Legislative Record

House of Representatives

One Hundred and Twentieth Legislature

State of Maine

Volume II

First Regular Session

May 18, 2001 – June 22, 2001

Second Regular Session

January 2, 2002 – March 6, 2002

Pages 890-1770

ONE HUNDRED AND TWENTIETH LEGISLATURE
FIRST REGULAR SESSION
53rd Legislative Day
Monday, May 21, 2001

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

Prayer by Reverend Edward Hatch, Palermo Christian Church.

Pledge of Allegiance.

Doctor of the day, William Rodriguez, M.D., Readfield.

The Journal of Friday, May 18, 2001 was read and approved.

SENATE PAPERS

Non-Concurrent Matter

An Act to Amend the Laws Governing the Suspension and Revocation of Hunting and Fishing Licenses

(H.P. 1095) (L.D. 1464)

- In House, **PASSED TO BE ENACTED** on May 14, 2001.
- In Senate **PASSED TO BE ENACTED** on May 14, 2001.
- **RECALLED** from the Governor's Desk pursuant to Joint Order (S.P. 625).

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-218)** in **NON-CONCURRENCE.**

On motion of Representative DUNLAP of Old Town, the House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

Bill "An Act to Make Refusing a Blood-alcohol Test a Crime"

(S.P. 392) (L.D. 1288)

Majority (7) **OUGHT NOT TO PASS** Report of the Committee on **CRIMINAL JUSTICE READ** and **ACCEPTED** in the House on May 14, 2001.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Minority (6) **OUGHT TO PASS AS AMENDED** Report of the Committee on **CRIMINAL JUSTICE READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-164)** and **ASKED FOR A COMMITTEE OF CONFERENCE** in **NON-CONCURRENCE.**

On motion of Representative POVICH of Ellsworth, the House voted to **INSIST** and **JOIN** for a **COMMITTEE OF CONFERENCE** in concurrence.

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

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

ORDERS

On motion of Representative GREEN of Monmouth, the following Joint Order: (H.P. 1354)

ORDERED, the Senate concurring, that the Joint Standing Committee on Taxation report out, to the House, legislation relating to reimbursement for property taxes paid on business equipment.

READ and **PASSED.**

Sent for concurrence.

The House recessed until the Sound of the Bell.

(After Recess)

The House was called to order by the Speaker.

UNFINISHED BUSINESS

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

HOUSE REPORT – **Ought to Pass as Amended by Committee Amendment "A" (H-520)** – Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Create the Healthy Maine Prescription Program" (EMERGENCY)

(H.P. 1334) (L.D. 1790)

TABLED – May 18, 2001 (Till Later Today) by Representative NORBERT of Portland.

PENDING – **ACCEPTANCE OF COMMITTEE REPORT.**

Representative KASPRZAK of Newport **REQUESTED** a roll call on the motion to **ACCEPT** the Committee Report.

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

Representative BRUNO of Raymond asked leave of the House to be excused from voting on L.D. 1790 pursuant to House Rule 401.12.

The Chair granted the request.

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

ROLL CALL NO. 211

YEA - Andrews, Annis, Ash, Berry DP, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Brooks, Buck, Bull, Bumps, Canavan, Carr, Chase, Chick, Chizmar, Clark, Collins, Colwell, Cote, Cowger, Crabtree, Cressey, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Dugay, Duncan, Dunlap, Duplessie, Duprey, Estes, Etnier, Fisher, Foster, Fuller, Gagne, Gerzofsky, Glynn, Gooley, Green, Hall, Haskell, Hatch, Heidrich, Honey, Hutton, Jacobs, Jodrey, Jones, Kane, Kasprzak, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, MacDougall, Madore, Mailhot, Marley, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Mendros, Michael, Michaud, Morrison, Murphy E, Murphy T, Muse C, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perry, Pineau, Pinkham, Povich, Quint, Richard, Rines, Rosen, Savage, Schneider, Sherman, Shields, Simpson, Skoglund, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tracy, Trahan, Treadwell, Twomey, Usher, Volenik, Waterhouse, Watson, Weston, Wheeler EM, Wheeler GJ, Winsor, Young, Mr. Speaker.

NAY - NONE.

ABSENT - Bagley, Baker, Belanger, Bryant, Bunker, Clough, Goodwin, Hawes, Landry, Lovett, Marrache, Mitchell, Muse K, Perkins, Richardson, Smith, Stedman, Tobin J, Tuttle.

Yes, 131; No, 0; Absent, 19; Excused, 1.

131 having voted in the affirmative and 0 voted in the negative, with 19 being absent and 1 excused, and accordingly the Committee Report was **ACCEPTED**.

The Bill was **READ ONCE. Committee Amendment "A" (H-520)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-520)** and sent for concurrence.

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

HOUSE DIVIDED REPORT – Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (H-249)** – Minority (5) **Ought Not to Pass** – Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Strengthen the Maine Rx Program" (H.P. 376) (L.D. 478)

TABLED – May 2, 2001 (Till Later Today) by Representative KANE of Saco.

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

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. I pretty much know where this bill is going so I am not going to speak to it for a long time, but the way this Committee Amendment is drafted it is totally unworkable in a pharmacy. Having practiced pharmacy in this state for 25 years, I can tell you that what you want us to do in a pharmacy cannot happen under this bill. I know what is going to happen with the bill. That is fine. You can go ahead and pass it. The rules that need to be adopted for us to do this, we do not have the ability to obtain this information at the local pharmacy level. It is unfortunate that we are going to pass this. Mr. Speaker, I ask for a roll call.

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

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

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

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. I am the sponsor of this legislation. I was proud to be here when we passed the Maine RX legislation last session. I was very proud to be part of that the other day when the Chief Executive, the commissioner and many of us stood together on the steps of this proud building. It was a great moment. It was a great moment for Maine. You know it is not over. We still are charged with making prescription drugs as affordable and accessible to our constituents as we possibly can. Now it is time to really fine tune, expand the Maine RX Program that we so proudly passed. We all realize that having a chance to buy a prescription at a lower price does absolutely no good if people are not aware that that option is available. This bill is a commonsense approach to spreading the word, letting our constituents, every person in the State of Maine, know about the good work that this Legislature has done.

I don't think it is too much to ask doctors and pharmacists to tell people when they are paying more for a drug than they have to. I think it is not too much. If we want to control the cost of those prescription drugs to ensure that our seniors can afford to take their medication, then I think we have to go one step further. We have to tell them what options are available as they are receiving the prescriptions. If we want to prevent medical emergencies and cost shifting, then we have to tell young people that they can get cheaper medicine. The best time to inform people of this option is when they receive their prescriptions. It just makes good sense. That is all this bill does.

I want to know and I want the people to know that when you go to a pharmacist to have a prescription filled, that they can tell us that we are paying too much for our medication. We should have that piece of mind in this chamber. We make legislation that is going to ensure that that is going to happen. I like the security of knowing that someone else is watching out for our best interests because we don't have the time, necessarily, to find the lowest price drugs on the market, the consumer doesn't. We ought to be able to count on our providers to help us inform the public and to inform us. We can't make the drug manufacturers participate in the Maine RX Program, but we can educate the public and by doing so hope that businesses will be persuaded into joining the Maine RX Program.

The Department of Human Services will absorb the fiscal impact of this bill. They are prepared to do the work. They are going to print the materials for the pharmacists. All that is required is for the pharmacist to stuff a flyer in the bag. This is a public awareness measure that empowers consumers to know who is cooperating, which pharmaceutical companies are working as partners with us in this state to lower drug prices. I believe that honoring our commitment to Maine citizens is paramount. While this legislation doesn't just respect the elderly, it is fiscally prudent because every dollar spent to increase access to prescription drugs for seniors, we can save $20 in hospital and long-term care costs. I urge each and every one of you to support the public's right to know, support this piece of legislation. It is one more tool in our toolbox to make sure that Maine citizens get a fair price when they go to purchase the prescription drugs that they need. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. I said my peace earlier, but after hearing from the good Representative from Gardiner, I have to respond. It is nice that the department is going to absorb the cost, but they don't have a role in this. It is the pharmacists at the local level who has been telling people about lower price prescriptions for years. It is not something new. We do it every single day in our practice. With the rules in this bill, what the Committee Amendment is telling us to do, is you want us to somehow put something on the label. You know, pharmacists computer systems aren't that simple. We will be the only state in the country that has to change a computer software program that is commercially available in order to do this. Then you want us to stuff information in bags. Well, those of you who have ever practiced in the pharmacy know it is not that simple. You then want us to figure out the Canadian prices. Where are we supposed to get that information? We don't have that information, yet you want us to tell consumers about the price of drugs in Canada and other places in the world. We can't do it. There is no resource out there that allows us to do that. While it is nice that the department is going to absorb the costs, the reality is it falls on your local pharmacy to do this, yet we don't have the resources to do it and we can't figure out what you want us to do because we already tell people about lower priced

prescriptions. While I understand the intent of this and I don't think there is any doubt that I had a big hand in the Maine RX Program, this doesn't help it. This bill does not help lower prescription prices. All it does is add a burden on the practicing pharmacist who can't get the information that you want them to hand out. That is why I am asking you to vote against this bill. I hope your reason as to why pass a law that cannot be enforced and it doesn't say anywhere in there that if we don't do what you want us to do, it doesn't say what the penalty is. The fact is we have to break the law because you are going to pass a law that we can't do, yet you don't tell us what you are going to do with us after we break the law. Ladies and gentlemen of the House, as I have said, I practiced pharmacy for 25 years and there is another pharmacist in this body who voted against this bill because we know you cannot do what you want us to do in this bill. I hope you vote against this. Thank you.

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

Representative **SAVAGE**: Mr. Speaker, Men and Women of the House. In response to the previous speaker, I would just like to point out that this bill does not require the pharmacist to tell you what the price is in Canada. It says that it must include a warning that the consumer may be paying more for the drug than is paid for it in other countries. It is up to the consumer then to go find out whether that is true or not. It also only requires that the pharmacist provide advice to consult a health care provider or pharmacist about access to drugs at lower prices. We are not telling the pharmacist to tell them what those other lower prices might be. It just says that we tell you, the consumer, that you should consult someone, maybe your doctor or maybe your pharmacist, about this. It does not require the pharmacist to provide anything that they don't already have, which is information that this particular manufacturer is not part of the program or does not have an agreement. I don't think it provides any additional burden for the pharmacist and I would like to point out that I suspect that every pharmacy in this state and elsewhere reacts very quickly when new information comes out about interactions between drugs. They are able to put that label right on there as soon as they need to sell the next prescription. To not do that, I think, would be something that they would find unacceptable. I think that they are able to adapt to the market much more quickly than the previous speaker would like to admit. Thank you.

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

Representative **BOWLES**: Mr. Speaker, Ladies and Gentlemen of the House. Where is this going to end? What is next? Are we going to require automobile dealers to put some sort of a sticker that says I sell a Volkswagen in this country, but I want you to know if you go to Germany and buy it, it may be cheaper? I sell a Volkswagen in Portland, but if you go to Bangor, you might be able to buy it for less. I appeal to your commonsense. Please, let's start thinking responsibly and stop thinking emotionally about these issues.

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. I believe that this bill is a reflection of exactly this body acting responsibly and not emotionally. The problem that we are dealing with in terms of the costs of prescription drugs is well known to all of us. We don't need more information in that regard. The process of communicating with the public and the process for the individual consumer to take control and responsibility for making those choices on their own behalf is something that we have a responsibility to facilitate and to positively reinforce. We cannot let up in our obligation to assist our constituents in being aware of what they are paying for and making informed choices. What choice they make is up to them, but it certainly is our responsibility to ensure that they are the best informed possible. Thank you Mr. Speaker.

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

Representative **NUTTING**: Mr. Speaker, Men and Women of the House. I honestly and truly didn't intend to get up and speak, but it seems like we are piling on. I just have a couple of things to say. This bill will really serve no purpose. I don't think it is workable. If DHS is going to provide the paperwork and gives it to me and I just hand it out to my patients, we can do that. Make no mistake, what this really is is a scarlet letter. This is a scarlet letter to brand the drug companies who refuse to play ball with the Maine RX Program to notify the world that they are not playing fair. There is no other useful piece of information in this bill. I think the idea that this could be only the start, we could do this for any organization that doesn't play ball with the State of Maine. If we took bids on police cruisers and one company refused to bid, General Motors, could we then have Ford Motor distribute handouts that say these other guys they won't ball with the state so you should boycott them? Remember that this truly is about a scarlet letter. It serves no useful purpose and I urge you to vote now.

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

ROLL CALL NO. 212

YEA - Ash, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bull, Bumps, Canavan, Carr, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Cummings, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hall, Hatch, Hutton, Jacobs, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Madore, Mailhot, Marley, Matthews, McDonough, McGlocklin, McGowan, McKee, McLaughlin, Michael, Michaud, Murphy E, Muse C, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Perry, Pineau, Povich, Quint, Richard, Richardson, Rines, Savage, Simpson, Skoglund, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin J, Tracy, Twomey, Usher, Volenik, Watson, Wheeler GJ, Mr. Speaker.

NAY - Andrews, Annis, Berry DP, Bowles, Bruno, Buck, Chase, Clough, Collins, Crabtree, Cressey, Davis, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, MacDougall, Mayo, McKenney, McNeil, Mendros, Morrison, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Pinkham, Rosen, Schneider, Sherman, Shields, Snowe-Mello, Tobin D, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor, Young.

ABSENT - Bagley, Baker, Belanger, Bryant, Bunker, Daigle, Goodwin, Hawes, Landry, Lovett, Marrache, Mitchell, Muse K, Perkins, Smith, Stedman, Tuttle.

Yes, 85; No, 49; Absent, 17; Excused, 0.

85 having voted in the affirmative and 49 voted in the negative, with 17 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-249)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-249)** and sent for concurrence.

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

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

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-510)** on Bill "An Act to Provide for Graduated Eligibility Requirements for the Elderly Low-cost Drug Program"

(H.P. 41) (L.D. 50)

Signed:
Senators:
LONGLEY of Waldo
TURNER of Cumberland
Representatives:
FULLER of Manchester
BROOKS of Winterport
DUDLEY of Portland
LAVERRIERE-BOUCHER of Biddeford
DUGAY of Cherryfield
KANE of Saco
NUTTING of Oakland

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

Signed:
Representative:
SHIELDS of Auburn

READ.

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

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

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. You will notice that I am the only person on the Health and Human Services Committee to vote against this bill. My name will also appear on others. I don't do that because it won't help a certain element of Maine citizens, but because we don't currently have the projected income to pay for these programs. In the past two weeks and continuing to come to you will be a number of enacted bills that will cost well over $50 million just from the Health and Human Services Committee. They are well intentioned, but I don't believe they can be funded under our current income structure. Many will be coming. Look at the cost of these programs and only I can surmise that they are either an exercise in political rhetoric or that there are going to be additional taxes enacted to fund them. Since Maine is the most taxed state in the country when accessing our per capita tax against our per capita income, I cannot support additional tax burdens on its citizens and businesses. We are not a wealthy state and there are just some things that we can't afford. Most of the bills carry the fiscal note in the amendment. Thank you.

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. We have all had calls from constituents who lose eligibility for the Low-Cost Elderly Program because they experienced a very small increase in the social security cost-of-living. This bill proposes to accommodate these minimal increases in low-income elderly people being eligible for prescription drugs and to adapt the eligibility standard to periodic cost-of-living increases. In addition, it allows for coverage for over the counter medications, which are recommended by physicians as an alternative to more costly prescriptions. We all know and we have experienced in recent years that many of the drugs are very costly drugs that have been converted now into over the counter at a much less cost and many physicians find that they can't recommend the over the counter drug because the person may not be able to afford it. So they instead prescribe the medication. This will provide the physician much greater latitude in using low-cost medications for the patients in lieu of the prescription drugs. It also adds the coverage for diabetes related supplies. Thank you Mr. Speaker.

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

Representative **SAVAGE**: Mr. Speaker, Men and Women of the House. I want to thank the committee. I sponsored this bill to deal with some of the issues that the good chairman mentioned. I think the committee did a very good job of working through the issues. We have, as the Representative from Auburn, pointed out a tight fiscal situation at this time. That does not mean that people with diabetes just go away. That does not mean that people who get a little bit more from their social security check this year because of the cost of living just go away. They don't just go away. They stay right here with us. They are in our communities and they are parts of our constituencies. I think the diabetes supply into this bill is critical for people to have a regular reliable supply of the things that they need to keep diabetes in control saves us a lot of money. When diabetes gets out of control, it costs us a lot of money. I think that this is a very good bill. It should be supported and let it go to the table and fight amongst all the other priorities that we have at that time instead of just killing it now and not giving it that chance to fight amongst all the priorities. Mr. Speaker, when the vote is taken, I request the yeas and nays.

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

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

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

ROLL CALL NO. 213

YEA - Andrews, Annis, Ash, Berry DP, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Brooks, Bruno, Buck, Bull, Bumps, Canavan, Carr, Chase, Chick, Chizmar, Clark, Collins, Colwell, Cote, Cowger, Cressey, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Dugay, Duncan, Dunlap, Duplessie, Duprey, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Glynn, Gooley, Green, Hall, Haskell, Hatch, Honey, Hutton, Jacobs, Jones, Kane, Kasprzak, Koffman, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, MacDougall, Madore, Mailhot, Marley, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McLaughlin, McNeil, Mendros, Michael, Michaud, Morrison, Murphy E, Murphy T, Muse C, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perry, Pineau, Pinkham, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Simpson, Skoglund, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tracy, Trahan, Twomey, Usher, Volenik, Waterhouse, Watson, Weston, Wheeler EM, Wheeler GJ, Young, Mr. Speaker.

NAY - Clough, Crabtree, Foster, Heidrich, Jodrey, Labrecque, McKenney, Sherman, Shields, Treadwell, Winsor.

ABSENT - Bagley, Baker, Belanger, Bryant, Bunker, Goodwin, Hawes, Landry, Lovett, Marrache, Mitchell, Muse K, Perkins, Smith, Stedman, Tuttle.

Yes, 124; No, 11; Absent, 16; Excused, 0.

124 having voted in the affirmative and 11 voted in the negative, with 16 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE. Committee Amendment "A" (H-510)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-510)** and sent for concurrence.

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

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-517)** on Bill "An Act to Require Full Disclosure of Prescription Drug Marketing Costs"

(H.P. 778) (L.D. 1022)

Signed:

Senators:

LONGLEY of Waldo

MARTIN of Aroostook

Representatives:

FULLER of Manchester

DUDLEY of Portland

LAVERRIERE-BOUCHER of Biddeford

KANE of Saco

DUGAY of Cherryfield

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

Signed:

Senator:

TURNER of Cumberland

Representatives:

BROOKS of Winterport

LOVETT of Scarborough

O'BRIEN of Augusta

SHIELDS of Auburn

NUTTING of Oakland

READ.

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

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

Representative **KANE**: Mr. Speaker, Ladies and Gentlemen of the House. This seems like almost a continuation of the previous discussion on the previous bill. "An Act to Require Full Disclosure Prescription Drug Prices" that would require manufacturers to provide data on the amount of money they spend promoting and marketing their product. In a previous discussion, the question was raised, how come we treat this industry different? We wouldn't require the makers of Volkswagen to give us all this information. The fact of the matter is, ladies and gentlemen, is that the taxpayers of Maine and the US do not subsidize the production and exorbitant costs of Volkswagens. We do for the pharmaceutical industry. That is the whole point. The whole point is that our taxpayers have a major investment in how we relate to and manage this industry.

According to last week's edition of *USA Today*, America's prescription drug tab rose by nearly $21 billion last year with just 23 drugs responsible for more than half the spending increase. A recent study reflects a five year trend toward higher prescription drug spending that has employers scrambling to reduce their share of the drug costs often by shifting more to workers of the cost of the coverage or encouraging the use of lower cost generic drugs. We are adapting to these escalating, skyrocketing, drug prices by cutting back on the availability and by shifting to lower costs and maybe not the best drugs.

Opponents argue that the free market, not the government, should determine the price of drugs even if it puts some medications beyond the purchasing power of senior citizens and the poor, but when it comes to pharmaceuticals, the whole idea of a free market is a myth. Consumers of medication are not free to stop purchasing a product upon which their very life and health depend as they can with most other products in our society. The pharmaceutical industry defends its exorbitant prices in the name of research and development and attempts to convince us that it is the primary factor in driving up the cost.

The truth is, however, that the industry realizes an average of 20 percent profit a year. It spends another 20 percent on research and development and 30 to 35 percent in advertising and marketing. Meanwhile, the American taxpayers are already subsidizing 53 percent of research and development costs. We are paying at both ends of the line, ladies and gentlemen.

The *Wall Street Journal* reports that the industry spends more than twice the amount of marketing on marketing and sales than on research and development. This was as of just last week. The makers of Claritin, for example, spent $135 million on the selling of that drug, more than Coca Cola or Anheuser Busch spent selling Coke or Budweiser. The shift to newer drugs is driven by expensive marketing campaigns. That is how it all relates back to those 23 drugs that accounted for more than half of the spending increase due to marketing. The drug industry spend $479 million on ads in *Physician's Journal* and in sales calls promoting four drugs, Vioxx, Celebrex, Lipitor and Prevacid according to data from the IMS Health, a firm that tracked the drug industry.

The point was driven home to me last week when I was watching a Red Sox game. You all know how accustom we have been in watching the signs change behind home plate from Ford to Plymouth, Budweiser or some other product that we typically would expect to be associated with sports. The signs behind home plate last week, ladies and gentlemen, were for Viagra. That is the difference that has taken place. It is a very clear example of what is happening in marketing. They are capturing the most expensive tracts in marketing, cost and price is no object.

"I think this tells the story that advertising works" says Steven Shuttlemeyer a professor of pharmaceutical economics at the University of Minnesota. The purpose of this bill is not to change their behavior. They are free to do what they want to do. The point of this bill is for us and our consumers to be informed about what is happening out there, to be accurately informed about where our money for prescription drugs really goes. That may or may not change anything, but, ladies and gentlemen of the House, it is our responsibility in representing our constituents to ensure they have the most accurate information possible in making the choices. Mr. Speaker, when we record the yeas and nays, I request a roll call.

The same Representative **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

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

Representative **BROOKS**: Mr. Speaker, Ladies and Gentlemen of the House. I want when we take this vote for you to follow my light and reject the Majority Ought to Pass Report and we can move on to the Minority Ought Not to Pass Report. I hope it doesn't surprise any of you to know that three or four days ago it was just the opposite of that. We were in position where the chair would have to make a choice of moving the Minority Ought to Pass Report, but some changes took place and now we are in a position where seven of the members of the committee have voted Ought to Pass and six of us Ought Not to Pass. It shows you the kind of division in the committee and the kind of discussion that we have had. Frankly, I don't think that there is a single member of the committee who is more concerned with the price of drugs than I am. You all know that over the past couple of years I have talked about that both in this session and the last about my wife having cancer and now she is on Tamoxifen and we have all heard the horror stories about Tamoxifen and how it costs $10 in Canada and $110 in the United States. There were busloads of people who went to Canada and got cheaper prices. I hope you don't think that I am standing here opposing any efforts to reduce the price of drugs for all of us.

My mother lives with me and is on high blood pressure medication and it costs her a lot more these days than she seems to get through her social security check. I think the Maine RX Program is going to go a long ways toward, hopefully, reducing the price for people who are dependent upon drugs, in particular, that population group of elderly. This is not the way to do it. I think this is micromanaging to the empts degree. This is invasive. How would you like it if we brought a bill forth that said let's make all of the marketing and advertising dollars and efforts available to everybody in the pulp and paper industry? Is there a competitive edge to being able to develop your own marketing plan? What if you own a bed and breakfast in Hallowell? Is there a competitive edge to having your nearest competitor know what your plans are for next year? The Representative from Hallowell is not in his chair, so I used him for an example. What I am saying is, yes, let's go after the prescription drug companies if they are, in fact, using their marketing and advertising dollars to gouge the public. I don't see the connection. We all know about the anecdotal information that comes out. There are a number of flyers that landed on my desk today about doctors going on trips to Mexico or Canada or whatever. What kind of a connection does that have? If we know that the pharmaceutical industry is paying a $5,000 trip to Los Vegas for a doctor or a group of doctors or a pharmacist or whomever, just because we know, does that mean they are going to reduce the price of Tamoxifen from $100 down to $10? I don't think so. I don't see the connection.

If we go over to the Maine RX Program and work on the Maine RX Program and we try to reduce the costs, then that is fine, but to go to the extent of putting in law a precedent setting legal standard that says, no matter what you do, there is a potential that next year I might come back with a bill that says that you, too, have to file an annual report listing all of your marketing dollars and your advertising dollars and how they are used. I don't think that is a really good idea.

My good friend from Saco, Representative Kane, the chair of the committee to whom, by the way, I have a great deal of respect for, you are going to see my light green on every one of these pharmaceutical bills this morning, except this one, cited data for you. He put out flyers and brochures for you, stories in the USA. The information seems to be there now. Where would this information come from if it wasn't already there? If we know the information without requiring it under law, why are we doing it? There is no connection for me. I can't make that connection that to make Pfizer or Farmer or any of the other pharmaceutical companies come forward and tell us what their plans are for next year or how they are going to market Tamoxifen or anything or how much money they are going to spend marketing or how any of that money is going to go for doctors or pharmacists to reduce the price? I don't see the connection.

I hope you can join with me in thinking ahead. It may be fashionable this time of year and this particular year to beat up on the pharmaceutical industry. It was a few years ago to do it with other industries. Just because we are looking at trying to lower drugs and just because it is now the time to talk about prescription drugs for the elderly. We don't need to be piling on. I see this as piling on. Let's proceed with the Maine RX Program. It is a great idea. Let's proceed with waivers through the Department of Human Services that will reduce the price. Let's go on with $25 discounts. Let's not tie ourselves to a law, a piece of legislation, that who knows where it is going next year. I hope you will follow my light and vote against the Majority Ought to Pass Report and remember the breakdown here of 7 to 6. There was a serious break in the committee as to what we should do and shouldn't do. Six of us said not, but last week it was seven. Mr. Speaker, thank you very much.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Laverriere-Boucher.

Representative **LAVERRIERE-BOUCHER**: Mr. Speaker, Men and Women of the House. This bill is an attempt to do something, to educate ourselves concerning high drug prices. Presently we do nothing except subsidize the drug companies high prices with vouchers and the like. We spend much time working on getting lower prices. This bill would give us a clearer picture on just what the drug industry does with its money, the same money they collect from the elderly poor who have to choose between eating three meals a day or purchasing medication. I believe if the pharmaceutical industry had to disclose to us exactly where they put their money, they might be more accountable as members of the human race. Thank you.

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

Representative **O'BRIEN**: Mr. Speaker, Ladies and Gentlemen of the House. I just stand for a few moments to offer you some points that I hope you would consider. I realize we are going into our lunchtime so I will try to be brief. I do need to address some of the comments that our good chair, the Representative from Saco, Representative Kane, spoke about. In regards to seeing the Viagra sign behind home plate, my first thought was so what. As has been stated before, why are we singling out the drug companies? For those of you who are not familiar with what this is exactly, we are requiring drug companies to disclose everything that they have spent of gifts, samples, meals and advertising. I see a major difference despite what our good chair, Representative Kane said. I see major differences between this bill and the one that we voted on previously. There are no other states that require pharmaceutical manufacturers to disclose this sort of advertising data. Maine does not require any other industry to disclose advertising data. It unfairly, in my view, singles out one industry, the pharmaceutical industry, that the state has become so fond

of, it appears, to be beating up on. There is no evidence that this advertising is misleading or deceptive. All of the agencies, each industry, each company, we all rely on advertising. The pharmaceutical advertising is heavily regulated by the FDA. It must be balanced. It must disclose all risks and it must provide a toll free number for consumers to obtain additional information. We can see that on the commercials that we see on TV all the time. You wonder why they even bother to be on. Advertising does serve a vital purpose. It informs the consumers about the treatment options and allows them to be more knowledgeable about their own health care.

We have heard some survey results from previous speakers and I would like to talk about a few of those. This is a survey done by *Prevention Magazine,* Seventy-six percent of adults believe that advertising helps them be more involved in their own health care. Seventy-two percent believe that advertising educates people about the risks involved. Thirty-three percent feels that the advertisement reminded them to have their prescription filled. Surveys by both *Parade Magazine* and the *Wall Street Journal*, which was mentioned previously, they indicated that advertisements help consumers better understand the available treatment options. Therefore, such advertisement should be encouraged and not burdened by, in my view, needless state regulation.

One of the pieces that this bill hopes to rein in are the sales reps. Speaking to several physicians about this bill, they told me that the sales reps, would take them for coffee or take them to lunch. For the physicians, it is a major informational, educational tool. How is a doctor going to know the newest cardiac research? They felt that the sales reps, whether they took them to lunch or not, were very much an educational resource. Moreover, 50 percent of the advertising and promotion budget is dedicated to the little samples that they provide to their patients. There was a recent documentary on television regarding this issue and most of the doctors did say that those samples are given to the patients that cannot afford it.

I would like, first of all, the good Representative from Biddeford's comment about the high cost of the elderly drugs. I think that we are addressing that issue, but we also are asking pharmacists, often times, many times, the customer will ask for the generic drug and we are trying prior authorization for the Medicaid and Medicare population now, which requires at least pursuing the less expensive drug.

The last thing I will say is that I used to be in the banking industry. I was a mortgage representative. I would go from realtor to realtor to realtor trying to get them to use the services of a particular bank for their mortgage options. We gave Christmas presents, we gave pens, we gave all kinds of information, advertising gifts so that the realtors would use the services of our banking institution. I really don't see the difference here. I thank you for your time.

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

Representative **DUPREY**: Mr. Speaker, Men and Women of the House. Since this is bash pharmaceutical's day, I figured I would weigh in. I have a question, for anybody who can answer, since we are a big reason drug costs are so high, will drug companies be required to fully disclose how much unnecessary government regulation and stupid laws increase drug costs?

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

Representative **DUDLEY**: Mr. Speaker, Men and Women of the House. The Representative from Augusta made an excellent point when she got up to speak on this issue. The more information the consumers have, the better, the better they will be able to make choices. All this bill does is put more information before the consumer to help them make choices, choices about the drugs they are going to purchase. The consumer may know that the consumer is also a taxpayer, the 53 percent that the taxpayers subsidize for prescription medication in this country for R & D. So they may know how much of their investment is then going to marketing these drugs and going to enormous profits for these companies.

The point here for me is that what we have is prescription drug manufacturers circumventing the process. They are going around the physician. They are going around the provider and directly marketing to the consumer. Giving the consumer just the enough information to make the consumer think that this is the drug for me. When they see their provider, they ask for this particular drug. That is what we are talking about here. We are talking about circumventing the traditional process where you have an actual provider or physician who is making a decision in recommending the best drug for the consumer. That is what works for consumers. The drug companies see an obstacle and they are trying to get around it and we shouldn't let them do it. Thank you.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. Short and sweet. It is about accountability. The last time I checked we give public funds for research and development. Anytime we give public funds for research and development to pharmaceutical companies, I think we have a right to know how much profit they make and what they are doing with it. At Christmastime my friend works for a doctor, she invited us over and she had all kinds of extra food. I said that she really worked hard. No, it was food donated today. They came into our doctor's office and brought all this food while my seniors and your seniors are getting on that bus to go to Canada. That is the bottom line, accountability. Public dollars for research and development, I want to know. Thank you.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. Again, very briefly, given the time. I have spent my career in manufacturing for consumer products and I just want you to understand that the amount of marketing dollars spent as has been referenced today is fairly typical. That is exactly what it is like out there. Please don't think there is anything special going on in the drug industry about spending money in order for the public to know what they make out there. Do we really want to talk about what is good for the public and we don't have to just deal with drugs, I think you would be shocked to know how much it actually costs to make a box of Corn Flakes and how much it actually sells for in the store or for a loaf of bread. Think how much better the public would be, if you think this is good policy, to drive down the price of that loaf of bread or box of Corn Flakes for our poor.

Finally, dovetailing perfectly with my good friend from Biddeford, Representative Twomey, if we are concerned about taxpayer subsidized or publicly funded organizations and how they spend their money, I think the best place to start would be getting those groups downstairs who court us with trinkets and sandwiches and all kinds of wonderful things all during the session. How much money are they taking from the public in order to influence us downstairs? That is a lot more important than what we are talking about at the moment.

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

Representative **NUTTING**: Mr. Speaker, Men and Women of the House. I, too, will be brief. It is an interesting debate. I want to take you back to the statements from the Representative from Winterport, Representative Brooks, who made the point that one of the pieces of evidence cited for the argument that we need to have the drug manufacturers provide us with this data is all the data we have showing how much money they are making and to do their advertising. How much Claritin is spent, $135 million to sell Claritin? We already know that. What this bill is asking them to do, the company that makes Claritin, to send us a piece of paper saying that we spent $135 million on advertising Claritin here.

My second point though is the fiscal note. If you have looked at the amendment, the fiscal note is $500. That is the amount of money that the state believes it is going to cost to make this information from several hundreds or thousands of drug companies into something that will be useful for the consumer. That is $500. When was the last time you saw the state do much of anything for $500. I would submit to you that what this is an attempt to intimidate the drug companies. If you want to do that, you should vote yes. I am going to vote no. I think that is all. Thank you.

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

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. I rise to answer my good friend, the Representative from Arundel's comments about the people on the second floor. Those people on the second floor when they do give us sandwiches or this neat little broom that I have or whatever they give us, they do disclose that. As a matter a fact, they are required by Maine law to disclose that. I think that it is time, in order for us to give the people of Maine a fair deal on their prescription drug prices. It is time for us to require the pharmaceutical companies play by the same rules that every one of those organizations on the second floor play by. Thank you Mr. Speaker.

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

Representative **FULLER**: Mr. Speaker, Ladies and Gentlemen of the House. Having been the Medicaid Director for a number of years in my work history, I have had some first-hand experience with the issue of prescription drug costs. I can remember when they first came out with drugs to treat AZT. That research had been totally funded with public tax dollars. What they charged for that new drug that came on the market was $12,000 a year, minimum, to the Medicaid Program. That is outrageous. There is no doubt that marketing is driving up the costs of lots of things in our health care system, not the least of which is the Medicaid Program. There has been a huge increase in the cost of prescription drugs in the Medicaid Program and it is for a large part attributable to the brand-name prescription drugs that people go to their doctors for and ask the doctors to prescribe for them. The doctors do prescribe them and they do cost a whole lot of extra money, but I would remind you that we are not only talking about the sales reps who go around and educate physicians in their offices, yes, there might be some value in that, but we are talking about all the TV advertising and magazine advertising and all of that is going on, in fact, is taking control away from the physicians more and more. The physicians ought to be making the decisions about what to prescribe for their patients, not the patients coming in and telling them that I want this or that drug because I saw it advertised. I urge you to vote in support of the Majority Ought to Pass Report. Thank you.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. We have quite a few of these bills on prescription drugs and I spoke with a physician that I have a great deal of respect for, my father, a retired doctor. I asked him about some of this advertising and the good Representative from Augusta, Representative O'Brien, did mention that advertising is education. Doctors don't have time. They are not researchers in the effects of drugs. They are doctors that deal with patients. When new drugs come out that help people, they need to be educated on it. They are very busy. It is a competition to get them to take the time to understand every new drug because there are so many. The different drug companies compete for their time and to explain how their drug is better than another drug. It is education. Advertising on TV, we have heard all this about Claritin. I have been suffering for the last couple months with allergies because my physician knew about Claritin, because of some trip that he went on, I don't know what it was, but because of that I have been taking it and I have better now for the past week and a half. That is the reality. Do we subsidize these drugs? Maybe, but we subsidize milk and bread. Every time someone buys those with food stamps, we are subsidizing with taxpayer money. Are we going to tell whoever makes bread that they have to disclose their advertising next because it might save some tax money? It would probably save a whole lot of tax money. The final point is when I asked my father about the cost of these drugs and drug companies gouging them, he is very sick now, he pays an awful lot for his medication. I asked him if he felt animosity? He made a very clear point about the drug companies. The prices are high, but he said if not for the work of these drug companies, I would be dead right now. We wouldn't have these costs. If these evil drug companies didn't make new drugs, then all these poor elderly that they are gouging would be dead. They wouldn't be alive. That is why we do the research. Thank you.

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

Representative **BROOKS**: Mr. Speaker, Men and Women of the House. I will be very, very brief. I just wanted to bring up a couple of points that were made during the debate. First of all, I think that I need to correct one thing. The pharmaceutical industry absolutely does not receive any grants from NIH, the National Institute of Health. It was referred to earlier that they are subsidizing them. That is not true. The good Representative from Gardiner mentioned about the people on the second floor. I assure you that the pharmaceutical industry is equally represented in this building as any other industry. If you want to go look, you can find out how much money is spent, because they have to file lobbying reports. That is very easy.

The thing that really came to my attention, which I forgot to point out before was that sometimes we are looked at by others as an anti-business state. I don't believe we are, but it is bills like this that make for an unhealthy climate for businesses to operate. If you can think back just a few years when the workers' comp environment was so bad that we had one or two insurance companies here that were willing to sell workers' comp. What is going to happen in the future with the pharmaceutical industry? We can do these things in lieu of crisis with the Maine RX Program and other programs. We do not need this kind of evasive legislation. Thank you Mr. Speaker.

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

Representative **KANE**: Mr. Speaker, Ladies and Gentlemen of the House. Perhaps we should all feel so guilty for persecuting this noble industry. I might if they weren't the most profitable industry in the whole world who are receiving the benefits of very substantial tax money to support their operations and indeed 50 percent of the cost of research and development is being financed by taxpayers. It may not be through grants from NIH, but it is research that is funded out of universities as well as NIH that is made available to and utilized by the manufacturers of pharmaceutical drugs. We are not trying to prosecute them. All we are asking for is full disclosure. Two words, full disclosure, level with us. For an industry that says the major reason for the skyrocketing increase of prescription drugs is research and development. We say if that is true, put all the cards face on the table. We have clear strong evidence to indicate that that is not so. There investment in research and development is significantly less than their investment in advertising and marketing. All we are saying is if that is accurate and we stand to be corrected, show us the data. That is all we are saying. We are suspending judgment, but we are saying show us the cards on the table. Thank you Mr. Speaker.

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

Representative **TRAHAN**: Mr. Speaker, Honorable Members of the House. The only reason I stand is because I feel like I do have something to add to this debate for information. Drug companies contributed $38.3 million to congressional campaigns in 1998. Drug companies spent an all-time high of $83.6 million on lobbying in 1998. Drug companies spent twice as much each year on marketing and administration as they do on research and development, $26.4 billion in 1998. Last year they spent $8 to $13,000 to physicians in promotions annually. Direct advertising and marketing to the consumer costs $1.9 billion. Ladies and gentlemen of the House, I stand to support the Ought to Pass as Amended report. The reason I do that is because we continue to pass more and more legislation that will subsidize buying drugs in the future and if the taxpayer is going to fund these subsidies, then I believe we need to know how the money is being spent so we can help to reduce those costs and reduce the burden on the taxpayer. Thank you.

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

Representative **BOWLES**: Mr. Speaker, Ladies and Gentlemen of the House. Quite some time ago the good gentleman from Saco started off this debate by indicating that there was something very unusual about the US taxpayers subsidizing research for the pharmaceutical industry. I would submit to you that that is not unusual at all. In just sitting here in the last few minutes, I just jotted down automobile industries, aircraft production, agricultural industries, the aerospace industry, the aquaculture industry, there is five and I haven't even gotten out of the a's. The US taxpayer subsidizes research for hundreds of different manufacturing companies, different lines of production. Look at the research we do at the University of Maine for industries inside this state. It is not unusual.

What is unusual is what we are requiring these companies to do in this bill. If you are interested in advertising expenses and profit, those are readily available in annual reports. We already have access to that information, but we are going way beyond that here. We are asking for costs associated with marketing, advertising, direct promotion through radio, television, magazines, newspapers, etc. We are asking for costs associated with educational programs, seminars, entertainment, trips, remuneration for promotion, etc. We don't require this of any other industry, nor should we. Most of this is confidential marketing information. You wouldn't want it shared with your competitors.

Finally, the last point I would make to you is I think the good gentleman from Winterport has already explained it. This is not going to do anything to lower prescription drugs. If that is truly your goal, if your goal is truly to do something to benefit people, this isn't going to do it. Beating up on the pharmaceutical industry and requiring them to do something that is only going to add more cost to them, is not going to help the people you are trying to help. I could suggest to you that we could do more good by requiring disclosure of advertising costs by lawyers because they drive up the costs of prescription drugs through litigation more than the advertising expenses of the pharmaceutical industry. I am willing to help you and my colleagues are willing to help you pass legislation that will benefit people by lowering prescription drugs. We just took a vote a little while ago that was almost unanimous, I think it was unanimous, because we thought there was something tangible there, something we could work with, something that would actually help people. This has none of those characteristics. This isn't going to accomplish any of those things. This is misguided.

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

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. I learned a long time ago you never ask anybody to do what you are not willing to do yourself. When I ran for this office, I agreed to tell from whom I took money and agreed to tell what I spent that money on, advertising to get your vote and my constituent's vote. We are asking this of a company, when our constituents cannot afford their product, we are simply saying put out your information, disclose it and let public perception decide if you are really spending your dollars wisely, just as we do when we file our campaign finance report. We are simply saying, play by the rules. I am willing to play by those rules. I think the pharmaceutical companies need to be willing to play by those rules. We are talking about medicines that are life and death for yours and my constituents. What is so wrong with that? If they are spending money and no one minds the junkets, that is fine. Public perception has changed in Washington as to how many political junkets are taken. It makes a big difference. I am not afraid to report from whom I received money, nor am I afraid to tell people how I spend it. I think pharmaceutical companies need to be held to the same standards. Thank you Mr. Speaker.

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

ROLL CALL NO. 214

YEA - Annis, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Bull, Canavan, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Cummings, Dorr, Dudley, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hall, Hutton, Jacobs, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Madore, Marley, Mayo, McDonough, McGlocklin, McKee, McLaughlin, Michaud, Murphy E, Muse C, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Perry, Pineau, Povich, Quint, Richard, Richardson, Rines, Savage, Simpson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Thomas, Tobin J, Trahan, Twomey, Usher, Volenik, Watson, Wheeler GJ, Mr. Speaker.

NAY - Andrews, Ash, Berry DP, Bowles, Brooks, Bruno, Buck, Bumps, Carr, Chase, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Dugay, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Hatch, Heidrich, Honey, Jodrey, Kasprzak, Labrecque,

Ledwin, MacDougall, McGowan, McKenney, McNeil, Mendros, Michael, Morrison, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Pinkham, Rosen, Schneider, Sherman, Shields, Snowe-Mello, Tessier, Tobin D, Tracy, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor, Young.

ABSENT - Bagley, Baker, Belanger, Bryant, Bunker, Desmond, Goodwin, Hawes, Landry, Lovett, Mailhot, Marrache, Matthews, Mitchell, Muse K, Perkins, Stedman, Tuttle.

Yes, 76; No, 57; Absent, 18; Excused, 0.

76 having voted in the affirmative and 57 voted in the negative, with 18 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-517)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-517)** and sent for concurrence.

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

The House recessed until the Sound of the Bell.

(After Recess)

The House was called to order by the Speaker.

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "B" (S-216)** on Bill "An Act to Strengthen Maine's Economic Development Incentive Laws"

(S.P. 95) (L.D. 321)

Signed:
Senators:
GAGNON of Kennebec
LEMONT of York
KNEELAND of Aroostook
Representatives:
GREEN of Monmouth
STANLEY of Medway
GAGNE of Buckfield
PERRY of Bangor
McGOWAN of Pittsfield
MURPHY of Berwick
BUCK of Yarmouth
BUMPS of China
BOWLES of Sanford

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "C" (S-217)** on same Bill.

Signed:
Representative:
McLAUGHLIN of Cape Elizabeth

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-216)**.

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "B" (S-216)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "B" (S-216)** in concurrence.

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-190)** on Bill "An Act to Amend the Laws Governing Wage and Benefit Records Kept by Contractors Working on Public Works Projects"

(S.P. 137) (L.D. 461)

Signed:
Senator:
EDMONDS of Cumberland
Representatives:
MATTHEWS of Winslow
BUNKER of Kossuth Township
HUTTON of Bowdoinham
NORTON of Bangor
SMITH of Van Buren
TARAZEWICH of Waterboro

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

Signed:
Senators:
TURNER of Cumberland
SAWYER of Penobscot
Representatives:
TREADWELL of Carmel
CRESSEY of Baldwin
DAVIS of Falmouth
MacDOUGALL of North Berwick

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

READ.

Representative BUNKER of Kossuth Township moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-199)** on Bill "An Act Regarding Dismissal of Municipal Employees for Cause"

(S.P. 557) (L.D. 1719)

Signed:
Senator:
EDMONDS of Cumberland
Representatives:
BUNKER of Kossuth Township

MATTHEWS of Winslow
HUTTON of Bowdoinham
NORTON of Bangor
SMITH of Van Buren
TARAZEWICH of Waterboro

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

Signed:
Senators:
TURNER of Cumberland
SAWYER of Penobscot
Representatives:
TREADWELL of Carmel
MacDOUGALL of North Berwick
DAVIS of Falmouth
CRESSEY of Baldwin

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

READ.

Representative BUNKER of Kossuth Township moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

Majority Report of the Committee on **CRIMINAL JUSTICE** reporting **Ought Not to Pass** on Bill "An Act to Require the Destruction of Confiscated and Forfeited Handguns"

(S.P. 209) (L.D. 774)

Signed:
Senators:
McALEVEY of York
DAVIS of Piscataquis
Representatives:
POVICH of Ellsworth
TOBIN of Dexter
PEAVEY of Woolwich
SNOWE-MELLO of Poland
WHEELER of Bridgewater

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-96)** on same Bill.

Signed:
Senator:
O'GARA of Cumberland
Representatives:
O'BRIEN of Lewiston
BLANCHETTE of Bangor
QUINT of Portland
GERZOFSKY of Brunswick
MITCHELL of Vassalboro

Came from the Senate with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-96) AND SENATE AMENDMENT "A" (S-149)**.

READ.

Representative O'BRIEN of Lewiston moved that the House **ACCEPT** the Minority **Ought to Pass as Amended** Report.

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

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act to Regulate Push Polling"

(S.P. 308) (L.D. 1055)

Signed:
Senators:
BROMLEY of Cumberland
DOUGLASS of Androscoggin
Representatives:
CHIZMAR of Lisbon
COTE of Lewiston
ESTES of Kittery
TUTTLE of Sanford
O'BRIEN of Lewiston
PATRICK of Rumford

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

Signed:
Senator:
WOODCOCK of Franklin
Representatives:
LABRECQUE of Gorham
HEIDRICH of Oxford
DUNCAN of Presque Isle
MAYO of Bath

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

READ.

On motion of Representative CHIZMAR of Lisbon, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-515)** on Bill "An Act to Encourage Independent 3rd-party Forest Management Certification for Small Woodlot Owners"

(H.P. 1219) (L.D. 1660)

Signed:
Senators:
KNEELAND of Aroostook
NUTTING of Androscoggin
KILKELLY of Lincoln
Representatives:
McKEE of Wayne
HAWES of Standish
LUNDEEN of Mars Hill
PINEAU of Jay
GOOLEY of Farmington
FOSTER of Gray

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

Signed:
Representatives:
VOLENIK of Brooklin
LANDRY of Patten
CARR of Lincoln
JODREY of Bethel

READ.

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

The Bill was **READ ONCE. Committee Amendment "A" (H-515)** was **READ** by the Clerk and **ADOPTED.**

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-515)** and sent for concurrence.

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

Majority Report of the Committee on **BANKING AND INSURANCE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-514)** on Bill "An Act to Establish a Single-payor Health Care System"

(H.P. 964) (L.D. 1277)

Signed:
Senator:
DOUGLASS of Androscoggin
Representatives:
DUDLEY of Portland
SMITH of Van Buren
O'NEIL of Saco
SULLIVAN of Biddeford
CANAVAN of Waterville
MARRACHÉ of Waterville

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

Signed:
Senators:
LaFOUNTAIN of York
ABROMSON of Cumberland
Representatives:
YOUNG of Limestone
MAYO of Bath
GLYNN of South Portland

READ.

Representative O'NEIL of Saco moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

The same Representative **REQUESTED** a roll call on his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

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

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-516)** on Bill "An Act to Implement the Breast and Cervical Cancer Prevention and Treatment Act of 2000"

(H.P. 208) (L.D. 243)

Signed:
Senators:
LONGLEY of Waldo
TURNER of Cumberland
MARTIN of Aroostook
Representatives:
FULLER of Manchester
BROOKS of Winterport
LAVERRIERE-BOUCHER of Biddeford
DUGAY of Cherryfield
KANE of Saco
LOVETT of Scarborough
SHIELDS of Auburn

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

Signed:
Representative:
NUTTING of Oakland

READ.

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

The same Representative **REQUESTED** a roll call on his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

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

ROLL CALL NO. 215

YEA - Andrews, Annis, Ash, Belanger, Berry DP, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Brooks, Bruno, Buck, Bull, Bumps, Bunker, Canavan, Carr, Chase, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cowger, Crabtree, Cressey, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Duncan, Dunlap, Duplessie, Duprey, Estes, Etnier, Fisher, Foster, Fuller, Gagne, Gerzofsky, Glynn, Gooley, Green, Hall, Haskell, Hatch, Heidrich, Honey, Hutton, Jacobs, Jodrey, Jones, Kane, Kasprzak, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, MacDougall, Madore, Mailhot, Marley, Marrache, Mayo, McDonough, McGlocklin, McKee, McKenney, McLaughlin, McNeil, Mendros, Michaud, Morrison, Murphy E, Murphy T, Muse C, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perkins, Perry, Pineau, Pinkham, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Shields, Simpson, Skoglund, Smith, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Twomey, Usher, Volenik, Waterhouse, Watson, Weston, Wheeler EM, Wheeler GJ, Winsor, Young, Mr. Speaker.

NAY - NONE.

ABSENT - Bagley, Baker, Bryant, Dugay, Goodwin, Hawes, Landry, Lovett, Matthews, McGowan, Michael, Mitchell, Muse K, Stedman, Tuttle.

Yes, 136; No, 0; Absent, 15; Excused, 0.

136 having voted in the affirmative and 0 voted in the negative, with 15 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-516)** was **READ** by the Clerk and **ADOPTED.**

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-516)** and sent for concurrence.

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-518)** on Bill "An Act to Update the Name of the Department of Mental Health, Mental Retardation and Substance Abuse Services"

(H.P. 1162) (L.D. 1562)

Signed:

Senators:

LONGLEY of Waldo

MARTIN of Aroostook

TURNER of Cumberland

Representatives:

FULLER of Manchester

BROOKS of Winterport

DUDLEY of Portland

LAVERRIERE-BOUCHER of Biddeford

DUGAY of Cherryfield

KANE of Saco

SHIELDS of Auburn

NUTTING of Oakland

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

Signed:

Representatives:

LOVETT of Scarborough

O'BRIEN of Augusta

READ.

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

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I urge you to defeat the pending motion. I apologize for rushing in here. I was looking for a letter that I received. I will paraphrase it and make my points as succinct as possible. I am not sure what the merits are, but I can tell you that mentally retarded people, the three groups being talked about here, mental health, mental retardation and substance abuse, know that they are mentally retarded. Some of them can function pretty well in society. They know when they move to new community that if they need services, they look up mentally retarded and they get services. If we change the name, for whatever reason, because in some moment it feels good to change the name of the department, aside from the cost, it makes it difficult. They don't know now people with disabilities, whatever the new term is, they don't know it and that is who we are helping. One of three departments is to help people with mental retardation. That is who is going to be helped. The advocates, John Murphy Holmes, advocates for mentally retarded people strongly opposes this bill. It is not going to help the community that we are trying to help. The other fear is right now each entity is separate. They are not lumped in as one overall theme, mental health, mental retardation and substance abuse services.

When you are going to have someone come speak to a committee or a group to advocate for these groups, you can have somebody who has mental illness take medication, get over that mental illness and come and very eloquently, articulate their message and advocate for themselves. Someone who is a substance abuser can go through counseling. They can dry up and get over their substance abuse problem and articulate their message very well. Mentally retarded, especially severely mentally retarded people, will never be able to articulate their message to a committee or to a group very well. They will never be able to effectively advocate for proper funding for themselves. They need to be recognized as a separate entity and not lumped in to other groups that have more political influence and can trample on their ability to be represented and advocated for.

For the sake of the mentally retarded community, I urge you to defeat the pending motion and help continue to really provide services for these people. Thank you.

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

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

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

Representative **KANE**: Mr. Speaker, Ladies and Gentlemen of the House. The mental health field has gone through tremendous change in the last 20 years. As a mental health professional, clinician and administrator for nearly 40 years in Maine, I have witnessed great progress in the destigmatization of mental illness and mental retardation. Research has removed the burden of guilt from families and has pinpointed the malfunction of the brain that causes that mental illness and mental retardation. This has led to shifting the public focus from the pathology to the capabilities of disabled persons to grow, develop and function in our communities.

What does this have to do with LD 1562? LD 1562 changes the name of the Department of Mental Health and Mental Retardation and Substance Abuse Services to the Department of Behavioral and Developmental Services. The Council of Mental Retardation changed its name to Developmental Disabilities Council nearly a decade ago. The change in name merely recognizes and confirms this progress by updating the image of the system of services and removes the stigmas associated with its historical name and offers a more positive image of the clients served by the department. Most institutions in the world dealing with mental health, mental retardation and substance abuse ranging from universities and private service corporations to state agencies, such as ours, have replaced the term psychiatric, mental or emotional and retarded with the concepts of behavioral health and development.

LD 1562 therefore proposes to change the name of the department to the Department of Behavioral and Developmental Services to be more relevant with the 21st Century. I urge your support for this strong 11 to 2 Majority Report and there is no fiscal note, Mr. Speaker. I thank you.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I urge you to just think of one point before you vote. Maybe these different entities that we discussed think that the department should now named Developmental Services. However, mentally retarded people that are being serviced and look up in the phone book when they move to a new community, don't keep up with the changing language. Most of us don't keep up with changing language. They know what they are. They know what services they need. They know where to look. This action will make it more difficult to serve the people that we are attempting to serve. Thank you.

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. At the public hearing on this bill that was proposed by the department, there was no opposition from the major constituents of either mental health, mental retardation or substance abuse. Thank you.

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

Representative **BRANNIGAN**: Mr. Speaker, Men and Women of the House. To help people keep up with the language, I would like to push very hard that people speak of people first. All people with different disabilities, whether it is diabetes, heart condition, mental illness or mental retardation, are people first. Talking about retarded people, we are talking about people who have retardation, people who have mental illness, etc. That is a piece of reducing the stigma and making people understand that this illness, these illnesses are like other illnesses and no one wants to be their illness, as far as keeping up with people with mental retardation. The whole area of disability, that disability is broadening and contracting and I believe that the proposed name for the department will get rid of a very tongue twisting name and will allow us to have a name that is up to date. Thank you Mr. Speaker.

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

Representative **MAYO**: Mr. Speaker, Ladies and Gentlemen of the House. This is not a bill on which I intended to say anything, but as a former board member of Elm Hurst, which is an organization in my community, we changed the name and have not used the term mental retardation for 12 years. Our phone book will not and does not list it. We have used the term either mentally challenged or physically challenged or both. The use of that particular phrase this afternoon really bothers me, as an individual and as a member of this body.

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

ROLL CALL NO. 216

YEA - Andrews, Annis, Ash, Belanger, Berry DP, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Brooks, Buck, Bull, Bumps, Bunker, Canavan, Carr, Chase, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cowger, Crabtree, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Duncan, Dunlap, Duplessie, Estes, Etnier, Fisher, Foster, Fuller, Gagne, Gerzofsky, Glynn, Gooley, Green, Hall, Haskell, Hatch, Heidrich, Honey, Hutton, Jacobs, Jodrey, Jones, Kane, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, Madore, Mailhot, Marley, Marrache, Mayo, McDonough, McGlocklin, McKee, McKenney, McLaughlin, McNeil, Michaud, Morrison, Murphy E, Murphy T, Muse C, Nass, Norbert, Norton, Nutting, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perkins, Perry, Pineau, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Shields, Simpson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tracy, Twomey, Usher, Volenik, Watson, Weston, Wheeler EM, Wheeler GJ, Winsor, Young, Mr. Speaker.

NAY - Cressey, Duprey, Kasprzak, MacDougall, Mendros, O'Brien JA, Pinkham, Sherman, Snowe-Mello, Trahan, Treadwell, Waterhouse.

ABSENT - Bagley, Baker, Bruno, Bryant, Dugay, Goodwin, Hawes, Landry, Lovett, Matthews, McGowan, Michael, Mitchell, Muse K, Stedman, Tuttle.

Yes, 123; No, 12; Absent, 16; Excused, 0.

123 having voted in the affirmative and 12 voted in the negative, with 16 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-518)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-518)** and sent for concurrence.

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

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Resolve, to Establish the Task Force to Examine Health Care Delivery Systems Within the State (EMERGENCY)

(H.P. 1203) (L.D. 1625)

Signed:
Senators:
LONGLEY of Waldo
MARTIN of Aroostook
TURNER of Cumberland
Representatives:
FULLER of Manchester
DUDLEY of Portland
LAVERRIERE-BOUCHER of Biddeford
DUGAY of Cherryfield
KANE of Saco
LOVETT of Scarborough
SHIELDS of Auburn
NUTTING of Oakland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-519)** on same Resolve.

Signed:
Representatives:
BROOKS of Winterport
O'BRIEN of Augusta

READ.

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

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-509)** on Resolve, to Provide Access to Personal Care Assistant Home Care Services

(H.P. 895) (L.D. 1187)

Signed:
Senators:
LONGLEY of Waldo
TURNER of Cumberland
Representatives:
FULLER of Manchester
BROOKS of Winterport
DUDLEY of Portland
LAVERRIERE-BOUCHER of Biddeford
DUGAY of Cherryfield
KANE of Saco
NUTTING of Oakland

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

Signed:
Representative:

SHIELDS of Auburn

READ.

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

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

Representative **SHIELDS**: Mr. Speaker, Men and Women of the House. This bill carries with it $8 million in extra expenses added on to what we already have trouble funding. Thank you.

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

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

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

ROLL CALL NO. 217

YEA - Andrews, Annis, Ash, Belanger, Berry DP, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Brooks, Buck, Bull, Bumps, Bunker, Canavan, Carr, Chick, Chizmar, Clark, Collins, Colwell, Cote, Cowger, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Duncan, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Glynn, Goodwin, Gooley, Green, Hall, Hatch, Honey, Hutton, Jacobs, Jones, Kane, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, Madore, Mailhot, Marley, Marrache, Mayo, McDonough, McGlocklin, McKee, McKenney, McLaughlin, McNeil, Mendros, Michaud, Morrison, Murphy E, Murphy T, Muse C, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perkins, Perry, Pineau, Pinkham, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Simpson, Skoglund, Smith, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tracy, Trahan, Twomey, Usher, Volenik, Watson, Weston, Wheeler EM, Wheeler GJ, Young, Mr. Speaker.

NAY - Chase, Clough, Crabtree, Cressey, Duprey, Foster, Haskell, Heidrich, Jodrey, Kasprzak, MacDougall, Shields, Treadwell, Waterhouse, Winsor.

ABSENT - Bagley, Baker, Bruno, Bryant, Dugay, Hawes, Landry, Lovett, Matthews, McGowan, Michael, Mitchell, Muse K, Stedman, Tuttle.

Yes, 121; No, 15; Absent, 15; Excused, 0.

121 having voted in the affirmative and 15 voted in the negative, with 15 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED.**

The Resolve was **READ ONCE. Committee Amendment "A" (H-509)** was **READ** by the Clerk and **ADOPTED.**

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

Under further suspension of the rules the Resolve was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-509)** and sent for concurrence.

Majority Report of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act to Deappropriate Funds for Dues of the Legislature and Governor and Out-of-State Travel by the Legislature"

(H.P. 860) (L.D. 1132)

Signed:

Senators:

GOLDTHWAIT of Hancock

CATHCART of Penobscot

Representatives:

BERRY of Livermore

MAILHOT of Lewiston

TESSIER of Fairfield

BRANNIGAN of Portland

ETNIER of Harpswell

JONES of Greenville

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-475)** on same Bill.

Signed:

Senator:

MILLS of Somerset

Representatives:

NASS of Acton

WINSOR of Norway

BELANGER of Caribou

ROSEN of Bucksport

READ.

Representative BERRY of Livermore moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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

ENACTORS

Emergency Measure

An Act to Create the Healthy Maine Prescription Program

(H.P. 1334) (L.D. 1790)

(C. "A" H-520)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 121 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Representative NORBERT of Portland assumed the Chair.

The House was called to order by the Speaker Pro Tem.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Bill "An Act to Prohibit the Use of Juveniles in the Enforcement of Laws Governing Tobacco Sales"

(H.P. 14) (L.D. 14)

Signed:

Senators:

MARTIN of Aroostook

LONGLEY of Waldo

TURNER of Cumberland

Representatives:

FULLER of Manchester

BROOKS of Winterport

DUDLEY of Portland

KANE of Saco

LAVERRIERE-BOUCHER of Biddeford
LOVETT of Scarborough

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-456)** on same Bill.

Signed:

Representatives:

DUGAY of Cherryfield
O'BRIEN of Augusta
SHIELDS of Auburn
NUTTING of Oakland

READ.

Representative KANE of Saco moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. I would like to lay out for your benefit this afternoon a few facts about the program. First of all, all 50 states in our country operate a routine unannounced inspection program utilizing juveniles as part of their comprehensive smoking cessation prevention program.

This bill would prohibit the operation in Maine of the current program utilizing juveniles, which is an important part of our tobacco access control strategy as recommended by the Center for Disease Control. This is a costly bill. It is the equivalent of a $2.5 million fiscal note. If it passes, we risk the loss of $2.5 million in federal substance abuse funding. This would lead to the elimination of all community prevention and treatment programs in our community. These are funds that are granted by the Department of Health and Human Services and administered by our department of Mental Health.

Maine has, as we all know and have heard so much about in the last several years, the highest percentage of teen smoking in the United States. Please keep in mind that as a factor that has got to dominate our thinking as we look at this issue. The highest percentage rate of teen smoking in the US. The juvenile participation program, which we will be talking about, has been extremely successful. Since 1994 we have reduced the percentage of tobacco purchases by youth from 44 percent to 7 percent. That is significantly increasing the sensitivity and the alertness of sales personnel in selling tobacco products. Most storeowners and clerks have adapted to these new ground rules.

States that have tried to replace the juvenile program with youth over 18 years old have found problems in reducing both sales and youth smoking. The trend gets reversed for whatever reason once you use youngsters who are 18 years and older, the curve goes up in terms of the access to tobacco for young people. Juveniles who participate in the program are in no danger or threat whatsoever. One hundred and fifty thousand compliance checks were performed in the United States with no known risk.

There is being circulated to you, along with some other information, I hope, a letter from our Attorney General, which further explicates that point. Juveniles are in no risk, none whatsoever. Many of you, we all do, I suspect, feel a natural resistance to the perception of manipulation or exploitation. The sad reality, men and women of the House, is that we are dealing with the most manipulative and exploitive industry of all time, the tobacco industry. We know that now. We know it each year as suits reveal more and more the exploitations of the past. They play hard ball with us and our children and we much challenge them equally in order to protect our children.

I urge your support of the 9 to 4 Majority Ought Not to Pass Report of the Health and Human Services Committee and let us send a clear message to the tobacco industry that we will fight their exploitation of our youth. Thank you Mr. Speaker.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. The use of children for squealing and state persecution, we are like the ones that we once thought. The training of youth, young people as bait for catching merchants during sting operations carries with it a strong odor of youth education and youth heroism that is Stalinist in degree, not in degree, but certainly in spirit.

Welcome to the Maine Tobacco Prevention and Control Program. That is one of the articles that I have read in the past in dealing with this issue. Being passed around to you is two articles, one from the *Portland Press Herald*, who last year and this year support the initiative to get rid of this, what I consider, with all due respect to everybody who thinks this is a good idea, as a morally wrong policy.

Can a good reason justify a bad action? That is the question we have to ask ourselves, regardless of whether 50 other states do it or not, in the past other countries, whole populations of a country have done things that I consider to be morally wrong and I consider this to be morally wrong. This is one of those issues that is not a partisan issue. It is not a conservative issue. It is not a liberal issue. When I first heard about this, it tugged at my very innards. It was vassal reaction to this policy.

We encourage minors to solicit illegal acts, whatever those good ends we are trying to get at may justify that. I don't think you can justify that. You heard the previous speaker talk about federal block grants and that is from the SENAR amendment. No where in that amendment, if you read it or in that piece of legislation, does it say that you will lose money. It gives the states great flexibility in having these unannounced random inspections. The federal government washes its hands of a mandatory requirement of these sting operations for a very good reason. They don't like the feel or the smell of it.

You head the previous speaker also talk about an increase in compliance rates. That is true. What wasn't said was the study conducted by the *New England Journal of Medicine* on sting operations showed adolescents under 18 years old reported on a small drop in their ability to purchase tobacco and no decline in its use. Another alarming aspect revealed in the study is that while tobacco use among high school students in the three towns with no enforcement programs remained roughly level, it rose in the three towns where enforcement as measured by stings, made illegal sales less frequent. The efforts, in effect, the harder government tries to force reduction in teen smoking, the more appealing the use becomes. This policy is unsavory. It should make everybody in this House squeamish. Good intentions? Certainly. Nobody wants young people to smoke. We want our merchants to comply, but this is a horrible way of doing it.

The Child Welfare League of America, one of the countries oldest child advocacy groups said it was concerned about the undercover dangers, you heard the previous speaker say there was no danger, but here is the largest advocacy group for children in the country saying that they were concerned about the undercover dangers of children, including possible retribution. What is next? If this seems to be successful, as some proponents say it is, do we get kids to do hardcore drug sting operations? The Child Protection Society another group of people in the country who look at children's interests were concerned about the possible vulnerability of children put into that position and what might be the long-term impact on them psychologically. What kind of message are we sending to our young people if we send them into stores to do illegal acts for

good reasons? Nobody can question there is a good reason behind it.

The federal government gives states flexibility and that is the key. There is nothing in there that says that if you do not use these operations, you will lose your money. Guess what folks, as far as I am concerned, I hope the majority of the people in this House are concerned that if we have to lose our money by doing this, let's lose it. If I had $2 million in my pocket and that is all I had, I would send it to the federal government to get rid of this policy.

In Naples, Florida, there are two enforcement programs utilized by their police department. There are undercover police officers who pose as store employees or customers to bust minors who attempt to purchase tobacco, because, guess what, if minors try to purchase tobacco, they are breaking the law. If they attempt to create a tobacco-free zone around schools, two police officers work in the schools to check identification of individuals who are smoking and appear to be under 18 years old. If they are under 18, the tobacco is taken away and they are issued a citation. Even these are pretty draconian measures if you are against a police state, but these certainly don't put the kids in danger. They don't have kids breaking the law. The other thing about the SENAR amendment and this federal legislation is both enforcement of not smoking or youth buying tobacco is you have to be 27 years old. I should say that the retailers, if you look under 27, they have to card you. That is part of the law.

One of the pieces of paper that I handed around to you is a resolution sent out when the Town of Herman first found out about this or they were approached about it. I am going to read it. I know you have it in front of you, but I think it is important to put on the record. "Resolution, whereas the federal substance abuse and mental health services administration has mandated that all states have mandatory inspection programs by next year to catch businesses that illegally sell tobacco to children and whereas the Maine Department of Health and Welfare has agreed to implement the federal rules without offering an alternative program to satisfy the federal requirements and whereas adults in Herman have been pushing for a closer relationship between our youth and law enforcement officials and have adopted the community policing efforts wholeheartedly. Therefore, we believe it is inherently wrong to involve juveniles in police sting activities and do not want Herman youth, nor their parents, nor their guardians contacted for the purpose of involvement in sting operations. Furthermore, we understand that this could mean a loss of drug and substance abuse grants to Herman, but we know there are better alternatives." It is signed by all seven members.

This legislation was before us in the 119th and passed in this House overwhelmingly. I hope you will pass it again and do the right thing like the small Town of Herman did. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Biddeford, Representative Laverriere-Boucher.

Representative **LAVERRIERE-BOUCHER**: Mr. Speaker, Men and Women of the House. At first when this practice was brought to my attention, I was not certain I agreed with it either. However, with more information, I came to believe that the juveniles practicing in the enforcement of laws governing tobacco sales is effective and safe.

Let me share with you why it works and why we should vote Ought Not to Pass on LD 14. I was originally concerned with using kids. A youth was present at the public hearing and he shared how the program works. These youth are older teens, by the way. First, parents of these older teens need to be involved and sign for them to participate in this work. Second, these older teens have training and the youth who came to testify said he felt well prepared. Third, they are driven by an enforcement officer to and from the stores. From what I gathered from what the youth shared, that they only do a few stores a year each. Fourth, they work in distant places from where they live so they do not know the people that they are dealing with. Fifth, they can call it off at any time if they do not feel comfortable. The youth that had testified had never felt uncomfortable in the two years that he had done this work.

These older teens are of working age and their parents agree with their choice of work. We are not talking about drug busts here. We are simply allowing 16 and 17 year olds to walk into a store and try to purchase a pack of cigarettes. If they are successful, they walk out of the store with it and an enforcement adult takes it from there. If they are unsuccessful, then nothing happens. Please vote Ought Not to Pass so we can continue keeping the sale of cigarettes down so that kids in Maine will not smoke. Thank you.

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

Representative **SKOGLUND**: Mr. Speaker, Ladies and Gentlemen of the House. First, I want to thank my good friend, Representative Waterhouse, for bringing this back before the House for consideration again this year. I want to thank Representative Waterhouse for using the word squealing his afternoon. My ears pricked up at the use of that term. I waited for him to say grunting, but he didn't. There are no similarities between this bill and the one we had the other night, I suppose, on another anti-smoking issue.

I was brought up and taught that it was wicked to tempt people into doing evil. If it is wicked for an individual to entice someone else to do evil, why isn't it even more wicked for a government agency to set up people to commit crimes? You say what kind of message are we giving to our young people? I think when we use young people as secret police when we deliberately set up people who are otherwise law abiding citizens, the message they give to me is, we cannot trust our government to be 100 percent truthful. If they will set up a person to commit a crime, say this is important, the ends justify the means. Why aren't those people just as temperamentally well suited to alter evidence to give unnecessary convictions? This attitude, this atmosphere, where the ends justify the means, to me is very dangerous and very telling and very destructive to the integrity of our law enforcement officials and for the integrity of this House. If we can't be trusted, who can be?

The good Representative from Saco, Representative Kane, said that we are no longer slowing down the number of teens who are smoking. When people are on a crusade and see that they no longer can progress by normal means of education and persuasion and good example, the next step is to resort to force. More and more resort to force and that is what this is. It is using unscrupulous means as if we didn't have enough criminals already, we have got to encourage the creation of more. Don't tell me there is not fanaticism involved here.

I have been informed of an inmate, I believe, in Windham whose girlfriend, wife, fiancé smuggled in tobacco to him. Because he was caught in possession of tobacco, he is in the Super Max for possession of tobacco confined in a cell 23 hours a day for possession of tobacco. Don't tell me that is not fanaticism and extremism. They will say that that is contraband. No, that is contraband. I knew a fellow in my district who was incarcerated in the Down East Correctional Facility. He is an addicted smoker, a person with mental problems and addiction problems. When he went back to the facility, he smuggled in tobacco. He was given more time for smuggling in that tobacco, than he had received in his original sentence. Don't tell me there is not fanaticism involved here. It is fanaticism. It is undermining

the integrity of the law and our young people are getting the message that we are giving them that the law is not to be trusted. They are out to set you up. They are out to get you. I hope that you will support the good Representative Waterhouse and stop this abominable practice of using children as little secret police. Thank you.

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

Representative **KANE**: Mr. Speaker, Ladies and Gentlemen of the House. Listening to my good friend from St. George, I was almost persuaded myself that I had been led astray by the fanaticism of the age and that we are criminalizing our children and criminalizing store vendors. Let's make no mistake about it, ladies and gentlemen, this is not about trust. This is not about criminals. This is civil violation if at all. There is nothing about criminalizing here. What would be criminal in my judgment, ladies and gentlemen, is if we did not protect our kids who are getting hooked. The highest rate of teen smoking in the country are our kids. They are getting hooked now and they are going to pay the price and we are going to pay the price. Every state in the country has adopted this practice. This is not criminal. This is not fanaticism. This is commonsense. This is protecting our kids from the devastating affects of tobacco. These rules and regulations and systems that are in place utilizing juveniles are not setting up either the storekeepers to commit crimes or setting up the kids. It is merely carrying out our responsibility to protect our kids. I urge us not to refrain the issue from what it really is, the life and death and health of our kids to trust, distortion, setting up our kids. Thank you.

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

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I can't believe what I just heard. That amazes me. That truly amazes me. I do not believe that we should be employing children to do undercover jobs in the State of Maine and that is what this is. There are no two ways about it. These are undercover jobs. In my opinion, two wrongs do not make a right. Doing this type of operation is similar and I am going to say this and it is going to seem very harsh, but I am part English and part German and it is a part of history I am not very proud of. Doing this type of operation is similar to what Hitler did with the youth in Germany. Yes, it is. When he turned the children to spy on their parents. Also, in Afghanistan children are used as spies to work for the Communist Party. Did you know that when Hitler first took office the first thing he did was to ban smoking? Ladies and gentlemen, do you know why he did that? He did that because it was a way to control his people. You may say that this response to what I am saying is this statement is harsh and extreme. Remember that it is a draconian solution that far exceeds the nature of the problem. Ladies and gentlemen of the House, is this a part of history that you want to repeat?

So often we say that when we want to pass a bill, I have said it too, well, the rest of the country does it. Guess what? This is one time that I don't want Maine to be like the rest of the country. They say that kids enjoy doing this. Since when do children really know what is best for them? I don't think they do in this instance. I truly cannot understand why a parent would allow their children to do this for a job? It is unbelievable. This program is not a mandate by the federal government as was mentioned before by Representative Waterhouse. He said that the SENAR amendment leaves it to the state to determine how to catch illegal sales. Truly, do you really believe that the end justifies the means in this matter? I certainly do not. I hope you agree with me.

I believe that this operation is contradicting what our state has strived to do in our efforts to protect and nurture our children. We have been working in the House going on five years, everything that we have done on the Health and Human Services Committee was to protect our children our children from harm and to keep them healthy. What is wrong with our society when we strive to steal the innocence away from our children? I really believe that is what we are doing here. Let us do the right thing for our children and vote yes for LD 14 and oppose the pending motion. Let us say no to the money. That is all this is, is money issue. I am starting to believe the old saying that money is the route to all evil. I really think in many cases it is. Please think before you cast your vote and cast your vote for keeping our children safe. Thank you.

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

Representative **DUDLEY**: Mr. Speaker, Men and Women of the House. The Representative from St. George, Representative Skoglund, mentioned that these storeowners are otherwise law abiding. That quote reminds me of something that a former mayor of the nations capitol used to say regarding the rates of crime there, which were actually pretty good if you don't take into account the murders.

I must agree that there is a matter of evil to be discussed here today. Tobacco related disease will kill approximately 400,000 Americans this year. It killed as many last year and the year before that. More Americans die from a tobacco related disease than they do from AIDS, alcohol, cocaine, heroin, homicide, suicide, car crashes and fires combined. Seven Maine people die every day from tobacco related disease.

Since our concerns here today are about children and the safety of our kids, let's talk about them in particular. Over one-third of Maine's young adults are tobacco addicted. The vast majority of them began smoking while under age 18. In fact, most people addicted to tobacco began smoking prior to age 18. One-third of these same young adults will eventually die an early death from a disease caused by their tobacco addictions. Their children will be 75 percent more likely to become tobacco addicted. Tobacco companies are using our children to guarantee profits from lifetime good customers. Knowing this as we do, why shouldn't we try to protect them? Is it immoral to allow volunteer high school age kids who have parental consent to help police against the evil of tobacco related disease? Of course it isn't. It is positively engaging young people in civic life and it is saving lives. The fact is that these random, unannounced inspections are part of a multi-pronged effort recommended by the Centers for Disease Control, the strategy includes media campaigns, school and community interventions, the creation of smoke-free environments and tobacco law enforcement. This strategy works. Since 1997, tobacco consumption in Maine is down 17 percent and tobacco addiction rates among high schoolers are down by 27 percent.

Regarding the SENAR amendment, which is the origin of the federal requirement for tobacco enforcement, the SENAR amendment doesn't say, the Representative from Bridgton is correct, that we must use minors in tobacco enforcement. What it does say is that if our tobacco buy rates among that population goes above 20 percent, then we are going to lose 40 percent of our funding from the federal government, which is $2.5 million.

In is interesting to point out that prior to 1997, prior to initiating this program, that tobacco buy rate among this population was over 40 percent, twice that of the SENAR amendment requirement. Thank you Mr. Speaker.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I would ask for members to think what would happen to a set of parents who would take their minor child, have them perform illegal activities, put those children at risk so that they can make a profit? I think another section of the Department of Human Services would probably be paying those parents a visit. We are saying it is okay for us to do it for our purposes. I passed around a yellow sheet of paper and I will read from it. The section of law that talks about selling to minors, a person may not sell, furnish, give away or offer to sell, furnish or give away tobacco products to any person under 18 years of age. It goes on, tobacco products may not be sold at retail to any person under 27 years of age unless the seller first verifies that person's age by means of reliable photographic identification containing a date of birth.

This sting that we are doing can be done by people over 18. There is no need to exploit children. The law is the same whether you sell to a 26 year old without asking for an ID or a four year old without asking for an ID. It is the same law. It is the same violation. I think that is why it was written that way, so we don't need to exploit children. That is what we are doing. We are exploiting them and putting them at risk and there is no need to do it. As a matter a fact, if you use somebody older, they are less likely to be carded so you are going to be even more efficient.

As far as the safety issue goes, I will tell you a little story about safety and trying to stop crime. One of my roommates in college, his girlfriend had the opportunity to be safe and stop crime in a sting type of operation. She worked at the Big Apple about a dozen years ago. They knew that someone was going to come in and rob the store. They had a police officer who would be around keeping an eye on the place. She agreed to work. She was 19. She wasn't a minor, but she agreed to work late that evening knowing someone was going to come in and rob the place, knowing that there would be a law enforcement officer nearby. You may have heard of her, her name was Melissa Roy. She was stabbed to death by that person while the police officer had gone over to Burger King to get a soda. That is how safe people are when they are engaged in sting operations.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. It has been quite a long debate up to this point and quite honestly I am trying to figure out where some of these comments are coming from in the relating of stuff to Hitler and the sting operations where robberies are involved. Ladies and gentlemen, we have been doing this for six or eight years now. Has anybody come out of the woodwork other than the person that gave that cigarette to a child? We are talking about adults violating the law. You guys turn it all around that we are going to protect our children and that this whole issue is about protecting our babies and our children and our minors from doing something that is immoral. I think that is a bunch of crap. It is just crazy here folks. You know, these children, I don't know what kind of school you attend, it must be some kind of fantasy school, because there is not a child out there above the age of 10 or 12 that can't point you to the right store to buy cigarettes. If you don't think that those kids need to be involved in helping us to control and to deter this, you are talking to the wrong people. Watch the commercials on TV, the ones where the kids say, mommy, daddy, you have to tell me. You really have to talk to me. You have to tell me this is wrong. Ladies and gentlemen, the neat part about this is the children are involved. There are select groups of kids that volunteer. They say that they want to be part of the cure. They want to help. They want to be able to go and buy these cigarettes to stop these guys because they know who they are.

You bring up the laws. The yellow sheet on the desk here, the reason why the second section about the 27 had to be added is because a 17-year-old young lady looks like she is 22 and the guy that sold the cigarettes says, but I thought she was 18. It is the old rape argument, ladies and gentlemen. Well, I thought she was 18 and then you get off. You go through a trial. It is just one layer on top of the other. What they have done is they melded two pieces. One, they should be under 18. It is very solid, it is a pinch there whether it is criminal or civil. The other thing is they shouldn't have any kind of argument to say well I thought she was 22 or he was 23. He looked older. He had a mustache. The two pieces are melded together for a good reason. It was very, very difficult to enforce tobacco products. For us to be sitting here with the debate way over to the left and way over to the right, our kids are a heck of lot smarter than you and I give them credit for. I think those kids that want to be involved to help stop the adults. The only ones complaining about this bill that has been in effect for six to eight years is the adults that got caught. Ladies and gentlemen, those adults ought to know better and these kids ought to be able to work hand in hand with our adults to stop adults that should know better. Thank you.

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

Representative **PERRY**: Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to rise for just a second and tell you why this program doesn't work. I wasn't going to speak, but after listening to my good friend from Portland, Representative Dudley, I agreed with almost everything he said. That is why I thought it was important that I speak about how terrible tobacco and addiction and when kids get addicted. That is absolutely true. That is why we need enforcement that works. As my good friend from Kossuth Township said, this has been around six or eight years. Everyone is on to it. We went through the procedures a little while ago. They take them to an area where they don't know anyone. Okay, if you are a merchant and you want to make a profit by selling to minors only sell cigarettes to the kids you know. They only travel in pairs. They have someone buying and they have a witness. They only sell cigarettes to kids who come in by themselves. If you ask them if they are 18, they have to tell you no. If you ask them and you know they are lying, so what, sell them the cigarettes. If people want to break the law and make money by selling to minors, they are going to do it. Everyone is on to their system. One store gets checked and they call all the other stores in the neighborhood. They are on to it. I see kids everywhere, obviously under age, smoking cigarettes. Why not bust the kids? Hit them in the pocketbook. Then ask them where they did they buy the cigarettes and take them back and set them up where the problem is. These random checks, they are easy. It is not a lot of work. They drive around. They send them in and 99 percent of the people comply. They bust a few people. It is not working anymore. It is time to move on. Thank you.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. Very briefly, the Representative from Kossuth Township, he talked about this lobbying around for quite awhile. Not too long ago there was a law on the books for 40 years in the State of Maine and it actually had to do with one of the towns that I represent in a lawsuit. The Maine Supreme Court with one descending vote found it to be constitutional and

it went all the way to the Supreme Court and the Supreme Court said it was unconstitutional and in violation of the interstate commerce laws. So much for laws being around for a long time being worth anything. There are a lot of things that have happened in our past when we have had laws that were around for quite a long time that we knew to be wrong. We got rid of them. Nobody is arguing these programs don't work. In as far as mentioning other countries or Germany or anything like that, I think the point was trying to be made that this is very efficient. Nobody is questioning whether it is efficient. The point being, I don't want to put words in other people's mouths that use Germany, they had efficient measures too. This is just plain wrong. We talked earlier about statistics and we mentioned children. We are always using children to push and pass issues, but the point is children don't die from tobacco use. If they have a problem, it comes about when they become adults. If this is so serious that we warrant this kind of policy, which I think is atrocious, let's do the honest thing. For those of you who think it is that serious, I have heard people say that tobacco is worse than heroin and more addicting then heroin, guess what, heroin is illegal. Let's, for those of you who want to take this position with the health issue and so forth, do the honest thing, come up here and put in legislation to outlaw the sale of tobacco. Don't tell me prohibition doesn't work. We have it on the books now. We have it for heroin, marijuana, crack and so on and so forth. This is the easy way out. Under the SENAR amendment, they give us alternatives, but guess what? This is the most effective, the most efficient. There is money involved. Mr. Speaker, I ask for the yeas and nays.

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

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

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

Representative **JACOBS**: Mr. Speaker, Ladies and Gentlemen of the House. Very quickly, it is not very often that I am going to vote probably with the Representative from Bridgton, but this is one of them that I am going to. It is because I have been sitting here trying to put it into words why this doesn't sit right, right here. I feel that it is morally wrong to use underage children to catch people doing something wrong, plus pay them for it. I don't know about you, but I have tried to teach my children to be honest, straightforward and never deviate. You are up front. You do what is right no matter what. This is the deviousness about this that I can't swallow. I will be voting against the Ought Not to Pass. Thank you.

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

Representative **FULLER**: Mr. Speaker, Ladies and Gentlemen of the House. I realize this debate has gone on for a long time and I will try to be brief. However, I just need to speak up on behalf of this issue because I would be proud to have my kids helping to enforce our tobacco laws against youth buying tobacco. The random unannounced program, which we have in Maine is run by the Attorney General's Office is one of the most effective programs that we have to combat youth smoking. It is not an abuse of young people. They are not at risk. Rather it teaches them valuable civic lessons. It is part of our law enforcement process. The youth have their parent's permission. They are trained to work with other adults and law enforcement officers and they need to be, when they try to buy tobacco products, underage or they will not be able to find the people selling the product to an underage person guilty. Checking an ID card and actually selling tobacco to a minor are two different issues.

The program is not a threat to any storeowner or operator who complies with our state laws. We are talking about morally wrong things. Is it morally wrong for people to sell tobacco to minors? It is wrong for letting our kids get hooked on tobacco, which they can do very, very quickly. Let me also point out that compliance inspections are not secret. All licensees were notified in writing, at least twice by the state and once by the Food and Drug Administration, that compliance investigations were ongoing and that underage individuals would participate and of the penalties sought for violations. There is extensive training of all of the participants. They are not there to entice a sale, but rather to find out if retailers inclined to be lax and sell tobacco without checking the age of the buyer. If we are attempting to encourage sales, I would suggest that we are doing a very poor job as evidence by Maine's very low rate of sales.

Third, it was suggested that these compliance checks are inherently dangerous. They are not. I would also point out again in 1994 or 1995, 44 percent of Maine stores were selling tobacco to underage buyers. Last year this figure had been reduced to only 6 percent. The use of youth in enforcing tobacco sales is very effective and although the SENAR amendment does not require the use of youth, they specifically, the Substance Abuse and Mental Health Services Administration of the Department of Health and Human Services have stated that the use of minors under the age of 18 to attempt to purchase tobacco products is recommended as the most reliable method for states to estimate retailer non-compliance rates with a state use tobacco access law.

Again, I would be proud to have my children participate in this program and now my grandchildren if they wanted to do this work, I would be proud to have them doing it. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Baileyville, Representative Morrison.

Representative **MORRISON**: Mr. Speaker, Ladies and Gentlemen of the House. I guess I would have to say ditto to Representative Skoglund and Representative Waterhouse on what they said. Just a couple of remarks I would like to add. I think it was reassuring to know that we are only going to use older teens. I heard that. I am not sure why we aren't using 10, 11 or 12 years old. I understand these pre-teens are getting involved in smoking. Why not stop the problem where it starts? Let's get 11 or 12 year olds involved. Let's put them undercover, not just use the upper teens, whatever those figures are, 15, 16, 17 or 18. I am not sure what the upper teen limit was supposed to be. I would probably consider myself anti-Mainer or anti-American because I certainly wouldn't have let my kids get involved in this. The police come up and said, can we use your boys or girls to go undercover? I would say no as a parent. I suppose I should respect those that are out there doing their duty and letting their kids get involved in this type of thing. It is convenient. It is expedient, but it is wrong. I heard it is a civic's lesson. I dealt with kids in school. I have been a school person and we did deal with civics in school. This didn't happen to be part of it. We have to add another chapter to our civic's book I guess. One last thought, I wonder if there are other crimes out there that we could get our kids involved with and really get out there and help us solve? We could use them for alcohol use or abuse. I think we really ought to get our kids involved. They could really help solve a lot of our criminal problems in this country. I say it is wrong and we shouldn't allow it. Thank you.

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

Representative **BERRY**: Mr. Speaker, Men and Women of the House. I don't have any divided reports on my own

committee, so I had to get involved in some other way. I just want to start by saying that I certainly appreciate and respect the opinions and people's beliefs and why they might support this legislation. I would also say that I do disagree. I think it is misleading when we try to use examples of what dangers we might be putting these young adults in. It is no more dangerous to walk into the local corner store to buy cigarettes than it is to go in and buy a cola or a candy bar. They are not in any more danger down at your local corner market. It is probably more dangerous for them to be mowing lawns.

The young people that I have seen in my community, on the one hand, we have got more teen smoking than I have ever seen. I was surprised to go on a trip with a senior class a couple of years ago and see how many that have taken up smoking at that age. I am also surprised and encouraged by the teenagers in school programs where students are becoming involved in the communities. They are volunteering. I have students that have come onto the fire department before. I know that I have a niece that has worked by going on to the schools and has been involved in the education campaigns to help stop smoking and to get merchants to not display cigarette advertising the way they may have. If my son came to me and said I would like to be involved in this program, what do you think? I would say that if you are willing to do that and go out and help discourage the sales of cigarettes to minors, I would support that. I would support his actions. He has been bullied in the schools and I have tried to teach him to stand up for himself, stand up for his rights, not by fighting back, but by other means in stopping the negative behavior.

I think the word fanaticism was mentioned earlier. I think the fanaticism has come from the tobacco companies over the years in their marketing and sales. The government has been involved in spreading the use of tobacco through the military since way back distributing cigarettes to the troops. We are doing it and I think that we should continue to allow young people to be involved in changing the way we do things. All they are checking on is a simple act of are they being asked for an ID when they buy cigarettes. I don't see where that is so dangerous in our own community markets and stores. Thank you Mr. Speaker.

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

Representative **SCHNEIDER**: Mr. Speaker, Men and Women of the House. I just have to say a couple of words about this. I urge you to turn on your red light by pressing your red button to stop this exploitative and dangerous program. It is exploitative. It uses our children as undercover enforcers. It causes children to break the law. It teaches children situational ethics. It shows them that sometimes it is right to do wrong. That is a difficult concept even for adults to grasp. It is dangerous. I was drug prosecutor for a number of years. I conducted hundreds of undercover buys using cooperating individuals. I can tell you that it is dangerous for people to operate as undercover enforcers. Despite all the precautions that we took in the Attorney General's Office to protect our cooperating individuals, I have had cooperating individuals threatened. I have had cooperating individuals who have been actually injured as a result of their having worked as undercover enforcers just like this program has children doing. I ask you, are we justified in sacrificing Maine's children to fight cigarette smoking? I would like each person in this chamber to ask yourself to consider whether you, as a representative of the people of Maine, want to be complicit in a program that exploits and exposes children to danger in this way? I urge you to vote red and stop this program. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from the Penobsoct Nation, Representative Loring.

Representative **LORING**: Mr. Speaker, Men and Women of the House. I generally don't agree with Representative Waterhouse, although he is a good friend. However, in this situation from the Penobscot Nation's perspective, in our culture we respect our elders. We plan ahead for our children seven generations so we can protect our children. To me, there is something inherently wrong with using your children in such a manner. I cannot fathom a tribal council ever deliberating such a program for their children. I tell you that if I could vote, I would vote against this Ought Not to Pass motion. I would vote with Representative Waterhouse. Thank you.

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

ROLL CALL NO. 218

YEA - Berry RL, Bliss, Brannigan, Brooks, Bull, Bunker, Colwell, Cowger, Cummings, Dorr, Dudley, Dunlap, Estes, Etnier, Fuller, Gagne, Kane, Laverriere-Boucher, Lemoine, Lessard, Lovett, Lundeen, Mailhot, Marley, Marrache, McDonough, McKee, McLaughlin, Michaud, Norbert, Norton, O'Neil, Patrick, Quint, Richardson, Simpson, Tessier, Thomas, Volenik, Watson, Mr. Speaker.

NAY - Andrews, Annis, Ash, Belanger, Berry DP, Blanchette, Bowles, Bruno, Bryant, Buck, Bumps, Canavan, Carr, Chase, Chick, Chizmar, Clark, Clough, Collins, Cote, Crabtree, Cressey, Daigle, Davis, Desmond, Duncan, Duplessie, Duprey, Fisher, Foster, Gerzofsky, Glynn, Goodwin, Gooley, Hall, Haskell, Hatch, Heidrich, Honey, Hutton, Jacobs, Jodrey, Jones, Kasprzak, Koffman, Labrecque, LaVerdiere, Ledwin, MacDougall, Madore, Mayo, McGlocklin, McGowan, McKenney, McNeil, Mendros, Michael, Morrison, Murphy E, Murphy T, Muse C, Nass, Nutting, O'Brien JA, O'Brien LL, Paradis, Peavey, Perkins, Perry, Pineau, Pinkham, Povich, Richard, Rines, Rosen, Savage, Schneider, Sherman, Shields, Skoglund, Smith, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Twomey, Usher, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Young.

ABSENT - Bagley, Baker, Bouffard, Dugay, Green, Hawes, Landry, Matthews, Mitchell, Muse K, Stedman, Tuttle.

Yes, 41; No, 98; Absent, 12; Excused, 0.

41 having voted in the affirmative and 98 voted in the negative, with 12 being absent, and accordingly the Majority **Ought Not to Pass** Report was **NOT ACCEPTED**.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-456)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-456)** and sent for concurrence.

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

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

HOUSE DIVIDED REPORT - Majority (7) **Ought to Pass as Amended by Committee Amendment "A" (H-514)** - Minority (5) **Ought Not to Pass** - Committee on **BANKING AND INSURANCE** on Bill "An Act to Establish a Single-payor Health Care System"

(H.P. 964) (L.D. 1277)

Which was **TABLED** by Representative O'NEIL of Saco pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report. (Roll Call Ordered)

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

Representative **VOLENIK**: Mr. Speaker, Men and Women of the House. Eight years ago Maine had 115,000 uninsured without any health care coverage and tens of thousands of underinsured with inadequate high deductible policies that fail to cover basic health care needs. It was a crisis. The Legislature authorized a study. The Health Care Reform Commission was charged with developing three plans to get us quickly to universal health care coverage. They came up with three plans, a single-payor, a multi-payer and an incremental plan. They recommended and the Legislature adopted the incremental plan. It didn't work. By last year the numbers of uninsured has risen nearly 50 percent to at least 160,000 in the State of Maine. Last year with the sell out of Blue Cross and Blue Shield and the retreat of many insurers from the state, the crisis reached epidemic levels. The Executive's Blue Ribbon Commission on Health Care's advice was essentially to tie a yellow ribbon around the State House Calling for the release of our citizen hostages by the industry, but calling upon the federal government to do it, to establish a national financing system for health care strongly endorsed by three of the five members. However, they ignored research from other states showing that state run single-payor systems can cover everyone at a lower total cost than the current system, which leaves 13 to 15 percent uninsured. They ignored the political reality that Congress is a wash in health insurance lobbyists and their allies and their money to pass anything meaningful in the near future. Daily, that lobbying power increases as the dollar flow increases.

It is up to the states to act first. Numerous states are considering legislation like LD 1277. The first state to pass a single-payor system will not be the economic pariah that the industry would like you to believe. Rather, the first state to pass legislation will be the beacon that the rest of the states will follow. Just as the province of Saskatchewan went out on a limb to pass universal health care and the rest of Canada followed so we can continue the tradition of, as Maine goes, so goes the nation.

Today the crisis continues. Many of us who technically have insurance failed to receive regular or preventive care because our deductibles may range upwards of $5,000 annually. Businesses and individuals increasingly are reducing or dropping coverage entirely. With double-digit premium inflations sometimes approaching 50 percent annually businesses are dropping coverage, reducing coverage or shifting the cost of that coverage onto their employees. The insurance segment of our combination public/private health care system may collapse in the next few years, perhaps even before this legislation can be implemented. We must act fast. All of us pay for health care in our federal, state and local taxes, yet only one-third of us receive health care from those taxes in the form of Medicaid, Medicare or other government benefits. Our public health care, Medicaid, Medicare, etc. pays for the sickest. Our private health insurance system cherry picks the healthiest of us to maximize profits.

A better system would be that we all contribute to health care and we all receive health care as necessary. This is the type of system with numerous variations that the people of most of the western industrialized countries have adopted. The US spends 14 percent of gross domestic products on health care, yet fails to cover 15 percent of its population. Eighteen western nations spend only 6 to 12 percent of GDP on health care. It provides coverage for all of their people. They pay only an average of $200 per person annually on administration and overhead, compared with our $1,000 per person and have lower infant mortality rates, higher life expectancies, better doctor/patient ratios and hospital bed patient ratios than we do.

Britain spends only $1,200 per person annually on health care while we spend over $4,000. These other countries rank much higher than we do in the latest world health organization's report. For instance, France ranks number one, followed by other Mediterranean countries. The US ranks 37th, just behind the giant of Costa Rica and just ahead of those giants of health care, Slovenia and Cuba. The US and Maine polls consistently show the state of health care to be the public's number one concern, above education, jobs and taxes and indicate that anywhere from 60 to 80 percent favor universal health care.

LD 1277 establishes health care coverage for all Maine citizens that is at least as inclusive of benefits as current Medicaid coverage, but with fairer provider reimbursement rates than Medicaid. It covers all medically necessary services that emphasizes quality, cost containment, choice of provider and access to comprehensive, preventive and long-term care to maintain health. It establishes a health security board. It includes members appointed by the Executive and Legislature who represent the Executive, the Legislature, providers, advocacy groups, the public and business. The board, as a separate agency of state government, will conduct public hearings regarding resource allocations and revenues and services. It will adopt rules to implement the plan. It will negotiate reimbursement rates with providers. It will administer revenues of the plan. It will employ staff. It will develop plans and funding for training and assistance for those workers in the health care sector who are displaced by moving to a single-payor system.

Remember, this system will simplify reporting, reduce paperwork and will mean that reduced staff in hospitals, laboratories and doctor's offices will no longer spend their time filling out forms or fighting on the phone for insurance company authorization and reimbursement. Annual administrative costs may not exceed 5 percent of annual budget, compared with 25 to 30 percent that of current insurance administrative costs.

Funding from this plan will come from the following sources. We will fold in Medicare, Medicaid and other federal or state program funds. Congressman John Baldacci is cosponsoring federal pilot project legislation that will encourage up to 10 states to establish universal health care systems with up to $18 million each in grant money. It will include a waiver of federal program funds, such as Medicaid and Medicare and a waiver of ERISA laws that will speed up the process. Second, it will use a combination of personal and corporate income tax increase, sales tax rate increases and/or exemption repeals, payroll taxes dedicated to the plan or any other tax proposed by the board or the Legislature. The exact form that this will take will be determined by a feasibility study of the economic impact, both to individuals and to businesses of various payment options. For instance, the feasibility study in Maryland analyzing a proposed single-payor system concluded that all citizens, including 760,000 uninsured Marylanders could be covered by such a system and still save the state $345 million a year. In other words, any increase in taxes would be more than offset by a corresponding decrease in health care costs. Those families earning less than $100,000 would see lower total costs while

increased costs would only occur to those earning over $150,000.

Similar Massachusetts studies found that covering everyone would save between $170 million and $1 billion annually. Once implemented, employers will no longer need to provide health insurance for their employees, freeing up nearly $1 billion to pour back into the engine of economic development in Maine. The self-employed will no longer be faced with a choice of $12,000 a year policies or no coverage. Modest tax increases will be balanced by the elimination of onerous insurance premiums.

The City Council of Biddeford on March 20 of this year passed a resolution calling upon the Maine Legislature to establish a single-payor public health care system. The cry is getting louder every day. The media is listening. Please help us pass this bill this year. Thank you.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the pending motion. I ask the House to seriously consider what it is that they are contemplating doing. This would be the largest tax increase ever proposed in the State of Maine. You have before you a bill that is estimated conservatively at $6.8 billion, not million, billion. To put that into perspective, the entire State of Maine's budget is a little over $5.2 billion. That means that in order to fund this program, we would have to double every tax and fee in the State of Maine and when we are done and that we are still $1.6 billion short.

What is really being proposed here under a single-payor system is not a novel idea in the least. In fact, we currently have two single-payor systems available to Maine residents. Those single-payor systems are Medicare and Medicaid. The thing to remember about socialized medicine and the problems we have with socialized medicine under our existing single-payor systems in Maine is, in fact, they don't pay their own way. Right now, under the existing Medicaid regulations, as I am sure you are aware, providers in your district, they are not getting paid adequately for the services that they are rendering. One only has to look at nursing homes to realize how underpaid Medicaid funds them, as well as several outpatient doctor's offices.

The same with the Medicare System, another single-payor system. Medicare drastically under covers residents that many of them have to go and get supplemental insurance, Medigap insurance policies, in order to make sure that they are covered for things. When all is said and done with the single-payor system what they have actually done is they have raised the cost of health care for all the rest of us. They have really been a disaster. Medicare and Medicaid, they don't pay their way. They haven't paid their way. When a service perhaps cost about $125, Medicaid will reimburse it at $95. Who picks up the balance of it? Currently, who picks up the balance for it is everybody who has private insurance or anybody that pays out of their pocket. They are the ones that are funding it right now. One of the reasons why health care visits are so expensive is because Medicare and Medicaid government run socialized programs don't pay their own way. This is what single-payor has gotten us so far. This would be the most drastic mistake that I think we could ever make.

I urge my colleagues to not accept the recommendations of my committee, Banking and Insurance. We know not what we do. Asking you to spend $6.8 billion, double everybody's taxes and still keep going back for more. If you think that is ridiculous, join with me in opposing this. Lastly, think about the cost shifting that is going to take place if such a drastic and radical program was ever implemented. If we divide up the $3.4 billion a year, by person, for every man, woman and child in Maine, that costs about $2,833 a person. That means that a family of four, it is going to cost them $11,332 in taxes. Currently that same system, just in HMO group family plan costs about $9,000 a year. The cost shifting is going to be on the backs of the families of the good people of Maine. Join with me in rejecting this horrible notion.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. I have tried to always be under three minutes and this time I can't promise that. The $6.8 billion figure that was thrown around drives me insane because in the end when we take care of the paperwork and who really gets paid, we can deliver health care for everyone in the State of Maine at an affordable price. I have my testimony that I gave before the committee and there will be a test after this. There are statistics and numbers and Representative Volenik did a great job giving you a lot of facts. I am not sure I want to read my facts or if I just want to tell you how I feel about this.

Just last week I was channel surfing and heard that a man stole something because he didn't have health care. He was diagnosed with cancer and he stole something so that he could go to jail so that he could have health care. I couldn't believe my ears. I was just surfing and I stopped and there it was on the news. He was someone that had to go to that degree in order to get health care in this, the richest country in the world. Our health system is broken. Forty-two million Americans are uninsured and millions more are at risk of losing their health care, you and I. Don't think it can't happen. Don't think it can't happen to you. My husband, 55 years old, diagnosed with colon cancer and dead in a year, no more health insurance. Even with the best health insurance, I am still paying the cost of his cancer treatments. Don't think it can't happen to you.

There are 165,000 Mainers who have no insurance. The recent World Health Organization report ranked that US health system 37th in the world based on what experts estimate could be accomplished with the resources available in the country and only 55th in fairness. The current health care system is unjust. Children, African Americans, Hispanics and people with disabilities are disproportionately uninsured. Three out of five seniors do not have prescription drug coverage necessary for basic health and wellness. Patients that are injured by HMO bureaucrats who delay or deny care have little recourse. A single-payor system would save on bureaucracy and investor profits making more funds available for care. Private insurers take on average 13 percent of premium dollars for overhead and profit. Overhead profits are even higher, about 30 percent, in big managed care plans like US Health Care. In contrast, overhead consumes less than 2 percent of funds in the fee for service Medicare Program and less than 1 percent in Canada's program. Blue Cross of Massachusetts, which is now Anthem and our health care, employs more people to administer coverage for about 2.5 million New Englanders than are employed in all of Canada to administer single-payor coverage for 27 million Canadians.

In Massachusetts hospitals spend 25.5 percent of their revenues on billing and administration. The average Canadian hospital spends less than half as much because the single-payor system obviates the need to determine patient eligibility for services, obtain prior approval, attribute costs and charges to individual patients and battle with insurers over care and payment. If today's policymakers had their way, they say they would spend a bit more on Medicaid for the very poor and expanded health insurance for children, not quite poor enough to qualify. This would still leave a huge health gap. The current children's health insurance program reaches only about one-third

of the 9 million children already eligible for an administrative problem that won't be corrected merely by putting more money into the program. Anything less than universal health access leaves out too many families.

Harry and Louise lied. You can choose your doctor under national health insurance if HMOs don't let you go to the doctor of your choice. Of course, we did rectify that. When I went campaigning door-to-door, I sit with my seniors and they talk to me about their problems. People who are 70 years old should be retired who have to go back to work because they don't have health care. I can put names to those faces. This isn't some statistic I am reading off the internet. These are the people I represent and this could be me. We all deserve the right to good health care, not just for those who can afford it, but for all.

You know, we pledge allegiance to the flag everyday in this body and for six years on the Biddeford City Council I used to do the same thing. I would pledge allegiance to the flag and at the end, I let you all say it and then I say for all. That for all means for everyone in this state. I take that very seriously because I am here to represent everyone. I have waited a long time for this day and I admire Representative Volenik's fortitude because when I came here as a freshman and we would say single-payor, there was always laughter. For the first time in the Banking and Insurance Committee, I never saw a room so filled with people, rich, poor and uninsured and business people. Business people are now jumping on board saying that small businesses can't afford insurance for their employees. We are visionaries. The time will come when this will be the way. It might not be today. It might not be tomorrow, but let us send a message today. I don't know where it is going to go after the House, but let the House send a message that we believe everyone is entitled to health care. Thank you.

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

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. The good Representative from South Portland put some big dollars to this bill, $6.8 billion. I guess that is $3.4 billion a year. May I pose a question? Currently in the State of Maine does anyone know what the amount of money spent on health care while still excluding $165,000 Mainers from health care coverages?

The SPEAKER PRO TEM: The Representative from Gardiner, Representative Colwell has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Brooklin, Representative Volenik.

Representative **VOLENIK**: Mr. Speaker, Men and Women of the House. I would be happy to answer that question. A lot of figures have been flying fast and furious lately. Current expenditures are $4.7 billion annually in the state. Of that, $400 million is insurance company overhead and administrative costs, leaving the actual cost of health care in the state at $4.5 billion. Approximately $2.3 billion of that money comes from either the federal government in the form of Medicare, Medicare, Champus, VA payments and from the state government in the form of retirement money, health insurance for employees of local governments, county and municipalities and other minor government entities. That leaves approximately $2 billion of that, slightly over $1 billion is private pay and slightly under $1 billion is insurance company payouts. The insurance companies take in approximately $1.3 billion and they pay out approximately $900 million in benefits keeping the rest for whatever purposes. That is the real dollar figure.

In fact, because we can fold in all of this federal, state and other money, the actual cost to the people of Maine under a system like this would be approximately $2 billion initially with some reductions when the cost of health care goes down because of a reduction in hospital staff, doctor's office staff when they no longer need as many clerks to deal with the insurance company denials. The cost of health care, while initially will probably be about $2 billion per year, it should go down within a few years or for a few years before inflation begins to kick in again and, of course, it will go up at that point. That $2 billion works out to approximately $1,600 per person in this state that would have to be raised through some forms of taxation, including, should we choose to, sales tax as a partial payment, which could bring in, certainly, dollars from out-of-state from our tourist friends. There is also a good likelihood that as this system develops and as other systems develop around the country, the federal government will begin to funnel more of its funds down to the state level that can be used by single-payor systems.

I would hope that we can begin to tap into some matching federal funds by showing that we are expending a large sum of money ourselves. While it looks like a large figure, it could turn out to be much less than anyone thinks. It is certainly more affordable than the system we have now if you are not a part of that system. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Frenchville, Representative Paradis.

Representative **PARADIS**: Mr. Speaker, Ladies and Gentlemen of the House. I applaud and really congratulate my good friends, Representative Volenik and Representative Twomey for their courage, persistence and knowledge, their work in this matter. I am proud to have joined with them on this effort to get a single-payor universal health care system. For someone who has a whole country as a backyard, it is easy for me to compare. What I see really does not make me very proud. The system of health care in Maine, to put it mildly, and in the country is an utter disgrace. I have taken an informal poll over the years with my Canadian friends, simple question, would you trade your health care plan with mine? There are hundreds, folks, I have yet to get a yes answer. Their system has been much maligned in this country by Harry and Louise and by people on the other side. The facts do not bear this out. Canada, last year, was rated as the number one country for quality of life. One of the big reasons for that is their health care system.

We have traveled extensively, my wife and I, to Europe. I have seen the health care plan in France. I have talked to people in France extensively. One day Judy and I were walking on the boardwalk and met two retired teachers from there. We compared plans. I was not very proud to be part of a health care system such as ours.

Maine can lead the way in this matter as it does with the Maine RX Program. This can be a very proud day. Finally there is a possibility that one chamber will actually pass this. I would encourage you to join us and to send a very loud message. As has been mentioned to, the big outlay, it is not as big as the opposite side suggests, that will pay off eventually in big savings all around and cover everybody. In 1994, the Clinton's were right in what they were proposing. If we had done it then, nationally, we would be sitting pretty right now and I could maybe get a yes answer from some of my Canadian friends. Maybe we would have improved on their good plan. Thank you.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. In answer to the good Representative from Gardiner, Representative Colwell's question concerning the fiscal note on this. The $6.8 billion fiscal note for the two years, that figure of $3.4 billion a year for a two year cycle, totaling $6.8 billion, that figure was derived at by our non-partisan office. That

is not my figure at all. That is a figure derived at by the folks that put cost estimates on these bills. With regard to that, I believe that this fiscal note actually is quite conservative to the point of extremely risky on the part of the state to pursue because if Maine, in fact, if the leader in this so-called single-payor health care system and we go it alone, we might as well put a plaque card out down on our border at Kittery saying give us your terminally ill, give us your sick and we will become the landing spot for the nation for terminally ill people that would like to have free health care.

If you take a look at the writings of the bill, the detail, again the devil is in the detail, you will notice that the residency requirements look remarkably like the residency requirements to register to vote. You can just move here, declare residency, and you get free health care on the good people of the State of Maine. I am terrified that this could very well could collapse our entire economy in the State of Maine if, in fact, everyone begins to move here that is in search of free health care particularly those with expensive terminally ill illnesses. Where are the rest of us going to be? Where are our constituents going to be? I have constituents now that can't pay these taxes. This bill proposes more than doubling them and then advertising to give us the most expensive health care problems in the State of Maine and we will do it for free. Can you imagine people getting post office boxes and declaring residency here for six months and a day to get free health care? It is quite a fiscal note. Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bristol, Representative Hall.

Representative **HALL**: Mr. Speaker, Ladies and Gentlemen of the House. First let me make a declaration of interest. My 84-year-old father is kept alive today in Britain with a rare form of leukemia for free by the National Health Service as he has been for some seven years now at a cost of several hundreds of thousands of dollars. I am not rising today, Mr. Speaker, to appeal to your emotions. I am trying to appeal to your reason and to your pocketbook. This is a pro-business bill. It is a pro-business bill because in the United States we pay a little over 14 percent of our gross domestic product on health care and all related services. That compares with 6 percent of gross domestics in Japan, with an average of 7 percent of gross domestic product in the European Union and a little over 8 percent of gross domestic products in Canada. That differential, that average of 7 percent, is a tax that every one of us pays and that the United States pays as a penalty in global competitiveness. What do we get for that extra 7 percent tax that we pay on everything that we make and consume? Where does it go? It goes, ladies and gentlemen, on duplicate billing and payment systems. It goes on hospital and provider bureaucracy. It goes on charity care and unpaid bills. It goes on unnecessary and duplicate tests and on malpractice premiums and malpractice payments. It goes on outrageous pharmaceutical costs.

A single-payor system in Maine is expected to save between 2 and 3 percent of gross domestic product as it has in Hawaii, the other state with a single-payor system. For Maine, that would amount over time to per family savings of around $2,000. Mr. Speaker, I said this was a business bill and I hope the business people understand those numbers. Let me drive home the point a little more. Business opinion has moved a great deal in the eight years since the disaster of Hilary Clinton's health plan. I know that from my clients, my constituents and from such pillars of orthodoxy as the *Wall Street Journal* and the *Financial Times*. You know that when you hear the General Motors announcing that it is moving jobs from Michigan and Ohio to Ontario because it doesn't have to pay high health care benefit costs in Canada. You know that when you talk to small businesses in Maine that either finally cannot hire people if they don't offer expensive health plans or that they cannot compete if they do offer them. They are damned it they do and damned if they don't.

This is one business bill, Mr. Speaker, where one industry, the health insurance industry, will take a big hit. The rest of us will all gain and we will be doing well by doing right. I urge you to accept the Majority Report.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. We have the best health care in the world right here in the United States. We have the best access to health care. Yes, we have some problems with costs. Let me tell you that I have a 79-year-old father who if we were in Canada, would not be alive today because when he was diagnosed with cancer in his kidneys, which needed to be operated on immediately, would have been on a waiting list as everyone is in Canada and would have died before the operation could happen.

I have hotels filled with Canadian citizens that flock down to Lewiston to Central Maine Medical Center, probably all the other hospitals, because their system isn't working. You can't find a physician, a doctor, in their 30s in Canada. I have spoken with legislators from Quebec from their parliament and from their Canadian Parliament. They are not there. They leave and come here so they can make money. Speaking about moving, people flocking to the state, maybe they will, but I can tell you that people sure are going to flock out of the state with this huge cost, $3.4 billion a year. That is $3,000 for every man, woman and child. Can you imagine a family of four paying $1,000 a month for health insurance? This is a bad plan. If an insurance company tried to charge that much, we would throw them out.

To give you an idea of how rationed service works, there are more MRI machines in the City of Philadelphia than there are in the entire country of Canada. That is what this type of system does. We have seen it. We see teacher shortages because we underpay our teachers and they are frustrated. We are going to start underpaying our doctors. Where are we going to cut? Once everybody is paying these huge taxes for health insurance, they are going to get frustrated as taxpayers and we are going to have to cut somewhere. Are we going to cut what we pay doctors? They have malpractice insurance to deal with. They have huge costs to become doctors to deal with. That is the only way to cut when people start to get frustrated or we can do what France did. France in their brilliant strategy, which has somehow now become number one, in the late '80s decided we needed to save a little money, we are no longer going to screen our blood for AIDS. Thousands of cases were reported in the early '90s of people who had transfusions in France had AIDS because some government bureaucrat said that we can save a little bit of money here. Is that where we want this to go? Is that the model we want to follow? I don't think so. It is not the model I want to follow.

Long before I saw this fiscal note, I sent this poll out to people in my district in Lewiston who aren't known for being the most conservative people in the state and they overwhelmingly, 63 to 27 percent, said no. They don't want this plan. Thank you.

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

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

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

Representative **BOUFFARD**: Mr. Speaker, Ladies and Gentlemen of the House. To my good friend, Representative Mendros, I would like to ask, who is it that pays for the Canadian care that CMMC administers to the Canadian people? Is it the Province of Canada or is it the US insurance industry?

The SPEAKER PRO TEM: The Representative from Lewiston, Representative Bouffard has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Lewiston, Representative Mendros.

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I am assuming it is the Canadian government that pays for the care here because our system is more efficient than their system and they feel it is more equitable to send someone to an American hospital, under American rules, because we know how to do things more efficiently than they do.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hampden, Representative Duprey.

Representative **DUPREY**: Mr. Speaker, Men and Women of the House. I will be real quick on this. Since I am one of the few people that essentially is part of a universal health care plan, since I am a disabled veteran, I get to go to our nice facility at Togus, which is rationed health care, universal health care. I have been waiting a year now to get an operation in my ear so I don't have to wear hearing aides. Since they pay doctors so poorly there, which is what rationed health care does, they can't maintain a staff there, which means guys like me have to wait. Guys that we were talking about the other night, we got emotional on our veteran's debate about how we need to fight for veterans. We get the bottom of the barrel health care because we get rationed health care.

I also lived in England for two years. They pay $6 a gallon for gas for their health care system. When I lived there I never heard anybody say anything good about their rationed health care system. Six point eight billion dollars, there is no way I am going to vote for something that doubles Maine taxpayer's taxes. Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Frenchville, Representative Paradis.

Representative **PARADIS**: Mr. Speaker, Ladies and Gentlemen of the House. I thank my good friend, Representative Bouffard, for directing one of the distortions from the other side. I would like to correct another one too. The hospitals in Canada are not sub-par. I know of what I speak about across the river in Edmonton we have a very good modern hospital with excellent doctors who are not underpaid. In fact, many of our American kidney patients used the excellent dialysis system in Edmonton until one opened in Presque Isle. Many Americans still do. In Edmonton it is closer. Another distortion that needs to be corrected is the snow birds, the Canadians, that spend the winter in Florida are well covered by their insurance plan, which pays for everything that they might need down there as Canadians that come to Lewiston or Waterville, whichever American hospital they come to. Don't buy into all the distortions. Vote green on this one. Thank you.

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

Representative **O'NEIL**: Mr. Speaker, Comrades of the House. I think, Mr. Speaker, that Mainers have always been recognized as knowing a bargain when they see when. If you add up the $6.8 billion, that leaves over a billion dollars a year above and beyond what we spend now. I think that we thrifty Mainers can recognize that. Having sat through the public hearings on this now for the third session in a row, I have seen the shift of single-payor health care as a radical idea to a more main stream one. When we engage people on the concepts of it, I think we find that it is one that people are embracing more and more. It expands the spectrum of whomever it is we talk to, including, as the Representative from Bristol mentioned, even people who are in business.

The employer-based system really began in the 1930s in the depression when a group of laborers wanted better pay. They were unable to negotiate it, but they did negotiate this thing that they didn't even call insurance at the time. It was health care benefits and it took hold. It became part of mainstream American and, frankly, if you talk to employers now a day, they feel saddled by it. They feel an obligation to provide health care for their employers, but they can't stand the increases, administrative costs and the general headaches that they get and they feel trapped by it. I have talked to many in business who would love to be freed of this.

The bottom line is this, Mr. Speaker, we in America and in most other countries tend to collectivize on those things, which are important to us. We do it with education. We try to take away a special education from a child with developmental problems and you will see an outcry in a hurry. We are entitled to a free and fair education and I don't think many people would argue with the rightness of that, nor with the effectiveness of it. We do so with infrastructure, things like transportation, roads, bridges and so forth, utilities. Their economies have scaled to be had. The Representative from Brooklin laid them out quite clearly.

The bottom line is we are in this situation now and the members of the Banking and Insurance Committee can concur with me whether they are on this side of the report or the other. The market, we have discussed it on several different occasions this session, the market is frail. It is in a precarious situation where we are one carrier away in the small group market from a real crisis, not unlike the one we had in the early '90s in the workers' comp market. When that happens, I said when, not if, we need to be prepared to deal with it. We can nibble around the edges, ameliorate this or that and try to save somebody a tenth of a percent off their private pay insurance or we can do it comprehensively and take on the problem. As we all know, we are all paying for it.

An anecdote that I heard, I talked to a hospital administrator at Mass General, a leading teaching hospital in the country. He was talking with his counter-part at Toronto General, again, I am not saying that we are strictly trying to follow Canada's principles because Canada is one of many models, which can be followed. Toronto General is a similar hospital to Mass General in size, scope and teaching. The administer at Mass General counted 400 administrators in billing and coding while the Toronto General had four.

As to the notion that all the sick people from New Hampshire will be lined up at the bridge, Mr. Speaker, we might get a little bit of that. Think of all the healthy people that will come too. Think of the economic development. Think of the businesses that see health care costs as an impediment to setting up shop. While the occasional sick person may show, I submit that more healthy folks will. Lastly, Mr. Speaker, when we talk about rationing, I personally believe that whether we are in a public system or a private system, rationing needs to occur. Managed care needs to occur. Personal responsibility needs to be part of the process. People can't smoke and drink their lives away. People have to go get their immunizations and their checkups and have their screenings done. That will have to happen no matter what the system.

The fact of the matter is that sure there is rationing in the public systems that we know of and as we all know, we are the only one of the 30 major industrialized countries that don't have a

public system. We have our own form of rationing. It is called managed care. To talk to the constituents that call me and have for several years, that rationing is particularly onerous. Whether we are moving anybody on this debate or not, it tends to fall along ideological and philosophical lines. I think we ought to come to the realization that something needs to be done. We can start tonight by making a very loud statement. Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Farmington, Representative Gooley.

Representative **GOOLEY**: Mr. Speaker, Men and Women of the House. I have sat here listening to this very excellent debate and I would just like to say that two weeks ago I think we saw or heard about tax freedom day and we heard that Maine is the highest taxed state in the union right now and right next door is New Hampshire with the lowest taxed state. Representative Volenik did mention that maybe it wasn't quite $6.8 billion or $3.4 billion a year, but maybe the net would be about $2 billion. I guess I am sitting here wondering, where is that going to come from? Is that going to come from sales tax, individual income tax or corporate income tax?

I run a business actually and it is not a big business, but it is a business and I am currently paying about 40 cents on a dollar in taxes. I kind of feel that that is quite high enough for what I go through to make a living. Representative Volenik seems to suggest that incoming tourists could help us out by increasing our sales tax and of course we have a lot of tourists in the state each year. Let's say that the sales tax went to 10 cents and the balance was spread out amongst the individual income tax and the corporate income tax and whatever other taxes we might want to increase, how many people would consider maybe going to New Hampshire for their recreation rather than coming to Maine. Thank you.

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. I have a concern. I think we also need to reflect back because history does show us a similar pattern and I think maybe we need to correct a couple of things that have been said on the floor. The first is a real concern that my good friend, Representative Paradis, being at a romantic French beach, with the beautiful former Senator from Aroostook and he is talking about health care plans. Two, in the 1980s on history repeating itself, I , and other members of this body were here when we saw the same thing happening to the workers' compensation program. Every effort to reform and reduce the costs of that system were defeated and mandate after mandate was placed on. We had reached the point where we were down to one insurer. Those of us who were in this chamber felt that there was a goal, there was an end game and that would be for the system to collapse. Members on the floor would actually say that when this system collapses, with additional little pushes from us, then all will be solved by a state run workers' comp plan. I saw that for eight years. It almost came true. At one point we had two insurers and then one was told to get out and they did. They moved across to New Hampshire, Liberty Mutual. They understood the climate that existed here. There was a crisis and the reforms were made and we now see a vigorous workers' comp market. We actually witnessed in four to five years a major decrease in the cost of that program.

Reference was made to Hawaii, that we need to immolate Hawaii. Things went well in Hawaii for a while with the highest minimum wage, the most liberal workers' compensation program and single-payor insurance. If you haven't followed up on what happened in the republic of Hawaii, there is trouble in paradise because the state economy is collapsed. For the first time since World War II, more people are leaving Hawaii than moving here. Basically what remains is the tourism industry. Does that sound familiar? There is trouble in paradise with the only state that has moved in that direction. Everyone in this chamber, whether you are urban or rural, Democrat or Republican or Independent, agrees that heath care costs are too high. We know that speaking with our constituents, but the question that you have to ask yourself is what have you done in this session to reduce health care insurance costs? All reforms have been defeated and we have piled on more mandate after mandate driving up the costs. It is like a flashback to the 1980s. Drive the system's costs up. Drive the insurers out. Pile on the mandates and then there is no other alternative other, but to go to a state-run program.

Our other problems got resolved by a crisis. I don't know what other crisis is going to step into this vacuum and resolve this, but someone said we need to follow Hawaii's example. The tourists are on the boat going to Hawaii, but the working people of Hawaii are on the return voyage. Thank you.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

ROLL CALL NO. 219

YEA - Ash, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Bryant, Bull, Bunker, Canavan, Chizmar, Clark, Colwell, Cote, Cowger, Cummings, Desmond, Dudley, Dugay, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hall, Hatch, Hutton, Jacobs, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Marrache, McDonough, McGlocklin, McGowan, McKee, McLaughlin, Michaud, Muse C, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Perkins, Perry, Pineau, Povich, Quint, Richard, Richardson, Rines, Savage, Simpson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tracy, Twomey, Usher, Volenik, Watson, Wheeler GJ, Mr. Speaker.

NAY - Andrews, Annis, Belanger, Berry DP, Bowles, Bruno, Buck, Bumps, Carr, Chase, Chick, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, Lovett, MacDougall, Madore, Mayo, McKenney, McNeil, Mendros, Morrison, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Pinkham, Rosen, Schneider, Sherman, Shields, Snowe-Mello, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor, Young.

ABSENT - Bagley, Baker, Brooks, Dorr, Goodwin, Hawes, Landry, Matthews, Michael, Mitchell, Muse K, Stedman, Tuttle.

Yes, 80; No, 58; Absent, 13; Excused, 0.

80 having voted in the affirmative and 58 voted in the negative, with 13 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE. Committee Amendment "A" (H-514)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** later in today's session.

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

CONSENT CALENDAR
First Day

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

(H.P. 407) (L.D. 528) Bill "An Act to Amend the Beano and Games of Chance Laws" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-526)**

(H.P. 798) (L.D. 1042) Bill "An Act to Amend the Election Laws" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-527)**

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

There being no objection, the House Papers were **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-528)** on Bill "An Act to Amend Eminent Domain Powers"

(H.P. 99) (L.D. 103)

Signed:
Senator:
YOUNGBLOOD of Penobscot
Representatives:
BAGLEY of Machias
McDONOUGH of Portland
HATCH of Skowhegan
LESSARD of Topsham
McLAUGHLIN of Cape Elizabeth
KASPRZAK of Newport
MURPHY of Berwick
CRESSEY of Baldwin
CHASE of Levant
HASKELL of Milford

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

Signed:
Senator:
ROTUNDO of Androscoggin

READ.

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

The Bill was **READ ONCE. Committee Amendment "A" (H-528)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-528)** and sent for concurrence.

Divided Report

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought Not to Pass** on Bill "An Act to Regulate Clear-cutting"

(H.P. 1090) (L.D. 1459)

Signed:
Senators:
KNEELAND of Aroostook
NUTTING of Androscoggin
KILKELLY of Lincoln
Representatives:
McKEE of Wayne
LANDRY of Patten
LUNDEEN of Mars Hill
PINEAU of Jay
GOOLEY of Farmington
FOSTER of Gray
CARR of Lincoln
JODREY of Bethel

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-530)** on same Bill.

Signed:
Representatives:
HAWES of Standish
VOLENIK of Brooklin

READ.

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

CONSENT CALENDAR
First Day

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

(S.P. 525) (L.D. 1648) Bill "An Act to Expand Higher Educational Opportunities in Underserved Rural Areas" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-224)**

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

There being no objection, the Senate Paper was **PASSED TO BE ENGROSSED as Amended** in concurrence. **ORDERED SENT FORTHWITH.**

(S.P. 348) (L.D. 1162) Bill "An Act to Ensure Telecommunications Protections for Deaf and Hard-of-hearing People" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-227)**

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

The Committee Report was **READ**.

On further motion of the same Representative, **TABLED** pending **ACCEPTANCE** of the Committee Report and later today assigned.

(S.P. 448) (L.D. 1502) Bill "An Act Regarding Contracts for Energy Conservation and Air Quality Improvements in School Buildings" (EMERGENCY) Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-225)**

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

The Committee Report was **READ**.

On further motion of the same Representative, **TABLED** pending **ACCEPTANCE** of the Committee Report and later today assigned.

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought Not to Pass** on Resolve, to Encourage Entrepreneurship Education and Outreach (S.P. 205) (L.D. 770)

Signed:
Senators:
MITCHELL of Penobscot
NUTTING of Androscoggin
ROTUNDO of Androscoggin
Representatives:
RICHARD of Madison
DESMOND of Mapleton
WATSON of Farmingdale
ESTES of Kittery
CUMMINGS of Portland
ANDREWS of York
WESTON of Montville
LEDWIN of Holden

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

Signed:
Representative:
STEDMAN of Hartland

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

READ.

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

Divided Report

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-222)** on Bill "An Act to Promote Outcome-based Forest Policy" (EMERGENCY) (S.P. 544) (L.D. 1690)

Signed:
Senators:
KNEELAND of Aroostook
NUTTING of Androscoggin
KILKELLY of Lincoln
Representatives:
McKEE of Wayne
LANDRY of Patten
LUNDEEN of Mars Hill
PINEAU of Jay
GOOLEY of Farmington
FOSTER of Gray
CARR of Lincoln
JODREY of Bethel

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-223)** on same Bill.

Signed:
Representatives:
VOLENIK of Brooklin
HAWES of Standish

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-222)**.

READ.

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

The Bill was **READ ONCE. Committee Amendment "A" (S-222)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-222)** in concurrence.

SENATE PAPERS
Non-Concurrent Matter

An Act Regarding the Laws Governing the Department of Defense, Veterans and Emergency Management and the Commission to Recognize Veterans of the Vietnam War in the State House Hall of Flags (EMERGENCY) (H.P. 1351) (L.D. 1808)

PASSED TO BE ENACTED in the House on May 18, 2001.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-215)** in **NON-CONCURRENCE.**

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

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

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Bill "An Act to Provide for a Smoking Cessation Program for Pregnant Women" (S.P. 577) (L.D. 1755)

Signed:
Senators:
LONGLEY of Waldo
TURNER of Cumberland
Representatives:
FULLER of Manchester
BROOKS of Winterport
DUDLEY of Portland
LAVERRIERE-BOUCHER of Biddeford
DUGAY of Cherryfield
KANE of Saco
SHIELDS of Auburn
NUTTING of Oakland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-221)** on same Bill.

Signed:
Senator:
MARTIN of Aroostook
Representatives:
O'BRIEN of Augusta

LOVETT of Scarborough

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

READ.

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

Divided Report

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-228)** on Bill "An Act to Establish a Lottery Game to Improve Purses for Maine Harness Racing and to Enhance Penalties for Use of Illegal Gambling Machines"

(S.P. 480) (L.D. 1544)

Signed:

Senators:

WOODCOCK of Franklin

BROMLEY of Cumberland

DOUGLASS of Androscoggin

Representatives:

CHIZMAR of Lisbon

COTE of Lewiston

ESTES of Kittery

TUTTLE of Sanford

O'BRIEN of Lewiston

HEIDRICH of Oxford

DUNCAN of Presque Isle

MAYO of Bath

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

Signed:

Representatives:

LABRECQUE of Gorham

PATRICK of Rumford

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-228)**.

READ.

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

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

ENACTORS

Emergency Measure

An Act to Facilitate Implementation of Court Alcohol and Drug Treatment Programs

(H.P. 333) (L.D. 423)

(C. "A" H-500)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 125 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Support the Medical Ride Volunteer Service

(S.P. 462) (L.D. 1515)

(C. "A" S-213)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 121 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Resolves

Resolve, to Increase Access and Support Student Success at Maine's Technical Colleges

(S.P. 132) (L.D. 456)

(C. "A" S-211)

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

Acts

An Act to Expand Benefits Under the Elderly Low-cost Drug Program

(H.P. 742) (L.D. 961)

(C. "A" H-492)

An Act to Protect Children and Incapacitated or Dependent Adults

(H.P. 811) (L.D. 1066)

(C. "A" H-498)

An Act to Adopt a New Interstate Compact Regarding Adults Who are on Probation or Parole

(H.P. 827) (L.D. 1081)

(C. "A" H-162; H. "A" H-482)

An Act to Enhance Economic Development Capacity

(S.P. 337) (L.D. 1144)

(C. "A" S-212)

An Act to Amend the Laws Governing Registers of Deeds

(H.P. 991) (L.D. 1328)

(S. "A" S-214 to C. "A" H-252)

An Act to Encourage Joint Child Rearing Between Divorced Parents

(H.P. 1048) (L.D. 1405)

(C. "A" H-499)

An Act to Prohibit the Misbranding of Genetically Engineered Food

(S.P. 569) (L.D. 1733)

(C. "A" S-201)

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

An Act to Protect Highway Travelers and Maine's Highway System by Increasing Fines on Excessively Loaded Trucks

(S.P. 431) (L.D. 1411)

(C. "A" S-184)

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

On motion of Representative KASPRZAK of Newport, was **SET ASIDE**.

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

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

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

ROLL CALL NO. 220

YEA - Blanchette, Bliss, Bouffard, Bowles, Brannigan, Bruno, Bull, Bunker, Canavan, Chizmar, Collins, Colwell, Cote, Cowger, Cummings, Daigle, Davis, Desmond, Dudley, Dugay, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gerzofsky, Green, Hall, Hutton, Kane, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Mailhot, Marley, McDonough, McGowan, McKee, McKenney, McNeil, Michaud, Mitchell, Murphy T, Muse C, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Peavey, Perry, Povich, Quint, Richard, Richardson, Rines, Savage, Simpson, Skoglund, Smith, Sullivan, Tarazewich, Thomas, Tobin D, Twomey, Usher, Volenik, Watson, Wheeler EM, Wheeler GJ, Young, Mr. Speaker.

NAY - Andrews, Annis, Ash, Belanger, Berry DP, Bryant, Buck, Bumps, Carr, Chase, Chick, Clough, Crabtree, Cressey, Duncan, Duprey, Foster, Gagne, Glynn, Gooley, Haskell, Hatch, Heidrich, Honey, Jacobs, Jodrey, Jones, Kasprzak, Ledwin, Lovett, Lundeen, MacDougall, Madore, Mayo, McGlocklin, Mendros, Michael, Morrison, Murphy E, Nass, Nutting, O'Brien JA, Patrick, Perkins, Pinkham, Rosen, Schneider, Sherman, Shields, Snowe-Mello, Stanley, Tobin J, Tracy, Trahan, Treadwell, Waterhouse, Weston, Winsor.

ABSENT - Bagley, Baker, Berry RL, Brooks, Clark, Dorr, Goodwin, Hawes, Landry, Marrache, Matthews, McLaughlin, Muse K, Pineau, Stedman, Tessier, Tuttle.

Yes, 76; No, 58; Absent, 17; Excused, 0.

76 having voted in the affirmative and 58 voted in the negative, with 17 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

CONSENT CALENDAR
First Day

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

(H.P. 633) (L.D. 833) Bill "An Act to Amend the Sex Offender Registration and Notification Act of 1999" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-531)**

(H.P. 1331) (L.D. 1788) Bill "An Act to Allow Marine Patrol Officers to Hold Elected Positions" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-534)**

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

There being no objection, the House Papers were **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

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

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

HOUSE DIVIDED REPORT - Majority (11) **Ought to Pass as Amended by Committee Amendment "A" (S-228)** - Minority (2) **Ought Not to Pass** - Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Establish a Lottery Game to Improve Purses for Maine Harness Racing and to Enhance Penalties for Use of Illegal Gambling Machines"

(S.P. 480) (L.D. 1544)

Which was **TABLED** by Representative CHIZMAR of Lisbon pending her motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

The Bill was **READ ONCE. Committee Amendment "A" (S-228)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-228)** in concurrence.

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

Pursuant to House Rule 201, the Speaker appointed Representative COLWELL of Gardiner to serve as Speaker Pro Tem after the recess.

The House recessed until the Sound of the Bell.

(After Recess)

Representative COLWELL of Gardiner assumed the Chair.

The House was called to order by the Speaker Pro Tem.

UNFINISHED BUSINESS

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

HOUSE REPORT – **Ought to Pass as Amended by Committee Amendment "A" (H-489)** – Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Ensure Access to Assisted Living Services Programs"

(H.P. 653) (L.D. 853)

TABLED – May 17, 2001 (Till Later Today) by Representative NORBERT of Portland.

PENDING – **ACCEPTANCE OF COMMITTEE REPORT.**

Subsequently, the Committee Report was **ACCEPTED**.

The Bill was **READ ONCE. Committee Amendment "A" (H-489)** was **READ** by the Clerk.

Representative KANE of Saco **PRESENTED House Amendment "A" (H-508)** to **Committee Amendment "A" (H-489)**, which was **READ** by the Clerk and **ADOPTED**.

Committee Amendment "A" (H-489) as Amended by House Amendment "A" (H-508) thereto was **ADOPTED**.

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment**

"A" (H-489) as Amended by House Amendment "A" (H-508) thereto and sent for concurrence.

An Act Concerning the Transportation of Juvenile Offenders
(H.P. 271) (L.D. 349)
(C. "A" H-455)

TABLED – May 17, 2001 (Till Later Today) by Representative POVICH of Ellsworth.

PENDING – **PASSAGE TO BE ENACTED.**

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

An Act to Protect Against Contamination of Crops and Wild Plant Populations by Genetically Engineered Plants
(H.P. 952) (L.D. 1266)
(C. "A" H-449)

TABLED – May 17, 2001 (Till Later Today) by Representative TESSIER of Fairfield.

PENDING – **PASSAGE TO BE ENACTED.**

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

HOUSE DIVIDED REPORT – Majority (8) **Ought Not to Pass** – Minority (5) **Ought to Pass as Amended by Committee Amendment "A" (H-350)** – Committee on **CRIMINAL JUSTICE** on Bill "An Act to Require Lifetime Probation for Dangerous Sexual Offenders"
(H.P. 374) (L.D. 476)

TABLED – May 8, 2001 (Till Later Today) by Representative POVICH of Ellsworth.

PENDING – Motion of same Representative to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

Representative **O'BRIEN**: Mr. Speaker, Ladies and Gentlemen of the House. This is a bill that I sponsored and that I feel quite passionately about it. I will try to keep my comments very brief and to the point.

Violent sexual crimes and those who commit them are certainly abhorrent to the general public and then when we talk about crimes against children, we feel they are even more heinous. I want to describe to you exactly what this bill does as I see it. The definition of dangerous sexual offender is someone who has really gone the limit. It is someone who has committed rape, attempted murder, including sexual assault and this talks about twice being convicted. Most of you are aware now, the public pretty much understands, that a sexual crime in not an issue of sex. I hope that we have no young pages here today. It is a matter of control and a matter of violence. The only way, in my view and the view of many experts in the field, to control this behavior is to watch the offender, to keep them on probation and to continually watch them, monitor them. All of us have heard the public sentiment against sexual offenders, the light sentences and many of us have heard the outcry.

I know those of us on the other side of the bill will tell you that judges now have the authority to do that. In current statute it says that dangerous sexual offenders may be put on probation for any length of time. The problem is this is not happening. They are not seeing the long sentences. I would ask you to consider this very seriously, reject the Majority Ought Not to Pass Report and go on to pass the Minority Ought to Pass Report. Thank you.

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

Representative **POVICH**: Mr. Speaker, Men and Women of the House. LD 476 indeed requires lifetime probation for a person sentenced as a dangerous sexual offender. For those old timers like me, we remember the Productivity Realization Task Force. It was an effort to trim state government and to reduce costs. The effects on some departments, like probation, was devastating. Productivity gutted the department. Suddenly our probation officers had to work out of their cars with laptops. They had no offices. They shared telephones and desks. The situation was most acute in York County.

For the past four years, we have been working our way back from productivity. Restoring moral and confidence in the Probation Department was a long-term process just about completed. During the last Legislature, upon the recommendation of the Joint Select Committee to Implement a Program for the Control, Care and Treatment of Sexually Violent Predators, in its final report to the Criminal Justice Committee, the Criminal Justice Committee passed LD 308, the Violent Sexual Predator Law. This legislation defined and criminalized being a dangerous sexual offender. In that law we allowed a sentence and probation for any term of years. The judge can now sentence a dangerous sexual offender to any term of years, including the lifetime of the offender. Sexual offender treatment, of course, is part of that sentencing option. We recognize that the issue here is public safety and rehabilitation of the defendant. We know that rehabilitation of sexual offenders is tough, very tough. Some would say impossible and that is why we agree that long terms of probation are in order. We will have sexual offender registration, public notice, treatment counseling sentencing and probation.

This year we have recommended in LD 833 rolling back the dates under which a sexual predator must register with the department retroactively to 1992. The Department of Corrections has six probation officers that deal with just those sexual offenders. The effective management of high-risk sexual offenders is of paramount interest to the committee. We are serious about this. The majority felt that since the bill is so new, this last year, we should allow the courts an opportunity to do the job. They are the ones in the best position to know which offenders require supervision for the balance of their lifetime. If there is evidence they are not doing the job, we don't have the evidence. We should revisit this, of course.

Recent improvements in sexual offender treatment and management have not had enough time for us to determine if additional sanctions are necessary. Unless there is evidence the courts are not doing their job, we should allow current law to continue. I urge you to support the pending Ought Not to Pass motion. Thank you very much.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I get up to speak on this issue because I feel very strongly about it. When I was in my in the 117th Legislature, I served on the Criminal Justice Committee and at that time we had quite a debate over a law that was before us dealing with the Megan's Law, the community notification of violent sexual predators. We finally got that passed in some form. It was a prospective law.

On the Judiciary Committee we had a bill before us requiring civil commitment of violent sexual predators after they had served their sentence, which was found to be constitutional. We had a great number of concerns, people coming before the committee were concerned about that. We did hear quite a bit of testimony about treatment of violent sexual predators and the

consensus from the people that actually did that type of work said there is no known treatment to help these people stop their violent sexual predator nature.

We were told that we shouldn't pass this civil commitment law to protect kids because this should be dealt with by the Criminal Justice Committee. The people from that department said we are with you, these violent sexual predators cannot be rehabilitated. Let us handle it. We don't want them on the streets either. This bill would take care of that, not necessarily keeping them locked up for life, but certainly would keep an eye on them. I urge you to vote against the pending motion. Thank you.

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

Representative **MUSE**: Mr. Speaker, Men and Women of the House. I rise tonight in support of my friend, Representative O'Brien. She is absolutely right. She was absolutely right when she introduced this bill and everything that she said was absolutely right. So easily the phrase rolls off everybody's tongue, regardless of what side of this issue you are on, the term violent sexual predator. This is the only category of criminal that is referred to as a predator, like an animal that stalks a victim in the night, a predator. We are not talking about one offense and all of a sudden you are going to be put on probation for the rest of your life. It doesn't work that way. Two convictions of a Class A crime, that is the worse there is on the books folks, it doesn't get any worse than that. We are talking about heinous crimes.

As Representative Povich pointed out, let's let the people who know make the rules. Folks, a few years ago I introduced a bill after the cuts and slashes of productivity, as it was so inappropriately called, to hire an additional 25 probation officers because that department was so severely cut during productivity. The department showed up for that bill and testified neither for nor against. I want to give you 25 probation officers and you will testify neither for nor against. Why? Very simply because the commissioner works for the Governor and the Chief Executive in his budget had put in to hire three. Heaven forbid the commissioner kick against the Chief Executive's decision to hire three and couldn't come out and support the bill. Finally, after conversations with the Chief Executive and the commissioner, who very quietly agreed that they could, in fact, use as many as we could give them. We compromised and they hired a dozen or so. Six of them were appointed to work on sex offenses.

Do we have proof that the system isn't working? Absolutely. I am very surprised that Representative O'Brien didn't tell you about the people who broke into her house, who were supposed to be under close supervision of the Probation Department, who were supposed to report weekly to the Probation Department, nobody has seen them yet and it was a couple of years ago.

Our Probation Department is severely lacking. They need strong guidance from this body to give them direction. This, ladies and gentlemen, this is a very good direction. This is something that we should be doing. I certainly hope that it is something that we will do this evening. Thank you Mr. Speaker.

Representative THOMAS of Orono **REQUESTED** that the Clerk **READ** the Committee Report.

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

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

Representative **O'BRIEN**: Mr. Speaker, Men and Women of the House. I would say to you that I am very glad that you had a chance to hear the people who voted Ought Not to Pass. I don't think that anybody in hearing the names would think that these were people who are easy on crime, who would want to unnecessarily burden our criminal system, who would unnecessarily want to set up a system that would go on and on and cost a lot more money. Right now dangerous sexual offenders are already subject from the court, they can impose lifetime probation. The courts are handing down these sentences to offenders, after checking out the facts, realize that they need to be watched and watched and watched. They are not going to let them off the hook and not be aware of where they are living, who they are associating with and where they are working so that they can help them stay outside of the prison system, which I am not going to quote to you the cost, because it keeps going up. For each person in prison, it is an incredible amount of our taxes that are put out to keep them there. We also heard from CLAC, which is the Criminal Law Advisory Commission saying that they do not favor this.

Lastly, I would say to you that there are some people that are put in prison for these horrendous crimes that do not have to be watched after they have been in prison, after they have successfully gone through treatment for the rest of their lives. I would always say with anybody, it would be good if maybe we could have more people watching the bad ones. What do we always know? Bad people can take a good 10 people watching them and goodness knows, they are employed full time. What we are trying to say with this bill and what the lawyers were saying and what the judges were saying, is that we don't need it right now. Again, we don't need it right now. If sometime in the future there is some other things within our system that is not watching these people or the judges are not ordering lifetime probation or the probation officers are completely inept, then we would address it. For right now, let's not pass this bill. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Woolwich, Representative Peavey.

Representative **PEAVEY**: Mr. Speaker, Men and Women of the House. I hope you will support this Ought Not to Pass report. You have heard that sex offenders currently can be sentenced to any number of years, any period of years. You have also heard that we have six offender specialist that are spread out across the state. They have very small caseloads. Corrections has a very specific amount of money. It is a finite amount of money. We need to make absolutely sure that we spend the money we have monitoring the people that need it the absolute most. Probation done right is very expensive. It takes home visits. It takes much more than phone calls and office visits. It takes home visits. It is very expensive. We need to make sure that the sexual offenders that we are talking about here are monitored very, very carefully for any term of years, which we can do. I hope that you will let the courts work a little longer at this. Give them a few years and see it they are sentencing these sex offenders to any term of years. Please support the Ought Not to Pass report.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. As you heard me say earlier, I don't mean to repeat myself, but I feel as though I have to, so I will. When this issue was dealt with on the Criminal Justice Committee when I was on it and the Judiciary Committee when we dealt with civil commitment, the department said to let them handle it. We want these people off the streets and we want these people watched. This bill does that. Everybody in here knows that I am very conservative, especially fiscally. I do not like to spend money, taxpayer's money. If there is anything that we do or should do in government, is to protect us from each other and to protect children from violent sexual predators.

Now is the right time, because if now isn't the right time, there may be one more child that has to suffer through this. Mr. Speaker, I ask for the yeas and nays.

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

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

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I have been accused by some, especially in the last week or so, of being soft on crime. I voted to let felon's vote while they are in prison, because as the good Representative from Sanford pointed out, you can be a felon for selling firewood without a license in Maine.

Some felons, I consider real criminals that we shouldn't be soft on. Child molesters I would certainly lump into that category. I can think of no worse act. In this bill they would have to do that twice. I don't support the death penalty, but I could certainly lean in favor of supporting it for these types of criminals. Last year we voted to fingerprint every teacher in the State of Maine because some of them may be child molesters. This makes a lot more sense. Let's keep them on lifetime probation so they can't sneak around and find some way to get at children, which is all the things we heard about how horrible teachers will do that. Let's keep an eye on these people if we ever have to release them.

They have already done it twice to reach this point. Leave it up to the courts, I stand before you as a member of the Legislative Branch of Government whose duty it is to legislate law and policy to the people of the State of Maine to be executed by the Executive Branch of Government and the Judicial Branch of Government is the judges of the laws and they determine that. We set the policy for them to judge. We pass the laws. This is proper policy. Maybe judges can do it and maybe they can't, but I can't see why we wouldn't want every child molester to automatically be under lifetime probation. I can't see a scenario. We can say, let's leave murder up to the judge and let's not set a standard for murder and the judge can just make them guilty of first-degree murder if they think it rises to the standard. We set certain criteria and if those are followed, then it is first-degree murder. That is what we are doing here. That is the purpose of the Legislative Branch of Government.

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

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. Hearing this bill, I really have such tremendous respect for the chairs of my committee and my fellow committee members. I, too, felt so strongly on this. Hearing the testimony over and over again, they said there is such high recidivism that they go on probation, but as soon as they are off probation, there they go again. In my mind, the only way that we can take care of this, really take care of this, is to require that lifetime probation. Right now, the judge does have, and is allowed, to send this person to lifetime probation. That doesn't happen a lot.

I believe what we truly need to do is make this lifetime. What is the old expression, I am full of them tonight, if there is a will, there is a way. We need to protect our children. We need to protect our families. This is the type of disease that reoccurs. There is really no cure for this. I urge you to please vote against the Majority Ought Not to Pass Report and to go on to voting for the Ought to Pass report. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bangor, Representative Blanchette.

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. This was not an easy public hearing or work session that we had to go through. This is a very, very emotional issue for anyone who has any human compassion in one part of their body or another. The thought of children being sexually abused and mistreated is something that you hope never happens to your family and you hope that it never happens to anyone that you know, love or hold dear, but it does. We cannot stop it from happening by placing people on lifetime probation. The good Representative from Poland said that the minute they go off probation, they go out and recommit this crime. Sexual predators of children do not live by a time clock. They will commit this crime if they are on probation, if they are not on probation. A probation officer is not attached at the hip to this predator. They have a life. They have to go home. These people are cunning. They are conniving. They are deceitful and they are vicious. We do not have the manpower in this state and I am not sure, Mr. Speaker, that we could put enough manpower out there to prevent these people from recommitting these horrendous crimes, if they so choose. We have gone a long way in the United States. We have Megan's Law. We notify all of the communities when a sexual predator moves in. We have had some people that have come up and said, not in my backyard. You are not moving this person in. That has worked. Communities have ruled. We need to be diligent as parents, as adults and as community leaders and as legislators who legislate working law. Do not put another law on the books that we cannot now, tomorrow, next year and maybe 10 years from now, ever have the manpower or the expertise to enforce. Let's do our job as citizens and watch out and make sure that everybody knows these people are around. The fox who is guarding the hen house doesn't like to attack when the light is on. Keep the light on and keep our children safe. We don't need this law. It can't work. I urge you to vote for the Majority Ought Not to Pass Report. Thank you.

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

Representative **MUSE**: Mr. Speaker, Men and Women of the House. I need to clarify a few things that have been said. First of all, this bill is not about abusing children. This bill is about violent sexual predators. There is a tremendous difference. I heard Representative O'Brien say that this will unnecessarily burden our criminal justice system. We put too many people in jail. It costs too much money. Men and women of the House, I spent 23 years working in a jail. I have watched these people. I lived with them. I ate, drank, played games, fought with them, argued with them and laughed with them. I watched them. These are the individuals, ladies and gentlemen, who would use their toothpaste to take flyers and paste them up on the top of their bunk so that they could stare at them in the night. They weren't taking flyers of toys and games. They were taking flyers of children and gluing them on the tops of bunks so they could stare at them in the night.

There is also probably nobody in this chamber, certainly there was nobody that I knew of that I worked with, that believed any more firmly that we put too many people in jail in the State of Maine. I still believe that. This is not a bill about putting people in jail. This is a bill about violent sexual predators. They are convicted twice of a Class A crime. To say that we don't have the manpower to watch these people is a very weak excuse. To say that we need to wait and watch and see if the courts are doing this, certainly the courts have an opportunity to do this. They have had that opportunity for many years. They have had the opportunity to sentence someone to lifetime probation.

I don't want to just stand here and point a finger at our Probation Department and say they are doing nothing, but they are terribly understaffed. We know it. Everybody here knows it. We have heard it from people on both sides of this argument. They are terribly understaffed. I would like to pose a couple of

questions to any member, particularly from the Criminal Justice Committee, who may choose to answer it. During the public hearing on this bill, was any information provided to the committee or can anybody provide to this body the number of people that this bill would affect? How many people fall into the category of violent sexual predator? I don't believe it is a very large number. I think it is a very small number. We are talking about a very small number of people. Second question, I am delighted to say that I am losing some memory on this. Somebody who is under intensive supervision, under the rules of probation, needs to meet with their probation officer how many times per month face to face and how many times is it done via the telephone? Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Representative from South Portland, Representative Muse has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Ellsworth, Representative Povich.

Representative **POVICH**: Mr. Speaker, Men and Women of the House. The Representative from South Portland is absolutely correct, there aren't many. We are talking about when this bill went into law, which was last year. We can tell you that there are six sex offender specialists. Their caseload is no greater than 30. The Probation Department, thanks to Representative Muse, is much better staffed. There are 15 new probation officers that he can point to having a hand in hiring. I forgot the second question.

I would like to continue. I would like to put this into prospective. This is a very emotional argument. I don't think the other side is accusing me or any of the majority of being soft on crime. My goodness, this is a very serious matter. We are very serious about this. We want to do the job, no buts about it. From our law book, a dangerous sexual offender is defined by, a person who commits a new gross sexual assault after having been convicted previously and sentenced for any of the following. I am not going to list them. It is page 143. It is some pretty gruesome stuff. Already they have committed a Class A offense, 20 years. Now they are deemed a dangerous sexual offender, another Class A crime, 20 years. This bill envisions that after the second one, after they have been classified as a dangerous sexual offender, another 20 years. At age 60, they are going to be sentenced to any term of years up to life. They pretty much spent a career in jail.

Ladies and gentlemen of the House, I wouldn't at all support a bill that I thought would jeopardize the children of the State of Maine. In current Maine law I will repeat, then sit down, we have all the tools we need. We have a court system that I have confidence in and we all make mistakes, including the Legislature. Even the Legislature is given a chance to do the job and the point that we have been trying to make is let's let the courts do the job. We are going to monitor them very, very carefully. I dare say that anything untoward happens and it comes to our attention, we are going to act, January 1, 2002. Thank you very much.

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

Representative **O'BRIEN**: Mr. Speaker, Ladies and Gentlemen of the House. I want to thank those who have spoken before us, both on the other side and the side that I stand before. With all due respect to Representative Povich, I do mean that, and others on the committee, we, you and I, won't be here for much longer. How are we going to know who is monitoring this? It is kind of scary sometimes because Representative Muse and I, as I was writing things down, they were coming out of his mouth. I want to thank him for his testimony. I need to clarify something again. I don't think some members of this House are understanding something that is very, very important in regards to this bill. As Representative Povich just stated, we are not talking about child molestation. We are not talking about unlawful sexual conduct. We are talking about gross sexual assault, which is rape. Rape of an adult or rape of a child. Rape is the highest sexual offense that you can get. Another category is attempted murder with sexual assault. How much more heinous can you get. You must have been convicted twice of either of those offenses. As most of you know, if you have had any connection with the Criminal Justice Committee or criminal justice venue, you know there are plea bargains. Most of these cases are plea bargained. It is very, very rare that we are going to get an offender that has been convicted twice of these abhorrent crimes.

Representative Muse asked the question and I would ask the same question, how many are we talking about. I dare say, I would go on the record and say, as of today there are maybe 10. I stand to be corrected if someone knows more accurate data, but I believe it is probably 10 or 12 people we are talking about.

In conclusion, because this really does obviously get my blood boiling, I have to say that I don't want to be the one to tell a mother of a child that has been raped by someone who was already convicted of rape, sorry, we didn't have the resources. Sorry, there weren't enough probation officers. I am not going to be the one to do it. I hope that no one else in this chamber would want to take on that responsibility also.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Vassalboro, Representative Mitchell.

Representative **MITCHELL**: Mr. Speaker, Ladies and Gentlemen of the House. Very briefly, this is an emotional argument, but I think it is important to sort of qualify what the committee process is. Eight of 10 of your colleagues voted Ought Not to Pass on this bill. We are not voting on whether or not these acts are bad acts. Everybody agrees, these are awful act, terrible acts. That is not what the vote is about. The vote is on whether or not we allow the system to work as we have. I don't know that it is failing us. Nobody presented us evidence that it really is failing us. As of recently, the judges can do this. Lifetime probation is available. This is a mandatory minimum. It is mandatory lifetime probation and nobody is arguing whether or not these are bad acts. They are just arguing whether or not we want to look at each of these cases rather than just throw a blanket over it, an entire issue. I know that nobody here believes that eight out of 10 of your House member colleagues think that this is not a bad act, these are not things that are happening. I would urge the House to vote with the Majority Ought Not to Pass Report. Thank you.

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

ROLL CALL NO. 221

YEA - Berry RL, Blanchette, Bliss, Brannigan, Bruno, Bryant, Bull, Bunker, Clark, Colwell, Cote, Cowger, Cummings, Daigle, Dudley, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gerzofsky, Gooley, Green, Hall, Hutton, Jacobs, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marrache, McDonough, McGowan, McKee, Michaud, Mitchell, Norbert, Norton, O'Brien LL, O'Neil, Patrick, Peavey, Povich, Quint, Richard, Richardson, Rines, Savage, Sherman, Simpson, Skoglund, Smith, Stanley, Sullivan, Tessier, Thomas, Tobin D, Twomey, Usher, Volenik, Watson, Wheeler EM, Wheeler GJ, Young.

NAY - Annis, Ash, Belanger, Berry DP, Bowles, Buck, Bumps, Canavan, Carr, Chase, Chick, Chizmar, Clough, Collins, Cressey, Davis, Desmond, Dugay, Duncan, Foster, Gagne, Glynn, Haskell, Hatch, Heidrich, Honey, Jodrey, Kasprzak,

Labrecque, Ledwin, Lovett, MacDougall, Madore, Marley, Mayo, McGlocklin, McKenney, McNeil, Mendros, Michael, Morrison, Murphy E, Murphy T, Muse C, Nass, Nutting, O'Brien JA, Paradis, Perkins, Pinkham, Rosen, Schneider, Shields, Snowe-Mello, Tarazewich, Tobin J, Tracy, Trahan, Treadwell, Waterhouse, Weston, Winsor.

ABSENT - Andrews, Bagley, Baker, Bouffard, Brooks, Crabtree, Dorr, Duprey, Goodwin, Hawes, Landry, Matthews, McLaughlin, Muse K, Perry, Pineau, Stedman, Tuttle, Mr. Speaker.

Yes, 70; No, 62; Absent, 19; Excused, 0.

70 having voted in the affirmative and 62 voted in the negative, with 19 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

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

HOUSE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (6) **Ought to Pass as Amended by Committee Amendment "A" (S-96)** - Committee on **CRIMINAL JUSTICE** on Bill "An Act to Require the Destruction of Confiscated and Forfeited Handguns"

(S.P. 209) (L.D. 774)

Which was **TABLED** by Representative O'BRIEN of Lewiston pending her motion to **ACCEPT** the Minority **Ought to Pass as Amended** Report.

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

Representative **POVICH**: Mr. Speaker, Men and Women of the House. The title says it all, "An Act to Require the Destruction of Confiscated and Forfeited Handguns." The summary says the same thing. This bill requires the destruction of all handguns confiscated by forfeited to the state. Current Maine law permitted forfeited firearms to be auctioned off, it doesn't say they have to be, but they can be auctioned off, that are acquired from state agencies like the Maine Warden Service, the Drug Enforcement Agency and the State Police. Local law enforcement officials have that ability too. That was legislation that I put in last session that was passed. From the auctions, the profits from these sales are used to replace the damaged or unusable firearms of those departments. All firearms that are auctioned off are subject to the Brady checks.

I know that this is an emotional argument issue as well, but no firearm ever auctioned off in this way has ever been used in a crime. They were initially used in a crime, of course, that I why they were forfeited, but after they were sold to a law abiding citizens subject to the Brady checks, no other crime was committed. I urge the body to defeat the current motion.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Vassalboro, Representative Mitchell.

Representative **MITCHELL**: Mr. Speaker, Men and Women of the House. I guess I would just urge everyone to look at Page 12 on your calendar. There are certain things I can't talk about under the rules, but just read all of the relevant information. This is a pretty straightforward victim's rights bill that has been made more so by some other amendments that are out there. I would urge you to accept the Minority Ought to Pass Report so that we can go on and deal with this bill appropriately. Thank you.

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

Representative **TRACY**: Mr. Speaker, Ladies and Gentlemen of the House. I would just like to make a comment on a couple of these handouts that were handed out and put upon my desk and probably yours. I know I have read mine and I hope that the remaining members in the body have looked at theirs. On the one distributed at the request of Representative Etnier from Harpswell, it says that 50 percent of the parents, apparently, will not allow their children to visit a friend's house if they know there is access to a handgun. I don't know where they come up with the 50 percent or who they did the polling to, but I am willing to bet if you did a polling in the Town of Rome, that would be not quite so true. Many people in the Town of Rome have firearms and many children go to their houses as well as my two younger boys at the time when they were young. They are no longer young. They are adults now. I would say that those figures are miscued.

On this other handout I have, it says, Maine citizens against handgun violence. As I look at the bottom part of this handout, which was handed out by the Request of Representative Blanchette from Bangor, it says on the bottom that currently the Maine Warden Service and the Maine Drug Enforcement Agency have a contract with Sportsmen's Alliance of Maine. Under which SAM auctions all firearms confiscated by those two agencies to the highest bidder. SAM and the State of Maine then divide the proceeds giving SAM greater resources to join with the NRA in lobbying against stricter gun safety laws. Those are absolutely false and inaccurate. SAM gives back 85 percent back to the wardens and the Maine Drug Enforcement Agency and takes the other 15 percent, which the money goes to the Conservation Education Fund for students in Bryant Pond, Maine. I wish you would look over this information to make sure that before you vote that the stuff you are getting is accurate. Thank you.

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. The two reports that came out of committee, I wasn't pleased with either one. One of those has been amended and I hope that we can reach that amended point this evening. As you go through a legislative session or a couple of sessions you find that there are issues, which push people into two camps. They tend to polarize people and people end up with labels on them. One of those issues is abortion, but despite the polarization, people on either side that of that issue come together to work with common ground on the areas of adoption and education. This issue dealing with guns has that same polarization or possibly even more and I think we see the Ought to Pass as Amended report, we have an opportunity to find that middle ground. What it does is focuses it down to the guns that are used for a homicide.

In our caucus the other day when we discussed the amended bill, someone in caucus had said it is the person, not the gun. I think if you met with victims, I am using that term broadly because after the victim has been buried, the victims continue to live and grapple with this until their own dying day. I think if an automobile was involved in the death of my son or daughter, I used that analogy in caucus, all you would have to do is have a broom and a dustpan to pick that car up after I got done with it. I think the families of the victims that have to try to bring closure with this, have that same kind of feeling.

During the last six legislative days many of you have met Debbie O'Brien who is a victim. Her son Devin was murdered in 1996. Devin was a student of mine. He was a friend of mine. I really want those two weapons. One is inoperative. The other

now under state law when this case has finally run its full course, that weapon will available for auction. I want that weapon destroyed. This amendment will allow that to occur.

Under current law, the victims, the families may have to follow that case. It may be open for five, six or seven years before that weapon comes up. They have to go to the courthouse and get a court order for that weapon to be destroyed. You can argue that this weapon was involved in a homicide has no life. It is just an object. I would ask you how many of you at home have commemorative sports memorabilia, baseball, things connected with the famous and the infamous? The State of Maine should not profit from a family's misery. A weapon used in a homicide should not become an asset to the State of Maine.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Ellsworth, Representative Povich. For what reason does the Representative rise?

Representative **POVICH**: Mr. Speaker, I challenge the presenter's remarks. The remarks aren't germane to the bill at hand.

The SPEAKER PRO TEM: The Chair would remind the Representatives to keep their remarks to the bill that is before the body. The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative **MURPHY**: Mr. Speaker, Ladies and Gentlemen of the House. Thank you Mr. Speaker. I would hope that we could pass this Ought to Pass report and then reach the point where I hope we can find resolution and common ground this evening.

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

Representative **MUSE**: Mr. Speaker, Men and Women of the House. I apologize for rising again for another debate. This is an issue that I have been waiting for as well. Sitting here having moved to this side of the aisle this term, I have had the opportunity to joust on more than one occasion with my friend, Representative Waterhouse, on matters of the Constitution, historical documents and quotes. I started thinking of that this afternoon when we started talking thinking this bill would come up tonight. I am reminded that about 150 years ago the thirteenth President of the United States, we all know was President Fillmore, I knew you knew that, said that the government must keep pace with the progress of the people. That is what we are doing today. Ladies and gentlemen, this is not a bill about gun control. I hate to say that, the "control" word. This isn't a bill about gun control. This isn't a bill about guns. This is a bill about victims and us allowing victims to have closure.

Representative Murphy so eloquently talked about the automobile situation and if that automobile had killed his child it would be nothing but a pile of dust to scrape up with a broom. I agree with that and I think many of us do. Unfortunately not everyone in this room is a Stephen King and can afford to go out and buy the vehicle that bumps you off the side of the road so that you can smash it, as much as we would like to. Sure we would like to. Debbie O'Brien would like to have the gun that shot and killed her son so that she could smash that as well.

Just for Representative Waterhouse, I am also reminded that almost 40 years ago to the day, President Lyndon Johnson said that the task before us is truly one for the educated mind because the educated mind sees things not only clearly, but compassionately, otherwise, the mind is merely trained. We are dealing with humanity and if we don't treat people as human beings, the educated mind is a sham and a fraud.

This bill is one that requires an educated mind to recognize that it is not about gun control. It is not something that is going to upset SAM. We are talking about maybe two guns a year. I don't think that our deer population will overrun the State of Maine if we can't get those two more guns out there to shoot them with. The amended version of this, as Representative Murphy stated, is clearly a compromise for this bill that I believe keeps everybody on both sides of the gun control issue happy. Thank you Mr. Speaker.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

Representative **POVICH**: Mr. Speaker, Ladies and Gentlemen of the House. LD 774, the weapons that are described in LD 774 were never used in homicides. They are for all crimes short of homicides. Thank you.

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

Representative **PERKINS**: Mr. Speaker, Colleagues of the House. Everybody would like to do something to help bring closure to families of victims, but I think this is the wrong approach. It is again treating the guns as a villain. It is treating the gun as something other than what it is. It is a tool. It is not the enemy. It seems to me this is an act of desperation. For some reason when people get frustrated by something they tend to want to destroy it. My good friend, the Representative from Kennebunk, Representative Murphy, so aptly described what he would do to a vehicle if that vehicle were involved in the death of one of his children. I don't blame him. I would probably join him, but I don't believe that the good Representative from Kennebunk would come to the Legislature and want to try to pass legislation that would demand that the state get involved in destroying these vehicles that might be involved in this type of thing. I just think we ought to take a step back and look at this from a little longer distance with a good heart of trying to help the victims. Let's not do what the Nazis did out of frustration and pile up the books and burn them because they thought the books were the enemy. This kind of smacks a little bit of that. I don't think there is any rational basis for this. Thank you.

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

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

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

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

ROLL CALL NO. 222

YEA - Berry RL, Blanchette, Bliss, Bowles, Brannigan, Bull, Canavan, Chizmar, Colwell, Cowger, Cummings, Davis, Desmond, Dudley, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Gooley, Green, Hall, Hutton, Jacobs, Kane, Koffman, Laverriere-Boucher, Ledwin, Lemoine, Madore, Mailhot, Marley, Marrache, Mayo, McDonough, McKee, McKenney, McNeil, Mitchell, Murphy E, Murphy T, Muse C, Norbert, Norton, O'Brien JA, O'Brien LL, O'Neil, Paradis, Quint, Richard, Richardson, Rines, Simpson, Skoglund, Sullivan, Tessier, Thomas, Twomey, Volenik, Watson, Weston, Winsor, Mr. Speaker.

NAY - Annis, Ash, Belanger, Berry DP, Bruno, Bryant, Buck, Bumps, Bunker, Carr, Chase, Chick, Clark, Clough, Collins, Cote, Cressey, Daigle, Dugay, Duncan, Dunlap, Duplessie, Foster, Glynn, Haskell, Hatch, Heidrich, Honey, Jodrey, Jones, Kasprzak, Labrecque, LaVerdiere, Lessard, Lovett, Lundeen, MacDougall, McGlocklin, McGowan, Mendros, Michael, Michaud, Morrison, Nass, Nutting, Patrick, Peavey, Perkins, Pinkham, Povich, Rosen, Savage, Schneider, Sherman, Shields, Smith, Snowe-Mello, Stanley, Tarazewich, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Usher, Waterhouse, Wheeler EM, Wheeler GJ, Young.

ABSENT - Andrews, Bagley, Baker, Bouffard, Brooks, Crabtree, Dorr, Duprey, Goodwin, Hawes, Landry, Matthews, McLaughlin, Muse K, Perry, Pineau, Stedman, Tuttle.

Yes, 64; No, 69; Absent, 18; Excused, 0.

64 having voted in the affirmative and 69 voted in the negative, with 18 being absent, and accordingly the Minority **Ought to Pass as Amended** Report was **NOT ACCEPTED**.

On motion of Representative POVICH of Ellsworth, the Majority **Ought Not to Pass** Report was **ACCEPTED** in **NON-CONCURRENCE** and sent for concurrence.

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

CONSENT CALENDAR
First Day

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

(S.P. 454) (L.D. 1507) Resolve, to Establish the Commission to Study Ways to Improve Transportation for Senior Citizens Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-220)**

(H.P. 1214) The Joint Study Committee to Examine Issues Relating to the North American Free Trade Agreement Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-521)**

(H.P. 565) (L.D. 720) Bill "An Act to Increase the Bonding Limit of the Trustees of the City of Brewer High School District from $2,500,000 to $5,000,000" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-522)**

(H.P. 1212) (L.D. 1644) Bill "An Act to Amend and Improve Education Laws" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-523)**

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

There being no objection, the Senate Paper was **PASSED TO BE ENGROSSED as Amended** in concurrence and the House Papers were **PASSED** or **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

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

ENACTORS
Emergency Measure

An Act to Establish for an Additional Two Years the Commission to Study the Needs and Opportunities Associated with the Production of Salmonid Sport Fish in Maine

(S.P. 568) (L.D. 1732)
(C. "A" S-180)

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

On motion of Representative COLWELL of Gardiner, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

Acts

An Act to Eliminate Unnecessary Paperwork for Wage-hour Compliance

(H.P. 423) (L.D. 544)
(C. "A" H-114)

An Act Relating to Licensing Board Fee Caps

(H.P. 1267) (L.D. 1718)
(C. "A" H-326; H. "A" H-407)

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

An Act to Consolidate the Laws Regulating Transient Sellers and Door-to-door Home Repair Transient Sellers

(H.P. 981) (L.D. 1305)

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

On motion of Representative COLWELL of Gardiner, was **SET ASIDE**.

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

An Act Regarding School Funding Based on Essential Programs and Services

(H.P. 1284) (L.D. 1747)
(C. "A" H-457)

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

On motion of Representative COLWELL of Gardiner, was **SET ASIDE**.

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

An Act to Repeal Certain Boards and Commissions

(H.P. 1349) (L.D. 1806)

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

On motion of Representative COLWELL of Gardiner, was **SET ASIDE**.

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

UNFINISHED BUSINESS

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

HOUSE REPORT – **Ought to Pass as Amended by Committee Amendment "A" (H-496)** – Committee on

NATURAL RESOURCES on Bill "An Act to Pay for Cleanup of Contamination at a Waste Oil Disposal Site in Plymouth" (EMERGENCY)

(H.P. 1051) (L.D. 1408)

TABLED – May 17, 2001 (Till Later Today) by Representative STANLEY of Medway.

PENDING – **ACCEPTANCE OF COMMITTEE REPORT**.

Subsequently, the Committee Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-496)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-496)** and sent for concurrence.

An Act to Implement the Recommendations of the Task Force to Study Growth Management

(S.P. 380) (L.D. 1278)
(C. "A" S-139)

TABLED – May 10, 2001 (Till Later Today) by Representative KOFFMAN of Bar Harbor.

PENDING – **PASSAGE TO BE ENACTED**.

On motion of Representative COWGER of Hallowell, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED**.

On further motion of the same Representative, the rules were **SUSPENDED** for the purpose of **FURTHER RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-139)** was **ADOPTED**.

The same Representative presented **House Amendment "B" (H-537)** to **Committee Amendment "A" (S-139)** which was **READ** by the Clerk.

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

Representative **COWGER**: Mr. Speaker, Colleagues of the House. This bill was a unanimous report of the Natural Resources Committee. Unfortunately over the last week or so some very legitimate concerns arose, but the good news is last Friday and over the weekend and throughout the course of today, an agreement was worked out involving the Maine Municipal Association, the organization most concerned with what we did. We also involved parties, realtors, title attorneys, bankers and we have worked out a fairly detailed agreement to take the bill forth for the next year and look at these issues again in greater detail with the study commission to look at growth management issues and all parties have agreed to this. I hope you will support it. Thank you.

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

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

The SPEAKER: The Representative may pose her question.

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. I am afraid we might have gotten a little anxious here. The motion is now to accept the amendment or passage to be enacted?

The SPEAKER: The pending question is adoption of House Amendment "B."

The Chair recognizes the Representative from Gorham, Representative Labrecque.

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

The SPEAKER: The Representative may pose her question.

Representative **LABRECQUE**: Mr. Speaker, Men and Women of the House. As I look at this particular amendment, I am very much concerned that home rule is going to come into play and local municipalities are not going to be able to have an opportunity to draw up ordinances for subdivision plans. For anybody who can clarify that for me, I would like to know. It looks to me like they can do it until October of next year. Thank you.

The SPEAKER: The Representative from Gorham, Representative Labrecque has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Hallowell, Representative Cowger.

Representative **COWGER**: Mr. Speaker, Colleagues of the House. I will try to answer the question. The original bill as well as the Committee Amendment and the House Amendment deal only with the legal definition of what a subdivision is. It in no way restricts what a town can do in terms of zoning restrictions, conditions or any sort of land use planning ordinances whatsoever. It merely puts on hold for the coming year any changes to the strict definition of a subdivision that municipalities can do that may be different from the state definition of subdivisions. Again, it doesn't affect any land use policies. It is only for the ensuing year so that this issue can be looked at. Again, the issue of how a subdivision is defined. There were some concerns raised by title attorneys, especially, and being able to finance homes. We are really not going that far. We are not making any permanent changes whatsoever. We are not restricting a town or municipality's ability to enact land use standards in any way whatsoever.

House Amendment "B" (H-537) to **Committee Amendment "A" (S-139)** was **ADOPTED**.

Committee Amendment "A" (S-139) as Amended by House Amendment "B" (H-537) thereto was **ADOPTED**.

Representative KASPRZAK of Newport **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended by Committee Amendment "A" (S-139) as Amended by House Amendment "B" (H-537)** thereto.

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

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

Representative **CARR**: Mr. Speaker, Men and Women of the House. I would be remiss if I didn't stand and speak on this. As chairman of our local town council, we feel that it should be up to the towns to make the decisions on local control. It should be up to the towns to make their own ordinances and should not be restricted by what is done down here in Augusta, within reason, of course. I think that what is happening, once again, is that we have a problem in southern Maine and we are trying to make a law that is going to affect the central and northern part of the state. I really, really wish that we could look at things that covered the whole state. The best way to do that is to allow the local communities to make their own ordinances, which they are very capable of doing without a lot of assistance down here. I will be voting in opposition to this. Especially those of you who have served or are presently serving on local boards and councils, I would urge you to do the same. It is certainly a loss of local control. Thank you Mr. Speaker.

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

Representative **TOBIN**: Mr. Speaker, Ladies and Gentlemen of the House. This is a bill that we have worked on for a long, long time. I have probably been working on some of these exemptions for over 10 years. It is very, very important to the community I live in because a subdivider and I had hoped that we wouldn't have to get into this because explaining land use ordinances is almost impossible unless you understand land use ordinances.

Some of the exemptions to subdivision rules make it so that a subdivider can come in and buy a large parcel of land and the next day or even that day, he can gift it to his children, nephews or anyone in his family, divide it up and it avoids a subdivision rule. They are doing that in my community every day. Maybe I am exaggerating a little, but maybe it is every month, but they are doing it to us. Only about 27 percent of the all the houses built in my hometown go through subdivision review. This is a major problem in our community.

What the subdividers are doing is buying these large parcels of land, gifting them to their relatives, holding the land for five years and they have a subdivision of any size that they want and it avoids the subdivision rules. That is taken care of in this LD. There are other provisions that we really, really need. The problem we came up with it has been on the books a long time that a community could have stricter subdivision interpretations than the state. Evidentially some of the title search people didn't realize that was a law and when they found out about it, they became very, very concerned. Similar to what a community does when they get too rapid growth, some of us that looked at this thought that maybe the best thing to do was just hold the status quo for about 18 months until the title search people could come up with a remedy about how they could search that title and make sure it was clear.

This is a temporary thing. On October 2002, this paragraph will be voided. I hope you follow our recommendations and vote this through. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Lemoine.

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. I rise to second the information that the good Representative from Windham, Representative Tobin, has shared with you. What this bill is about is it implements the recommendations of a task force that met last summer on which both Representative Tobin and I served, as well as other members of this body. The bill, itself, is actually a very concerted effort to increase local control, to have better local control over land use within the boundaries. That is really what is at issue. The amendment we got hung up on dealt with a fine point of subdivision law, which we, by great discussion, have agreed to put aside because of the implications it has on a lot of land as ordinances and the subdivision act in general. We want to set that aside and give this body some time to do some real deliberative work on how that should spin out, what the implications of that should be, but in the meantime to move the bill ahead with important changes, which will, in fact, give better local control over this important issue. That is what is at issue here. I hope the membership will support the Ought to Pass as Amended. Thank you.

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

Representative **LABRECQUE**: Mr. Speaker, Ladies and Gentlemen of the House. This is not a bill against the north and the south or the east and the west. This is a bill against government and local control. Please read it very carefully because it is taking away your local control.

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

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

The SPEAKER: The Representative may pose his question.

Representative **CARR**: Mr. Speaker, Ladies and Gentlemen of the House. The task force that studied this, I was just wondering was there anybody on that task force that lived north of Bangor?

The SPEAKER: The Representative from Lincoln, Representative Carr has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Old Orchard Beach, Representative Lemoine.

Representative **LEMOINE**: Mr. Speaker, Ladies and Gentlemen of the House. I have a copy of the report and can give you the names of those who were involved, but I can tell you that there was strong representation from north of Bangor and that John Simko was very active. He is the Town Manager for the Town of Greenville and contributed greatly to the report.

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

Representative **LAVERDIERE**: Mr. Speaker, Men and Women of the House. I peripherally got involved in this towards some of the end of the discussion on the amendment. I want to point a couple of things. This bill was headed for a major floor fight, which looks like we are going to have anyway. As a result of a discussion that we had with the Maine Municipal Association on Friday, it was agreed that they would support the current amendment in front of you and have supported the current amendment in front of you based upon the idea that we were going to look at a number of issues and would come back in October, next session, to try to develop something that would be in effect in October.

It is very important that you understand a couple of things. Under current subdivision law, a town or a municipality has the right to make the rules more strict. They do not have the right to make them less strict than state law. Under the current situation, all you are doing is saying that no municipality can enact any more strict subdivision laws until October of next year until we have had an opportunity to look at this issue. I will tell you, you can talk to any banker, any credit union officer or anyone involved in the mortgage industry, if towns have much more stricter laws throughout the State of Maine and there is a patchwork of laws throughout the State of Maine, it is going to make title searches extremely difficult, extremely expensive and it is going to have a very detrimental affect on the ability to get a mortgage in the State of Maine. I would urge you to vote for passage as the bill is currently set up. I am happy to answer questions individually from any member of the body. Thank you.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I would only like to add briefly that our committee, Natural Resources Committee, has dealt with the sprawl issues last session. We are dealing with them again this session. As before, we are talking about a unanimous committee report. I just would ask some deference to the committee process. I think those of you know that the committee is staffed with people who represent a wide demographics in the State of Maine. The chair from the other body, for example, happens to be from north of Bangor. We came out unanimous for a good reason. We will be taking this issue back up again in the second year of this session. Keep that in mind. Unanimous

committee opinions like this are difficult to come by. I hope you have confidence that we did our homework. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Passage to be Engrossed as Amended by Committee Amendment "A" (S-139) as Amended by House Amendment "B" (H-537). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 223

YEA - Annis, Berry RL, Bliss, Brannigan, Bruno, Bryant, Bull, Bumps, Bunker, Canavan, Chick, Clark, Colwell, Cote, Cowger, Cummings, Daigle, Davis, Dudley, Dugay, Duncan, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gooley, Green, Hall, Haskell, Hatch, Honey, Hutton, Jacobs, Jodrey, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Marrache, Mayo, McDonough, McGlocklin, McKee, Michaud, Mitchell, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Povich, Richard, Richardson, Savage, Schneider, Sherman, Simpson, Skoglund, Smith, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Twomey, Usher, Volenik, Watson, Winsor, Young, Mr. Speaker.

NAY - Ash, Belanger, Berry DP, Blanchette, Bowles, Buck, Carr, Chase, Chizmar, Clough, Collins, Cressey, Desmond, Foster, Gerzofsky, Glynn, Heidrich, Kasprzak, Labrecque, Ledwin, Lovett, MacDougall, McGowan, McKenney, McNeil, Mendros, Michael, Morrison, Murphy E, Murphy T, Peavey, Perkins, Pinkham, Rines, Rosen, Shields, Snowe-Mello, Stanley, Tobin J, Tracy, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM.

ABSENT - Andrews, Bagley, Baker, Bouffard, Brooks, Crabtree, Dorr, Duprey, Goodwin, Hawes, Landry, Madore, Matthews, McLaughlin, Muse C, Muse K, Perry, Pineau, Quint, Stedman, Tuttle, Wheeler GJ.

Yes, 84; No, 45; Absent, 22; Excused, 0.

84 having voted in the affirmative and 45 voted in the negative, with 22 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-139) as Amended by House Amendment "B" (H-537)** thereto in **NON-CONCURRENCE** and sent for concurrence.

An Act to Revise Certain Provisions of Maine's Fish and Wildlife Laws (EMERGENCY)

(S.P. 546) (L.D. 1692)
(C. "A" S-187)

TABLED – May 17, 2001 (Till Later Today) by Representative DUNLAP of Old Town.

PENDING – **PASSAGE TO BE ENACTED.**

On motion of Representative DUNLAP of Old Town, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

SENATE REPORT – **Ought to Pass as Amended by Committee Amendment "A" (S-51)** – Committee on **TRANSPORTATION** on Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Highway Fund and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2002 and June 30, 2003" (EMERGENCY)

(S.P. 434) (L.D. 1414)

TABLED – April 24, 2001 (Till Later Today) by Representative FISHER of Brewer.

PENDING – **ACCEPTANCE OF COMMITTEE REPORT.**

Subsequently, the Committee Report was **ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (S-51)** was **READ** by the Clerk and **ADOPTED.**

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-51)** in concurrence.

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

COMMUNICATIONS

The Following Communication: (H.C. 270)

STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0001

May 18, 2001

Dear Members of the 120th Legislature:

Enclosed please find H.P. 74, L.D. 83, "An Act to Ban Permanent Replacement Workers in a Labor Dispute," which I am returning without my signature or approval.

My reasons for withholding approval on L.D. 83 are the same as those set forth in my accompanying veto message returning L.D. 66 to the 118th Legislature: that section 2 of the bill is unconstitutional and enactment would send a false message to the working community of Maine in that it unreasonably raises the hope of workers that the State has a role to play in federally regulated labor issues.

Judicial precedent and advice from Maine's Attorney General in response to the prior bill make it clear that L.D. 83 is unconstitutional. The provisions of section 2 would require that a contract between an employer and replacement workers must provide that when the strike is settled or if the employees offer unconditionally to return to work at any time after striking, replacement workers will not be retained in preference to the strikers. The courts have held that such a provision significantly impairs an employer's ability to continue business during a strike. In a 1989 Opinion, 571 A.2d 805, the Justices of the Maine Supreme Judicial Court reviewed the provisions of less restrictive legislation that limited the right of an employer to hire replacement workers during a labor dispute by imposing a 45 day cooling off period upon a specified vote by striking employees. The Justices found that the less restrictive 45 day delay of the employer's right to hire permanent replacement workers would be preempted by the National Labor Relations Act ("NLRA") (29 USC §151 et seq.) and was, therefore, inconsistent with the Supremacy Clause of the United States Constitution.

The Court's reasoning would be equally applicable to the more restrictive provisions of L.D. 83 that effectively would limit the employer's right to contract with permanent replacement workers at any time after the strike if certain specified conditions (all controlled by the striking employees) were satisfied. Applying the analysis of the Justices to the provisions of L.D. 83, it is clear that the legislation would invade the employer's right to economic self help to maintain his operations in the face of a strike that is protected by the NLRA and would be found to disrupt the balance intended by Congress between the tools of economic pressure available to the employer and striking employees. This conclusion is further reinforced by the May 8, 1995 Opinion of the Attorney General which found that very similar provisions of

legislation pending before the Second Regular Session of the 117th Legislature, effectively preventing employers from hiring permanent replacement workers, would be preempted by the NLRA and, therefore, unconstitutional.

Enactment of this bill would create only an illusory remedy against the use of permanent replacement workers. The illusion could be very damaging for employees in a labor dispute, potentially leaving them stranded after they have decided to strike based upon their perceived advantage under this legislation, only to find later that the law is unconstitutional and the employer can use its federally protected self help right to employ permanent replacement workers.

In rejecting the bill, however, I must express my view that the hiring of permanent replacement workers, particularly in the early stages of a strike, is not a tactic I would encourage or support. Although permitted by federal law, the damage this step does to workers, their families, and their communities can rarely, if ever, be justified so long as the workers are seeking a good faith resolution of the underlying dispute.

Because of the objections outlined above, I am in firm opposition to L.D. 83 and I respectfully urge you to sustain my veto.

Sincerely,

S/Angus S. King, Jr.

Governor

READ and **ORDERED PLACED ON FILE.**

The accompanying Bill "An Act to Ban Permanent Replacement Workers in a Labor Dispute"

(H.P. 74) (L.D. 83)

On motion of Representative COLWELL of Gardiner, **TABLED** pending **RECONSIDERATION** and later today assigned.

The Following Communication: (S.C. 296)

SENATE OF MAINE
OFFICE OF THE SECRETARY
3 STATE HOUSE STATION
AUGUSTA, ME 04333-0003

May 18, 2001

The Honorable Millicent M. MacFarland
Clerk of the House
2 State House Station
Augusta, ME 04333

Dear Clerk MacFarland:

Please be advised the Senate today Adhered to its previous action whereby it Indefinitely Postponed Bill, "An Act to Provide Public Employees Equal Access to Personnel Files"
(H.P. 910) (L.D. 1224) and its accompanying papers.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and **ORDERED PLACED ON FILE.**

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

Representative **SULLIVAN**: Mr. Speaker, Ladies and Gentlemen of the House. On roll call 174, if I had not been receiving medical attention and had been present, I would have voted yea.

On motion of Representative COLLINS of Wells, the House adjourned at 9:08 p.m., until 9:00 a.m., Tuesday, May 22, 2001.