

MAINE STATE LEGISLATURE

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One Hundred and Nineteenth Legislature
State of Maine

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

In Senate Chamber
Wednesday
May 26, 1999

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

Prayer by Senator James Libby of York County.

SENATOR LIBBY: Thank you Mr. President. Please join me in prayer. Heavenly Father as we the members of this Senate reach the conclusion of our work for this year please give us the strength to stand tall and the patience to do right. Grant us peace and harmony over these proceedings, and the ability to lead this State to further greatness. Father we asked this in Your name. Amen.

Doctor of the day, David Massanari, MD, Springvale.

Reading of the Journal of Tuesday, May 25, 1999.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act Concerning Technical Changes to the Tax Laws" (EMERGENCY)

S.P. 440 L.D. 1277
(C "A" S-329)

In Senate, May 21, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-329).**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-329) AS AMENDED BY HOUSE AMENDMENT "A" (H-684)** thereto, in **NON-CONCURRENCE.**

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

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Prohibit the Use of Juveniles in a Tobacco Enforcement Action"

H.P. 1429 L.D. 2052

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-361)** (8 members)

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

In House, May 5, 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-361).**

In Senate, May 25, 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.**

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

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

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending motion by Senator **BENNETT** of Oxford to **INSIST** and **JOIN IN A COMMITTEE OF CONFERENCE.**

ENACTORS

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

Emergency Resolve

Resolve, to Modify the State Valuation for the Sappi Plant in the City of Westbrook for Purposes of Education Funding
H.P. 1593 L.D. 2241

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

Emergency Mandate

An Act to Revise the Salaries of Certain Kennebec County Officers

H.P. 1592 L.D. 2240

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.

Mandate

An Act to Require a Written Record of the Subject Matters Discussed in Executive Sessions

H.P. 143 L.D. 205
(C "A" H-635)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 4 Members of the Senate, with 27 Senators having voted in the negative, and 4 being less than two-thirds of the entire elected Membership of the Senate, **FAILED ENACTMENT**, in **NON-CONCURRENCE**.

(See action later today.)

**Pursuant to the Constitution
Confirmation Process**

An Act to Provide for the 1999 and 2000 Allocations of the State Ceiling on Private Activity Bonds

S.P. 417 L.D. 1206
(C "A" S-341)

In accordance with Article 5, Part 1, Section 8 of the Constitution, this requires the affirmative vote of two-thirds of the members present and voting. 32 Senators having voted in the affirmative and no Senators having voted in the negative, and 32 being more than two-thirds of the members present and voting, 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 Allow Reimbursement of Registered Nurse First Assistants for Surgical Procedures

H.P. 22 L.D. 32
(S "A" S-343 to C "A" H-649)

An Act Regarding Fish Stocking

H.P. 361 L.D. 486
(H "A" H-665 to C "A" H-607)

An Act to Expedite Treatment of Certain Persons with Mental Illness

H.P. 499 L.D. 706
(C "A" H-659)

An Act to Amend the Laws Relating to Notaries Public

H.P. 643 L.D. 893
(H "A" H-662 to C "A" H-411)

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 Amend the Laws Relative to Vesting in the Maine State Retirement System and to Protect Retirement Benefits Once the Right to those Benefits has Attached

H.P. 189 L.D. 267
(H "A" H-670 to C "A" H-652)

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

An Act to Promote Healthy Maine Families

S.P. 492 L.D. 1477
(C "A" S-339)

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

An Act to Amend Maine's Family and Medical Leave Law

S.P. 511 L.D. 1512
(C "A" S-217; S "B" S-323 to H "A" H-576)

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

An Act to Create a Staff Position at the Maine Commission on Domestic Abuse

S.P. 689 L.D. 1935
(C "A" S-140)

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

An Act to Allow Workers' Compensation Board Advocates to Prioritize and Decline Cases

S.P. 741 L.D. 2100
(C "A" S-268)

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

HELD MATTER

Senator **GOLDTHWAIT** of Hancock, moved the Senate **RECONSIDER** whereby it **RECEDED** and **CONCURRED** on the following:

Bill "An Act to Amend the Freedom of Access Laws"
H.P. 1296 L.D. 1857
(H "A" H-668 to C "A" H-479)

(In Senate, May 19, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-479)**, in **NON-CONCURRENCE**.)

(In House, May 25, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-479) AS AMENDED BY HOUSE AMENDMENT "A" (H-668)** thereto, in **NON-CONCURRENCE**.)

(In Senate, May 25, 1999, on motion by Senator **LONGLEY** of Waldo, **RECEDED** and **CONCURRED**.)

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **RECONSIDER** whereby the Senate **RECEDED** and **CONCURRED**.

ORDERS OF THE DAY

Unfinished Business

The following matter 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 (5/21/99) Assigned matter:

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

H.P. 163 L.D. 225
(C "A" H-500)

Tabled - May 21, 1999, by Senator **RAND** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE**

(In House, May 17, 1999, Report "A", **OUGHT TO PASS**, **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, May 20, 1999, Report "C", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-500)**, **READ** and **ACCEPTED**, in **NON-CONCURRENCE**. **READ ONCE**. Committee Amendment "A" (H-500) **READ** and **ADOPTED**. **READ A SECOND TIME**.)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-500), in **NON-CONCURRENCE**.

Sent down for concurrence.

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

HOUSE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Prohibit the Use of Juveniles in a Tobacco Enforcement Action"
H.P. 1429 L.D. 2052

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-361)** (8 members)

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

Tabled - May 26, 1999, by Senator **PINGREE** of Knox.

Pending - motion by Senator **BENNETT** of Oxford to **INSIST** and **JOIN IN A COMMITTEE OF CONFERENCE**

(In House, May 5, 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-361)**.)

(In Senate, May 25, 1999, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

(In House, May 25, 1999, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.)

The Chair ordered a Division. 11 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **BENNETT** of Oxford to **INSIST** and **JOIN IN A COMMITTEE OF CONFERENCE**, **FAILED**.

On motion by Senator **PINGREE** of Knox, the Senate **ADHERED**.

ORDERS

Joint Order

Out of order and under suspension of the Rules, on motion by Senator **MILLS** of Somerset, the following Joint Order:
S.P. 844

ORDERED, the House concurring, that the Joint Standing Committee on Appropriations and Financial Affairs report out, to the Senate, an emergency bill to provide additional funding of \$24,557,795 for general purpose aid for local schools for fiscal year 1999-00 in accordance with the recent votes of the Joint Standing Committee on Appropriations and Financial Affairs.

READ.

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

Senator **MILLS:** Mr. President. Women and men of the Senate, this is the time of year when school boards are trying to finalize their Budgets for the coming school year. They are making decisions about how many teachers and staff to carry for the coming year, and what amount of money to ask their respective towns to come up with to complete their Budgets. As a consequence of that activity, this is also the time of year when the mill rates are being established in each of our 495 communities. There are therefore, if you add up the 286 school units to the 495 municipalities, there are approximately 781 Budgets that are in some measure dependent on the amount of money that we may be coming up with for additional General Purpose Aid in the Part 2 Budget. I have noted with some satisfaction that there has been recently, practically a unanimity of support for adding about 24½ million dollars to General Purpose Aid. I understand that it is that same number and the formula by which it would be allocated is a consensual part of each Budget being proposed by the Leadership of each political party. It is also the very same number and formula that has been supported publicly by the governor of this State. So we have a situation where it would be safe to say that both Chambers, both Parties, and the Executive Branch are in complete accord. We should be sending out to these school boards at this juncture, by Emergency vote, in order to get the money out. About \$24 ½ million under the formula that we all, through our Leadership agreed to. If that is the case, it seems to me that it would be simply a matter of courtesy to all 781 local entities that depend on learning about this number that we send it out as soon as possible. I'm saying all this, I hope you'll understand, in a non-partisan fashion. I'm concerned that we may not be able to come up with the two-thirds Budget that will send this money out in a timely fashion. I don't know that we will be able to or not. I don't want to sit here this morning and speculate about that prospect and I certainly don't want to reach the point of trying to cast dispersion on one Party or the other, or one House or the other, or on the Executive Branch, or any incapacity to reach that sort of consensus. But it does seem to me that as a matter of courtesy, to do all of our local governmental units who could use this money now for some immediate tax relief at the local level, that it would be the least we could do for them. To send out a Bill appropriating in a supplemental way the amount of money that everyone has agreed upon to allocate as part of the Part 2 Budget for the GPA formula, it would be of great relief to our local officials. They would be very gratified to get the money, and there would be a deep sense of gratitude to this institution for us to do that. Then we could go on about our business in regard to the other elements of that Part 2 Budget. It is for that reason that I propose the order that lies before you, move its Passage, and do with respect ask for your support in a bipartisan way. Thank you.

On motion by Senator **MICHAUD** of Penobscot, **TABLED** until Later in Today's Session, pending motion by Senator **MILLS** of Somerset to **PASS**.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

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

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

Off Record Remarks

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

After Recess

Senate called to order by the President.

Off Record Remarks

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

PAPERS FROM THE HOUSE

Joint Resolution

The following Joint Resolution: H.P. 1070

JOINT RESOLUTION IN MEMORY OF JUSTICE DAVID ROBERTS

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

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

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

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

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

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

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

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

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

Comes from the House, **READ** and **ADOPTED**.

READ and **ADOPTED**, in concurrence.

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Resolve, Establishing a Commission to Study the Feasibility of Reestablishing a Brook Trout and Landlocked Salmon Hatchery in Northern Maine

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

In Senate, May 24, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-296) AS AMENDED BY HOUSE AMENDMENT "A" (H-641)** thereto, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-296) AS AMENDED BY HOUSE AMENDMENTS "A" (H-641) AND "B" (H-685)** thereto, in **NON-CONCURRENCE**.

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

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 Require that the State Planning Office Report to the Committee on State and Local Government"
H.P. 619 L.D. 859
(H "B" H-614)

In Senate, May 21, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-614)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "B" (H-614) AND "C" (H-686)**, in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act to Provide Access to Information Services in All Communities of the State"
S.P. 665 L.D. 1887
(S "A" S-321 to C "A" S-300)

In Senate, May 20, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-300) AS AMENDED BY SENATE AMENDMENT "A" (S-321)** thereto.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-300) AS AMENDED BY SENATE AMENDMENT "A" (S-321) thereto, AND HOUSE AMENDMENT "A" (H-683)**, in **NON-CONCURRENCE**.

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

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 **JUDICIARY** on Bill "An Act to Provide Fairness to Victims of Medical Malpractice"
S.P. 450 L.D. 1325

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-352).**

Signed:

Senators:

LONGLEY of Waldo
TREAT of Kennebec

Representatives:

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

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

Signed:

Senator:

BENOIT of Franklin

Representatives:

PLOWMAN of Hampden
MADORE of Augusta
WATERHOUSE of Bridgton

Reports **READ.**

Senator **PINGREE** of Knox moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass

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

S.P. 845 L.D. 2244

Reported that the same **Ought to Pass**, pursuant to Joint Order (S.P. 843).

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

READ ONCE.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED.**

Sent down for concurrence.

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

Off Record Remarks

Senator **AMERO** of Cumberland, the Senate **RECONSIDERED** whereby it **FAILED** to **PASS TO BE ENACTED** on the following:

An Act to Require a Written Record of the Subject Matters Discussed in Executive Sessions

H.P. 143 L.D. 205
(C "A" H-635)

(In House, May, 25, 1999, **PASSED TO BE ENACTED.**)

(In Senate, May 26, 1999, **FAILED ENACTMENT** in **NON-CONCURRENCE.**)

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **RECONSIDER** whereby the Bill **FAILED ENACTMENT.**

On motion by Senator **BENNETT** of Oxford, **RECESSED** until 4:00 in the afternoon.

After Recess

Senate called to order by the President.

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 **LABOR** on Bill "An Act to Exclude Claims for Intentional Criminal Acts from the Application of the Workers' Compensation Act of 1992"

S.P. 47 L.D. 118

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-227)** (9 members)

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

In Senate, May 25, 1999, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Comes from the House, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-227)**, in **NON-CONCURRENCE**.

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

On motion by Senator **AMERO** of Cumberland, 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 (#166)

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

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

ABSENT: Senators: KIEFFER, SMALL

15 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **PINGREE** of Knox to **RECEDE** and **CONCUR**, **FAILED**.

On motion by Senator **AMERO** of Cumberland, the Senate **ADHERED**.

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 Treat All Employees Equitably with Respect to Leaves of Absence for Legislative Service" H.P. 235 L.D. 339

In House, May 24, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-354)**.

In Senate, May 25, 1999, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

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

Senator **PINGREE** of Knox moved the Senate **INSIST** and **JOIN IN A COMMITTEE OF CONFERENCE**.

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

Senator **TREAT:** Thank you Mr. President. Men and women of the Senate, I would encourage you to join in the Committee of Conference. On this issue, I think that the Report that was moved was a Report that the majority of this Body was not comfortable with. There were other Reports that came out of the Committee that never had a chance to be debated or considered and there may well be other options out there that are worth looking at. The Committee of Conference would give us the opportunity to discuss this issue with our brethren and see if we can come up with something reasonable. The way the Bill went with the Indefinite Postponement motion previously, we had no opportunity to consider anything except an up or down on the Committee Report. So I would encourage you to go with the Committee of Conference simply so that we can look at this issue a little more clearly and maybe come up with a good compromise on it.

The Chair ordered a Division.

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 (#167)

YEAS: Senators: CATHCART, DAGGETT, DOUGLASS, KONTOS, LONGLEY, MICHAUD, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, CAREY, CASSIDY, DAVIS, FERGUSON, GOLDTHWAIT, HARRIMAN, KILKELLY, LAFOUNTAIN, LIBBY, MACKINNON, MILLS, MITCHELL, MURRAY, NUTTING

ABSENT: Senators: KIEFFER, SMALL

14 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **PINGREE** of Knox to **INSIST** and **JOIN IN A COMMITTEE OF CONFERENCE**, **FAILED**.

On motion by Senator **AMERO** of Cumberland, the Senate **ADHERED**.

Off Record Remarks

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/17/99) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Increase the Maximum Benefit Levels Provided for Injured Workers"

H.P. 1314 L.D. 1897

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-548)** (8 members)

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

Tabled - May 17, 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 17, 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-548)**.)

(In Senate, May 17, 1999, Reports **READ**.)

At the request of Senator **AMERO** of Cumberland a Division was had. 20 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **DOUGLASS** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-548) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-548)**, in concurrence.

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

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Exempt Retail Store Property from the Business Equipment Tax Reimbursement Program"

S.P. 81 L.D. 184

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-80)** (2 members)

Tabled - April 13, 1999, by Senator **RUHLIN** of Penobscot.

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

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

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

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

Senator **MILLS:** Mr. President, men and women of the Senate, in the Business Equipment Tax Reimbursement Program we include most but not all categories of business equipment. We have in the past several years taken pains to exclude retail equipment. We've excluded office equipment and I think office computer equipment is included along with office furniture, chairs and tables and the like. We pared away some of the elements of this program in order to make the program reflect a little more closely the policy concerns which support a Passage of the program in the first instance back in the spring of 1995. The policy concerns were these: we wanted to place back into the hands of business their property taxes on equipment and machinery that was being newly purchased, representing new investment in business in this state that would have the impact of creating new jobs and an expanded Maine economy. What lies before you is a Bill that would pare away from this program prospectively only equipment and machinery that is used in the retail sector of our economy and it is based on the following thought. It is very easy to conceive how manufacturing equipment that is placed in service in this state produces new jobs, not only in the factory where the machinery is placed but also throughout the economy within the region of the investment because the factory worker takes his paycheck home and spends the money at the grocery store, at the cobbler, at the barber and at the department store and the money that is injected into the economy through manufacturing is spent over and over and over again to create many jobs in addition to those that are directly created by the investment in the machinery.

Please contrast that situation with the opening of a new Wal-Mart or Shop n' Save or Shaws store in your own community. We've had such openings in Skowhegan. Wal-Mart came to town, paved several acres of parking lot, built thousands of square feet of new store space and in the process within a few short months all the people that were working at Ames, K-Mart and one of the last remaining Woolworths in the free world all lost their jobs in trade for whatever other jobs were created at the Wal-Mart store. I haven't done a detailed analysis of how many jobs were gained and how many were lost but I suspect that the ledger event is pretty close to even and perhaps there are fewer jobs now than they were because, after all, we had three department stores before the heirs of Sam Walton came to town and put them all out of business at a stroke. Probably there were more people in those three stores than are there are currently working in the one remaining. So in part at least because of the incentives created by this tax refund we wind up in the retail sector trading jobs around within our communities and within regions of our state and not really creating any new investments or new jobs or new energy into our market place or economy. Furthermore in many respects you can say that we're creating unfair competition for some of our well established family businesses. Consider that many old line family stores,

businesses, grocery stores and the like are often times run by people who don't have the capital behind them to invest heavily in new freezers, new equipment, new shelving. That money comes from out-of-state. So what we're doing through the tax policy that subsidizes retail stores under the BETR Program is we're subsidizing large out-of-state corporations to come into this state and essentially put out of business some of our old line family stores. Look at what has happened to drug stores in this state. Where can you find a small family-owned drug store? Even LaVerdiere's, which was something of a chain but in itself was family-owned as many as they did own, it was still a family-owned enterprise and they got gobbled up some years ago by national chains. Where does the money go that we give back to these folks under the BETR Program? It doesn't stay here. The money that we rebate to Wal-Mart, CVS, Rite Aide goes back to the share holders wherever they may live and passes through not to people who live here but to people who live outside by in large. What sort of policy are we promoting by giving back money under these circumstances? It seems to me entirely appropriate to carve out retail establishments from the BETR Program just as appropriate as it was to carve out the utility sector, the pipeline that we carved out a couple of years ago, and to carve out office equipment. Those kinds of things that are going to be here, going to be present in our economy regardless of our tax policy. I submit to you that the opening of new retail stores and the closing of old, in all of that activity there is no new job creation induced by this tax benefit that we have on our books. Why are we giving that money away without satisfying the underlying policy that was behind the law originally? Ask yourselves why are we imposing today a 5.5% tax on overshoes for school children and school clothing and used pick-up trucks for Maine families, taking that 5.5% out of the household budgets of Maine families, taking money out of their paychecks at the rate of 8.5% at the high marginal rates, taking that money and handing it back to the heirs of Sam Walton, the richest family in the free world. What public policy is being served by that enterprise. For that reason I do ask that you Reject the pending motion so that we can go on to endorse the alternative Report. Thank you.

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

Senator **RUHLIN:** Thank you Mr. President. Ladies and gentlemen of the Senate, when I listened to the good Senator from Somerset, Senator Mills, I think maybe what we have before us was a proposal that says keep out of Maine Wal-Mart. That's not the way that it works. Not the way it should be. We have a society that allows for free and open competition and hopefully in that process the people who compete will hire Maine people and pay decent wages. To foster that and establish a program we call BETR. I will remind you that BETR is Business Equipment Tax Reimbursement Program. It doesn't say it's business less retail investment reimbursement program. It says it's a business equipment investment program. By the way, in four years since it's conception and on-line we brought in more investment in the commercial infrastructure of the State of Maine than we did the proceeding fourteen years combined. It's an effective program, it's a program that works. I guess the Committee, all thirteen members sitting there, eleven of them crossing all spectrums of the fiscal philosophies and the political parties, eleven of them came together and said we should not have this program discriminate against any one section of our business community. The retail community is as important to the economic good health

of this State as the manufacturing community is. I for one would love to have more manufacturing jobs in the State of Maine. They are in decline. They are in decline nationally. I would like to see somebody overcome that. But those jobs that used to be manufacturing jobs are now going to the service industry jobs. Service industry, by the way, includes retail. We need those people coming in and fusing fresh money into our economic infrastructure to create jobs, to maintain jobs, to give Maine people a chance to compete, a chance to have a decent job. If I had my rathers, I'd rather have manufacturing but what we have is what we have and we must do what we can to encourage the investment in that. Maine is one of the very few states in the nation that continues to charge a personal property tax on the investment on infrastructure of businesses. That's why we came up with BETR in the first place. Please do not discriminate against one viable, meaningful and probably the largest section of our economic community that is the retail section. And if you do not want to discriminate the way to show that lack of discrimination is to vote for the Majority Ought Not to Pass Report. Thank you.

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

Senator **LIBBY:** Thank you Mr. President. Men and women of the Senate, several years ago I went in front of the Taxation Committee and Senator Ruhlin, the Senator from Penobscot, was there at the time and we came forward with the Governor's Bill. It was a Business Equipment Tax Rebate Program. And it is the single greatest weapon that we have here in the state of Maine for rural economic development. Originally I had hoped, and I know a lot of my friends and colleagues in the Senate and the House had hoped, that we could simply get rid of the onerous tax that is the Personal Property Tax because lots of other states who compete against us for these manufacturing jobs have gotten rid of that tax. And I someday still hope to stop levying the tax. But in the meantime I think it's important to note a couple of things about what I believe to be the misconceptions of one of the previous speakers here about the BETR Program and what it does. For example, if you are successful in luring even a retail business into your neck of the woods does that mean that we're just talking about a rebate to a retail store. Is that what it's all about? That in fact is not the case. The case is this, and I want everybody that is going to oppose this Bill to remember this, you're also hurting every single contractor that is working on that project. Every single one of them. Because if you don't have a project, you don't have a contractor. And that's what I think is not understood about this program. When we've got jobs, manufacturing jobs, coming to rural Maine you've not just talking about that company you're talking about all of the other companies that that company employs to do the work at the site. And that is what's happening in my District and that is why I support this program. So I will not be voting to whittle away at a program that is one of the best programs we have here in the state of Maine. In fact I hope that you will all join me in supporting the Ought Not to Pass pending motion here because it is one of the best programs that we have in State government and we cannot afford to whittle away at it. Thank you very much.

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 that we can go on to Accept the Ought to Pass Report. Last summer and fall I had the privilege, with the good Senator from Somerset, Senator Mills, to serve on a task force. This task force was the one that studied the creation of more jobs and it was called the Primary and Secondary Wood Processors Task Force. An industry, especially in Western Maine, that's really been hurt by a flood of Canadian imports. We realized after a couple of meetings that we in the task force really didn't have the ability to overturn NAFTA. In my own assessment and this may be a bit blunt but I came to believe that the NAFTA inspectors that worked in the United States made decisions that Canada was very happy with. A 2x4 is a finished piece of lumber if it has a hole in it and I can go on and on. The type of decisions that are devastating to the primary and secondary wood products industry in Maine. About the only thing we could come up with that we could do at a State level that might benefit them and try to make up for the way that NAFTA has treated them was to possibly, in the future, expand the BETR Program for these narrow range of businesses so that they could try to use BETR not only for their personal equipment in the building but the building as well. In effect we came to the conclusion that we needed to expand BETR for those types of businesses, especially along the Canadian border. Contrast that, if you may, to retail. Do we need more retail space in the state of Maine. Wherever you live do you have a problem finding a store to shop at anywhere. I don't believe so. The good Senator from Somerset, Senator Mills, talked about the Wal-Mart and the relationship to Ames and K-Mart. I'm going to close my statement this afternoon with the relationship between Wal-Mart and the Maine Christmas Tree Growers Association. Last year for the first time, and they probably will continue it, Wal-Mart sold Christmas trees at unbelievable, and in my opinion lossleader prices, during Christmas season. 100% of these Christmas trees came from out-of-state. This devastated Maine's Christmas tree industry. We are giving this industry BETR tax breaks to an out-of-state business with absolutely no regard for our own industries. Be it other retail industries or be it our own growing, up until last year, Maine Christmas tree industry. I Oppose the pending motion. Mr. President, I ask for a Roll Call. Thank you.

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

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

Senator **RUHLIN**: Thank you Mr. President. I'm not going to spend too much time debating this issue. I have to make the observation to two of the speakers. If you want to outlaw Wal-Mart or any other business in the state of Maine, bring a Bill in to outlaw them. Don't do it through an existing program that works and works well. Thank you.

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

Senator **NUTTING**: Thank you Mr. President. I hadn't intended to get up again a second time myself. I don't want to outlaw Wal-Mart. I just want to stop giving them a tax break. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Ruhlin to Accept the Majority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#168)

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

NAYS: Senators: DAGGETT, MILLS, NUTTING, RAND, TREAT

ABSENT: Senators: KIEFFER, KONTOS, SMALL

27 Senators having voted in the affirmative and 5 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator **RUHLIN** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (4/14/99) Assigned matter:

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Eliminate Duplicate Benefits from the Tax Increment Financing and Business Equipment Reimbursement Programs" S.P. 79 L.D. 182

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

Minority - **Ought to Pass** (2 members)

Tabled - April 14, 1999, by Senator **RUHLIN** of Penobscot.

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

(In Senate, April 14, 1999, Reports **READ**.)

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

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

Senator **MILLS**: Mr. President and women and men of the Senate, this is the Bill that will permit you to address a complete complicity or duplication of tax incentives that exist both at the local and State level. You may recall that when the TIF programs

were passed in the late 80's and came to flourish in the early 90's it permitted municipalities to create areas in which all taxation, or some portion of the tax bill, could be exempted for new investments within the region selected. Then in 1995 we superimposed upon that benefit a state program of reimbursing to the tax payer the total cost of the property tax bill on new equipment and machinery that is invested for manufacturing and retail and other business purposes. We now have two systems in place, one of which says that the aggregate impact of these two systems is that if you're a business owner within a TIF district you get a tax bill from the town. You either pay the tax bill or you make use of your exemption under the TIF agreement not to pay it. But in any case, you don't wind up paying your tax bill at the local level but you do get a bill, you get a piece of paper with the amount on it reflecting what you would pay if you were paying the bill. You take the same bill that you didn't pay and you send it in to the Bureau of Taxation here in Augusta and they rebate the taxes that you never had to pay. So we wind up actually subsidizing certain forms of business investment in this State by paying businesses for taxes that they haven't had to pay out. It's a gross duplication of effort in tax incentives. In my view it's over-kill in this arena. It is a double dipping that does not deserve our sanction and our continued endorsement. The Bill before you would permit me to get rid of this duplication of effort and I urge you to vote Against the pending motion which is Ought Not to Pass. Thank you.

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

Senator **LIBBY:** Thank you Mr. President. Women and men of the Senate, again it depends on how you view this problem. You may view it as double-dipping, I suppose, if you don't believe that what the BETR Program is is really an elimination of a tax. I view this as raising a tax. If you vote to Pass this Bill, all you're doing is raising taxes. You're raising taxes on the people who have had the good fortune to start a business in this state, hopefully in your town, and not have to be under the onerous Personal Property Tax. The problem that we encountered several years ago when we tried to address the Business Equipment Tax Rebate Problem was that instead of being able to eliminate the tax entirely we ran into a Constitutional provision that stopped us from doing that. That provision was that we had to make sure that we compensated the towns if they lost anything on the Personal Property. So we were stuck. Too bad because that meant that we couldn't eliminate the tax altogether. So I don't view this as double-dipping at all. I view this as two programs that are tools for rural economic development and beyond. So I would disagree with my good friend from Somerset, Senator Mills, and I would hope that you would support the Majority Ought Not to Pass Report. Thank you.

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

Senator **RUHLIN:** Thank you Mr. President. Senators of Maine, this is clearly, distinctly, let there be no question about, it a further attempt to whittle away at the good that the BETR Program does. As I told you earlier, in four years the BETR Program has encouraged more investments in the economic infrastructure of the State of Maine than the previous fourteen years combined. It's a program that works. When you combine it with TIF, Tax Incremental Finance Districts, in which the State of Maine sets up

an umbrella for local communities to negotiate at the local level, they enhance the economic opportunities to attract businesses and to encourage businesses to invest in their area. Why would we then want to negate, and that's what you would be doing, the good positive impact of the BETR by denying TIF. Or vice versa if you want to, negate the good positive influence of the TIF by subtracting the BETR Program. They work together. They enhance each other. They create investment into our infrastructure. Why do you want to take it away. I remember when I first came to the House you'd say why break something when it's not broken? I've been trying hard during the last thirty seconds not use that line but I've got to. It's working, it's creating investment in Maine, it's helping to keep jobs. Don't throw it out. Don't whittle it away. Allow it to continue to build an economic condition so that we can have a better economic future for our people. Thank you.

On motion by Senator **RAND** of Cumberland, 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 (#169)

YEAS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, CAREY, CATHCART, DAGGETT, DAVIS, DOUGLASS, FERGUSON, GOLDTHWAIT, HARRIMAN, KILKELLY, KONTOS, LAFOUNTAIN, LIBBY, MACKINNON, MICHAUD, MITCHELL, MURRAY, O'GARA, PARADIS, PENDLETON, PINGREE, RUHLIN, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: CASSIDY, LONGLEY, MILLS, NUTTING, RAND, TREAT

ABSENT: Senators: KIEFFER, SMALL

27 Senators having voted in the affirmative and 6 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **RUHLIN** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

Off Record Remarks

Senator **TREAT** of Kennebec was granted unanimous consent to address the Senate off the Record.

The Chair laid before the Senate the following Tabled and Later (5/25/99) Assigned matter:

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
(S "A" S-333)

Tabled - May 25, 1999, by Senator **BENNETT** of Oxford.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED, in NON-CONCURRENCE**

(In House, May 18, 1999, **PASSED TO BE ENACTED.**)

(**RECALLED** from the Governor's Desk pursuant to Joint Order (S.P. 837), in concurrence.)

(In Senate, May 25, 1999, on motion by Senator **DAGGETT** of Kennebec, **RECONSIDERED PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-313) AND SENATE AMENDMENT "A" (S-333)**, in **NON-CONCURRENCE**. Under suspension of the Rules, on further motion by same Senator, **RECONSIDERED ADOPTION** of Committee Amendment "A" (H-313) and **INDEFINITELY POSTPONED** same, in **NON-CONCURRENCE.**)

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

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon, with the exception those matters being held, were ordered sent down forthwith for concurrence.

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order:

H.P. 1599

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

Comes from the House, **READ** and **PASSED**.

READ and **PASSED**, in concurrence.

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

REPORTS OF COMMITTEES

House

**Ought to Pass
Pursuant to Joint Order**

From the Joint Select Committee on **RESEARCH AND DEVELOPMENT** on Bill "An Act to Promote Research and Development Activities in Maine"

H.P. 1598 L.D. 2243

Reported that the same **Ought to Pass**, pursuant to Joint Order (H.P. 5).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, in concurrence.

Under suspension of the Rules, all matters thus acted upon, with the exception those matters being held, were ordered sent down forthwith for concurrence.

ORDERS OF THE DAY

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

Resolve, Establishing a Commission to Study the Feasibility of Reestablishing a Brook Trout and Landlocked Salmon Hatchery in Northern Maine

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

Tabled - May 26, 1999, by Senator **PINGREE** of Knox.

Pending - **FURTHER CONSIDERATION**

(In Senate, May 24, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-296) AS AMENDED BY HOUSE AMENDMENT "A" (H-641)** thereto, in concurrence.)

(In House, May 24, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-296) AS AMENDED BY HOUSE AMENDMENTS "A" (H-641) AND "B" (H-685)** thereto, in **NON-CONCURRENCE.**)

On motion by Senator **RAND** of Cumberland, the Senate **RECEDED** and **CONCURRED**.

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

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
(H "B" H-614)

Tabled - May 26, 1999, by Senator **PINGREE** of Knox.

Pending - **FURTHER CONSIDERATION**

(In Senate, May 21, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-614)**, in concurrence.)

(In House, May 20, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "B" (H-614) AND "C" (H-686)**, in **NON-CONCURRENCE**.)

On motion by Senator **RAND** of Cumberland, the Senate **RECEDED** and **CONCURRED**.

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

Bill "An Act to Provide Access to Information Services in All Communities of the State"
S.P. 665 L.D. 1887
(S "A" S-321 to C "A" S-300)

Tabled - May 26, 1999, by Senator **PINGREE** of Knox.

Pending - **FURTHER CONSIDERATION**

(In Senate, May 20, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-300) AS AMENDED BY SENATE AMENDMENT "A" (S-321)** thereto.)

(In House, May 21, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-300) AS AMENDED BY SENATE AMENDMENT "A" (S-321)** thereto, and **HOUSE AMENDMENT "A" (H-683)**, in **NON-CONCURRENCE**.)

On motion by Senator **RAND** of Cumberland, the Senate **RECEDED** and **CONCURRED**.

Under suspension of the Rules, all matters thus acted upon, with the exception those matters being held, were ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/25/99) Assigned matter:

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Decrease the Time by Which Rent is Considered Late"

H.P. 635 L.D. 885

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-285)** (11 members)

Minority - **Ought Not to Pass** (1 member)

Tabled - May 25, 1999, by Senator **DAGGETT** of Kennebec.

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

(In House, May 25, 1999, Reports **READ** and Bill and accompanying papers **INDEFINITELY POSTPONED**.)

(In Senate, May 25, 1999, Reports **READ**.)

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

Senator **DAGGETT:** Thank you Mr. President. Members of the Senate, I would like just a moment to tell you a little about this somewhat peripatetic Bill that has kind of wandered around and back and forth, and let you know about the reason why it's here, and talk a little about the way it got here. This Bill was put in by a member of the Committee at the request of a constituent. It addressed the issue of the time in which a landlord can charge a late fee. The current statute provides for 15 days. A few years ago we changed another item that related to landlord tenant statutes that had to do with the time in which one could serve notice on a tenant. That if they didn't pay up, they were in danger of being evicted. At the time, and currently, that time was reduced to 7 days because it's called the 7 Days Notice to Quit, and a part of the discussion centered around making it synonymous with that. The majority of landlords in Maine are people, much like myself. I own a few buildings. I started out with one building that had two units in it. I happened to have learned a lot about being a landlord. Sometimes from the people I have rented to that seem to know a lot more about it than I did. One of the reasons why this worked for my husband and myself was it enabled me to stay home, take care of the units, and take care of the kids; raise the kids. This was an important part of what we did, and it allowed us to achieve something which was to see that our values were imparted to our kids and they weren't in daycare. And do it in a way that we felt was fiscally prudent. We weren't in the business of extending credit. We were just trying to pay our bills and our mortgage. A few years ago when I had the buildings all on one mortgage payment, I would just let you know that my late fee was over \$200. So if somebody paid me late and I didn't get around to paying my mortgage, I ate the \$200 late fee. I had to make sure that I had money in the bank from the previous month in order to pay my mortgage. I didn't call my bank up and say, as I had someone say to me three days ago who has not yet paid me for this month, couldn't you just give me a little break? This is a person that I ask for just a small amount of money each Friday when he gets paid, hasn't giving me a thing yet for this month. I will admit to you that there are some large corporations that own multiple units in this state, and I think

that is a very different story than it is for most of us who own a few units. I think those of us that own a few units, and do not have across the board policies to do certain things, but try to meet the needs of those people who rent from us would like to do that, and actually wanted to do some work on this Bill.

That was kind of a half way point. As many of you know, I've Chaired this Committee several times before and I have dealt with landlord/tenant statutes for some time, and it has actually pleased me to have the low income advocates indicate that they felt that I was very balanced because I think that I have been. I think that it is unfortunate, but clearly we have bad tenants and we have bad landlords. It has been my hope that the statutes would protect each of us. Those that are good landlords, and those that are good tenants, and not allow the statutes to be used in a harsh, overbearing way that prevented some of us from making our own livelihoods. As the majority of us here in Maine who are landlords are trying to do, regularly extend credit. One time I even cut the rent in half for three months so that a person could find a roommate. I won't go through that series of things, but I have talked with other members of the Committee, and many of us have a similar framework. Unfortunately, as has generally been the case, when there have been issues in front of the Committee that have been a particular concern to those who advocate for low income people, they've taken the time to come and speak to me prior to the Bill being heard, or certainly worked. We have had a chance to talk about it. I'm going to say to you that did not happen this time. In fact, It was never an issue raised to me. And I am very sorry for that because I think it was somewhat of a missed opportunity. And it certainly is something that I think when we know people that work with us, it's unfortunate when we don't make the effort to work with them. But I do understand that this is a difficult Bill. It puts some people in a difficult situation. I hope that maybe someday that we might revisit this, but at this point I would move Indefinite Postponement of this Bill and all it's accompanying papers.

Senator **DAGGETT** of Kennebec moved the Bill and accompanying papers be **INDEFINITELY POSTPONED**, in concurrence.

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

Senator **CAREY:** Thank you Mr. President. Mr. President, I have had the opportunity to serve with the Senator from Kennebec, Senator Daggett, on Legal Affairs, I think probably through her whole career here in the Senate. I found her to be concise. I found her to be a true expert on rental housing, and I try to follow her every step of the way because she really does know what she is saying. Thank you Mr. President.

On motion by Senator **DAGGETT** of Kennebec, Bill and accompanying papers was **INDEFINITELY POSTPONED**, in concurrence.

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 **LABOR** on Bill "An Act to Amend the Workers' Compensation Laws Pertaining to Attorney's Fees"

H.P. 1452 L.D. 2073

Reported that the same **Ought to Pass**.

Signed:

Senator:
LaFOUNTAIN of York

Representatives:
HATCH of Skowhegan
MUSE of South Portland
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 Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

Senator **LAFOUNTAIN** of York moved the Senate **ACCEPT** the Majority **OUGHT 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 Majority **OUGHT TO PASS** Report, in **NON-CONCURRENCE**.

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

REPORTS OF COMMITTEES

House

Change of Committee

The Committees on **TAXATION and EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Restore Majority State Funding of Public Education in Maine"
H.P. 1573 L.D. 2221

Reported that the same be **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

Report **READ** and **ACCEPTED**, in concurrence.

REFERRED to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**, in concurrence.

Ought to Pass As Amended

The Committee on **CRIMINAL JUSTICE** on Bill "An Act to Require an Assessment Evaluation of Juveniles Entering the Juvenile Justice System"
H.P. 1130 L.D. 1589

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-689)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-689)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-689) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

The Committee on **LABOR** on Bill "An Act to Amend the Retirement Benefit Qualifications for Department of Corrections Employees"
H.P. 978 L.D. 1376

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-687)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-687)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-687) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

The Committee on **TAXATION** on Bill "An Act Concerning the Regulation and Treatment of Time-shares"
H.P. 1333 L.D. 1916

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-690)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-690)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-690) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

Under suspension of the Rules, all matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

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 Establish a Trust Fund to Provide Statewide Assistance to Low-income Electric Consumers"
H.P. 1069 L.D. 1500
(S "A" S-338 to C "A" H-618)

In Senate, May 24, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-618) AS AMENDED BY SENATE AMENDMENT "A" (S-338)** thereto, in **NON-CONCURRENCE**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-692)**, in **NON-CONCURRENCE**.

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

(In Senate, May 13, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-268)**.)

(In House, May 25, 1999, **PASSED TO BE ENACTED**.)

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

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 **JUDICIARY** on Bill "An Act to Amend the Maine Tort Claims Act"

H.P. 825 L.D. 1148

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-691)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-691)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-691) **READ**.

On motion by Senator **RAND** of Cumberland, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (H-691), in concurrence.

Senate at Ease.

Senate called to order by the President.

ORDERS OF THE DAY

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

An Act to Allow Workers' Compensation Board Advocates to Prioritize and Decline Cases

S.P. 741 L.D. 2100
(C "A" S-268)

Tabled - May 26, 1999, by Senator **PINGREE** of Knox.

Pending - **ENACTMENT**, in concurrence

The Chair laid before the Senate the following Tabled and Later (5/20/99) 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 20, 1999, by Senator **PINGREE** of Knox.

Pending - motion by same Senator to **RECONSIDER** whereby the Senate **FAILED** to **RECEDE** and **CONCUR**

(In Senate, May 12, 1999, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

(In House, May 13, 1999, that Body **ADHERED** to **ACCEPTANCE** of the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-357)** Report and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-357)**.)

(In Senate, May 20, 1999, motion by Senator **DOUGLASS** to **RECEDE** and **CONCUR**, **FAILED**. Senator **PINGREE** of Knox moved to **RECONSIDER** whereby the Senate **FAILED** to **RECEDE** and **CONCUR**.)

Senator **PINGREE** of Knox requested and received leave of the Senate to withdraw her motion to **RECONSIDER** whereby the Senate **FAILED** to **RECEDE** and **CONCUR**.

The Senate **ADHERED**.

Senate at Ease.

Senate called to order by the President.

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

Bill "An Act to Amend the Freedom of Access Laws"

H.P. 1296 L.D. 1857
(H "A" H-668 to C "A" H-479)

Tabled - May 26, 1999, by Senator **GOLDTHWAIT** of Hancock.

Pending - motion by same Senator to **RECONSIDER** whereby the Senate **RECEDED** and **CONCURRED**

(In Senate, May 19, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-479)**, in **NON-CONCURRENCE**.)

(In House, May 25, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-479) AS AMENDED BY HOUSE AMENDMENT "A" (H-668)** thereto, in **NON-CONCURRENCE**.)

(In Senate, May 25, 1999, on motion by Senator **LONGLEY** of Waldo, **RECEDED** and **CONCURRED**.)

Senator **GOLDTHWAIT** of Hancock requested and received leave of the Senate to withdraw her motion to **RECONSIDER** whereby the Senate **RECEDED** and **CONCURRED**.

Senator **KONTOS** of Cumberland moved the Senate **RECONSIDER** whereby it **RECEDED** and **CONCURRED**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **RECONSIDER** whereby the Senate **RECEDED** and **CONCURRED**.

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

HOUSE REPORT - from the Committee on **JUDICIARY** on Bill "An Act to Amend the Maine Tort Claims Act"
H.P. 825 L.D. 1148

Report - **Ought to Pass As Amended by Committee Amendment "A" (H-691)**

Tabled - May 26, 1999, by Senator **RAND** of Cumberland.

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-691)**, in concurrence

(In House, May 26, 1999, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-691)**.)

(In Senate, May 26, 1999, Report **READ** and **ACCEPTED**, in concurrence. **READ ONCE**. Committee Amendment "A" (H-691) **READ**.)

Senator **LONGLEY** of Waldo requested a Division.

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

Senator **LONGLEY:** Thank you Mr. President. Colleagues in the Senate, we would just like to give you a heads up on this Bill so you know what your voting for. It came out of our Judiciary Committee unanimous Ought To Pass, and what it does is, it says that municipalities will be exempt from liability related to the Y2K issue. We went back and forth on it. It's a unanimous Ought To Pass to make municipalities exempt from Y2K and some of us are having second thoughts. For that reason I will be voting Against the motion because I am of the thinking that what is good for the goose is good for the gander. If we could figure out a way to exempt liability issues across the board fine. But seeing private sector businesses having to do what they need to do to be Y2K ready I just think that everybody should have the same obligation. And for that reason I will be voting Against this motion. 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'll be brief and I do appreciate the comment that the good Senator from Waldo made, Senator Longley, as to the Report of the Committee and her concerns are legitimate. I would just read the purpose of the Bill. The purpose is to clarify that governmental entities under the Maine Court Claims Act are immune from liability for claims rising out of failures or malfunctions relating to the year 2000 compliance problem. I have from the Committee analyst the Report of the Public Hearing, there were several proponents, no one appeared in opposition, and it appears to be in regular form and deserving of Passage. Thank you. Sir.

At the request of Senator **LONGLEY** of Waldo a Division was had. 15 Senators having voted in the affirmative and 15 Senators having voted in the negative, Committee Amendment "A" (H-691) **FAILED ADOPTION**, in **NON-CONCURRENCE**.

Senator **LONGLEY** of Waldo moved the Bill and accompanying papers be **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Senator **BENNETT** of Oxford requested a Division.

On motion by Senator **LAFOUNTAIN** of York, **TABLED** until Later in Today's Session, pending motion by Senator **LONGLEY** of Waldo to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE**. (Division Requested)

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 **LABOR** on Bill "An Act to Address the Solvency of the Unemployment Compensation Fund"

H.P. 1372 L.D. 1970

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-681)**.

Signed:

Senators:

DOUGLASS of Androscoggin
LaFOUNTAIN of York
MILLS of Somerset

Representatives:

HATCH of Skowhegan
MUSE of South Portland
GOODWIN of Pembroke
MATTHEWS of Winslow
SAMSON of Jay
DAVIS of Falmouth
TREADWELL of Carmel

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-682)**.

Signed:

Representatives:

MacDOUGALL of North Berwick
MACK of Standish

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-681)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-681)**.

Reports **READ**.

Senator **DOUGLASS** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-681)** Report.

Senator **DOUGLASS** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-681)** Report.

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

Senator **MILLS:** Mr. President and men and women of the Senate, I don't rise to ask for a Division but I would like to address the Bill briefly before we take further action if I may. This Bill represents the culmination of an extraordinary amount of work done, not only by the Labor Committee, but by the Department of Labor and some of the very intelligent people who work there, some of whom are sitting in the back of the room. This is an extraordinarily complex area. It is an extremely contentious arena. The whole field of Unemployment

Compensation in this state has been more or less fractured for a couple of decades now. There has been paralysis in between the various factions that take interest in these matters and it has been very difficult to bring people to the table to cohere around a common system of improving this very significant benefit system that is administered by the State. The Committee Report is 11-2, which in many respects is as close as you get in the Labor Committee to unanimity. It certainly satisfies my requirements for unanimity and for bi-partisanship we had very good cooperation from the Chamber of Commerce on this Bill and from Labor. There were concessions made by Labor, there were concessions made by the business community and we were hosted very graciously by, among others, Gail Thayer from the Department of Labor who answered all of our questions to exhaustion and then some and came up with creative ideas for how to break apart elements of disagreement as we went ahead. As you may recall I had strongly argued that we should have passed something like this a year ago at a time when we had a Committee Report available for you to consider. The Bill that lies before you now is an improved version of the work that was done up through a year ago. It was greatly improved with the passage of time and further study. This is perhaps not as great an achievement as restructuring of the electrical system that we celebrated last year but it is on that same order of magnitude and the passage of this event should be noted as we go forward and that's the reason for my rising on this occasion. Thank you.

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

Senator **DOUGLASS:** Mr. President, men and women of the Senate, I too want to urge your support of this measure which will solve the insolvency problem of the Unemployment Compensation Fund. The Department of Labor came to us with a report after the Report of the Legislature itself had Minority and Majority Reports during the last Session. This is the work product of many people and of compromise. It solves a problem that we've had for many years in terms of what is the threshold amount which is taxed for Unemployment Compensation and I recall for you that Unemployment Compensation is used to keep economic security in those communities that are effected by layoffs of which we've experienced many in the recent past. It also benefits those who have been fired for other reasons. I wanted to just put on the Legislative record that we worked very hard on one aspect of this Bill that required a bit more compromise than some others and that was the definition of misconduct. And I want to point out to you that what we tried to do was to lower the current definition which was very high but lower it so much that any reason that an employer might legitimately have for releasing an employee or firing an employee would go under a new test for whether or not that misconduct was sufficient to release the State from obligations to pay that person under Unemployment Compensation. I think it's important to note that the employees perspective as well as the employers was taken into account in that debate and in the final compromise which you have before you.

On motion by Senator **DOUGLASS** of Androscoggin, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-681)** Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-681) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-681)**, in concurrence.

Under suspension of the Rules, all matters thus acted upon, with the exception those matters being held, were ordered sent down forthwith for concurrence.

ORDERS OF THE DAY

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

Bill "An Act Concerning Technical Changes to the Tax Laws" (EMERGENCY)

S.P. 440 L.D. 1277
(C "A" S-329)

Tabled - May 26, 1999, by Senator **RUHLIN** of Penobscot.

Pending - **FURTHER CONSIDERATION**

(In Senate, May 21, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-329)**.)

(In House, May 25, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-329) AS AMENDED BY HOUSE AMENDMENT "A" (H-684)** thereto, in **NON-CONCURRENCE**.)

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

Senate at Ease.

Senate called to order by the President.

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 Increase the Deer Hunting Day by 15 Minutes"
H.P. 30 L.D. 39

In House, May 24, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-664)**.

In Senate, May 24, 1999, **ADHERED** to **PASSAGE TO BE ENGROSSED**, in **NON-CONCURRENCE**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-693)**, in **NON-CONCURRENCE**.

Senator **KILKELLY** of Lincoln moved the Senate **ADHERE**.

Senator **GOLDTHWAIT** of Hancock requested a Division.

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.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by Senator **KILKELLY** of Lincoln to **ADHERE**. (Roll Call Ordered)

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

Under suspension of the Rules, all matters thus acted upon, with the exception of those matters being held, were ordered sent down forthwith for concurrence.

Senator **RUHLIN** of Penobscot was granted unanimous consent to address the Senate off the Record.

On motion by Senator **AMERO** of Cumberland, **RECESSED** until 7:00 in the evening.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act to Provide Fairness to Victims of Medical Malpractice"
S.P. 450 L.D. 1325

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-352)** (9 members)

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

Tabled - May 26, 1999, by Senator **PINGREE** of Knox.

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

(In Senate, May 26, 1999, Reports **READ**.)

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

Senator **BENOIT:** Thank you Mr. President. May it please the Senate, I would like to speak first as to the purpose of the existing law, and then I would like to speak in Opposition to the pending motion. In 1986 the Legislature created panels, pre-litigation screening panels, that would screen out no-meritorious cases and hasten the settlement of meritorious claims, and cast aside those without merit. So we had this law on the books for 12 years, and ever since, there has been efforts at Amending it to make it less of a procedure than what we do have. And in this Bill there are three major matters that should cause us concern. First of all, efforts have been made since the law was on the books to change what is called the standard of proof. When the Bill was first put into law we had a standard of proof that was less than what you are required to meet when you go to court. That surprises those who supported the Bill and a stronger standard was put into law which we have today called the Fair Preponderance of the Evidence. That is to say if you, in a hearing took all the evidence and were able to put it on scales and weigh it, the party who has the weightiest portion of the evidence would have the preponderance of the case and win the case. The fair preponderance test is the test that we all in the law, and in our society, recognize. Here is the standard that they want to put in place of the standard that we've had for a number of years. It comes from Massachusetts, and it is two sentences. The first sentence is a Massachusetts standard and the second sentence is opposite to the Massachusetts law on the standard. So is a hybrid sentence. Here's the standard. Further the evidence presented if properly substantiated, try to stay with me on this, it's difficult, if properly substantiated, is sufficient to raise a legitimate question of why ability appropriate for Judicial inquiry on the issues of negligence and causation. That is the Massachusetts standard. Under Massachusetts Case Law, that is judges looking at the standard, they have decided in Massachusetts that these screening panels, that standard favors the claimant, the persons going to the panel with the case. It favors one side. You ask yourself if the standard that favors one party over another is a fair standard. I don't think it is. Then this sentence, this is opposite Massachusetts law. So part of the standard of proof in Maine will be Massachusetts law, and then something different than Massachusetts law. If you can believe it, here is the sentence if this Bill is Enacted. In making it's findings the panel may consider the reliability, relevance, credibility and weight of the evidence; may consider it, doesn't say shall, it says may. I would think in a panel situation, we would want the panel to consider reliability, consider relevance, credibility, and give it weight. In Massachusetts under the first sentence that I read for you the screening panels cannot consider any of those factors. So we're going to have in Maine the Massachusetts standard that is going to say something that the standard of Massachusetts will not allow. And it's discretionary. So I'm bothered first of all by the gobbledygook of this standard. Evidence presented if properly substantiated, you think it would stop there, is sufficient to raise a legitimate question of liability. You think it would stop there, appropriate for Judicial Inquiry. So that is what bothers me first of all is the

standard of proof. Our standard of proof is very simple, fair preponderance of the evidence. Isn't that easier to understand than what I just read as gobbledygook from Massachusetts.

Next, discovery. This Bill will limit discovery in screening panel cases. Right now there is full discovery. Both parties can try to get surprise out of the case. You can inquire of the other side to find out what the other side has for a case. Now discovery is suppose to be a very positive thing in our law practice. It is positive. You don't like to go to court, I don't, and get surprised. This Bill will limit discovery. You will not have full disclosure before the hearing takes place.

And finally, and this to me is a very unfair result. Right now under the Screen Panel Law, if there is a unanimous, unfavorable decision to the claimant, the moving party, and the case goes to court, nevertheless, but that could be brought into the court case, that the plaintiff lost the decision was unanimous and unfavorable. Plus under present law the same thing can happen if the person that the Healthcare Practitioner, if the decisions against that person, and it's unanimous and unfavorable, that can come into the case if there is one later. Under this Bill one is taken out of the law. Just one. The one involving the Healthcare Practitioner is taken out. So, the claimant if the decision is unfavorable and unanimous and there is a case later, you can point to the claimant in the courtroom and say, you lost your case didn't you? Before the screening panel you can't do that on the other side of the case if this becomes law. I'm going to ask you again, is that fair? This comes up every Session, we had the same Bill last Session in Judiciary. It went down the tube, Why? Because what is attempted in this Bill, like that one, is to change something that is working. I'm going to ask you please not to reach down to Massachusetts for a standard of proof that favors the claimant over the Healthcare Practitioner, you don't have to do that. You don't have to do it at all. Moreover, if there is any of you interested in knowing what Massachusetts has been saying in their Courts about their standards. I got a dozen cases for you to read right here. They are wrestling in Massachusetts trying to figure out what this gobbledygook. And I've got 12 cases you could read trying to define the standard in Massachusetts. Here they are, I've read them, you can read them if you want. We don't have to do this. We don't have to take something that is working, change the standard, limit discovery, and make it unfair as to the results that are taking place. If there is a court case later, as to what can be done with that panel report. So I'm asking you, please leave the law in place as it is. The business community, the health community, and remember this case isn't just about doctors, any Healthcare Practitioner comes within the purview of it's terms. I say respectfully, the law is fine just the way it is. Thank you Mr. President.

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

Senator **LONGLEY:** Thank you Mr. President. Colleagues in the Senate, reasonable people differ and obviously the good Senator from Franklin and I differ on this one. Basically we are trying to strike a healthy balance. The largest point for me in this pre-litigation screening panel is advertised as doing away, screening out the frivolous lawsuits. The potentially frivolous lawsuits. So, arguably when you go forward in this pre-litigation screening panel you would screen out those cases that just don't make it. They are frivolous, they are stupid, and that is what this screening panel was designed to do; screen those things out. Well it turns out that the weave of the screen is so broad that

most cases that come in get screened out. And the reason is that the multi-part test that the person who feels hurt has to go through to prove that they are worthy of going to court. And it ends up that we have a whole judicial process by non judges, mostly saying these cases should not go to court, and some of us think that's wrong, and some of us think we can strike a healthier balance. The provision we are coming forward with as possible changes are to say, if we are in fact trying to screen out the no good cases, the frivolous cases, let's have a legal test in that screening process that does just that. Let's not fool ourselves and screen everything out. So, very simply, what we're trying to do is say, when you go to the pre-litigation screening, that panel of so called neutrals, their job is to screen out the test we used as legitimate questions of liability; they get screened in. Those that are illegitimate get screened out. Simple as that, it try's to strike a healthy balance. There are provisions that are very much pro-doctor where they shouldn't be, but we're trying to show that we are trying to find a healthy balance. Simple as that. And my request to you is that you vote with this motion to give people a fair chance at the screening panel. Those who have been harmed and those who haven't been harmed, let's kick them out. But let's not kick everybody out in the process. Thank you.

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

Senator **RUHLIN:** Thank you Mr. President. I want to thank both learned Senators for their non-partisan discourse on this subject. And I now feel much more enlightened. Seeing how I feel as enlightened as I do, I would like to ask for a Roll Call.

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

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

Senator **BEHOIT:** Thank you Mr. President. May it please the Senate, I want to thank the good Senator from Penobscot, Senator Ruhlin, for his gracious remark. I mean that sincerely. I think Senator Longley, from Waldo, and myself, although being lawyers strive to speak in common sense terms. Sometimes it's hard to do that. I have in my hand a statement of a member of the Judiciary Committee when the original Bill was Enacted. Remember at that time, the standard was less than an Court standard. That was the standard. The standard then was the one they are trying to put on the books now. And here is what was said. The drafters of the original Bill maintained that they had no intention of lowering the standard of proof necessary for a claimant to prevail before the screening panel. They intended that the standard of proof be the same as applied by the Court. That is what the people, the lawyers and the doctors work towards. A standard that applies to the Court. They Amended the standard, they changed it from what we are trying to do now, and put on the books the standard of the Court. That is what they are trying to change. The very people who came together, worked this procedure out, and put the Court standard in, now is being changed, the effort by one side; the lawyers. The lawyers are trying to change the standard. I would rather see these folks back at the drafting table, frankly, talking about the standard. But that is not where we are today. Originally the standard was intended to be a Court standard. That is what we have. Please

don't change it with this effort because the original did not intend for this standard in this Bill today. It did not intend a lower standard than the Court standard, which is what we have. Thank you.

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

Senator **MILLS:** Mr. President. Men and women of the Senate, pardon me I'm still digesting a roll up from Pat's Pizza that we wolfed down. But if I may, the screening panels as we have experienced them in the last decade, that have been in place has lead to the following difficulty, which I think everyone on both sides of this difficult issue would acknowledge. I will try to describe the situation as clearly and simply as possible. Because the outcome of these panel hearings is of such significance either way, either whether you win or whether you lose. They have become a separate trial before the real trial, and they are not functioning to screen out cases so much as they are functioning to serve as a place where there is a private trial, in secret, and conducted with great expense and difficulty by the parties before they every enter the Courthouse to have another trial or proceeding. The reason that both sides fight so vigorously in this secret proceeding, which somehow reminds you of the chamber 300 years ago, is that the consequences of failure at this stage are quite severe, quite significant. Because the winner gets to advertise to the later finder-of-fact to the Jury or to the Judge who tries the case. HaHa, three experts met in secret and ruled in my favor, and against the other party. That is fairly devastating, as it perhaps, was intended to be by the drafters of the current law. It does work either way as the good Senator from Franklin points out. If you get three votes against the hospital, or the doctor, you can hold that up and advertise that fact to the Jury. I don't know what eight citizens are suppose to make of that. They don't understand, or don't comprehend what transpired during the earlier trials. They we're just told about some results that happen out of their presence, and they are told, hey some people met in a room somewhere, heard some evidence, and they ruled this way, or they ruled that way. In some cases, the contest is not over the medical standard or the requirement for medical care in a particular context. There are cases, and I have sat on the panels in a Judicial capacity to make a judgment on some of these, and found it very difficult. But in some cases the decision will hang on an issue of credibility.

I remember one case quite vividly, some years ago, where a woman presented with a mole, and the mole in the later visit grew, or didn't grow. That was the issue, and you had a very intelligent patient, and a very intelligent, very nice doctor. And the woman in her testimony came to us as a cancer patient who was said to be dying of the disease, and people agreed under the medical standard had the Melanoma been caught during the first visit, rather than, the subsequent visit much later. Probably her life would have been saved. So we were dealing with a life and death situation. We had the awesome experience of listening to the women describe her experience in the first visit, and the issue hung on, who was telling the truth about the character about this dark black mole, and how big was it in this visit, versus the later visit? Was there a change or was it stationary? My Lord, we listened with every bit of attentiveness that we could, the three of us that sat in judgment on that case. Now this is a case about who has the better memory, the better notes, the better recollection. There was no question about the medical standard.

This is what we hire eight people to go decide, and we pay them \$10 dollars a day, with no parking or lunch to come down to resolve. This is what citizens stand up everyday to do, to swear to resolve. That is why we have eight of them do it, rather than just three professional people picked off some panel. We felt horrified that we were being asked to judge credibility between two very nice people, and thought that it was beyond the role that had been given to us by the statute. And the temptation in that setting, what you do, is sometimes you broker the vote, you say look, you vote for the doctor, and the two of us will vote for the patient. There will be a split verdict and we will walk away from the statutory obligation that's left upon us. Probably violating the oath that we took to take on the assignment of that panel. I don't think that is a proper role for the panel.

Now under the text that is before you in the Amendment that I have just seen produced by the Judiciary Committee during the last day or two, you would have the luxury of being able to say, well wait a minute, there is a least enough evidence here that a jury hired to decide this case, ought to decide. And you could make a judgment whether it meets that threshold test or not and with good conscience walk away saying unanimously we've done our job as a panel. And by the same token if the evidence is weak and is not appropriate for going forward, you could come down on that case and screen it out, and say wait, there is no good argument to sustain this case. The Bill that is before you permits that panel even to judge the credibility of witnesses for themselves, I see, so that you could go beyond what a judge could do, and you can say there isn't a good standard, they haven't met the medical standard, or the credibility of the witness is to weak, testimony isn't valid, and the memory is to weak. You could make judgments and screen the case out, which was the original thinking behind screening panels when they were first invented. Now on the other side, if you saw a case that was so overwhelmingly clear that you think that somebody ought to declare there is liability here, and we ought to declare the defendant liable beyond any doubt. That is not going to be available under this Bill if we pass it. It is only a one way thing. It's a screening standard so it will screen out weak cases. But the very strong cases, and the cases that deserve to be resolved because there is tremendous doubt about how the outcome ought to be, those cases will go forward and only those. It seems like a fairly reasonable way, yet the great thing about this Bill if you pass it is, it will reduce the level of respective anxiety surrounding these screening panels. It will make it so that the doctors and the hospitals won't be so worried about overlitigating them at this early stage because they know that they can't lose at the panel session. They can now and they can lose big. The plaintiff by the same token will know that they have to meet the threshold standard for screening, and that it isn't a situation. We really have a trial before the trial. I think it will have the impact of reducing some of the litigiousness circulating around the panel procedures, and yet preserve the essence of the screening feature, which is what everybody intended to have in the original enactment. For those reasons I rather like the Majority Ought To Pass Report, and urge your endorsement of it.

The President requested the Sergeant-At-Arms escort the Senator from Penobscot, Senator **MURRAY** to the rostrum where he assumed the duties as President Pro Tem.

The President took a seat on the floor.

The Senate called to order by President Pro Tem **ROBERT E. MURRAY, JR.** of Penobscot County.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Mitchell.

Senator **MITCHELL:** Thank you Mr. President. Men and women of the Senate, I rise tonight to ask you to please vote Against the Majority Ought To Pass motion. To support our good Senator from Franklin, Senator Benoit, who is voting for the Minority Report Ought Not To Pass. An independent study commissioned by the Maine Bureau of Insurance, at the request of the Legislature, concluded that the panels are working. Plaintiffs with legitimate claims receive damage payments in a timely manner. But non meritorious claims are dismissed saving all participants the emotional toll of lengthy legal proceedings. After more than 12 years of experience the panels have proven their value of effectively and fairly resolving malpractice cases. And data reveals that, for the most part, the unanimous panel decisions are for the Plaintiff. Subtle and unanimous decisions for the Defendant are dismissed. Most of the cases brought do not proceed further into the court system which represent significant savings from the State, as it goes to pay the cost of Healthcare and Health Insurance. So I would ask you at this time to please vote Against the pending motion of the Majority Ought To Pass Amendment Report. So that we may move on and vote for the Minority Report. Thank you.

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

Senator **CAREY:** Thank you Mr. President. Mr. President, members of the Senate, I just heard that most of the cases, can someone answer the question, how many percentage wise of these cases go forward? Is it overwhelmingly against the case going forward?

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

Senator **MILLS:** I'll take a wild stab at addressing the issue if I may. As cases go through any process there is a mutuality of disclosure. This takes place under any setting of litigation, whether it be one that is just ordinary litigation, where people are exchanging information through interrogation and interrogatories and alike, or in this panel procedure where you have, one of the good things about the panel under either the Bill or the Law, is that it forces out very substantial disclosures, and you learn a great deal about each others case. Now there are other ways that can happen through discovery and alike. But I have to say to you that, that very factor in litigation is what leads to resolving cases overwhelmingly. And because malpractice cases are as difficult as they are, I would rather suspect that a very high percentage are resolved by settlement eventually. I would seriously doubt that more than 5 or 10% of them ever go to trial. I suspect that would be the case under any setup that you might have, whether with panels or without. So even if we had even more precise specifics, I doubt seriously that they would be helpful to the issue at hand. But the problem I see is that they are accelerating through the current panel procedure. There is a

tremendous amount of anxiety on both sides about litigating to an affirmative result within the panel. The poor panel members are being held, in effect becoming a Court, and performing a Judicial role that they feel very uncomfortable about. I think many of them, I myself included as a panel member in the past, would have preferred to be relegated a screening role, rather than, a decision making role over the case.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Lawrence.

Senator **LAWRENCE:** Thank you Mr. President. Men and women of the Senate, I don't usually debate Bills, but this one really strikes at the heart of something I feel very strongly about, and something which is really the motivation why I went to Law School in the first place. What motivated me to get involved in a career in the law. And that is the ability of average citizens who act expedient justice in our court system. This medical screening panel was designed for that purpose. It was designed to screen out cases to allow people to go through the system quickly and efficiently, and get a resolution to their problems. Our legal system is not created for lawyers, it is not created for experts, it's not created for plaintiffs attorneys, it's not created for insurance companies, it's created for our constituents to get effective solutions to their problems. And that was the purpose of this screening panel.

Unfortunately, the screening panel is not serving its purpose. It can serve its purpose, it does in some cases, but not in all cases does it serve that purpose. This system that we currently have set up benefits attorneys. Now I will tell you as somebody who has practiced, never gone before this screening panel, but as practice there are ways the court system is set up to benefit attorneys. This screening panel actually increasing the amount of discovery in the system. And discoveries for litigants is one of the most expensive processes in litigation. What happens is, you have these large law firms turning out massive amounts of discovery. Questions that litigants have to answer, I've sent them out, I've received them, I've helped clients answer them, they're done from books or computer disks sold to attorneys, prepared by a paralegal. Large multiple questions that consume a tremendous amount of time and, a tremendous amount of expense for the client. So what happens in this system, it actually encourages discovery, encourages duplicate discovery, and encourages double trial. There is basic belief in our system that you only get tried for something once. The reality is the screening panels have become a pre-trial before the trial. What happens because its standard approves it, is virtually the same as it is in the court. What happens in the pre-trial screening panels can be used in court. But attorneys involved in this process have to make every effort in the pre-trial to assure that their clients rights are protected, and then they have to make every effort in the trial to assure that their clients are protected. So that means that they have to do double the effort. And that means double the expense to your constituent. The irony of it all is, the attorneys have to do this to prevent themselves from legal malpractice, in case they didn't bring out something in the pre-trial that might of hurt their clients at the trial. We have a system that was designed to ease the Medical Malpractice System but actually had attorneys more worried about their own legal malpractice and increasing expenses on our constituents. That's not the way our system was meant to work, and we have some things in the system that are clogging the arteries of the system. And that is what this Bill is designed to do. It's not designed to

do away with the screening panels, it's designed to unclog those arteries, and make the screening panels achieve what they are suppose to achieve, and that is exactly to be a screening panel. To screen out those cases that aren't worthy of going to trial, to allow those cases that are worthy to go to trial, to get heard, and to get quickly resolved. I hope you will support this Report. Thank you.

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

Senator **BENOIT:** Thank you Mr. President. May I be heard please to speak for the third time.

THE PRESIDENT PRO TEM: The Senator from Franklin, Senator Benoit, requests permission to speak for the third time is there any objections?

THE PRESIDENT PRO TEM: It's the pleasure of the Senate that the Senator from Franklin, Senator Benoit, to be allowed to speak for the third time. The Senator may speak.

Senator **BENOIT:** Thank you Mr. President. I thank the fellow Senators for the privilege, I will be brief. At the Public Hearing on this Bill two cases were brought up; two. One was a person who said, I went to a lawyer to take one of these cases through the screening process, and the lawyer said to me, there is not enough money in it for me. I won't take your case. The other case was just the opposite. The other case the persons lawyer was there, with the person, and the person was complaining about how expensive the lawyer was in that case. Now ladies and gentlemen of this Body, I refuse to vote for a procedure that depends upon whether lawyers are going to take a case or not. Whether there is enough money in it for them or not. And that is exactly the two cases we heard. You going to change this law for two cases? You can if you want to. I am reliably informed that under the Massachusetts standard they screen 16 to 25% of their cases, we screen 50%. I'm going to ask you once more please that this standard in Massachusetts prefers one party over the other party. It prefers the claimant over the Healthcare Practitioner. There's no question about it, I've got the case law here to prove it. I offer it for your examination. Are you going to vote for a standard that prefers one party over another? Come on now. Is that a sense of fairness and justice, to have a standard that prefers the moving party? Of course your going to get more cases like they get in Massachusetts if you prefer one party; the moving party. The screening process is nothing. Screening 16 to 25% of the cases. You can see how poorly it's working compared to our system. So it seems to me this standard, the gobbledygook, that is what I call it, imagine leaving for the discretion of the panel. It may consider, it doesn't have to, some panels will, some won't. It may consider the reliability, the relevance, the credibility, and the weight of evidence. They can't do that down in Massachusetts under their standards. Some panels will, some panels won't. The final word on discoveries. I am amazed to hear anyone stand in this Chamber, particularly an attorney, and say discovery is a bad system in our Judicial process. But somehow it's expensive. Somehow we ought to do away with it, and limit it here. Leave it elsewhere in the process. Discover civil cases, discover criminal cases, don't discover this. Let's have surprise. I don't like surprise when I go to a hearing. Maybe you do. Maybe you like to go into a process to be surprised by something you hear. Discovery gets the surprise

out. That's why we have it. It is a darn good process. This is going to limit it. Finally I didn't hear anybody comment on this yet. The unfairness that this Bill will allow. The loss of one party, the decision, one party loses. Oh we can use that against that party in court. But the other party who loses goes to court later. We can't use that against the other party. I'm going to ask you, is that fair? Do you like the sound of it, changing our law so that it is unfair? Right now we treat both the same way. I thank you for your courtesy Mr. President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Androscoggin, Senator Douglass

Senator **DOUGLASS:** Mr. President. Members of the Senate, I rise to speak on this issue because it's important to remember that in our system of justice Plaintiff's have the burden of proof. That is not always an easy burden to carry particularly in a medical malpractice case in which an individual has been hurt. They're not the expert, and they have the difficulty of wading through the legal system in that injured condition. When I first began the practice of law in this state this was a new system and it is meant to be a screening system. As time has gone on it's become more of a trial system, and there is a second trial in court afterwards. That's not what was originally intended. Let's get this system back to the screening function that it originally had, and was intended to have. By changing standard of proof, you're still performing the screening function and you are lowering the burden to those who have been injured, but still screening out those who have not been. I myself, was a bit concerned about the fact that findings by all three parties on the panel can be used against the claimant in a later trial if they are favorable to the claimant. As I understand it that has been part of the give and take on this matter of balancing of the interest of the parties that took place in the discussion. It's important to remember that this is not a trial procedure. This is a screening procedure. There are identified members of the panel who have come with certain interest in mind, and was put forward to help the medical community, but not to insulate it. I hope you will vote for the Majority Report.

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

Senator **CASSIDY:** Thank you Mr. President. Men and women of the Senate, I thought I would do us all a favor and hear from some of these original attorneys just for a change of pace here. I must tell you my only day at law school is when I went to visit my son there last spring. However, I did have an opportunity to discuss this upcoming Bill with my Orthopedic Surgeon for one, who I dread to visit the next time because I know what he is going to tell me. And also, my local physician at home. And I have talked to some others about this Bill. But I think as was mentioned during the discussion, you know this goes back 10 or 12 years and the intent was the screen. When we talk about screen, then what we talk about is to screen out cases that will save the litigation to going to court, and the cost of the State and all that expense. Also I think it was mentioned earlier to expedite for the pace of themselves to feel that they have a claim. The other thing that you know that happen with this, is that we do have a high percentage of folks that go through that process that was mentioned earlier that settle in some form or another without going to court. The bottom line is that we have a system that has been working that favors both sides. Both sides have an

opportunity that if the weight is one way or the other to present that. If it does go as far court. But what is going to happen to each and everyone of us is this. If this Bill passes you're going to see medical cost escalate in this state because malpractice is going to increase for physicians, we're going to have more cost in the court system, and you and I are going to pay for it in our insurance premiums. That is the bottom line. We got a system that has worked. It's been here for 12 years and I don't think it's time to fix it now. Thank you Mr. President.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Knox, Senator Pingree to Accept the Majority Ought To Pass As Amended Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#170)

YEAS: Senators: CAREY, CATHCART, DAGGETT, DOUGLASS, KONTOS, LAFOUNTAIN, LAWRENCE, LONGLEY, MICHAUD, MILLS, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, PRESIDENT PRO TEM - ROBERT E. MURRAY, JR.

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, CASSIDY, DAVIS, FERGUSON, GOLDTHWAIT, HARRIMAN, KIEFFER, KILKELLY, LIBBY, MACKINNON, MITCHELL, NUTTING, SMALL

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **PINGREE** of Knox to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-352) **READ** and **ADOPTED**.

LATER TODAY ASSIGNED FOR SECOND READING.

The President Pro Tem requested the Sergeant-At-Arms escort the Senator from York, Senator **LAWRENCE** to the rostrum where he resumed his duties as President.

The Sergeant-At-Arms escorted the Senator from Penobscot, Senator **MURRAY** to his seat on the floor.

Senate called to order by the President.

The Chair laid before the Senate the following Tabled and Later (5/25/99) Assigned matter:

An Act to Prohibit Law Suits by Municipalities Against Firearm or Ammunition Manufacturers

H.P. 1537 L.D. 2192
(C "A" H-442)

Tabled - May 25, 1999, by Senator **RAND** of Cumberland.

Pending - **ENACTMENT**, in concurrence

(In Senate, May 24, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-442)**, in concurrence.)

(In House, May 25, 1999, **PASSED TO BE ENACTED.**)

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

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

Senator **RAND:** Thank you Mr. President. Men and women of the Senate, I believe that this particular piece of legislation was submitted with every good intention and, before we take a final vote on this, I would like to probably have a fuller discussion about what this particular L.D. would do. The title is An Act to Prohibit Lawsuits by Municipalities Against Firearm and Ammunition Manufacturers. And in that law there are some exceptions written in there so it seems like a safe thing for us to do, but I think that the Bill does an awful lot more than what we may believe does. When we discussed this, really kind of briefly, the other day some of the environmental concerns were mentioned. Also, there was a brief mention of Workers' Compensation. I did look into it a little further and it is the opinion of a number of people that this Bill would probably do a lot more than we could have imagined. And here are some examples: If a manufacturer of guns or ammunition fails to pay its water, sewer, or personal property tax bills, the failure to pay these obligations is not an unlawful aspect of the owners manufacturing operation. Under this L.D. the municipality would be barred from commencing a civil action to recover the manufacturer's obligation to support the public infrastructure. A police department purchases an order of regular grade ammunition, the manufacturer negligently provides a special grade of armor piercing ammunition. In the course of duty a perpetrator is killed because of the high powered nature of the ammunition and his estate files a Federal Civil Rights Claim charging excessive force. The standard of breach of warranty is, fitness for ordinary use, and if the ammunition provided was otherwise non-defective, L.D. 2192 would bound the municipality from a negligence suit against the manufacturer for failure to use reasonable care. There are seven or eight other examples of why I believe we should not enact this piece of legislation. Have a little faith in our municipalities. Don't tie their hands and pass the law, the likes of which has never been passed in the state of Maine in its 179 years of history. I would ask you to vote Against this motion. Thank you.

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

Senator **RUHLIN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I will be brief. We have talked a lot tonight. We don't have an awful lot more time left for business so let me just proceed. Since we last discussed this issue I noticed on television last night, six new cities that embarked upon suing manufacturers who are manufacturing products under the laws of the United States of America. Legitimate laws, legitimate manufacturers providing legitimate jobs. Those suits are nothing more than an attempt to legislate litigation, pure and simple. When you have a clear act of abuse, I would call it abuse of our legal system. Clearly established, clearly written out, clearly enunciated publicly by many of those who bring the suit. But they will bring those gun manufacturers to their knees, just as the State brought the tobacco companies, they think, to their knees; I'm not so sure about that one. But it certainly did set an example over a totally different product. One product is very deadly if it is misused, either negligently or with criminal intent. The other product is very deadly regardless of what use. There is a distinction between the two. However, there are those who would notice the similarity and attempt to use litigation by itself, and the cost of that litigation could drive to bankruptcy legitimate manufacturers, people who are manufacturing products under a license and under the laws of this Country. Those manufacturers, by the way, provide about 2,000 jobs in the state of Maine collectively. That is what you are dealing with here. You're not, by the way, taking away any municipalities right to sue when negligence is there. That just doesn't happen. When a manufacturer pollutes the adjacent river, or whatever, they still must answer to the State for its pollution laws under the Federal Government. That does not prohibit corrective action. So don't listen to these red herrings. The issue here is trying to legislate through litigation. It's trying to bankrupt the small manufacturers, whether you like guns or not. Trying to bankrupt small manufacturers who are manufacturing legitimately and under a license, and that is wrong. This attempts to prevent that. 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, I appreciate the opportunity to speak one more time on this Bill because it is an issue that means a great deal to me. As I said in my previous comments on this Bill, it truly for me is not a gun control issue. It really is an issue of local control, of municipal authority, and that is why I feel so strongly about it. It was mentioned in previous debate that if someone were driving a car and injured somebody, you wouldn't sue the car manufacturer if the car wasn't defective. Or if somebody was using computers involved in pornography, you wouldn't sue the computer manufacturer. Or if you stuck a fork in a toaster, you wouldn't sue the manufacturer of the toaster, or at least it would seem unreasonable to. And I certainly agree with that. However, we're not prohibiting anybody from suing in those, perhaps unreasonable circumstances. We are singling out here industry for protection. I received, as I'm sure you all did, a letter from Saco Defense, an important employer and manufacturer in our state, and they said in that letter that Colt Manufacturing, who I believe is their owner now, has been named as a defendant in several lawsuits by municipalities including, New Orleans, Chicago, and Cleveland, claiming product defects. This Bill would do nothing to help Saco Defense in that case because it

exempts those suits. And so the suits that they are struggling to deal with now are some that would be exempted under this Bill.

The part that truly disturbs me about the action of this Body the other day, is not the decision that this Chamber reaches, because I respect the decisions that we make here even when I disagree with them. It's my strong feeling that we are a pawn in someone else's agenda, and we have been targeted as a state because it was presumed that this would be an easy sell in our state. I'm looking at an article here that talks about the NRA having made a complete turnabout in their organizations position. Which just a few weeks ago, this was an article from January, was to offer no comment on city lawsuit, but now is one of aggressively pursuing its strategy against those which include, and I'm reading from the article, concentrating most of their lobbying in State Capitols where they exercise great influence. We have reached the point apparently that any piece of legislation that makes a reference in anyway to a firearm, must be voted against according to this very powerful lobby. I'm not so sure that is real right now. I'm not so sure that in a day and age when we are facing a bewildering number of instances of kids, for the most part, right now behaving in a way that would have been unimaginable to us before the first incident occurred. I'm not so sure that we can simply take that attitude, that the firearm industry is unassailable, that no issue should ever be raised about them, or addressed with them. And again, I do not advocate taking guns away from people. It disturbs me that in the campaign against this Bill that the information that was supplied left people completely unaware of what the Bill actually said or did. I only received one phone call generated by the postcards sent by the NRA, but when I called that person back, I said tell me exactly what you think this Bill does. And he said it takes away my Second Amendment Rights, and you're trying to take my guns away. And I said, how does this Bill do that? He had no idea what was in the Bill. And when I said it's a Bill to prohibit municipalities from suing gun manufacturers, that was the first he had heard of that. That was news to him. I believe that he still would support the Bill, frankly. But my point is that he had no clue what this legislation was about. Someone had contacted him and said. The Maine State Legislature is trying to take your guns away, you better call them up. And the fact, frankly, that they described in their mailing, the fact that Legislators who had voted against this Bill were possibly a little confused and need to be straightened out. I'm not confused. I'm concerned about a number of issues having to do with guns. But this Bill does not represent to me a gun control issue. We are not really putting a prohibition on a narrow set of suits, we are putting a prohibition on a wide range of issues ranging from violation of municipal permits, environmental, and so on. And if the Bill were trying to target, so called, frivolous suits, it hasn't done a very good job of defining those. So I hope as you cast your vote on this Bill you will remember the commitment that, I believe all of us really have to municipal government, who we always call a partner in government with us. I will leave you with a quote from the editorial from the Morning Sentinel from a week or so ago which said, towns are not children, the State is not their parent. Towns are run by capable adults, duly elected by residents, and empowered by those residents to conduct town affairs. I hope you will join me in leaving those towns to do just that. Thank you.

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

Senator BENNETT: Thank you Mr. President. Members of the Senate, I told myself at the outset that I wouldn't rise and speak again on this issue since its been here frequently, but several of the comments have caused me to press the RTS button on my desk and stand before you today. I have to say that in response to one of the earlier speakers, I am fully confident that the sponsor of this legislation did so with good intentions, and that individual, that is not a member of this Body, put this legislation in as a response, I understand, to reading the countless newspaper, magazines, and news accounts of cities and towns across this Country doing something through the court system that they could not do legislatively, or chose not to do legislatively. The intention of the Sponsor, as I understood it, is not to support any particular lobbying group or organization, it was the courage of conviction that lead that individual to submit this legislation. That is why it is before us today. Now when Bills come here, often various interest groups rally around them, and they lobby on them, and they send letters and postcards. I have been getting a host of letters and phone messages on a lot of issues. Earlier today I had a message from somebody in my district, the message read, please Amend L.D., and it gave me the number. I haven't the slightest idea what a message that said please Amend a certain L.D. was. So I called up the individual and asked what the Amendment is. Explaining that there a lot of Bills before us and each Bill could have multiple Amendments. It's just a case of the times in this part of the Session when we have these sort of messages. It's not a perfect system, but it's a system that works fairly well and we take the views of our constituents here very seriously. We are not empty receptacles as Edmund Burke said, we're thinking individuals who try, I think, for the most part to listen to our constituents and then filter that through what else we know about issues in our own experience, and our own convictions, then come to a reasonable conclusion. I think in this particular case that a very reasonable conclusion can be drawn, and one that is in support of the conclusions and the lobbying that's being done across the state like people who may be informed simplistically but do have strong convictions, and have put their faith in organizations which have a long track record in support of those convictions. I think there is something wrong with the lawsuits, which in my view are frivolous, which this Bill seeks to address before they occur in this state. What's wrong with these laws are that they are palliative. The courts ought not to be used in my view for legislative purposes, and that's exactly what is wrong with the issue that this Bill seeks to address. This Bill is completely consistent with current law. Current law which leaves to the State issues relating to firearms regulation with the exception, spelled out in the materials we have all seen, minor exceptions about discharge and issues like that. This Bill insures that we will not follow what's happening in other jurisdictions, in allowing our political subdivisions and entities in this state to reach beyond the authority which is given in our statutes with respect to firearms to engage in frivolous actions in the court for Legislative purposes and not Judicial purposes. And for those reasons, I think this Bill is worthy of Passage, it's worthy to be Enacted, and I'm glad it's finally before us tonight, the end of this Session, so we can do just that. I ask for your support for the pending motion.

THE PRESIDENT: The pending question before the Senate is Enactment. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

ROLL CALL (#172)

The Secretary opened the vote.

ROLL CALL (#171)

YEAS: Senators: AMERO, BENNETT, BENOIT, CAREY, CASSIDY, DAGGETT, DAVIS, FERGUSON, HARRIMAN, KILKELLY, KONTOS, LIBBY, MICHAUD, MILLS, MITCHELL, PENDLETON, RUHLIN, SMALL, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, BERUBE, CATHCART, DOUGLASS, GOLDTHWAIT, KIEFFER, LAFOUNTAIN, LONGLEY, MACKINNON, MURRAY, NUTTING, O'GARA, PARADIS, PINGREE, RAND, TREAT

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

The Chair laid before the Senate the following Tabled and Later (5/13/99) Assigned matter:

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act to Increase the Minimum Wage"

S.P. 669 L.D. 1891

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-280)** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-281)** (4 members)

Tabled - May 13, 1999, by Senator **LAFOUNTAIN** of York. Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-280)** Report

(In Senate, May 13, 1999, Reports **READ**.)

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

On motion by Senator **LONGLEY** of Waldo, 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.

YEAS: Senators: BERUBE, CAREY, CATHCART, DAGGETT, DOUGLASS, KONTOS, LAFOUNTAIN, LONGLEY, MACKINNON, MICHAUD, MILLS, MURRAY, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, CASSIDY, DAVIS, FERGUSON, GOLDTHWAIT, HARRIMAN, KIEFFER, KILKELLY, LIBBY, MITCHELL, NUTTING, SMALL

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **LAFOUNTAIN** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-280)** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-280) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-280)**.

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon, with the exception those matters being held, were ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/20/99) Assigned matter:

Bill "An Act to Regulate Push Polling"

S.P. 420 L.D. 1257
(C "A" S-315)

Tabled - May 20, 1999, by Senator **PINGREE** of Knox.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**

(In Senate, May 20, 1999, under suspension of the Rules, **READ A SECOND TIME**.)

Senator **DAGGETT** of Kennebec moved to **SUSPEND THE RULES** for the purpose of **RECONSIDERATION**.

Senator **BENNETT** of Oxford **OBJECTED**. On further motion by same Senator, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**.

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

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

Emergency Resolve

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

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

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.

Acts

An Act to Amend the Election Laws
H.P. 510 L.D. 717
(H "A" H-663 to C "A" H-622)

An Act Requiring Labeling of Unpasteurized Milk Products
S.P. 281 L.D. 799
(C "B" S-346)

An Act to Institute Wild Number Beano
H.P. 610 L.D. 850
(C "A" H-675)

An Act to Ensure the Documentation of the Transfer of Ownership of Mobile and Modular Construction Homes
H.P. 1063 L.D. 1494
(C "A" H-678)

An Act to Clarify the Laws Relating to Off-track Betting Facilities
S.P. 577 L.D. 1657
(C "A" S-312)

An Act to Promote Effective Management of Occupational Exposure to HIV
S.P. 626 L.D. 1791
(C "A" S-326)

An Act to Make Certain Provisions for Exceptional Students Consistent with Federal Laws and Regulations
H.P. 1419 L.D. 2026
(C "C" H-669)

An Act to Reduce the Cost of Prescription Drugs to Qualifying Residents of the State
S.P. 732 L.D. 2082
(C "A" S-351)

An Act to Clarify the Definitions of "Contribution" and "Expenditure" under the Campaign Finance Laws
H.P. 1577 L.D. 2224
(C "A" H-676)

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

An Act Relating to the Sales Tax Treatment of Certain Rentals and Leases
H.P. 252 L.D. 356
(C "A" H-677)

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

An Act to Promote Equity Among Health Care Clinics
S.P. 532 L.D. 1594
(C "A" S-347)

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

An Act Relating to Medicaid Liens
H.P. 1176 L.D. 1687
(C "A" H-653)

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

An Act to Create the Sex Offender Registration and Notification Act of 1999
S.P. 597 L.D. 1721
(C "A" S-332; H "A" H-679)

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

An Act to Increase Access to Cub Care for Children
H.P. 1255 L.D. 1809
(C "A" H-595)

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

Resolve

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

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

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

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

SECOND READERS

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

Senate As Amended

Bill "An Act to Provide Fairness to Victims of Medical Malpractice"

S.P. 450 L.D. 1325
(C "A" S-352)

READ A SECOND TIME.

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 (#173)

YEAS: Senators: CAREY, CATHCART, DAGGETT, DOUGLASS, KONTOS, LAFOUNTAIN, LONGLEY, MICHAUD, MILLS, MURRAY, O'GARA, PARADIS, PENDLETON, 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, MITCHELL, NUTTING, SMALL

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, **PASSED TO BE ENGROSSED AS AMENDED.**

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon, with the exception those matters being held, were ordered sent down forthwith for concurrence.

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

H.P. 163 L.D. 225
(C "A" H-500)

Report "A" - **Ought to Pass** (6 members)

Report "B" - **Ought Not to Pass** (5 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "A" (H-500)** (1 member)

In House, May 17, 1999, Report "A", **OUGHT TO PASS READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED.**

In Senate, May 26, 1999, Report "C", **OUGHT TO PASS AS AMENDED READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-500)**, in **NON-CONCURRENCE.**

Comes from the House, that Body **ADHERED.**

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

At the request of Senator **BENNETT** of Oxford a Division was had. 15 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion by Senator **PINGREE** of Knox to **RECEDE** and **CONCUR**, **FAILED.**

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

At the request of Senator **BENNETT** of Oxford a Division was had. 17 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion by Senator **PINGREE** of Knox to **INSIST**, **FAILED.**

Senator **BENNETT** of Oxford moved the Senate **ADHERE.**

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

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending motion by Senator **BENNETT** of Oxford to **ADHERE**. (Roll Call Ordered)

Non-Concurrent Matter

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

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

In Senate, May 19, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-303)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-303) AS AMENDED BY HOUSE AMENDMENT "A" (H-688)** thereto, in **NON-CONCURRENCE**.

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

Senator **LAFOUNTAIN** of York was granted unanimous consent to address the Senate off the Record.

On motion by Senator **LAFOUNTAIN** of York, **ADJOURNED**, until Thursday, May 27, 1999, at 9:00 in the morning.