. Why should we, at State expense, provide this free service to those who are unable to resolve their differences when there are so many others, perhaps, that are able to do so because they happen to be more accommodating. I don't see the point of providing this service for free, and thus, encouraging in however a small way that it may, the perpetuation of disputes for a longer period than they should go on. I just think that the current system is likely to work better. It's likely to encourage resolution of disputes, rather than the perpetuation of them, and we should leave the parties to be paying it for themselves. I can't recall what the fiscal note is on the Bill. I think its about \$27,000, but I haven't looked it up. It's not a big fiscal note, but if you pass this Bill we will once again be delegating our responsibilities as, in the first instance, as a Labor Committee, and secondly as a Legislature to the third branch of the Legislature, which is the Appropriations Committee. I would rather not do that. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator **CAREY:** Thank you Mr. President. The good Senator from Somerset, Senator Mills, asked why should someone else

be paying for this? And I would tell you that while I was Mayor of Waterville I ran into several instances where in one case the Union held out. They had money coming in from all over the Country while the Municipality had a minor problem in having a lot of just X number of dollars for all of it's negotiations. And it was very easy for the Union at that time to just hold out forever knowing that they were still going to get what they were getting at the time, number one. And secondly, that eventually the City's budget that was set aside for negotiations, was running dry. So that was some sort of a unfair competitive edge for the Unions at that time.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Douglass.

Senator **DOUGLASS:** Men and women of the Senate, I think it's important to point out that there were about 80 requests for mediation last year. That's about the average, and they resolved 82% of the cases. We ought to be interested in making sure that our employees have agreements. They are more productive when they do so. When they are in agreement it helps our economy to grow. The cost of this measure, and it is slightly more than the good Senator from Somerset stated, I believe it is \$30,000 in the first year, and perhaps \$40,000 in the next. But it is a cost savings in the long run I believe because it helps our economy in terms of the fact. But then we have our workers in sync, the morale is higher, and agreement has been reached in a less conflict producing manner, and there is a more quick resolution of the matter, as well. Sometimes communities just simply need this little boost, and so too on the workers side of the issue to help them reach an agreement. I think it is a minor amount of money to spend for a huge benefit to the State.

The Chair ordered a Division. 13 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion by Senator **LAFOUNTAIN** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later (5/10/99) Assigned matter:

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Protect Municipalities from Property Tax Loss when Land is Acquired by the State"

H.P. 205 L.D. 283

Majority - **Ought Not to Pass** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-203)** (4 members)

Tabled - May 10, 1999, by Senator **BENNETT** of Oxford.

Pending - motion by Senator **PINGREE** of Knox to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**

(In House, May 10, 1999, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-203)**.)

(In Senate, May 10, 1999, Reports **READ**.)

At the request of Senator **BENNETT** of Oxford a Division was had. 21 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **PINGREE** of Knox to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**, **PREVAILED**.

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Prohibit Lobbying by Government Agencies"

H.P. 1271 L.D. 1832

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-415)** (6 members)

Tabled - May 12, 1999 by Senator **DAGGETT** of Kennebec.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence

(In House, May 11, 1999, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 12, 1999, Reports **READ**.)

On motion by Senator **DAGGETT** of Kennebec, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

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Out of order and under suspension of the Rules, the Senate considered the following:

#### **ENACTORS**

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

**Emergency Resolve**

Resolve, Establishing the Commission to Study the Educational Needs of Offenders in the States Correctional System

H.P. 616 L.D. 856  
(C "A" H-299)

Comes from the House **FAILED FINAL PASSAGE.**

Senator **MICHAUD** of Penobscot, moved to place on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in **NON-CONCURRENCE**.

The Chair ordered a Division. 22 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator **MICHAUD** of Penobscot, to place on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in **NON-CONCURRENCE**, **PREVAILED**.

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On motion by Senator **MICHAUD** of Penobscot, the Senate removed the Bill from the **SPECIAL APPROPRIATIONS TABLE**:

**Emergency Resolve**

Resolve, Establishing the Commission to Study the Educational Needs of Offenders in the States Correctional System

H.P. 616 L.D. 856  
(C "A" H-299)

Tabled - May 12, 1999, by Senator **MICHAUD** of Penobscot.

Pending - **FINAL PASSAGE**, in **NON-CONCURRENCE**

(In Senate May 5, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-299), in concurrence.)

(In House May 12, 1999, **FAILED FINAL PASSAGE**.)

Senator **BENNETT** of Oxford moved the Resolve and accompanying papers be **INDEFINITELY POSTPONED**.

Senator **MURRAY** of Penobscot moved to **TABLE** until Later in Today's Session, pending the motion by Senator **BENNETT** of Oxford to **INDEFINITELY POSTPONE** the Resolve and accompanying papers.

At the request of Senator **LIBBY** of York a Division was had. 31 Senators having voted in the affirmative and 3 Senators having voted in the negative, the motion by Senator **MURRAY** of Penobscot **TABLED** until Later in Today's Session, pending the motion by **BENNETT** of Oxford to **INDEFINITELY POSTPONE** the Resolve and accompanying papers, **PREVAILED**.

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Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Bill "An Act to Reauthorize and Amend the Diesel-powered Motor Vehicle Emission Opacity Testing Program" (EMERGENCY)

S.P. 381 L.D. 1082  
(C "A" S-184)

In Senate, May 5, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (S-184).

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (S-184) **AS AMENDED BY HOUSE AMENDMENT "A"** (H-546) thereto, in **NON-CONCURRENCE**.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **FURTHER CONSIDERATION**.

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**Non-Concurrent Matter**

Resolve, Establishing a Task Force to Study the Need for an Agricultural Vitality Zone Program

S.P. 393 L.D. 1172  
(C "A" S-196)

In Senate, May 6, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (S-196).

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (S-196) **AND HOUSE AMENDMENT "A"** (H-543), in **NON-CONCURRENCE**.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **FURTHER CONSIDERATION**.

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Senate at Ease.

Senate called to order by the President.

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Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Resolve, to Create the Task Force to Explore Alternative Payment Mechanisms for Dental Health Care

H.P. 918 L.D. 1296  
(H "B" H-264 to C "A" H-146)

In Senate, May 7, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-146) AS AMENDED BY HOUSE AMENDMENT "B" (H-264)** thereto, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-146) AS AMENDED BY HOUSE AMENDMENT "C" (H-541)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **PINGREE** of Knox, the Senate **RECEDED** and **CONCURRED**.

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**Non-Concurrent Matter**

Resolve, to Establish a Task Force to Study the Improvement of Public Water Supply Protection

H.P. 1103 L.D. 1550  
(C "A" H-425)

In Senate, May 7, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-425)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-425) AND HOUSE AMENDMENT "A" (H-540)**, in **NON-CONCURRENCE**.

On motion by Senator **PINGREE** of Knox, the Senate **RECEDED** and **CONCURRED**.

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Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Resolve, to Direct the Department of Environmental Protection and the Department of Economic and Community Development to Devise a Proposal for Long-term Funding of the Removal of Tire Dumps

S.P. 539 L.D. 1601  
(C "A" S-186)

In Senate, May 5, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-186)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-186) AND HOUSE AMENDMENT "A" (H-539)**, in **NON-CONCURRENCE**.

On motion by Senator **PINGREE** of Knox, the Senate **RECEDED** and **CONCURRED**.

**Non-Concurrent Matter**

Bill "An Act to Implement the Recommendations of the Advisory Committee on Results-based Initial Certification of Teachers"

S.P. 568 L.D. 1635  
(C "A" S-170)

In Senate, May 5, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-170)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-170) AS AMENDED BY HOUSE AMENDMENT "A" (H-542)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **PINGREE** of Knox, the Senate **RECEDED** and **CONCURRED**.

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Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

SENATE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Revoke Voting Rights of Convicted Felons While they are in Prison

S.P. 545 L.D. 1607  
(C "A" S-172)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-172)** (9 members)

Minority - **Ought Not to Pass** (4 members)

In Senate, May 7, 1999, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the **RESOLUTION PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-172)**.

Comes from the House, **RESOLUTION** and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Senator **PINGREE** of Knox moved the Senate **RECEDE** and **CONCUR**.

On motion by Senator **BENNETT** of Oxford, **TABLED** until Later in Today's Session, pending motion by Senator **PINGREE** of Knox to **RECEDE** and **CONCUR**.

**Non-Concurrent Matter**

Bill "An Act to Amend the Laws Relating to Development and Centralized Listing of Municipal Ordinances that Apply to Forestry Practices"

S.P. 666 L.D. 1888  
(C "A" S-211)

In Senate, May 7, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-211).**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-211) AND HOUSE AMENDMENT "A" (H-527), in NON-CONCURRENCE.**

On motion by Senator **PINGREE** of Knox, the Senate **RECEDED** and **CONCURRED.**

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**ORDERS OF THE DAY**

The Chair laid before the Senate the following Tabled and Later Assigned matter:

Resolve, Establishing a Task Force to Study the Need for an Agricultural Vitality Zone Program

S.P. 393 L.D. 1172  
(C "A" S-196)

Tabled - May 12, 1999, by Senator **PINGREE** of Knox.

Pending - **FURTHER CONSIDERATION**

(In Senate, May 6, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-196).**)

(In House, May 12, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-196) AND HOUSE AMENDMENT "A" (H-543), in NON-CONCURRENCE.**)

On motion by Senator **NUTTING** of Androscoggin, the Senate **RECEDED** and **CONCURRED.**

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Senate at Ease.

Senate called to order by the President.

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Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Resolve, to Transfer a Parcel of State Land to the Town of Carrabassett Valley

S.P. 699 L.D. 1974  
(C "A" S-210)

In Senate, May 7, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-210).**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-210) AS AMENDED BY HOUSE AMENDMENT "A" (H-538) thereto, in NON-CONCURRENCE.**

On motion by Senator **PINGREE** of Knox, the Senate **RECEDED** and **CONCURRED.**

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Off Record Remarks

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Senator **NUTTING** of Androscoggin was granted unanimous consent to address the Senate off the Record.

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Off Record Remarks

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On motion by Senator **PINGREE** of Knox, **ADJOURNED**, until Thursday, May 13, 1999, at 9:00 in the morning.