

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**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  
59th Legislative Day  
Wednesday, May 30, 2001

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

Prayer by Reverend Joy Gasta, Unitarian-Universalist Churches of Norway and West Paris.

National Anthem by Honorable Gerald Bouffard, Lewiston and his son Dr. Ron Bouffard, Boothbay Harbor.

Pledge of Allegiance.

Doctor of the day, James Raker, M.D., Brunswick.

The Journal of yesterday was read and approved.

---

**SENATE PAPERS**

**Non-Concurrent Matter**

Expression of Legislative Sentiment recognizing the girls varsity track team at Edward Little High School

(HLS 462)

**PASSED** in the House on May 25, 2001.

Came from the Senate **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

On motion of Representative BRUNO of Raymond, the House voted to **RECEDE AND CONCUR**.

---

**ORDERS**

On motion of Representative CLARK of Millinocket, the following Joint Resolution: (H.P. 1360) (Cosponsored by President MICHAUD of Penobscot and Representative: STANLEY of Medway)

**JOINT RESOLUTION RECOGNIZING THE 100TH ANNIVERSARY OF THE INCORPORATION OF THE TOWN OF MILLINOCKET**

WHEREAS, March 16, 2001 marked the 100th anniversary of the incorporation of Millinocket as a town; and

WHEREAS, once known as part of Indian Township Number 3, the Town of Millinocket lies in the beautiful Katahdin Region, which abounds in lakes, woods and streams; and

WHEREAS, for a century the Town of Millinocket has thrived as a paper manufacturing center using the abundant natural resources of the Maine woods; and

WHEREAS, one of the first settlers to the area was Thomas Fowler who, with his family, built a log cabin on the banks of the West Branch of the Penobscot River at the head of Shad Pond; and

WHEREAS, in 1860, Charles and Daniel Watson joined the Fowlers and found the area to their liking and, in 1899, after the Honorable Charles Mullen, civil engineer, railroad contractor and lumberman cruised the township and found a plentiful supply of pulpwood and ample possibilities for electrical development on the Penobscot River, contractors started to develop electrical power and build the mill of the Great Northern Paper Company; and

WHEREAS, with the construction of the paper mill, people of many nationalities made their homes nearby. Among the early settlers of the present town were Frank Rush, Dr. George W. Mackay, Jerry Michaud, Emery Ward, Fred M. Gates and George W. Stearns; and

WHEREAS, the Town of Millinocket offers a 4-season experience where recreational opportunities abound, from the thrill of hunting bear, deer and a myriad of game to the tranquility of hiking along the Appalachian Trail with its beautiful views of

ponds, waterfalls, wildlife and plants, and the residents of the Town of Millinocket welcome visitors to the treasures of their community; and

WHEREAS, the Town of Millinocket is the primary gateway community to Baxter State Park in the heart of the region surrounding Mount Katahdin, the highest peak in Maine; and

WHEREAS, the people of the Town of Millinocket have historically excelled in academics, sports and quality of life; now, therefore, be it

**RESOLVED:** That We, the Members of the One Hundred and Twentieth Legislature now assembled in the First Regular Session, on behalf of the people we represent, take this opportunity to congratulate and extend best wishes to the citizens of the Town of Millinocket as they celebrate the town's centennial anniversary; and be it further

**RESOLVED:** That a suitable copy of this resolution, duly authenticated by the Secretary of State, be transmitted to the Town Manager of the Town of Millinocket on behalf of the citizens of that community.

**READ and ADOPTED.**

Sent for concurrence.

---

**SPECIAL SENTIMENT CALENDAR**

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

**Recognizing:**

the members of the Winslow High School Math Team, who won the State Class B Math Championship at a competition at the University of Maine on April 11th. This is the 8th time in 10 years that the team has brought home the championship. We extend our congratulations and best wishes to the team on this accomplishment;

(HLS 458)

Presented by Representative MATTHEWS of Winslow. Cosponsored by Senator GAGNON of Kennebec, Senator DAGGETT of Kennebec, Representative MITCHELL of Vassalboro, Representative BUMPS of China.

On **OBJECTION** of Representative MATTHEWS of Winslow, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

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

Representative **MATTHEWS:** Mr. Speaker, Men and Women of the House. I am very, very proud to have the victorious math team from Winslow High School here. I just want to say a couple of things. First of all, their teacher Barry Scott, the math teacher, is in the gallery with the students, with Hollis Ward, their bus driver. The Town of Winslow is very proud of them. Looking across the aisle, I know Representative Green, I just wanted to say that the teams that she has, they are almost a corner on the academic teams, the bright kids that she has as constituents of Monmouth. We have some smart kids also in Winslow, Maine. I am very, very proud today that my good friend and colleague, Representative Mitchell, it seems that every group that I bring down to the State House the first thing they ask of this Representative is, where is Representative Mitchell? I have to point out that he is over there, a former student of the high school and well known in the community and liked by the faculty. I am very, very proud to have them here. Thank you, Mr. Speaker.

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

Representative **MITCHELL:** Mr. Speaker, Men and Women of the House. I also wanted to congratulate the team and Barry

Scott. I was on a couple of these teams in the past and I assume that is why they know me. When any team wins eight out of 10 years and the students are turning over, you know there is a teacher doing a fantastic job. I just wanted to congratulate the team and Barry Scott.

**PASSED** and sent for concurrence.

**Recognizing:**

the China Middle School Future Problem Solving Team, who won the State Junior Future Problem Solving title. Carrie Marlett, Abbie Dodge, Caitlin LeMay and Jasmine Carter will be representing Maine at the International Future Problem Solving Contest in Athens, Georgia in June for the second year in a row. The team will examine problems pertaining to global interdependence set 20 or more years into the future. We wish the team the best of luck in Georgia and extend our congratulations to them on winning the State title;

(HLS 459)

Presented by Representative BUMPS of China.  
Cosponsored by Senator DAGGETT of Kennebec.

On **OBJECTION** of Representative BUMPS of China, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

The **SPEAKER**: The Chair recognizes the Representative from China, Representative Bumps.

Representative **BUMPS**: Mr. Speaker, Men and Women of the House. Every day when we enter this building we are challenged by contemporary problems, complex budget considerations for the problems we face today and tomorrow. We are faced with individual bills aimed at historic conditions of unfairness and injustice. Even when we are at our best, we have trouble projecting revenues, needs and or problems only five years or fewer into the future.

It is with a great deal of pride this morning that I stand to recognize the accomplishments of the junior future problem solving champions of the State of Maine and also from the China Middle School. What is especially noteworthy about this group and their teacher is that this is the second year in a row that they have won this title. They will have the privilege of going to Georgia, as you have heard, during the beginning of June to represent the State of Maine in the international future problem solving competition. That competition will bring participants from all across the world to the United States to participate in attempting to solve problems that are based at least 20 years into the future. I think each of you can understand the complexity of such a task. It is with a great deal of pride that I congratulate the members of the China Middle School future problem solving team on their accomplishment and do indeed wish them the best of luck in June. Thank you.

**PASSED** and sent for concurrence.

**REPORTS OF COMMITTEE**

**Divided Report**

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act to Establish Guidelines for High School Sports"

(S.P. 11) (L.D. 3)

Signed:

Senators:

MITCHELL of Penobscot

ROTUNDO of Androscoggin

Representatives:

RICHARD of Madison

DESMOND of Mapleton  
SKOGLUND of St. George  
CUMMINGS of Portland  
ESTES of Kittery  
STEDMAN of Hartland  
ANDREWS of York  
LEDWIN of Holden

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-273)** on same Bill.

Signed:

Senator:

NUTTING of Androscoggin

Representatives:

WATSON of Farmingdale

WESTON of Montville

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

**READ.**

Representative RICHARD of Madison moved that the House **ACCEPT** the Majority **Ought Not to Pass Report.**

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

**ENACTORS**

**Emergency Measure**

An Act to Support a Continuum of Quality Long-term Care Services

(H.P. 1169) (L.D. 1569)

(C. "A" H-593)

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. 108 voted in favor of the same and 4 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**Emergency Measure**

An Act to 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)

(H. "A" H-573 to C. "A" S-180)

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. 102 voted in favor of the same and 11 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**Resolve Pursuant to the Constitution**

**Public Land**

Resolve, Authorizing a Land Transaction by the Bureau of Parks and Lands

(H.P. 1337) (L.D. 1791)

(C. "A" H-582)

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

On motion of Representative McKEE of Wayne, **TABLED** pending **FINAL PASSAGE** and later today assigned.

**Acts**

An Act to Ensure Telecommunications Protections for Deaf and Hard-of-hearing People

(S.P. 348) (L.D. 1162)  
(C. "A" S-227)

An Act to Require Sprinkler Protection in all Secondary and Postsecondary Dormitories

(H.P. 1161) (L.D. 1561)  
(C. "A" H-595)

An Act to Provide Pension Equity for Mental Health Workers

(S.P. 494) (L.D. 1583)  
(C. "A" S-249)

An Act to Increase the Debt Limit of the Calais School District Trustees

(S.P. 516) (L.D. 1635)  
(C. "A" S-250)

An Act to Amend Certain Motor Vehicle Laws

(H.P. 1223) (L.D. 1664)  
(C. "A" H-355; H. "A" H-574)

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

**Resolves**

Resolve, Directing Responsible State Agencies to Secure Public Access to Class 2 Waters

(S.P. 350) (L.D. 1164)  
(C. "B" S-248)

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

An Act to Create an Alliance for the Purpose of Purchasing Health Insurance

(H.P. 193) (L.D. 204)  
(C. "A" H-587)

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

On motion of Representative COLWELL of Gardiner, 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. 282**

YEA - Andrews, Annis, Ash, Bagley, Baker, Belanger, Berry DP, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Brooks, Bruno, Bryant, Buck, Bull, Bumps, Bunker, Canavan, Carr, Chase, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cowger, Crabtree, Cressey, Cummings, Davis, Desmond, Dorr, Dudley, Dugay, Duncan, Dunlap, Duplessie, Duprey, Estes, Etnier, Fisher, Foster, Fuller, Gagne, Gerzofsky, Glynn, Green, Hall, Haskell, Hatch, Heidrich, Honey, Hutton, Jacobs, Jodrey, Jones, Kane, Kasprzak, Koffman, Labrecque, Landry, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, MacDougall, Madore, Mailhot, Marley, Matthews, Mayo, McDonough, McGlocklin, McKee, McKenney, McLaughlin, McNeil, Mendros, Michael, Michaud, Mitchell, 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, 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, Tuttle, Twomey, Usher, Volenik, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Young, Mr. Speaker.

NAY - NONE.

ABSENT - Daigle, Goodwin, Gooley, Hawes, Lovett, Marrache, McGowan, Muse K, Povich, Quint, Stedman, Watson.  
Yes, 139; No, 0; Absent, 12; Excused, 0.

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

An Act Regarding Veterans

(H.P. 231) (L.D. 268)  
(C. "A" H-583)

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

On motion of Representative COTE of Lewiston, 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. 283**

YEA - Andrews, Annis, Bagley, Baker, Berry DP, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Brooks, Bruno, Bryant, Buck, Bull, Bumps, Bunker, Canavan, Carr, Chase, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cowger, Crabtree, Cressey, Cummings, Davis, Desmond, Dorr, Dudley, Dugay, Duncan, Dunlap, Duplessie, Duprey, Estes, Etnier, Fisher, Foster, Fuller, Gagne, Gerzofsky, Glynn, Green, Hall, Haskell, Hatch, Heidrich, Honey, Hutton, Jacobs, Jodrey, Jones, Kane, Kasprzak, Koffman, Labrecque, Landry, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, MacDougall, Madore, Mailhot, Marley, Matthews, Mayo, McDonough, McGlocklin, McKee, McKenney, McLaughlin, McNeil, Mendros, Michael, Michaud, Mitchell, 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, 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, Tuttle, Twomey, Usher, Volenik, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Young, Mr. Speaker.

NAY - NONE.

ABSENT - Ash, Belanger, Daigle, Goodwin, Gooley, Hawes, Lovett, Marrache, McGowan, Muse K, Povich, Quint, Stedman, Watson.

Yes, 137; No, 0; Absent, 14; Excused, 0.

137 having voted in the affirmative and 0 voted in the negative, with 14 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act to Improve End-of-life Care in the State  
(H.P. 617) (L.D. 802)  
(C. "A" H-586)

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

On motion of Representative MADORE of Augusta, was **SET ASIDE**.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Madore.

Representative **MADORE**: Mr. Speaker, Ladies and Gentlemen of the House. Since this is going to be my only opportunity to speak on this bill, I just wanted to say very briefly thank you to all the members of this body for their support on LD 802, which is the act to improve the end of life in the state. Thanks to your support we were able to pass the bill. As you know, it was put into the Part I Budget and, therefore, this bill is no longer needed. Before I made the motion, I wanted to thank you all very much. Mr. Speaker, I move that this bill and all accompanying papers be Indefinitely Postponed.

On further motion of the same Representative, the Bill and all accompanying papers were **INDEFINITELY POSTPONED**.

An Act to Assist Low-income Families with the Purchase or Repair of Vehicles

(H.P. 796) (L.D. 1040)  
(C. "A" H-592)

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

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. I would encourage you to vote against this bill because I think there comes a time when there is a point where you have to say, enough is enough. I would introduce a bill to supply alarm clocks to people who don't work to make sure they get up on time, but I would be afraid that it would pass. Thank you.

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. 284**

YEA - Bagley, Baker, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bryant, Bunker, Canavan, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Cummings, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hall, Hatch, Hawes, Hutton, Jacobs, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Mailhot, Marley, Matthews, Mayo, McDonough, McGlocklin, McKee, McLaughlin, Mendros, Michaud, Mitchell, Murphy E, Norbert, Norton, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perry, Pineau, Richard, Richardson, Rines, Savage, Shields, Simpson, Skoglund, Smith, Snowe-Mello, Stanley, Sullivan, Tessier, Thomas, Tobin D, Tracy, Tuttle, Twomey, Usher, Volenik, Mr. Speaker.

NAY - Andrews, Annis, Ash, Belanger, Berry DP, Bowles, Bruno, Buck, Bull, Bumps, Carr, Chase, Clough, Collins,

Crabtree, Cressey, Davis, Duncan, Duprey, Foster, Glynn, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Landry, Ledwin, Lundeen, MacDougall, Madore, McKenney, McNeil, Morrison, Murphy T, Muse C, Nass, Nutting, Perkins, Pinkham, Rosen, Schneider, Sherman, Tarazewich, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Young.

ABSENT - Daigle, Goodwin, Gooley, Lovett, Marrache, McGowan, Michael, Muse K, Povich, Quint, Stedman, Watson.

Yes, 85; No, 54; Absent, 12; Excused, 0.

85 having voted in the affirmative and 54 voted in the negative, with 12 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

(S.P. 380) (L.D. 1278)  
(H. "C" H-563 to C. "A" S-139)

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. 285**

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

NAY - Buck, Carr, Clough, Cressey, Duprey, Foster, Heidrich, Jodrey, Kasprzak, MacDougall, Mendros, Michael, Nutting, Perkins, Pinkham, Sherman, Snowe-Mello, Stanley, Tobin J, Trahan, Treadwell, Waterhouse.

ABSENT - Daigle, Fisher, Goodwin, Gooley, Lovett, Marrache, McGowan, Muse K, Povich, Quint, Simpson, Stedman, Weston.

Yes, 116; No, 22; Absent, 13; Excused, 0.

116 having voted in the affirmative and 22 voted in the negative, with 13 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act to Further Reduce Mercury Emissions from Consumer Products

(H.P. 1224) (L.D. 1665)  
(C. "A" H-417; H. "A" H-471; S. "A" S-247)

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

On motion of Representative COWGER of Hallowell, 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**: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

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

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

Representative **WATERHOUSE**: Mr. Speaker, Men and Women of the House. Exactly what does this bill do?

The **SPEAKER**: The Representative from Bridgton, Representative Waterhouse 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, Men and Women of the House. This is a bill that we discussed at fairly great length in the House some time ago. It deals with notification on mercury that is added to consumer products. It is a ban on mercury fever thermometers and elemental mercury used in schools. It has some language in here to deal with disclosure of mercury products that are used by hospitals. I urge you to support this unanimous committee report. Thank you.

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

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. It wasn't unanimous.

The Chair **REQUESTED** that the Clerk **READ** the Committee Report.

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

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

Representative **COWGER**: Mr. Speaker, Men and Women of the House. I just want to extend my apologies to the Representative from Millinocket and others. It was an oversight on my part. I did think this was unanimous and I just want to apologize. Thank you.

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. 286**

YEA - Annis, Ash, Bagley, Baker, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bryant, Bull, Bumps, Bunker, Canavan, Chick, Chizmar, Colwell, Cote, Cowger, Cummings, Davis, Dorr, Dudley, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hall, Hatch, Hawes, Honey, Hutton, Jacobs, Jones, Kane, Koffman, Landry, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, Madore, Marley, Mayo, McDonough, McGlocklin, McKee, McKenney, McLaughlin, Michael, Michaud, Mitchell, Murphy E, Murphy T, Muse C, Nass, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perkins, Perry, Pineau, Richard, Richardson, Rines, Savage, Simpson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin J, Tracy, Trahan, Twomey, Usher, Volenik, Watson, Mr. Speaker.

NAY - Andrews, Belanger, Berry DP, Bowles, Bruno, Buck, Carr, Chase, Clark, Clough, Collins, Crabtree, Cressey, Desmond, Dugay, Duncan, Duprey, Foster, Glynn, Haskell, Heidrich, Jodrey, Kasprzak, Labrecque, MacDougall, Mailhot, McNeil, Mendros, Morrison, Nutting, O'Brien JA, Pinkham, Rosen, Schneider, Sherman, Shields, Snowe-Mello, Tobin D, Treadwell, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Young.

ABSENT - Daigle, Goodwin, Gooley, Lovett, Marrache, Matthews, McGowan, Muse K, Povich, Quint, Stedman, Tuttle.

Yes, 94; No, 45; Absent, 12; Excused, 0.

94 having voted in the affirmative and 45 voted in the negative, with 12 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Resolve, to Require Increased Reimbursement for Hospice Care Under the Medicaid Program

(H.P. 1209) (L.D. 1641)  
(C. "A" H-590)

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

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

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

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. I just want to speak very briefly to this bill. Like my good friend from Augusta, Representative Madore, this is my only opportunity to speak on this bill that I sponsored. I just wanted to thank all members of the body who voted for the Part I Budget the other night, because this, too, was included in the budget. It does expand end of life and end of life care opportunities for the terminally ill in the State of Maine. It does that through expansion of a Medicaid hospice benefit for those people here in the State of Maine. This bill is no longer necessary since it is in Part I Budget. I would move Indefinite Postponement of LD 1641. Thank you Mr. Speaker.

On further motion of the same Representative, the Resolve and all accompanying papers were **INDEFINITELY POSTPONED**.

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

**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.

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

(S.P. 448) (L.D. 1502)

**TABLED - May 21, 2001 (Till Later Today)** by Representative COLWELL of Gardiner.

**PENDING - ACCEPTANCE OF COMMITTEE REPORT.**

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-225)** was **READ** by the Clerk.

Representative RICHARD of Madison presented **House Amendment "A" (H-618)** to **Committee Amendment "A" (S-225)** which was **READ** by the Clerk and **ADOPTED**.

**Committee Amendment "A" (S-225)** as Amended by **House Amendment "A" (H-618)** 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" (S-225)** as Amended by **House Amendment "A" (H-618)** thereto in **NON-CONCURRENCE** and sent for concurrence.

JOINT ORDER - Relative to printing of history and final disposition of each Bill and Resolve

(H.P. 4)

- In House, House **ADHERED** to **PASSAGE** on April 12, 2001.

- In Senate, **PASSED AS AMENDED BY SENATE AMENDMENT "B" (S-263)** in **NON-CONCURRENCE**.

TABLED - May 29, 2001 (Till Later Today) by Representative COLWELL of Gardiner.

PENDING - **FURTHER CONSIDERATION**.

Subsequently, the House voted to **RECEDE AND CONCUR**.

HOUSE REPORT - **Ought to Pass as Amended by Committee Amendment "A" (H-628)** - Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Implement Changes in Cost-sharing Agreements in School Districts"

(H.P. 977) (L.D. 1301)

TABLED - May 29, 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-628)** 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-628)** and sent for concurrence.

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

HOUSE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (H-351)** - Committee on **LABOR** on Bill "An Act to Require That Certain Employees Be Paid on a Weekly Basis"

(H.P. 48) (L.D. 57)

TABLED - May 8, 2001 (Till Later Today) by Representative NORBERT of Portland.

PENDING - Motion of Representative BUNKER of Kossuth Township to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

Subsequently, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Representative DUDLEY of Portland **OBJECTED** to sending this matter **FORTHWITH**.

On motion of Representative DUDLEY of Portland, the House **RECONSIDERED** its action whereby the Majority **Ought Not to Pass** Report was **ACCEPTED** on Bill "An Act to Require That Certain Employees Be Paid on a Weekly Basis"

(H.P. 48) (L.D. 57)

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

Representative TWOMEY: Mr. Speaker, Men and Women of the House. Representative Dudley, I really, really appreciate you holding this for me while I was out of the room. This is not a popular bill and it is back again. If I am re-elected, it will be back again. It is one of those that is a principle bill. A principle bill for working people in the State of Maine who deserve the right to have a paycheck, a day's work for a day's pay. It goes to the very heart of what I believe in.

In 1917 there was a law on the books where people would get paid weekly. People didn't make much money then and needed that weekly paycheck. I would say to you today that people still are not making enough money to get by the week. They have to struggle. At the end of that second week when they get that paycheck, they have to pay their rent and sometimes it is overdue because they had to stretch to get to the end of the second week. I will tell you who this affects the most, women. It is women who are alone. Women whose husbands have left or does not pay child support or cannot get help. It is working poor. It is not just women. It is people that work in shops who don't make enough money. As my good friend from Wayne suggested, we should save our energy to work for higher pay. While that work is slow, I feel that we need to address the people who are struggling today who can't make it to the end of that second week.

There was a watershed over this my freshman year and there is a watershed this year that I will take up later. It isn't popular, but it is a belief that every working person in the State of Maine is owed that day's pay and should not have to wait while someone takes their money and makes interest on it. I would urge you to support the Minority Ought to Pass Report. Thank you.

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

Representative DAVIS: Mr. Speaker, Ladies and Gentlemen of the House. This bill is well intended and I agree with my friend from Biddeford, Representative Twomey, that some Maine families don't make enough money, but nevertheless, we shouldn't pass this bill to help one group of people to hurt another. Many groups that testified against this bill, I have a whole folder full of them. I will just share a couple of them with you.

NFIB said the following, "Small business owners want flexibility enjoyed by the Legislature and government. LD 57 would create a double standard, whereby small business will be required to pay wages weekly, but the state, including the Legislature and municipalities, would be exempt from the weekly pay law."

I think even more telling is a person from Brunswick, Maine, Sandy Morrill Rooney, who testified before the Labor Committee. "We are a Maine family-owned business that is based in Brunswick. We employ approximately 575 employees in the State of Maine. The cost of us to go to a weekly payroll would be about \$20,000 to the outside vendor who processes our payroll for us. In addition, we conservatively calculate that there would



be \$10,000 to \$15,000 additional labor costs to process twice as often. That is \$30,000 to \$35,000 of additional expense from no extra benefit."

I also received letters and phone calls last year when this bill was up from my own district, West Falmouth, West Cumberland and they said this would hurt them. Many people are struggling along and their profit margin is not that large. Also, LD 57 would once again make Maine only one of the two states that would have no exceptions to weekly pay requirements. The other four have some form of exception. Clearly it is a step backwards in Maine competitiveness and the region nationally and global climate that we now operate. Thank you.

The SPEAKER: The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House. There are certain things to be balanced here in the decision on how to vote on this bill. Are we going to balance bringing some measure of relief into the lives of the poorer people of our state or balance this against extra profits for the larger businesses in this state? I disagree with Representative Davis. This is not a small business bill. Small businesses know their employees. They see them and talk to them and know that you take care of your employees by paying them every week. You don't defer for two weeks to stretch them out. This is an effort to squeeze extra profits out of the lives of the people who live from week to week and paycheck to paycheck. We don't do very much for these working poor. This is one effort that we can make to give back some measure of financial stability to the poorer people of our state. We haven't done much for the workers who are poor in this state. This is a chance to give something back. I urge you to vote in favor of this bill.

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

Representative MACDOUGALL: Mr. Speaker, Ladies and Gentlemen of the House. One of the problems if this bill were to pass is many of our businesses that have operations in other states in the country, that would put them out of synk with their corporate headquarters and that is something of concern. Specifically something that an earlier speaker spoke to, the businesses often times if they receive payment by credit card, it is often a 45 day or so delay before they get paid for the services or the product. It isn't that the business owners are making money off the backs of their workers. It is called cash flow. Every business owner should have a right to determine what fits for them, in terms of being competitive in the marketplace and taking care of their employees. Maine is largely small businesses and Maine has many things to be proud of, but one of the proudest things it has is the business owners of this state.

We need to remember that there is a balance there. In the aggregate, if an employer has an additional cost here and an additional cost there, for many of the things we do from the Labor Committee and that we deliberate here in this session, as costs increase to run a business, it is going to affect the money for expansion, staying competitive, giving out raises and for expansion of health care or other benefits for an employee. I think the main problem here is that there are many people here in the State of Maine whose wages don't fit their budget. I think what would be a better approach would be to help them strategize to improve that and to improve and take advantage of the opportunities we have in this great State of Maine. I would urge you to vote for the pending motion. Thank you.

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

Representative DAVIS: Mr. Speaker, Ladies and Gentlemen of the House. I would like to invite my Labor member and colleague from Van Buren to visit West Falmouth and West

Cumberland and Portland. Some of the small businesses there are, in fact, the working poor. The margin of profit is very small. This would hurt them if they would have to pay every week. It would seriously injure their effort to make a living. Thank you.

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

Representative LAVERRIERE-BOUCHER: Mr. Speaker, Men and Women of the House. I have heard of this bill over the years. My fellow Representative is from Biddeford and we have talked about it. I had not really talked about it seriously until last year when I worked in a mental health service agency. I was considered professional staff and we were paid twice a month. However, our pay started more regularly than those people who were at the bottom line making \$7 an \$8 an hour. They had to wait 30 days to get their very first paycheck from the time that they started working. I was appalled at that because these people made a lot less than I was making and they had to wait 30 days. I couldn't imagine working at one job for 30 days before you see one paycheck. I have changed my mind concerning this particular issue. I ask you to support it. Thank you.

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

Representative MATTHEWS: Mr. Speaker, Men and Women of the House. I, too, want to rise to support my good friend and colleague, the Representative from Biddeford, Representative Twomey, in putting forward this bill. We did have a long and vigorous debate on this issue. Unfortunately, it didn't turn out successfully before. That doesn't mean the issue isn't still alive and important and it is.

I just want to share with the body the concerns, at least the last time when we changed the existing Maine law. I don't think it is always in the best interest of the people of Maine that we change existing laws. There were two particular small businesses that worked extremely hard to defeat this bill. One was a credit card company by the name of MBNA and the other was a small business by the name of National Semiconductor. Lord knows, it is hard to be a multi-national company.

I am concerned about the people that are working harder and harder each day and our Chief Executive has mentioned, as we have here, the concern about wages in Maine. They are extremely low. It is an issue of economic survival for many of them. I am going to opt for those that are trying to make ends meet and vote for the Minority Report. I am not going to vote for the small businesses of MBNA and National Semiconductor. Thank you.

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

Representative FULLER: Mr. Speaker, Ladies and Gentlemen of the House. I have to stand up and advocate for the small businesses that are really truly hurting and would be hurt even further by this bill. As many of you know, my daughter is a pediatric occupational therapist who runs a small business of six to eight employees. She has 60 to 70 percent Medicaid clients and she is barely surviving. She does have her payroll done by an outside company because payroll has gotten more and more complex as time has gone on and for her to have to cough up the additional costs of doing a weekly payroll would be probably the final nail in the coffin. There are a lot of problems out there in our system of services to children that need to be addressed. The Medicaid rate is outrageously low. She is struggling to survive. In fact, she is doing some other work on the side now in order to make ends meet. I will not support the Minority Report. I will support the Majority Ought Not to Pass Report. Thank you.

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. There are a couple of quick points I would like to make. The first is if this is not a mandatory bill, those employers who wish to pay on a weekly basis or even more frequently than that are certainly allowed to do it under this law. I would like to make another comment that I think we can all relate to. I visited MBNA last fall, the starting salary for those people at MBNA was \$24,000, if I remember correctly. After the first year, their average was running around \$30,000 a year. The other point is that we have heard reference to the poor people. I would like to bring to your attention the poorest of the poor, those people who are on food stamps, social security or any other governmental assistance programs. They are paid once a month. Those are the people, I think, that we should really be more concerned about and allow the employers in the State of Maine that operate these small businesses on very small profit margins the opportunity to save enough to keep themselves going and stay in business. I would urge you to vote for the pending motion.

The **SPEAKER**: The Chair recognizes the Representative from Belfast, Representative Ash.

Representative **ASH**: Mr. Speaker, Men and Women of the House. I am a small businessman. I have about eight employees. I pay weekly. There isn't a week that goes by that one of my employees doesn't come in and ask to get an advance of his paycheck. I have two employees that are single fathers that are bringing up their kids. There is something that always comes up, a school function or something, that they need that money for. If I was to hold that for two weeks, they would really have a tough time at it. It just isn't right. If they work a week, they should get paid for the week. We do that in our shop. As far as credit cards, I heard here that the turnaround was 45 days. That isn't so. It is two days at the most if you accept a credit card. That isn't a reason not to pay every two weeks. That is bull. As far as someone making out your payroll, we make out our own payroll. We have eight employees and if you are that close to the button, I suggest that maybe those people make out their own payroll also. Thank you.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. Government assisted programs, BETR, TIFs, those are government assisted programs. These people can write if off at the end of the year when they jump on their corporate jets, but the people I am standing here for can't make ends meet. They can't buy the food for their children. They can't pay their rent. Vote for conscience. I am here to represent the people of Maine. Thank you.

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

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. We debated this bill last year and there were many good Representatives that voted in favor of this bill because it leaves an option to business, whether to pay once a week or whether to pay every two weeks, that option is available. I heard from the good Representative from Biddeford that a person has to wait 30 days to get paid. I would call the Department of Labor if that is the case because that is illegal. If somebody works two weeks, you have to pay them. You cannot withhold a paycheck for 30 days. That is already in the labor laws. The fact of the matter is that someone who stretches their paycheck will stretch their paycheck week to week or two weeks to two weeks. It does not matter whether someone is getting paid \$500 a week or if

they get paid \$1,000 every two weeks. The people who are on the margin are going to stretch their paycheck. It has nothing to do with this bill or when you pay them. It has to do with how much money they earn and everything else in life that they are confronted with. It has nothing to do with when you pay them. They make choices. They have options in their lives that they fight against every single day. Whether you pay them once a week or you pay them every two weeks, that person who struggles will struggle.

Maybe we can help them out with a tax cut. There is a national tax cut coming down the pike here in the next couple of months and maybe that will help them get by even better. This bill does not do it. What this bill does is it sends a message to business that we want to change your lives every year. Why don't we bring up this or why don't we bring up TIFS or why don't we bring up weekly payroll every year that we are in session so that you cannot plan for your future? That is what Maine says. That is the message that Maine sends. You cannot plan two years out because you do not know what the Legislature is going to do to you.

Ladies and gentlemen, let's do what we did last session. Let's defeat this pending motion. Thank you.

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

Representative **PARADIS**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to speak from personal experience. Many years ago when I started teaching at the grand salary of \$4,200 a year, I found it very hard to adjust to a biweekly pay. Before that, any job I had was paid weekly. I had a very hard time making ends meet. I do feel our working poor's feelings. I was one of them once. Please defeat this motion. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. It is so easy to talk about a tax cut for the poor, but what is there to give someone who doesn't make enough money to even have to pay taxes. They are just trying to survive. I think we are talking about keeping the people on the lower income levels in our state with an opportunity to survive. Mr. Speaker, I do ask for a roll call on this.

Representative **SMITH** of Van Buren **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. As you can see, this issue is a tough issue for sure for the Labor Committee. A little history, the bill came before us in 1997, I think, or what have you, and what happened was many of the companies across the country and also businesses in Maine started to shift from weekly, biweekly, bimonthly, depending on whether you work for a small company, a bigger company or a corporate salary type of situation. There is flexibility, obviously, in payroll among the 50 states. This happened naturally, ladies and gentlemen, and suddenly we found out through the Department of Labor that there were several businesses in Maine that were not following the technical letter of the law that Maine says you have to pay everybody weekly. That precipitated a bill that came before the Legislature, which allowed permissive language. It said that businesses can pay their employees weekly, biweekly or bimonthly, depending on the employer you had and what the need was.

I heard the issue in committee. I heard some folks come in and, quite honestly, a good example of people that came before the committee, was the Maine Oil Dealers Association. Think of any business that is not more transient in nature than maybe pumping gas or a store clerk in one of these convenience stores. I asked those folks very directly, how many of our people in your organization that are paying biweekly or monthly or something greater? The answer was none. These folks were paid on a weekly basis. I think the good Representative from Belfast, Representative Ash, is very clear. You know that most small businesses in Maine know their employees. If they have to hire employees on a weekly basis because they know the need is there to pay, I think that is what I have seen. I have not seen a great change from 1995 to 2001 in how a business treats their employees from the way they were treating them just three, four or five years ago. I don't see a big exodus from weekly to biweekly to monthly. I think the status quo that was going on before this bill was passed a few years ago is essentially the way it is operating now. It is running very smoothly and permissively. I understand there are some real heartfelt concerns on either side. I would ask you to vote your conscience on this. Please support whichever motion you think is most appropriate. Thank you.

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

**ROLL CALL NO. 287**

YEA - Andrews, Annis, Bagley, Belanger, Berry DP, Blanchette, Bowles, Brannigan, Bruno, Buck, Bull, Bumps, Bunker, Canavan, Carr, Chase, Chick, Chizmar, Clough, Collins, Cowger, Crabtree, Cressey, Davis, Desmond, Dugay, Duncan, Dunlap, Duprey, Estes, Etnier, Fisher, Foster, Fuller, Gagne, Glynn, Green, Hall, Haskell, Hawes, Heidrich, Honey, Jodrey, Jones, Kane, Kasprzak, Koffman, Labrecque, LaVerdiere, Ledwin, Lemoine, Lessard, MacDougall, Madore, Mailhot, Mayo, McKee, McKenney, McNeil, Mendros, Morrison, Murphy E, Murphy T, Muse C, Nass, Nutting, O'Brien JA, O'Brien LL, O'Neil, Peavey, Perkins, Perry, Pinkham, Povich, Richardson, Rosen, Savage, Schneider, Sherman, Shields, Simpson, Snowe-Mello, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor, Young.

NAY - Ash, Baker, Berry RL, Bliss, Bouffard, Brooks, Bryant, Clark, Colwell, Cote, Cummings, Dorr, Dudley, Duplessie, Gerzofsky, Goodwin, Hatch, Hutton, Jacobs, Landry, Laverriere-Boucher, Lundeen, Marley, Matthews, McDonough, McGlocklin, McLaughlin, Michael, Michaud, Mitchell, Norbert, Norton, Paradis, Patrick, Pineau, Richard, Rines, Skoglund, Smith, Stanley, Tracy, Tuttle, Twomey, Usher, Volenik, Watson, Mr. Speaker.

ABSENT - Daigle, Gooley, Lovett, Marrache, McGowan, Muse K, Quint, Stedman, Wheeler GJ.

Yes, 95; No, 47; Absent, 9; Excused, 0.

95 having voted in the affirmative and 47 voted in the negative, with 9 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

---

Representative CHIZMAR of Lisbon 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.

Resolve, to Establish the Commission to Study Ways to Eliminate Cigarette Litter in Maine (EMERGENCY)

(H.P. 1314) (L.D. 1778)

- In House, Minority (4) **OUGHT NOT TO PASS** Report of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT READ** and **ACCEPTED** on May 23, 2001.

- In Senate, Majority (9) **OUGHT TO PASS AS AMENDED** Report of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-549)** in **NON-CONCURRENCE**.

TABLED - May 25, 2001 (Till Later Today) by Representative RICHARDSON of Brunswick.

PENDING - **FURTHER CONSIDERATION**.

Representative WATERHOUSE of Bridgton moved that the House **ADHERE**.

Representative RICHARDSON of Brunswick moved that the House **RECEDE AND CONCUR**.

Representative WATERHOUSE of Bridgton **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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 Brunswick, Representative Richardson.

Representative **RICHARDSON**: Madam Speaker, Men and Women of the House. Very briefly, cigarette littering is the number one cause of littering in the state. We are asking to spend a few thousand dollars to perhaps limit the millions of dollars that the state and local governments spend in cleaning up their parks and beaches and so forth.

Secondly, I just want people to remember that, in fact, we will not bring the tobacco lobby to the study or to this problem unless they are forced to. This study enables us to bring, in fact, the tobacco companies to talk about a problem, which they share in terms of the solution. Thank you.

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

Representative **BROOKS**: Madam Speaker, Ladies and Gentlemen of the House. Please don't lose sight of the fact that this is just simply a study. This will, as the good Representative from Brunswick said, bring some people to the State of Maine, which as I understand it, Philip Morris and RJ Reynolds, it will probably be the only state in which they will come to us and be willing to work with us in trying to figure out a way to do this. I am going to be very brief about this, but during that period of time on the previous debate on this bill, I got huge amounts of publicity. By the way, that was certainly not intended. We talked about this way back last summer when I got together with the Maine Innkeepers Association and we talked about the potential for this to generate lots and lots of publicity. It did and it is very surprising.

I want you to know that during that period of time and since that time I have received a phenomenal amount of phone calls. I am still receiving phone calls from people from other states and other countries asking the status of the butt bill and wondering if we have done it. It is not a problem unique to the State of Maine. It is everywhere. Even today I received another note from a colleague here in the House about publicity, noting Maine and noting the butt bill. I think this is something that we do need to pursue. Again, it is just a study. It will be something that we will

struggle for, I am sure, on the Study Table and try to get it funded. Thank you.

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

Representative **MURPHY**: Madam Speaker, Men and Women of the House. As we began to work this bill, we did spend a lot of time on it, really more time than we should have in terms of some of the other problems this state faces. We found that the retailers who really want to find a solution to this problem, because of the litter in front of their stores, and the manufacturers are working nationally and they have begun talking to each other on the state level. There is going to be progress made. When you can have that change take place voluntarily, sometimes it happens quicker and more efficiently than it can with government becoming involved in it. I think we have seen here on the State House grounds that when you clearly define where the smoking areas are and you provide safe disposal of a cigarette, then the litter is reduced.

I think the consequence for those people who litter with their cigarette butts will be the posting of no smoking. We have businesses where it is the policy of that business or state law to say you can't smoke and as soon as you step through the doorway to the outdoors then you dispose of the butts on the ground. I think many business owners and the innkeepers should possibly look that if that litter problem doesn't resolve itself, then they need to post no smoking outside of there.

I think we can play an individual role as well when we see someone flicking a cigarette, when we see someone emptying out their ashtray, I think we have a responsibility to say, that it unacceptable behavior. You can't treat our environment as if it is your ashtray. I think there are separate voluntary discussions going on, which I think we will find will be very positive. I think the smokers have to take some responsibility upon themselves to solve this problem as well. Thank you.

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

Representative **HEIDRICH**: Madam Speaker, Ladies and Gentlemen of the House. A few short years ago my wife and I took a trip to Bermuda. It is a beautiful, beautiful island, spotlessly clean. We were walking down one the lanes and there was an American tourist in front of us. He was smoking. The way Americans dispose of cigarettes is he flicked it. He was a very distinguished looking black man with his Bermuda shorts and a very eloquently dressed man approached him, with a British accent, and said, sir, we don't do that on our island.

All this study needs is a little pride. Thank you.

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

Representative **COWGER**: Madam Speaker, Colleagues of the House. I just have a couple of points I would like to make in support of the pending motion. I think this was a bill that actually helps many Maine small businesses. As you know, I am an innkeeper and I do pick up cigarette butts nearly every day. I think it is quite a stretch to suggest that we tell our customers not to smoke outside of the building. Many of us do already have nonsmoking establishments indoors. I think that would be pushing customers off. I think that we ought to be looking at some ways of reducing the litter outside, not only our establishments, but throughout our environment, especially our beaches where it is a huge problem.

The other point I would like to make is, as I was home over the weekend, I heard of two fires in Maine that were burning over the weekend, small fires, they were put out, but the likely cause of these fires was cigarette butts carelessly discarded out of car windows. I think this is much more than a littering problem. We can address it though this study, but I think you are also looking

at ways to help prevent damage to our employers. I urge you to support the pending motion. Thank you.

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

Representative **COLWELL**: Madam Speaker, Men and Women of the House. It is a little unusual for the corner to rise on an issue like a study, but I am rising to support the Recede and Concur motion. I am doing that for a number of reasons. The good Representative from Kennebunk stated that more time than they should have spent was probably spent on this issue. I think the implication was that this was not a consequential issue. I rise to say that it is. Over the Memorial Day weekend I was driving over to my hunting camp over in Township 37, middle district, the heart of Washington County, and many of you know the airline is a difficult road to pass on. I got behind a vehicle and I don't know they had synchronized their cigarette smoking, two people in the vehicle, and every five minutes they, together, threw a butt out in the middle of Washington County in the middle of the driest spring we have ever had in a long, long time in this state. My family has lived here for a good long time. I couldn't believe it.

This is not the butt bill. This is a study to consider all options to deal with a very serious littering, public safety and an environmental problem. I say environmental for one simple reason. I was driving over to Washington County to go fishing. Many game fish, trout, salmon, bass eat these filters. If they eat enough of them, they don't digest them, their stomachs get all bound up and, especially young trout, will die. I know that perhaps it seemed to some that this was an inconsequential issue. I have to tell you that I didn't support my good friend from Winterport's idea of returnable butts, but I certainly give him a lot of credit for raising the public awareness of a very serious problem in this state. I think we need, at the very least, to take a look at this. That is all this bill before us will allow us to do, weigh all of the options. At the end of the day we may decide that maybe perhaps it doesn't reach that level of consequence or perhaps it will. By bringing all of the members and the various players together in this study, we might just come up with a good idea. Thank you.

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

Representative **WATSON**: Madam Speaker, Men and Women of the House. I am going to speak just briefly in support of the Recede and Concur motion. I think that it is timely to have this study brought forward. Some of you in this chamber may know that there has been a number of years that I have been sort of on the cases of smoking here in our State House. I was following in the lead of our good former Speaker, John Martin, in continuing the pursue the cause of a clean environment for all of us that work in this building. Senator Martin, when he was Speaker previously, did, in fact, unpopularly, ban smoking from this very chamber that we are working in. I am sure there aren't many of us around that remember those good old days when everyone had an ashtray on their desk and were allowed, when we were at ease, to light up cigarettes, cigars, pipes or whatever.

I appreciate that the good Representative Murphy as alluded to the fact that we finally have come from ceasing smoking in the chamber to ceasing smoking except in designated areas around this beautiful State House. Sometimes things, especially in state government and certainly in our legislative bodies, move slowly. I understand that probably more than anybody in regards to clean air issues here at the State House. What this study is going to do is it isn't going to address clean air. It is going to address an environmental issue that I have been concerned about, even as a smoker myself for 22 years, what happens to the butts?

I worked in a greenhouse environment in the Augusta area and we spend, I can't even tell you hours in a week, I had to direct people that worked under me on a daily basis to pick up the butts. We knew back then, as everybody knows now, they are not biodegradable. They have a life span of a long time. A greenhouse is no place for butts to be littering the ground. We even had opportunities where we would pick them out of the boxes of seedlings. People found them as convenient ashtrays. Where do I put my butt? I will just put it out in this flat of petunias. I think that there is an educational process that people that smoke need to probably go through. We have heard people on this floor talk about how people choose to dispose of their cigarettes with no regard for the environment, in particular around fire safety in wooded areas. I think that this study is timely. I think that the small amount of money that would be appropriated for the study would be very well spent. In particular, if we could get the producers of this particular product to come to the table and to help find solutions. There may even be a filter that they have already developed that is biodegradable. We won't know until we ask the hard questions and have the cooperation of the industry in finding the solutions to these problems.

I urge my good colleagues here that care about the environment to vote to Recede and Concur. Thank you.

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

Representative MURPHY: Madam Speaker, Men and Women of the House. As we draw near, hopefully, the end of our first session, we have seen in the Part I Budget and the continuing discussions on the budget, that there is a shortage of funds. We begin to make our choices. We begin to set priorities. We begin to make decisions. If anyone believes in this economic environment that there is going to be two study committees or three study committees coming out of each committee, I think they are mistaken. I think we begin to look at what are our top priorities. Also coming out of our committee is a very important study request looking at recycling centers, bottle recycling centers. What has happened is that that industry is extremely wobbly right now and hundreds of jobs are involved, potentially the loss of hundreds of jobs. That bottle bill is the flagship of all of our anti-litter efforts. We could very easily go with the cigarette butt bill and say that is our type of top priority and shut our eyes to a more important study that needs to be done. If that isn't our priority study, if that doesn't get funded and we lose the effectiveness of the bottle bill, concentrating instead on the butts, within a year or year and a half when that industry collapses, our roadsides will start to look like a Massachusetts roadside.

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

Representative TRAHAN: Madam Speaker, Ladies and Gentlemen of the House. I stand today to tell you a couple of stories about some trips that I took. I will start with the one first to Acadia National Park with my wife. My wife and I, we enjoy walking. While we were in Acadia, we took some long walks. What surprised us was all of the trash that was in the ditches as we walk along in the spring when the green grass had died back and we could see all the garbage that had been thrown in the ditches. We both were quite disgusted, but partly ashamed too.

I want to tell you about another trip I took. I went to Quebec City with some friends. I was amazed as we crossed the border how little garbage there was on the side of the road. As a matter of fact, we didn't see any. We went into Quebec City and we stayed at night. We came out in the morning and people were

hosing down the streets. We asked why are you hosing down the streets. They said that they keep a clean city.

Ladies and gentlemen of the House, we don't need a study to tell us what is wrong. I can tell you today what is wrong. People need to appreciate their environment. They need to appreciate their environment by not throwing garbage into it. Right now it is against the law to litter. It is against the law to take a cigarette butt and flick it into the ditch, but do we enforce it? No. The signs used to be on our roadsides that said, littering is a crime. They are gone. They fell over and they were never replaced. We don't need studies, ladies and gentlemen. We need to respect our environment and that is the kind of message that we should be sending. We don't need a study to do that. What we need is to teach it. We need to enforce it by putting up signs and by penalizing people when they do it. I ask you to defeat this, ladies and gentlemen.

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

#### ROLL CALL NO. 288

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

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

ABSENT - Berry RL, Daigle, Goodwin, Gooley, Lovett, Marrache, McGowan, Muse K, Quint, Stedman, Twomey.

Yes, 83; No, 57; Absent, 11; Excused, 0.

83 having voted in the affirmative and 57 voted in the negative, with 11 being absent, and accordingly the House voted to **RECEDE AND CONCUR**.

SENATE DIVIDED REPORT – Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (S-167)** – Minority (5) **Ought Not to Pass** – Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Amend the Laws Governing Municipal Citizen Initiatives and Referenda" (EMERGENCY)

(S.P. 231) (L.D. 796)

- In Senate, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-167)**.

TABLED – May 25, 2001 (Till Later Today) by Representative McDONOUGH of Portland.

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



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

Representative **MCDONOUGH**: Madam Speaker, Men and Women of the House. I rise this morning to urge you to support the Minority Ought Not to Pass Report on LD 796. There has been an awful lot of discussion surrounding this bill. It is a bad bill. I have been here, this is my third year and I have never seen a bill that insulted our way of government presented before this body. For that reason, I would ask you to vote for the Minority Ought Not to Pass.

This bill hammers our Constitution. It hammers it so badly that it disturbs me to stand before you this morning and even have to talk about it. That is the process that we have to go through. We need this to support our Constitution. We hear issues all the time here about the gun bills, the Second Amendment and all of that. Those are very important issues, but this is even more important. This is a fundamental reason that this country was established under a democratic society so that you and I and our constituents can go to our government and say that we think you made a mistake. We want to revisit it. We want the people, in whatever discipline we live in, to be able to go and cast a ballot to say that we think you are wrong and we are going to overturn it.

My sense is, and I think you will share this sense before we dispatch with this bill, that no matter what happens, the people are right. They are right. They may not be right in the beginning, but eventually they get it right. This bill was a bill, I keep referring to it as the Portland bill, we had a situation in my town where a development was started, citizens got upset about it. They didn't think it was the appropriate thing for that part of the town, so they started this referendum process. The developers asked a member of the Legislature to put a bill in. That member agreed to do that and you have this bill before you today. We held it up in committee so it didn't come up. It was put in on an emergency basis to stop the referendum in the City of Portland. I am pleased to tell you that today that the process worked in Portland. It was a bad bill. Both sides were heard and the people finally decided that the referendum process worked. They voted down the proposal. Isn't that the way? I think it is.

You are going to see issues like this all over the state from time to time. They are local issues. They are issues that ought not to be coming before the Legislature for us to put barriers up in front of our citizens. That is fundamentally wrong. I guess I could stand here all day and keep saying that over and over and over again. We are all intelligent people and we all understand what fundamentally wrong means. That is that it is not good for the public.

When I was driving up here this morning I was thinking about our fundamental rights, our constitutional rights. I thought about when this country started and we had a King that decreed everything. What happened at Lexington and Concord and after that what happened in Philadelphia where the Constitutional Congress put together our Bill of Rights and everything else, our Constitution. I don't think we can ever forget that, no matter how emotional we become with issues that our friends the developers or our friends the lobbyists that are paid to come in and persuade us what to do with certain issues. We can't forget that we represent the people in our communities. I know in my community most of the developers don't live there, but they are trying to pass legislation that affects the people that I represent. I tend to be honest with you, but I resent that. I know it is the process and we have to go through with it, but I don't have to like it.

I don't think we can let down our forefathers and foremothers that made this country the way that it is. We can't keep chipping

away at our Constitution, taking a bit here, a bit there, because you are going to weaken it. We are a young democracy in terms of time when you look at other countries, England, France, Spain. They are thousand year old plus societies. We can't damage our Constitution. We just can't allow that to happen. This isn't the Republic of China. Our people don't need to be told what to do. They can make up their own minds. As I said, they usually get it right.

These issues are not issues that any of us should take lightly and I know we don't. When we are talking about local home rule items, we are talking about our friends, our neighbors, our families, we are talking about ourselves. We can't let ourselves down by putting legislation in place that damage the people's right to petition their government when they think the government has done wrong, whether it is the US government, the state government or our local government. We deserve to be able to have our say.

Remember, if you vote in favor of this bill, you all are going to have to go home to our constituents. You are going to have to look them in the eye and you are going to have to say to them, my friends, I took some of your fundamental rights. I tell you, my friends, I can't do that. That old saying, look it in the eye and swat it away, is what I would suggest you do with this bill because it is a bad bill.

Finally, I would say, let's defeat this bill. Put it where it belongs. Put it in the dead file and send these issues back to your community and my community and let them deal with them locally, not here in Augusta. Thank you Madam Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Cape Elizabeth, Representative McLaughlin.

Representative **MCLAUGHLIN**: Madam Speaker, Men and Women of the House. I am going to stand now to encourage you to support the Majority Report on this LD, LD 796. The Majority Report has an amendment, (S-167). This amendment does a couple of things. One very notable thing it does is that it removes the emergency clause. There is no need for the emergency clause to be attached to this. There probably was not need for the emergency clause to be attached in the beginning. The majority of the committee saw fit to remove that part of the original LD.

In addition, the amendment language specifies that an ordinance or bylaw enacted by a citizen initiative or a referendum may not be retroactive relative to an approved land use or development permit. This means it cannot be retroactive. It cannot go back on that permit or approval after the proposal has gone through the town's, the municipality's process. After the review is complete and after a decision has been made, you don't change that decision that has gone through the legal process.

This is somewhat similar, perhaps, to a baseball game. For matters of conversation, let's say we have two teams playing in that game. We will call them the Red Sox and the Yankees. The Red Sox win on a homerun in extra innings. It is a run by Veriteck off Yankee pitcher Clemens. It clears the left field wall by inches. It is the winning run. The Yankees protest. They insist that the ball should have had to clear the wall by at least two feet because it was hit in extra innings. They want to change the rules after the game is over. This just doesn't fly. It is not fair. Everybody went into the game knowing the rules. That is why the umps and the managers go over the rules before the game starts.

You have received at your desk a number of hand out relative to this bill. They are three different colors. You have white, you have salmon and you have screaming yellow. I encourage you to look at the salmon hand out. Look at the very strong and

diverse coalition of supporters on this bill. This bill does not deny the citizen's right to petition. It absolutely retains that right. While retaining that right, it encourages and supports the inclusive process of citizen participation and input in the process, up front, while regulations are being formatted. Again, I encourage you to defeat the pending motion and support the Majority Report. Thank you Madam Speaker.

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

Representative **HATCH**: Madam Speaker, Ladies and Gentlemen of the House. When I first read this bill, I thought it made perfect sense. What was there not to like, but then I got to thinking, you know, I can't ever remember too many times when you got something you didn't have to pay for. I got wondering what the price would be on this one. I had nagging doubts about that, which were all confirmed when the bill came to our committee. The public hearing and the work session, you look around the room and the room is full of \$500 suits. These are not common people in there doing that. I got out my little book and got the Ethics Commission and looked up to see who these people were. I can tell you that these people all represented big boxes and let it go at that.

I have always been in awe of our founding fathers, the foresight that they had to set up a government with the rules that we live with that are as relevant today as the day they did it. They also had great insight into people and how we act. They set up certain safeguards that worked just fine. This bill attempts to give corporations rights and privileges that the founding fathers didn't see fit to bestow on us, let alone business entities. LD 796 isn't a bill, a simple bill, that will back people away from the polls to gather their signatures. What it does is it starts the process of stifling protests and the initiative referendum process. This one puts real estate and big box companies on a pedestal because now we are going to tell the citizens of the State of Maine that there is a limit on how and what you can complain about when it comes to these entities. That gives certain businesses a higher class of citizenship than the rest of us have. They become citizens now. Maybe we are telling the voters that they are not intelligent enough to make this decision on their own. We told them after the election, we congratulated them on how smart they were to elect us, now what are we going to tell them, that was just a joke. We were just kidding.

The system works fine. This has come up in a couple of places fairly recently. Once in Portland when the retroactive thing was suggested. It was put out to referendum and the voters turned it down. Isn't that the system that we have that we like? It happened in Topsham the same way, with the same result. We have to back away from this. This is an attack on our constitutional rights. I urge each of you to vote against this motion. I would request a roll call, please. Thank you.

Representative **HATCH** of Skowhegan **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought Not to Pass** Report.

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

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Levant, Representative Chase.

Representative **CHASE**: Madam Speaker, Ladies and Gentlemen of the House. I am in full agreement of the comments from the Representative from Cape Elizabeth and in full disagreement with my friend and committee chair from Portland, Representative McDonough. I think we need to look a little bit at why this thing is even before us today. It is a relatively new idea that has come up. Some activities took place, some applications are underway, apparently for a pretty good sized development. Some folks on seeing that application didn't like it.

They apparently wanted to do a referendum and actually change the ordinances that the planning board or the review board was using to determine whether or not to issue the permits. In that case I would gather that it was only an application and no permit had actually been issued at the time the referendum started. We are not dealing in this bill with applications. We are dealing with permits that have actually been approved, whether they be building permits or land use permits or subdivision plans or whatever.

This thing does not in any way prohibit citizen's initiative or referendum or creating or enacting ordinances, it only deals with amending them after a permit has been issued. I have been told, I guess, that in criminal law there is a term that is used. It came out of the Latin *ex post facto*, what that means is if you have been doing some activity for most of your life, whatever it might be, and then the Legislature makes that particular activity a criminal activity, the real question comes, have you been a criminal all your life? Certainly if you commit that activity after the statutes comes into play, you are a criminal. I gather that *ex post facto* says that whatever that activity was you did prior to enactment of the law, you are still not going to be a criminal. I gather also that in civil law, it is not quite that clear. That is where we are in this situation. There are laws in place. There are state statutes. There are local ordinances that say what you can do or have to do, the criteria for getting a permit to do some activity. If that is amended at some point in time, and that amendment changed the law so that it affects the permit itself. The permit has already gone through the ordinances. The permit has been issued and you go back and say, no, we didn't want that so we are going to change that ordinance, so that you could not have issued that permit had that been in place. That is what we are about. In civil law I guess the *ex post facto* situation is not terribly clear. I think some attorneys think that it would apply and some don't. Lots of them won't take a position on it. The fact is, I guess a court has not tested that concept yet.

As I think about this, I think something I would like to use as an illustration, it has never happened, but to try to point out the seriousness of this thing. Let's suppose you are a fourth generation dairy farmer somewhere down in Waldo County between Augusta and Belfast. It is an easy commuting distance of either one. Because of certain developments along the coast, a lot of people have got more money than they really need, so they are buying nice houses out in this little village out somewhere between Belfast and Augusta. The yuppies keep moving in and moving in. Here is this really nice village and overlooking it is this nice hillside and there is the dairy farm. You are the fourth generation person that has been there. These people that are coming in want all kinds of new services and they want their roads paved and all that. Among other things, it drives your property tax up so high that you, the owner of that land, the fourth generation dairy farmer, along with other problems of dairying, just can't pay your taxes and you have to go out of business. How do you survive? You say, I have this nice 100 acre field here. That would make an awful nice subdivision and I can sell to some more of those yuppies. You go down to the town office and you get a copy of the town's subdivision ordinance and you look up the state statute on subdivisions and you go through that whole thing and you start your meetings with the planning board. You present your preliminary and so one. There are public hearings and anybody that can find fault with what you are trying to do, compared with the ordinances, has the chance to have their say. You go on to three or probably more meetings with the planning board and finally they say you have met all the criteria and nobody in the public hearings has said that you haven't. They haven't proven to us that you haven't met all the criteria there, we are going to approve your subdivision.

They sit down and they sign it. It gets taken down to the Registry of Deeds and gets recorded. Now you are in a position where you, the fourth generation person on that land, can start the process of developing it. He let out a big contract for building the road or roads. He let out another contract for taking care of some of the drainage problems. You start selling lots. You sell four or five or six lots and the contractor that you have hired starts building the road and pretty quick you see four or five cellar holes being dug and foundations being poured. Those yuppies down in the village say that they didn't realize this was happening. Look what is happening on this beautiful hillside. We would rather see the cows grazing up there or somebody up there mowing hay rather than seeing a whole bunch of houses up on that scenic hillside. They say that maybe they have enough people now. We will put a stop to that. They start a citizen's petition and they want to amend the subdivision ordinance. By golly, for some reason or another, they hold together, not like Republicans, and they force the town into amending the subdivision ordinance retroactively. They change that subdivision ordinance and it says instead of having minimum lot size of an acre, we want the minimum lot size to be five acres and in addition, we want at least 35 percent of the land that is in that thing to be set aside as open space land and they get that approved. They say that is going to be retroactive.

Where do you, the fourth generation land owner stand? You have a contractor for those roads. These guys have essentially nullified your subdivision. They have said it doesn't meet the requirements anymore. You only had acre lots and you didn't have any public space in it. Your subdivision is invalid. What are you going to do with your contractor? He is going to sue you to build the road because now he can't build it. What are you going to do with the people you sold the lots to and got valid building permits to put the houses up? They got a lot of money invested. That is exactly what this is trying to prevent.

If you have gone through all of the steps and you have got your permit, a citizen's initiative cannot go back and change the rules that that permit was based upon. You can't go back and change it to nullify that permit.

We are a nation of laws. In one of my past lives as town manager, the legal office is always telling me that. We are a nation of laws. That is what civilization is really built on. You have the laws. You have the ordinances. You have the regulations and those you follow. If this thing is not enacted and if we don't prevent that retroactive amendment, I think we are falling down on a nation of laws and would lead to almost anarchy. Anybody that wants to do something can do it just by a citizen's petition.

I think another big point is that we hear over again and we observe and we see that Maine is not very friendly to business and it is businesses that provide the laws. For a business to invest, and a business likes to invest with some sense of certainty, they don't like uncertainty. If this bill isn't passed, there is going to be a lot of uncertainty on any development from something as simple as a single building permit for a house to the big box. Is anybody going to be willing to invest the time and the money in going through the permitting process and then actually starting the development and maybe six months or a year or four years later it ticked off some people and they can come back and find a mechanism for saying what you are doing is not right. Look at the amended ordinance that we did after the fact. You can't do that. We are going to invalidate your permits. I would encourage everybody if you have any interest at all in attempting to be fair to anyone that goes through the rules of law and if you don't want to further dampen the abilities of the state to draw business, I urge you to defeat the Ought Not to Pass and enact this bill. Thank you.

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

Representative **BRANNIGAN**: Madam Speaker, Men and Women of the House. I am a developer. I live in Portland and intend to develop in Portland. I don't wear good shoes or \$1,000 suits, I don't even have \$500 suits. I want to tell you that this isn't a Portland bill, but that is the experience some of us just has. I would like to tell you a little bit about what it is like. I don't develop big boxes.

I work for Shalom House Incorporated. We develop housing for people with very low income and people who have serious mental illness. We have developed from six units to 20 units. I want to tell you a little bit about what happens. A little bit about what a small developer, I suppose the big guys go through this too, what they go through and what retroactivity can do while you are in the process of developing. Our experience in Portland recently was a group of people had a concern, remember, this doesn't have to be a concern with your project, but your project can be swept in and put on hold or put in danger or actually put out of business. In this case, there was one group and they had a concern about the developer. They also had concerns about the City of Portland not doing a good job in their planning department. They crafted a petition. There is nothing in that about stopping petitions, nothing unconstitutional about this. They crafted it in such a way that they exempted a certain section of the city. They roped in all of the rest of the city and then put certain guidelines, housing over 20 units, built manufacturing over 10,000 units with all of these groups. Development by Shaws, the big guys, they are underway, not just the big guys, but the small developments. We could have been swept in, but we weren't.

Let me tell you what a developer goes through. It takes a lot of steps. These are things you have to worry about. You have to worry about options. These are timing issues. You have to worry about options on your land, loans, in general, bridge loans that are going to get you there in a short period of time, street openings in a city like Portland, only certain times a year can you open a street for a cost, then beyond that you have to have an emergency. You have to have perfect timing. Paving is only done certain times of the year. All of this has to be coordinated, along with if you are doing a tax credit for a development. All these things have to be put in sequence and timing is very important. You have to deal with the planning board and all their steps. You have to deal with the Board of Appeals sometimes. You have to deal with the Fire Marshall's Office. You have to deal with permits for the street opening and in some cases you have to deal with historical permits. All that has to be to put together, whether you are a little guy, I suppose the big guys do that do. When a group comes along and citywide says you are in jeopardy from mid October to May 1st, what do you do? Do you fold your tent? Do your loan people say, we are not going to give you a loan. You are in jeopardy over there.

This retroactivity of being able to put a stop, a hold or to put doubt on your project is pretty severe. I encourage you to go with the majority of the committee to vote against the pending motion and to take this burden off groups that trying to do good as well as others you may not like. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Old Orchard, Representative Lemoine.

Representative **LEMOINE**: Madam Speaker, Men and Women of the House. I wanted to add a different perspective to the debate. I will be voting green on the Ought Not to Pass. I will be doing so because I believe what is before us is an attack on home rule. It is an attack on home rule because the Maine Constitution in Article 4, Part 3rd, Section 21 and 22, very clearly gives to local municipalities the power to establish direct



initiatives and people's vetoes. What we have before us is an effort to limit the content of what those people's vetoes can focus on. I think that is a limitation on a community's home rule right. It is of great concern to me about how we structured our government and the sharing of powers between state and local governments. For that reason, among others, I will be voting green. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Fairfield, Representative Tessier.

Representative **TESSIER**: Madam Speaker, Men and Women of the House. I strongly support this bill and I ask that you defeat the current motion and move on to pass the bill. In this debate about this bill, I have heard a lot about the rights of the people. I certainly support the rights of the people in the permitting process. They have the right to appear alone or as a group before permitting hearings. They have the right to public notice of all such hearings. They have the right to elect or appoint municipal officials who will follow the letter of the law in the permitting process. They also have the right to recall these same officials if they fail to follow the correct permitting process.

Developers have rights too. If a developer has followed the legal permitting process and prevails, no individual or group should be able to invalidate the permit retroactively. Inattention to proposed development is no excuse to allowing a retroactive referendum to repeal a permit. A period of public input is always allowed. If a citizen or a group of citizens fail to act during this public input period, the developer should not be penalized. A developer spends a substantial amount of money preparing to request a permit.

The Fairfield Economic Development, for example, spent \$40,000 on the engineering costs, surveys, permitting fees, etc., before submitting its permitting requests on a recent project. You take that risk knowing that you may not get your permit initially. Once the permit is issued, it is wrong that this risk is then extended until who knows when. What a chilling effect this has on economic development in Maine. The effort to defeat this bill is pure and simple, not in my backyard thinking.

Lost in the debate is another group of developers, the not for profits. This bill does not only seek to protect developers and business people, but also protects the social service providers as well. The defeat of this bill means that group homes, assisted living units for the mentally ill and low-income housing, will also be jeopardized. They, too, can have their permits retroactively revoked without this bill. The very group of people that we profess to advocate to stand to be hurt by the defeat of this bill. I strongly urge you to support the passage of this bill. Thank you.

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

Representative **BLANCHETTE**: Madam Speaker, Ladies and Gentlemen of the House. This is another bill that is going to impact future development in the State of Maine. To penalize a developer that has come into your municipality or your township and jumped through the hoops and put their money on the table and want to develop. They have dotted the I's and crossed the T's and six months later a group of concerned citizens decides they don't want it in my backyard. We have all had the backyard syndrome hit us and hit us right between the eyes, whether it was development for mentally retarded adults, troubled juveniles, big box retailers or someone that they just didn't fit in their neighborhoods. You know what, we have professional planning staff. We have highly selected and screened planning board members that serve on these committees that follow the letter of the law. They have said this development is an appropriate fit for the location that they have taken out a permit for. They are a day late, a dollar short. You don't win the race if you close the

door after the horse is in there and you lock him in a box. You have got to let him out and you have got to let them run. Every citizen in the State of Maine has the opportunity to appear before a public hearing. You do not grant development status to any developer, I don't care what they are or who they are, whether they are wearing a \$500 suit, a \$2,000 suit and come in with a fleet of lawyers from out of town, until you have met your comprehensive plan. That is the plan. You go by it. You update it. You pay big bucks to do this. Let's defeat the motion Ought Not to Pass and go on and do what is right for our citizens to encourage development for all of our people in Maine. Thank you Madam Speaker.

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

Representative **DUDLEY**: Madam Speaker, Men and Women of the House. I do not like to rise in opposition to the Representative from Cape Elizabeth nor the Representative from Portland, but I feel I must point out a couple of things relative to this bill. The bill, as it is written, I think is quite ironic. The emergency preamble on the bill, had this bill been passed back in April, would in itself have been retroactive. The bill itself seeks to do something that it is trying to prevent others from doing. I don't understand why anybody would want to use that approach. It is nice to see, however, that the people of Munjoy Hill, in my district, still know how to make trouble in Augusta.

In my conversations relative to this bill, it has been my understanding that there really is no great need for it. There have been a handful of these referendums with a retroactive provision and it is my understanding that all or nearly all have been decided in favor of the permit holder. I don't know why exactly we are working on this here today, if the system is actually working the way it should.

This is clearly a Portland bill. The bill was written to prevent a referendum in the City of Portland. It seems to me that the way to avoid these problems is to address an issue of a degree of political naivety in our city and town governments. The City of Portland went through its normal process of notifying neighbors of a project on Munjoy Hill. They didn't do anything unusual, but perhaps they should have. They should have recognized that a development of this size in a very densely populated neighborhood was bound to meet with some opposition and it did. The fact is that the City of Portland should have bent over backwards to include as many people in the process as they possibly could and they didn't and that was a political mistake. This bill will act as a disincentive for any city or town in the future from doing what they are supposed to do, what they should do, what is politically smart to do, which is to bend over backwards to include people, neighbors in the discussion over any development. I opposed the referendum in Portland. I thought it was the wrong way to go, but I also opposed this bill because it is a clear change in the power structure. It is taking the power away from individual citizens and giving it to particular developers. I cannot support that and I hope you will all join with me in accepting the Minority Ought Not to Pass Report.

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

Representative **MENDROS**: Madam Speaker, Ladies and Gentlemen of the House. First I will begin with a confession. I am a big fan of WalMart. I went shopping there this weekend. In fact, the shirt I am wearing, I bought there. It is cheap and it is convenient. However, this is a lot more than just big boxes and WalMart. In George Washington's farewell address, he warned us that if our experiment of democracy was going to work, there are certain elements that we need. The right to petition the government was one of those. It is very important to be able to petition the government for redress, to redress a wrong that you

think they have done. That is what this gets to. We heard a lot about changing the rules. The rule is in place now. This law changes the rules. We heard a sports analogy about a game ending or not ending. Forget the sports analogy, what this is like is what happened in the NFL a few years back. A few teams with powerful owners lost some games because of the instant replay rule. They whined about it and got rid of the instant replay rule. The team that won the game actually won the game, but they weren't happy about the way the rules were, so they changed the rule. That is exactly what this bill does. A few people with a lot of money and a lot of power don't like the rules and they are trying to change the rules for the people to suffer. The people who bring these petitions to you, it isn't one person who is upset. They have to go out and get an awful lot of signatures, we hear the expense of the developers, time, effort and/or money to get those signatures and put something on the ballot. What about them? They have no vested interest. WalMart may have expended some money to build a big box, but I guarantee you they are going to make whole lot of money at that big box. The person who doesn't want WalMart there isn't making a dime off getting signatures and stopping it. They are probably spending money to get people to go get those signatures. They are doing it because they strongly believe in a cause, their neighborhood, not a cause of let's make more money for my business and I think that is a much more noble cause, defending your neighborhood.

We have the right as citizens in a municipality, if a municipality makes a decision and we think it is a wrong decision, we can get a people's veto and we can do an initiative and overturn what was done by that municipality. This would give corporations or developers more power than the municipality itself. If the municipality passes an ordinance we don't agree with, we can overturn it. If they give a permit to a developer, we can't overturn that. We are putting them on a higher standard than our own cities and towns.

My final point, and the most important point, if you read the bill, it says, planning approval, rezoning certification variance or other action, having the effect of permitting development, if that permit or approval was issued or that action was taken prior to the enactment of that ordinance or bylaw. Almost every town I know of, you vote and 10 days later that vote becomes law. It gives time for the clerk to certify the vote and everything can be done and then it is law. If you vote on Tuesday, no, we do not want this big box, then on Thursday the planning board can meet and say we are giving it to them anyway, the planning board members are all appointed, but none of them are elected. You can't remove them from office. Well eight more days go by and now it goes into effect, but you can't go back and remove that permit. You have just completely destroyed the initiative process and this bill might as well just say, citizens cannot petition their municipal government because that is what it does. You might just as well come right out and say it. Thank you.

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

Representative **WATERHOUSE**: Madam Speaker, Ladies and Gentlemen of the House. I have sat here for quite a while and listened to a number of members talk about the Constitution, the founding fathers and the right of people to petition government. I will step aside for nobody up here in defending those rights. However, the founding fathers also had something else in mind when they wrote the Constitution and the Bill of Rights and that was to protect a minority from the will or the tyranny of the majority. I heard earlier talk about ex post facto laws. This is exactly what that is trying to address. Also mentioned in the Constitution is the Bill of Rights and property rights. The right to use your property as you see fit without

harming others. When you follow the existing laws, not a new law that was passed against the will of the people and then the people decided to have a citizen's veto to overturn a law they didn't like, but existing laws that have been in place, but because of something taking place using those laws and following those laws to decide they do not want that to happen. They get together and get a petition to stop that from happening. I do not think that is right. I think that goes beyond the people's right to petition the government. It infringes upon individual's rights to have a predictable and reliable set of laws.

The rule of law was mentioned earlier. As I said when I started speaking that I would defend the right of citizens to petition their government to the fullest extent I have up here. I will continue to do that, but I don't view this as one of those rights. It is a property rights issue to me. It is not just big corporations. We talked about the big box and the big developers and all that. I have seen things like this take place for small private property owners when it comes to building a deck or a barn or whatever or a tower. Some people in a municipality see the threat of a tower coming in under existing laws and they frantically try to stop it, realizing that they didn't have the foresight or whatever to put in an ordinance to take care of that situation.

We have all these laws in place for public hearings, appeals. We have the availability of people to petition and to put ordinances in place that would preserve or protect whatever they wanted to preserve and protect without infringing on others property rights. I would hope that you would vote against this pending motion. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Freeport, Representative Bull.

Representative **BULL**: Madam Speaker, May I pose a question through the Chair?

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

Representative **BULL**: Madam Speaker, Men and Women of the House. We are hearing that projects will win approval and then people go back and try to undo what happened though a public hearing. My question to anybody who can answer, is it possible that a project could win approval without any sort of a public planning process and, therefore, this bill went into effect and the people would have absolutely no say over potential projects going in their area?

The SPEAKER PRO TEM: The Representative from Freeport, Representative Bull has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative McDonough.

Representative **MCDONOUGH**: Madam Speaker, Men and Women of the House. In response to the good Representative from Freeport's question, I am not aware of that happening anywhere. I am aware of poor decisions made by planning boards. They permit them and in a case we had in Portland a number of years ago, in 1987 to be specific, we had a working waterfront. Some developers came in and wanted to change the character of that working waterfront. The citizens of the city went up and arms over it. They had issued permits even though they knew the citizens were upset about it. They were in the process of going out and getting signatures. They finally wound up going to court, the developers, because the citizens said we wanted to have a working waterfront to maintain the tradition and protect the fishing men and women that worked there on the processing plants on the waterfront, the lobster businesses and so forth. The developers go to court and the State Supreme Court ruled that the citizens did have the right to stop a project even through it had been permitted. We are not talking about a project or a permit that had been sitting out there for 10 years or 15 years

like some people would make you believe. This was a current ongoing process. I can tell you that the State of Maine, the citizens of Portland, because of that working waterfront today is a much better place and we all share the benefits of it. From the cargo that is coming in that is distributed all over the state, the exports that go from northern Maine down through the port of Portland and across the oceans. We are all in better shape for that.

This retroactivity of the permitting often times is done in error and the whole gist of this thing is to, I know I am taking some liberties, Madam Chair, but the whole gist of this thing is, while I am up on my feet, to respond to a couple of other things about this fairness issue. My good friend from Glenburn lives in the country. He is a good man. I respect his position on most of the issues that we discussed. This one I do respectfully have to disagree with him. It is a leap for me to say that a dairy farm up on a hill and you have some people down in Camden that move in, the yuppies, are going to try and hold up a housing development on land that is zoned for residential housing, you don't see that happening. I don't see that happening in Portland. I see just the opposite of that where you have residential and they want to change it and make it business and put a high rise apartment or a hotel in. I think the public has a right to complain and they do.

Again, I think that the argument of planning boards not making mistakes, I have appointed members to planning boards and you try to get a balance. I can tell you nine out of 10 times, those planning board members, because you are looking for experience, tend to be conflicted. Sometimes they excuse themselves. Often times they don't excuse themselves and then you have a big hurrah and in the paper about that issue. I think they try to do their best. Planning boards and planners don't always get it right. As I said before, the public does in the final analysis. Thank you Madam Chair.

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

Representative MCKEE: Madam Speaker, Men and Women of the House. I am reminded of the Greek philosopher who said that an unexamined life is not worth living. I think also unexamined traditions also are not worth having. We have been examining a democratic tradition here today and I think that it has pointed out some very important things to me.

First of all, let me say that I am a former planning board member. My husband is currently one. I think that this whole discussion that we have been having affirms comprehensive planning. We have just passed a bill last night that had to do with the deadlines for our plans. All across the state we are being encouraged with to put these plans together and yet communities all over the state are dragging their feet and resisting comprehensive planning. Good comprehensive planning involves the entire community. Those of you that have had good experiences know what I am saying. Questionnaires go out to the people. We have forums. People talk about it and you end up with something that is really strong, that reflects that you are in your community. At the same time, I am a strong advocate of citizen's initiated petitions and referendums. I have visited states where none of this exists and I can tell you that there are moribund Legislatures and moribund councils in those states that are filled with people who have had those seats forever, who continue to operate in ways that are not acceptable to the general public. Thanks to Maine for the opportunity to live in a state like this. A democracy is dynamic and participatory democracy is even more dynamic and messier. I am thankful for the opportunity to live in this state where we do have this opportunity. I believe that what we have is working throughout most of the state.

I am certainly conflicted by what I hear from the good Representative from Portland because he does do such a good job with the Shalom House and the many wonderful things that he is trying to accomplish. I say that there needs to be a better civic dialog in the town and in the City of Portland, dialog in which leaders talk to community and we involve them and we work hard to involve them. It is the hardest thing in the world to involve citizens at the appropriate time. They are still citizens, even if they miss the deadline sometimes, and they come to our councils and they come to our Board of Selectmen and we listen to them because they are important. I urge you to accept the Minority Ought Not to Pass Report. Let's let what has been working through most of the state continue to work and let's urge those communities where it is not working to engage in more serious civic dialog.

Certainly the good Representative to my left has talked about one specific city, a citizen petition that worked in preserving the working waterfront, but if there is anyone here who can add to the conversation by talking about something that has happened in that 95 percent of the rest of the state where the use of this retroactivity clause has proved to the community's advantage, I would appreciate that Madam Chair.

The SPEAKER PRO TEM: The Representative from Wayne, Representative McKee has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Topsham, Representative Lessard.

Representative LESSARD: Madam Speaker, Members of the House. In answer to the question, this situation did occur in Topsham not too long ago, last fall, in fact. I intended to speak also on this issue. The answer to the question was, if it happened? Yes, it did happen. The retroactive clause was included in the conditions that the citizens undertook, which is appropriate, but not when the legislative body of the community is a town meeting. In much larger municipalities, your council is your legislative body. We have zoning and we had other issues that were passed at other town meetings. This retroactive clause negated that. That was a big issue. Yes, it happened in Topsham and it divided the community, to some extent, but it was those who felt it was in their backyard. You had to feel sympathetic to their cause also because under the comprehensive plan and the zoning, these areas were zoned appropriately so that sprawl wouldn't take place. Through the years people have been moving into these areas close to where development will be taking place. When the developer, if you will, made all the plans for the town, the codes, everything they went through, then the petitions started and those surrounding those areas took the initiative in getting the petition going. It would take another town meeting to defeat what is in place as far as the ordinance. This is appropriate. This is where the laws are made up, not a group of citizens all of a sudden changing their minds and trying to change everybody else's minds as to what should take place in the entire community, not in that particular area. I feel bad for Portland. I think Portland is such a large city that sometimes they don't know what they are doing, but that is all right. In the Town of Topsham we did. We went out to the November election area time frame, to let the citizens speak, should we put this on the initiative today at town meetings so that the law would be changed at town meeting? The voters voted no. I checked with some of the voters. You are a strong supporter of citizen's initiative like I am. The people should have a say. Yes, but don't do it retroactively. We decided that question when we went to town meeting. This is where it belongs. This is where it is going to go. Don't at the last minute say that it can't be done. Think of all the planning and money that has been expended when this started, according to the rules, according to the law, and all of a sudden now everything

comes to an abrupt halt. You can think of all the time, effort and money expended during this period of time nothing moves until the uncertainty is cleared up. Yes, it worked in my community. It may not work in others. Think of the process that is put in place to safeguard everybody's concern in a municipality. I am glad to say that Topsham was on top of that and it worked out fine.

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

Representative **TWOMEY**: Madam Speaker, Men and Women of the House. I have listened very carefully. I would like to tell you a little story about a dirt farmer in Biddeford named Richard Raines. This dirt farmer wanted to farm his land, which he has for a long time, which he makes his business doing. They sell corn and wonderful vegetables. In comes the developer who wants to develop the adjacent lot and Richard's dirt farm was now in trouble because Richard needed to extend his crop and he sprayed his crop. He has manure, which doesn't smell too good. Believe you me, I don't know what world some of you come from, but what I have heard in my town is, it is not true. In my town the developer was treated with a red carpet. In my town, my planning board is appointed by the mayor, not elected by the people. Some of those people that sit on that planning board are realtors, some are developers. As a matter of fact, there is one that is going through a little controversy right now wanting to develop a piece of land in Biddeford. In the perfect world, it is not the little person that is heard at town hall. We have WalMart in Biddeford. I have lots of things. I have an incinerator that houses I don't know how many tons of waste for the whole State of Maine, southern Maine, Massachusetts, New York, Pennsylvania and you name it, it comes to my town. It is buried up north in your towns. We all have projects. I have heard about poor developers having to jump through hoops. I say, let them jump through the hoops. Traditionally, they are the ones that have the money to have the lawyers.

If there is something that is not quite right, maybe we need to do a study on how much traffic there is going to be. They are going to find an agency that is going to say the numbers. There is no traffic problem. Go right ahead. I have seen it time and time again. I was on the city council for six years and believe me, the big box came to Biddeford. We have WalMart. Come and see southern Maine. We can't stop progress, JoAnne. Now we are all yearning to live up north. It takes us a half an hour to get off onto our Route 1. You can't stop progress. Those developers go to town hall. They walk in like they own the place. One time I was standing there and one of the developers came in and I was in shock. I couldn't believe how he just made his way through the maze at town hall just like he belonged there.

Public notice, we can't use props, have you ever seen those public notices? I would like to cut one out. Sometimes they are on the back pages. You can't find it. Sometimes you are so busy working for a living that you get home at night and you are tired or maybe your kids want you to play with them and you just miss the notice. It just happens.

Just when I think it can't get any worse, it does. The little people keep losing in there lately. The big insurance companies, the big bankers, the realtors and the developers seem to win. I get discouraged when I walk out of here. Opt in, opt out. This is about local control. I think Representative Lemoine, out of everyone that I heard, really drives it home. You either believe in local control or you don't. This is a local control issue. Leave it up to my town, because, believe you me, they can mess up all on their own. We have had petition drives. We didn't want the incinerator in the middle of our town, but I will tell you, they have good lawyers. Those lawyers sway those city planners. I haven't met a city planner that didn't like a development. I haven't met one. Protect the minority. We are the minority and this takes our

rights away. I will steal a line from Representative Kasprzak, this is a bad, bad bill. Please vote to kill it. Thank you.

Representative **DUPLESSIE** of Westbrook moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

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

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

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Westbrook, Representative Duplessie.

Representative **DUPLESSIE**: Madam Speaker, Ladies and Gentlemen of the House. I was going to speak on this and tell you some of the history about how this all started in 1987 in the law case of the Maine Supreme Court on the constitutionality of this. We have all heard lengthy testimony this morning, pros and cons, but overall we have heard the system is working. The good Representative from Topsham, Representative Lessard, the system is working. The system is working. As I always said, if it ain't broke, what are we trying to fix. There is no need for this bill. I would encourage you to vote for the pending motion. Thank you.

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

Representative **KASPRZAK**: Madam Speaker, Men and Women of the House. Surprisingly, for once, I am on the Majority Report, Ought to Pass on a bill. Imagine such a thing from State and Local? I know it is hard to believe, but it is true. Surprisingly enough, a person who believes in the citizen's initiative process and does not vote to squelch that in any way is voting in support of this bill. It does not squelch citizen's initiative at all. What it does is makes sure that things remain on an equal playing field. Things are fair. Once you have begun a process and done everything you are supposed to do, you actually get to continue. Before there was comprehensive planning, before there was home rule, there was the Constitution, which guarantees us private property rights. This, ladies and gentlemen, is a private property rights issue and I would encourage you to support it. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Cape Elizabeth, Representative McLaughlin.

Representative **MCLAUGHLIN**: Madam Speaker, Men and Women of the House. I want to make a clarification to the statements about the Portland court case relative to, affectionately known by some as, Fisherman's Wharf. The dates to note on that is on December 22, 1986, the text of a proposed amendment to the City of Portland's zoning ordinance was filed with the Portland City Clerk, together with an originating petition requesting a submission to the voters for adoption. A provision of that amendment expressly stated that if enacted a provision shall be applicable to all pending proceedings, applications and petitions commenced after December 22, 1986.

The developer in that case, the Fisherman's Wharf Associates, filed their applications February 11, 1987. That petition was not retroactive relative to the filing of the development application, nor to the approval for that application. There was no permit or approval in place when the citizen's initiative was filed with the city clerk. The retroactive clause applied before the application was submitted. LD 796 would not have been relevant in that case. Thank you.

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

Representative **MURPHY**: Madam Speaker, Ladies and Gentlemen of the House. I, too, am against the Ought Not to Pass and I am also against Indefinite Postponement. In York County, southern York County, I am sure you have heard we have a housing shortage, especially for the middle income or low income people. We also have a very serious shortage of apartments for our people who have a mental illness, people who are able on medication to live on their own. They should have that right to live on their own. We had a piece of land in Berwick bought under option and it was going to be put into an eight unit apartment for our people who are mentally ill. One neighborhood over there got the other neighbors all upset with what kind of people were going to live there and what it was going to cost us. They went on and on. As it happens, it didn't happen because they had not bought the land. They had only bought an option and the option ran out and the person selling it was offered more money and you and I both know who it was offered him that money, although it was never said. Therefore, that fell through. We still had that shortage there. If this bill does not pass and they are allowed to put in, after the fact, a retroactive clause, there will never be one of those developments in southern York County because it is all, not in my backyard. We don't want those kinds of people there. Guess what, those kinds of people are living next door to you and I. They are working everyday. They are living normal lives. If they want to live in an apartment and if we don't pass this bill, that is just what is going to happen. We will have no more low-income housing in southern York County. We will have no homes for mentally ill and the good Representative Brannigan from Portland is exactly right. We need to make sure that these things cannot be stopped. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Levant, Representative Chase.

Representative **CHASE**: Madam Speaker, Ladies and Gentlemen of the House. Just a few rambling remarks, if I may? There was a comment made a few minutes ago about an inconsistency because this is an emergency bill. In fact, the Committee Amendment strips the emergency provision from the bill. I guess that one is out the window. There was a comment made a few minutes ago about once a permit is issued, the citizens have no further rights. That is not correct. In essentially every permitting process, there is an appeal process, whether it be through a local appeal board and into the courts or directly to the courts. There is an appeal process for all of these administrative decisions that are made. There was some dissatisfaction expressed with local elected officials in not reacting promptly or correctly to an action. I will remind you that every municipality has the option of enacting a recall ordinance or amending its charter so it has recall provisions. That is the way to handle that problem.

I am not sure, but I think a planning board can be elected. All you have to do is go back and fix your ordinances or charter and make that true too. There were several comments on this as being a Portland bill. I do want to talk about that a bit. This is not a Portland bill. It may have been incubated in Portland, but it is not a Portland bill. It is a bill that is essential for every single town in the State of Maine. When I first saw this bill, I didn't know the background and the reason for it, but it didn't take long to figure it out.

In my past life as a town manager, I had to deal with these statutes all the time. When I looked at that one and saw that regardless of what the town does in setting up its procedures and ordinances, etc., this was a danger to everybody because the

whole municipal structure could be overturned if the citizen's initiative can come back and destroy the existing legislation.

The last big thing I want to talk about, just for a second, is that we talked about ex post facto and the criminal law a few minutes ago and the possibilities of it applying or not applying in civil law. That is what we are dealing with here is civil law. I would rather suspect that if a court ever got a hold of it, it would say that the ex post facto situation does occur and this retroactivity would be illegal anyway. I don't know that, but that is my suspicion. The fact remains that somewhere along the line if we don't enact this, a municipality and a developer are going to get attacked by one of these retroactive things. A permit is going to be denied or repealed and then you are going to have the court battle. A developer is going to put the citizens at a lot of litigation expense and the lawyers are going love that. The question will get determined at some point in time, but until that court comes about, every town in the State of Maine is in danger of having its structure overturned, permits overturned. That is just plain not fair.

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

Representative **TWOMEY**: Madam Speaker, Men and Women of the House. I have great respect for the Representative from North Berwick. I just would like for us not to confuse the two issues of the mentally challenged. This is not going to stop this from being done. I went to a planning board two streets from my street and there was proposed such a facility. There was nothing in place and the people came out anyway. Let me tell you what I learned from that meeting, I stood up as a city councilor, and spoke in favor of this project, to which those neighbors said, I send my check to Sweetser. I do my part for the mentally challenged, but I don't want to live near them. This is going to happen anyway. This law was not in place. Let us not confuse the issues, please. This is not about not allowing the mentally challenged or low-income facilities to be permitted. This is going to happen anyway. Let me tell you the lesson I learned when I walked away that night. For all the people that voted for me, I dared to stand and take them on and say this is wrong. They are my neighbors. I welcome them in my neighborhood. You would not want to put one of those facilities near people who feel that way anyway. They are so bigoted and they don't want those projects, you wouldn't want to put the mentally challenged near those kinds of people that think that way. Please, don't confuse the two. The Representative from Portland, Representative Brannigan, and the Representative from North Berwick, Representative Murphy, I have fought longer and harder for those, but this law was not in place and it still happens. It goes beyond that. You have to educate and show them these are best neighbors you are ever going to have. Thank you.

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

Representative **TOBIN**: Madam Speaker, Ladies and Gentlemen of the House. As everyone else says, I don't want to prolong this, but I am going to. Retroactively changing the law should not be allowed in citizen initiatives. I have no question about that. The question I have is, is it a state responsibility or is it a matter of home rule? I went out and read the Constitution, Article 4, Part 3, Section 21 and 22 and it is on Page 26 of your register. It appears to me that this is something that should be decided at the local level. In other words, it is a home rule issue and each community should be setting their own standards. Thank you very much, Madam Chair.



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

**ROLL CALL NO. 289**

YEA - Annis, Ash, Bagley, Baker, Berry RL, Brooks, Bryant, Bull, Bunker, Canavan, Chick, Chizmar, Clark, Cote, Crabtree, Dudley, Duplessie, Gagne, Gerzofsky, Goodwin, Green, Haskell, Hatch, Hawes, Hutton, Jacobs, Jodrey, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lundeen, McDonough, McGlocklin, McKee, Mendros, Michael, Michaud, Mitchell, Norbert, O'Brien LL, O'Neil, Patrick, Perkins, Quint, Richard, Richardson, Rines, Simpson, Skoglund, Snowe-Mello, Stanley, Tarazewich, Tobin D, Tobin J, Tracy, Trahan, Tuttle, Twomey, Volenik.

NAY - Andrews, Belanger, Berry DP, Blanchette, Bliss, Bowles, Brannigan, Bruno, Buck, Bumps, Carr, Chase, Clough, Collins, Colwell, Cowger, Cummings, Davis, Dorr, Duncan, Dunlap, Duprey, Estes, Foster, Fuller, Glynn, Hall, Heidrich, Honey, Kasprzak, Labrecque, Ledwin, Lessard, MacDougall, Madore, Mailhot, Marrache, Mayo, McKenney, McLaughlin, McNeil, Morrison, Murphy E, Murphy T, Muse C, Nass, Norton, Nutting, O'Brien JA, Peavey, Perry, Pineau, Pinkham, Povich, Rosen, Schneider, Shields, Smith, Sullivan, Tessier, Treadwell, Usher, Waterhouse, Watson, Weston, Winsor, Young, Mr. Speaker.

ABSENT - Bouffard, Cressey, Daigle, Desmond, Dugay, Etnier, Fisher, Gooley, Landry, Lovett, Marley, Matthews, McGowan, Muse K, Paradis, Savage, Sherman, Stedman, Thomas, Wheeler EM, Wheeler GJ.

Yes, 62; No, 68; Absent, 21; Excused, 0.

62 having voted in the affirmative and 68 voted in the negative, with 21 being absent, and accordingly the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers **FAILED**.

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

**ROLL CALL NO. 290**

YEA - Annis, Ash, Bagley, Baker, Berry RL, Brooks, Bryant, Bull, Bunker, Canavan, Carr, Chizmar, Clark, Cote, Crabtree, Dudley, Duplessie, Gagne, Gerzofsky, Goodwin, Green, Hatch, Hawes, Hutton, Jacobs, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lundeen, Marley, McDonough, McGlocklin, McKee, Mendros, Michael, Michaud, Mitchell, Norbert, O'Brien LL, O'Neil, Patrick, Perkins, Quint, Richardson, Rines, Simpson, Skoglund, Snowe-Mello, Tarazewich, Tobin D, Tobin J, Tracy, Trahan, Tuttle, Twomey, Volenik.

NAY - Andrews, Belanger, Berry DP, Blanchette, Bliss, Bowles, Brannigan, Bruno, Buck, Bumps, Chase, Chick, Clough, Collins, Colwell, Cowger, Cummings, Davis, Dorr, Duncan, Dunlap, Duprey, Estes, Foster, Fuller, Glynn, Hall, Haskell, Heidrich, Honey, Kasprzak, Labrecque, Ledwin, Lessard, MacDougall, Madore, Mailhot, Marrache, Mayo, McKenney, McLaughlin, McNeil, Morrison, Murphy E, Murphy T, Muse C, Nass, Norton, Nutting, O'Brien JA, Peavey, Perry, Pineau, Pinkham, Povich, Richard, Rosen, Schneider, Shields, Smith, Stanley, Sullivan, Tessier, Treadwell, Usher, Waterhouse, Watson, Weston, Winsor, Young, Mr. Speaker.

ABSENT - Bouffard, Cressey, Daigle, Desmond, Dugay, Etnier, Fisher, Gooley, Jodrey, Landry, Lovett, Matthews, McGowan, Muse K, Paradis, Savage, Sherman, Stedman, Thomas, Wheeler EM, Wheeler GJ.

Yes, 59; No, 71; Absent, 21; Excused, 0.

59 having voted in the affirmative and 71 voted in the negative, with 21 being absent, and accordingly the Minority **Ought Not to Pass** Report was **NOT ACCEPTED**.

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

Representative BROOKS of Winterport moved that the House **RECONSIDER** its action whereby the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

---

The Speaker resumed the Chair.

The House was called to order by the Speaker.

---

Subsequently, Representative BROOKS of Winterport **WITHDREW** his motion to **RECONSIDER** whereby the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-167)** was **READ** by the Clerk.

On motion of Representative COLWELL of Gardiner, **TABLED** pending **ADOPTION** of **Committee Amendment "A" (S-167)** and later today assigned.

---

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. 347) (L.D. 437) Resolve, to Clarify the Principles of Reimbursement for Nursing Facilities Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended** by **Committee Amendment "A" (H-633)**

(H.P. 479) (L.D. 619) Resolve, to Provide Adequate Patient Care Staffing for Certain Home Care Programs Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended** by **Committee Amendment "A" (H-632)**

(H.P. 725) (L.D. 945) Bill "An Act to Increase the Personnel and Air Quality Oversight of School Construction" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended** by **Committee Amendment "A" (H-631)**

(H.P. 1042) (L.D. 1399) Bill "An Act to Prioritize Access to Training Under the Workforce Investment Act of 1998" Committee on **LABOR** reporting **Ought to Pass as Amended** by **Committee Amendment "A" (H-634)**

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. **ORDERED SENT FORTHWITH**.

---

**ENACTORS**

**Acts**

An Act to Authorize Animal Shelters to Accept and Provide for Stray Cats

(H.P. 1072) (L.D. 1435)  
(C. "A" H-603)

An Act to Amend Maine Credit Laws

(H.P. 1276) (L.D. 1736)  
(C. "B" H-275)

An Act to Implement Recommendations of the MCJUSTIS Board Pursuant to the Study Required by Resolve 1997, Chapter 105

(H.P. 1280) (L.D. 1740)  
(C. "A" H-596)

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

**Resolves**

Resolve, to Implement Additional Recommendations of the MCJUSTIS Board

(H.P. 1279) (L.D. 1739)

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

An Act to Increase the Homestead Property Tax Exemption from \$7,000 to \$10,000

(H.P. 116) (L.D. 120)  
(C. "A" H-600)

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

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

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

An Act Regarding the Budget for the Maine Turnpike Authority for 2002

(H.P. 957) (L.D. 1271)  
(C. "A" H-598)

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

On motion of Representative MURPHY of Kennebunk, was **SET ASIDE**.

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. Over the last five years this is usually the point with the turnpike budget that usually we usually slow it down and maybe sometimes take it hostage. The issues in the past have been commuter tolls, toll hikes, proposed toll barriers to Scarborough, but today there is a different message. One would be those of us that drive that turnpike every day, watching from when the snow was two or two and a half feet deep back in March of watching that construction begin and seeing Maine subcontractors and the wintertime work they did preparing that base, starting the reconstruction of Phase 2. It was very impressive. The second would be that the bridge at Exit 3 wasn't scheduled to be rebuilt until the next phase. We have a new school in Kennebunk, a middle school, and we encourage walkers and bike riders and there was no sidewalk or no bike path. The Town of Kennebunk went to the Turnpike Authority and it asked if that bridge project could be moved up a year so that when that school opens, those youngsters wouldn't be at risk going across that bridge. The Turnpike Authority did that. They moved it up. The work is underway. You are going to get slowed down a little bit on the turnpike when you come through Kennebunk. While you slow down, we would urge you to leave the pike for a while and come spend a couple extra dollars in

Kennebunk. This is an opportunity to thank the Turnpike Authority for responding. Thank you.

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

**CONSENT CALENDAR**

**First Day**

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

(S.P. 283) (L.D. 994) Bill "An Act to Establish Equity in the School Funding Formula" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-285)**

(S.P. 356) (L.D. 1170) Bill "An Act to Amend the Animal Welfare Laws" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-286)**

(S.P. 508) (L.D. 1595) Bill "An Act to Increase the Number of Licensed Speech-Language Pathologists to Serve Maine Schools" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-284)**

(S.P. 560) (L.D. 1722) Bill "An Act to Recognize Exemplary Efforts to Lower the Cost of Prescription Drugs" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-287)**

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

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

**REPORTS OF COMMITTEE**

**Ought to Pass Pursuant to Joint Order**

Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Provide Funding Related to the Lewiston-Auburn College Teachers for Elementary and Middle Schools Project"

(S.P. 638) (L.D. 1817)

Reporting **Ought to Pass** pursuant to Joint Order (S.P. 613).

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

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

The Bill was **READ ONCE**.

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

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

**UNFINISHED BUSINESS**

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

**HOUSE DIVIDED REPORT** – Majority (8) **Ought Not to Pass pursuant to Joint Order (H.P. 1332)** – Minority (5) **Ought to Pass pursuant to Joint Order (H.P. 1332)** – Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act Regarding the Use of Tokens or Tickets for Games of Chance at Agricultural Fairs" (EMERGENCY)

(H.P. 1359) (L.D. 1814)

TABLED – May 25, 2001 (Till Later Today) by Representative TUTTLE of Sanford.

PENDING – Motion of same Representative to **ACCEPT** the Minority **OUGHT TO PASS PURSUANT TO JOINT ORDER (H. P. 1332)** Report.

Subsequently, the Minority **Ought to Pass pursuant to Joint Order (H.P. 1332)** Report was **ACCEPTED**.

The Bill was **READ ONCE**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED** and sent for concurrence.

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

**REPORTS OF COMMITTEE**

**Divided Report**

Majority Report of the Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-280)** on Bill "An Act to Amend the Laws Pertaining to the Department of Corrections"

(S.P. 580) (L.D. 1758)

Signed:

Senators:

McALEVEY of York  
O'GARA of Cumberland

Representatives:

POVICH of Ellsworth  
O'BRIEN of Lewiston  
BLANCHETTE of Bangor  
TOBIN of Dexter  
PEAVEY of Woolwich  
SNOWE-MELLO of Poland  
GERZOFKY of Brunswick  
WHEELER of Bridgewater

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-281)** on same Bill.

Signed:

Representatives:

QUINT of Portland  
MITCHELL of Vassalboro

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-280)**.

**READ.**

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

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

Representative **QUINT**: Mr. Speaker, Men and Women of the House. This bill, the title of it is, "An Act to Amend the Laws Pertaining to the Department of Corrections." In this bill it covers many different topics, the use of deadly force, tobacco as a contraband, removing training school councilors at the Youth Center out from underneath the academy and putting it directly under the Department of Corrections. It was also an attempt to require that the department not pay for burial expenses and that prisoners, if they die in prison, they would have to pay for their own burial expenses. It also reforms the death bed visitation

rights. It also takes a position that serves at the pleasure of the commissioner and makes that a position that will be filled and that no longer serves at the pleasure of the commissioner.

Fundamentally my problem with this bill was that the title is very misleading. As I said, it is "An Act to Amend the Laws Pertaining to the Department of Corrections." Anybody would be looking at this title would not truly see the breadth of changes that are being considered within this legislation. It also, incidentally, allows for the use of a polygraph test to complement sex offender treatment. It is not a question of whether you agree or disagree with any of these particular issues; the fact of the matter is many of these substantive issues never had a public hearing.

The report in front of you, the Majority Ought to Pass as Amended Report, excludes several of these issues, but one of the things that it does include is the position that currently serves at the discretion of the commissioner. With Corrections going through all of the things that it is going to be going through and having only three positions that serve at its discretion, the Minority Report does not permit that to happen. We also took out a few of the other major pieces here that will be carried over or reconsidered in the next session. I would ask you to not accept the Majority Ought to Pass Report and vote for the Minority Ought to Pass Report as Amended.

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

Representative **POVICH**: Mr. Speaker, Men and Women of the House. There was only one point that divided us. It was a 10 to 2 report out of the Committee on Criminal Justice. That was one point that the Representative from Portland, Representative Quint, talked about. The Minority Report removed that portion of the bill that would have struck the assistant to the commissioner position from the list of positions that serve at the pleasure of the Commissioner of Corrections.

This bill occupied quite a bit of our time. It was a complex bill. I thought we did a good job. We carved out things that were not important, that were controversial, that we didn't think would sit well with this body or the people of Maine. The majority supported the commissioner of Corrections in his desire to fill this position to serve at the pleasure of the commissioner because practically he has a year left in his administration and he cannot attract a person to that position, because if that person comes to that position, they give up a lot of seniority. I wouldn't disagree with those people for accepting that position. In order to fulfill the need to get on with the master correction plan, understand that we are completely revamping the prison system in Maine. It is coming online in August and later on in November some more. It is a marvelous project. The commissioner has done a wonderful job with this. The majority felt that what he was asking for was not out of line and that is why the majority supported his position. I would urge you to support the Majority Ought as Amended Report.

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

Representative **QUINT**: Mr. Speaker, Men and Women of the House. I don't mean to prolong the debate, but it is not entirely correct to say that this was the only thing that we disagreed with. Two of the things that we decided to leave out because they were so substantial were the use of deadly force and training for training school councilors at the Juvenile Corrections Facility. This bill and all of what is in here did not have an appropriate public hearing.

The good Representative from Ellsworth talks about the revamping of the correctional system, which is entirely true. As a matter of fact, the state has embarked upon the single largest construction process in its history. I think that it is important for



us not to tie the hands of the next commissioner in Corrections because the buildings may be built by August. Not all of them will be finished. I can assure you of that. The fact of the matter is, it is getting into the building and developing programs and having the capacity to do what we need to do in those correctional facilities and it is not about bricks and mortar. It is a very complicated process in Corrections. The policy issues are very complex. I know many of us don't spend a lot of time thinking about them, but I spend a lot of time thinking about them, but I spent a lot of time thinking about the juvenile pieces of it. I will tell you that in order for the commissioner to do the things he needs to do, three positions that serve at his discretion are not enough to do the things that we need to do to reform the Corrections Department in the State of Maine. We all know that needs to be done. We do a lot of time talking about it. It is true that the commissioner is only going to be there for a year, but I think that makes my point. We don't want to fill that position for a year and then not have it to be able to be filled by the next commissioner of Corrections.

I would ask you once again not to support the Majority Ought to Pass Report, but to, in fact, vote against it and then vote with the Minority Report.

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

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

The SPEAKER: The Representative may pose her question.

Representative **RICHARD**: Mr. Speaker, Men and Women of the House. To anyone who can answer this, as you are talking about the juvenile correctional systems and the changes, are you still leaving the educational portions in the Department of Education?

The SPEAKER: The Representative from Madison, Representative Richard 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. To the Representative from Madison, that feature is not part of this bill.

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

Representative **PEAVEY**: Mr. Speaker, Men and Women of the House. Just to reiterate, the only difference between the Minority and the Majority Report today, on this bill, is that one issue of whether the assistant to the commissioner would serve at the pleasure of the commissioner or be a permanent position that would be part of the career ladder. Those of us on the Majority Report felt that because of all that is happening in Corrections and because we are coming closer to the end of one administration and starting of another administration, there should be someone that is consistent in those positions as we move through all the restructuring of the prison facilities. That is the only difference between the two reports. It doesn't touch anything else to do with education or anything else. Thank you.

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

Representative **QUINT**: Mr. Speaker, Men and Women of the House. I thank the good Representative from Woolwich, Representative Peavey. The title is, in fact, assistant to the commission. It is the assistant to the commissioner in whatever he decides or defines that position. Why would we want to not allow the commissioner of Corrections to choose his assistant and to run the Department of Corrections the way he sees fit or

she sees fit during his or her term working for the next Governor of the State of Maine? It is an assistant to the commissioner, that the commissioner has always had at his discretion. Some will say it was never really utilized by this particular commissioner, well, that may very well be. It was put there to be an assistant to the commissioner. The commissioner should be able to use that position as he or she sees fit. By taking that person's ability away from them to appoint their own assistant, it would seem a little ridiculous to me.

What the Majority Report does do is what they agreed to do, which was to, in fact, change the name of the position so that they could call it something else. Quite frankly, I didn't see any plans that talked about what that was going to be and how that was going to work. I would ask you to think about not allowing the commissioner of Corrections to choose his or her assistant and vote against the Majority Ought to Pass Report.

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

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. This bill was discussed at great lengths in the Criminal Justice Committee. The Majority Ought to Pass as Amended Report came out with great thought and great deliberation. We had talked to the present commissioner and he seemed very comfortable with this. I think what we were looking at when we put this on the floor was a little continuity in the prison administration system. The commissioners serve at the pleasure of the Chief Executive. They can come and they can go every four years. The prison will go on and the prison has to run in the most efficient expedient manner that is possible. Continuity is what it is all about. Continuity, we have found, and long-term memory, institutional memory, has hurt this very House that we serve in. I think the majority of us agree with that. Let's not put a very important, costly, very, very costly department that the state funds, in the same jeopardy that we have put our own body in. I would urge everyone to support the Majority Ought to Pass as Amended Report. It is a good bill and it is best for the state. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Quint. Having spoken three times now requests unanimous consent to address the House a fourth time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative **QUINT**: Mr. Speaker, Men and Women of the House. It is the very continuity of the Corrections Department that concerns me. There isn't any department in this state that is more continuous and runs business as usual as it always has. Nothing has changed in that department since the '70s. It is a monolith that needs reform and we all know it needs reform. I am not worried about continuity. If we want reform in the Corrections System in the State of Maine, we need to not hamstring the commissioner of Corrections, whoever he or she may be, in the next administration by taking one of the positions that he or she has the ability to appoint away from him. If we are, in fact, committed to reforms in adult and juveniles, we need to be supporting the commissioner, not supporting status quo. If you want to support status quo in the way the correction systems are currently being run, because we want to be consistent about how we run our corrections institutions, then fine. I object to that. It is that consistency and that lack of change that makes our Corrections Department the way it is. It is an atrocity in the juvenile piece, I can assure you. Although we have made substantial changes all for the better, but when you look where we came from, we still have a great way left to go. I know this seems like a very minor disagreement, but there were several major topics that were left out of this. This bill was not properly discussed. Information was not disclosed in the title. Please

don't be concerned about disrupting the consistency of how our corrections are run. It is that very consistency that I challenge and will continue to challenge everyday. Thank you.

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

Representative GERZOFSKY: Mr. Speaker, Men and Women of the House. I just wanted to clarify some of the information that is going on in this debate. One thing is the assistant commissioner now that we are replacing sat for 15 years under three different commissioners and did her job very well. She has now been moved on to another position. I thought I would get up because we are talking about continuity and mention that under the existing law, the commissioner hires that person. Three commissioners in a row saw fit to have her as the assistant commissioner. Thank you very much.

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

Representative MUSE: Mr. Speaker, Men and Women of the House. I apologize for rising on this issue and our debates have gone on much too long today, but I figured I had to weigh in on this one. I agree wholeheartedly with Representative Quint and I think, aside from myself, there isn't a person in this body that has spent more time working with inmates than Representative Quint has. I think it is important to point out that he does that on a volunteer basis working with the juveniles at the Correctional Center. It is an incredibly commendable thing that he does. He has done that so that he can learn first hand what this system is all about. He is 100 percent correct when he says we need to move away from consistency in that department. We have embarked on the largest construction project in the history of the State of Maine to revitalize the department. We need to basically tear it down and rebuild it. This bill seems a little shaky in that respect. I agree wholeheartedly with Representative Quint. I will follow his light on it. Thank you Mr. Speaker.

Representative TRACY of Rome 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. 291**

YEA - Andrews, Annis, Bagley, Belanger, Berry DP, Berry RL, Blanchette, Bouffard, Bowles, Bruno, Buck, Bumps, Bunker, Carr, Chase, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cowger, Crabtree, Cressey, Davis, Desmond, Duncan, Dunlap, Duprey, Fisher, Foster, Fuller, Gerzofsky, Glynn, Goodwin, Haskell, Heidrich, Honey, Jodrey, Jones, Kane, Kasprzak, Koffman, Labrecque, LaVerdiere, Ledwin, Lemoine, Lessard, Lundeen, MacDougall, Madore, Mailhot, Marrache, Mayo, McKenney, McLaughlin, Morrison, Murphy T, Nass, Norbert, Nutting, O'Brien LL, O'Neil, Patrick, Peavey, Perkins, Perry, Pineau, Pinkham, Povich, Richard, Richardson, Rosen, Schneider, Sherman, Shields, Snowe-Mello, Stanley, Sullivan, Tessier, Tobin D, Tobin J, Trahan, Treadwell, Tuttle, Usher, Waterhouse, Wheeler EM, Wheeler GJ, Winsor, Young.

NAY - Ash, Baker, Bliss, Brooks, Bryant, Bull, Canavan, Chick, Cummings, Dorr, Dudley, Dugay, Duplessie, Estes, Etner, Gagne, Green, Hall, Hatch, Hawes, Hutton, Jacobs, Laverriere-Boucher, Marley, McDonough, McGlocklin, McKee, McNeil, Mendros, Michael, Michaud, Mitchell, Muse C, Norton, O'Brien JA, Paradis, Quint, Rines, Savage, Simpson, Skoglund, Smith, Tarazewich, Thomas, Tracy, Twomey, Volenik, Watson, Weston.

ABSENT - Brannigan, Daigle, Gooley, Landry, Lovett, Matthews, McGowan, Murphy E, Muse K, Stedman, Mr. Speaker. Yes, 91; No, 49; Absent, 11; Excused, 0.

91 having voted in the affirmative and 49 voted in the negative, with 11 being absent, and accordingly the Majority Ought to Pass as Amended Report was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (S-280) was READ by the Clerk.

On motion of Representative COLWELL of Gardiner, TABLED pending ADOPTION of Committee Amendment "A" (S-280) and later today assigned.

**Divided Report**

Majority Report of the Committee on LABOR reporting Ought to Pass as Amended by Committee Amendment "A" (S-283) on Bill "An Act to Create the Advisory Commission for Persons Who are Blind or Visually Impaired"

(S.P. 558) (L.D. 1720)

Signed:

Senators:

EDMONDS of Cumberland  
TURNER of Cumberland

Representatives:

BUNKER of Kossuth Township  
MATTHEWS of Winslow  
CRESSEY of Baldwin  
DAVIS of Falmouth  
MacDOUGALL of North Berwick  
TREADWELL of Carmel  
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:

Senator:

SAWYER of Penobscot

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-283).

READ.

On motion of Representative BUNKER of Kossuth Township, the Majority Ought to Pass as Amended Report was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (S-283) 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-283) in concurrence.

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

Resolve, Authorizing a Land Transaction by the Bureau of Parks and Lands.

(H.P. 1337) (L.D. 1791)  
(C. "A" H-582)

Which was **TABLED** by Representative McKEE of Wayne pending **FINAL PASSAGE**.

On motion of Representative McKEE of Wayne, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Resolve 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" (H-582)** was **ADOPTED**.

The same Representative presented **House Amendment "A" (H-637)** to **Committee Amendment "A" (H-582)** which was **READ** by the Clerk.

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

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. This changes just a fiscal note on the bill. Fortunately it is revenues. The appraisal of the property was slightly less than we originally thought. It is 137 and not 187. Thank you very much.

**House Amendment "A" (H-637)** to **Committee Amendment "A" (H-582)** was **ADOPTED**.

**Committee Amendment "A" (H-582)** as Amended by **House Amendment "A" (H-637)** thereto was **ADOPTED**.

The Resolve was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-582) as Amended by House Amendment "A" (H-637)** thereto in **NON-CONCURRENCE** and sent for concurrence.

#### UNFINISHED BUSINESS

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

An Act to Provide Funding for the Office of the State Fire Marshal and to Increase Certain Fire Inspection Fees (EMERGENCY)

(S.P. 418) (L.D. 1362)  
(C. "A" S-241)

- In House, **PASSED TO BE ENACTED** on May 29, 2001.

- In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-272)** in **NON-CONCURRENCE**. **TABLED** - May 29, 2001 (Till Later Today) by Representative COLWELL of Gardiner.

**PENDING - FURTHER CONSIDERATION.**

On motion of Representative POVICH of Ellsworth, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

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

An Act to Provide Funding for the Office of the State Fire Marshal and to Increase Certain Fire Inspection Fees (EMERGENCY)

(S.P. 418) (L.D. 1362)  
(C. "A" S-241)

Which was **TABLED** by Representative POVICH of Ellsworth pending **FURTHER CONSIDERATION**.

On motion of Representative POVICH of Ellsworth, the House voted to **ADHERE. ORDERED SENT FORTHWITH.**

#### UNFINISHED BUSINESS

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

Bill "An Act to Permit Foster Parents to Purchase Group Health Insurance"

(H.P. 275) (L.D. 353)

- In House, **PASSED TO BE ENGROSSED** on May 24, 2001.

- In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-264)** in **NON-CONCURRENCE**.

**TABLED** - May 29, 2001 (Till Later Today) by Representative O'NEIL of Saco.

**PENDING - FURTHER CONSIDERATION.**

Representative O'NEIL of Saco moved that the House **RECEDE AND CONCUR**.

Representative GLYNN of South Portland **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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 South Portland, Representative Glynn.

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the pending motion and ask that the House consider that this bill as amended by the other body has got some serious issues and problems, which I believe means we should not enact this piece of legislation.

I have handed out a piece of literature. It is bright yellow. It says, vote no on LD 353. It goes through several of the problems that the other body has created with their amendment (S-264). What this bill now does, as is being contemplated by the other body, is it allows foster parents to buy into the state employee health plan. While at first blush this may sound like a good idea, it isn't for a variety of reasons. I would like to highlight some of those for you.

First of all, this is a classic example of adverse selection. What adverse selection is all about is when the rate for a health plan is set, what is done is an analysis is done of all of the people that are in the pool that you are looking at insuring, their health conditions, the projected cost that it is going to be to provide them health insurance under the plan. They come up with a dollar figure about how much it costs for each individual.

The state employee health plan is one of the most expensive health plans out there. It is very expensive. It has very high benefits and its very, very expensive. Because it has such a very high price tag on it, the only people that would be interested in joining into this package are going to be people that have poor health and are high-risk individuals. That being said, when they join the state employee health plan, because it would be open and available to them, these people that have these adverse health conditions, what is going to happen is the price for the state employee health plan is going to go up. That means it is going to be more expensive to insure the state employees. That cost is going to be borne by the taxpayer. It may actually even become an issue of negotiations between the state employees and the state, because now their health insurance product is going to be more expensive than it exists today.

According to DHS under their licenses there is about 1,450 individuals who are going to be eligible to enroll in the state employee health plan. Again, because this plan is very

expensive, only those people that are desperate for insurance, I believe, are going to join into this. Again, this is how adverse selection works. It is an undefined pool. We don't know who those people are or what their health data is, but we do know how adverse selection works when we look at other markets.

The purpose of this bill when it was presented to the Banking and Insurance Committee was to permit foster parents to purchase group health insurance. That sounds like a great idea. It sounds like such a great idea it already was provided for in state law. On this page I put a quote from the superintendent of insurance. He quotes, Title 24A, Section 2805A is already enabling foster parents to be able to purchase group health insurance. This bill aims at correcting a problem that doesn't need correction. It is already permitted to have these folks join together into a pool and get group health insurance. The problem is we need to find some insurance companies that are willing to come to Maine and write these policies. I understand from the committee hearing and subsequent conversations afterwards that Blue Anthem is looking at joining into this market and trying to provide insurance to them. Those discussions are taking place. If the bill that was presented to the committee was adopted, it essentially is going to do the same thing. It is just going to say that these groups of foster parents are able to purchase health insurance. You can't force anybody to offer health insurance. You can just put out enabling legislation out there. We look at the Committee Amendment and what the Committee Amendment does is it departs from the original objectives of the bill of offering group health insurance by putting it out there and enabling legislation and it subjects the state to this added expense of this risk pool.

I would like the members of the House to seriously consider before we increase the cost of health insurance for state employee health benefits, we not do this and we instead look to turning down this amendment. Mr. Speaker, I thank you.

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

Representative **LAVERRIERE-BOUCHER**: Mr. Speaker, Men and Women of the House. First, I would like to start off by giving a little history behind what this bill is for. Maine foster parents, there is a group of close to 1,200 to 1,400 people, have worked for almost 20 years to be allowed to purchase on their own, at no cost to the state, group health insurance. Since they are not considered employed because they are paid a stipend, not a taxable wage, they have continuously been told by the Office of the Bureau of Insurance and insurance companies that they do not qualify for group health insurance. Therefore, that is why I put this bill forward. I was told at the public hearing by the commissioner, the Superintendent of Insurance, that the law permits foster parents to already purchase group health insurance. However, his own office has told foster parents planning and trying to create such an availability that they did not qualify. That was very interesting.

As far as answering some of the problems or worries that seem to have happened since the amendment was put on by the Senate. I just wanted to make you aware that a health evaluation is taken before a person becomes a foster parent. Children are not placed with sick people. This bill says that only foster parents that are actively caring for children in their homes will be allowed to get onto this plan.

The plan is an option. It appears there is another insurance company that offers a premium offer to the group. People will have a choice. That is what I have been told. As far as the analysis of people, the pool of people, there are 99 single mothers that are foster parents right now that responded to this survey. Eleven hundred people have responded to the survey, 10 single foster fathers. That average age of foster parents in

the state right now who answered the questionnaire, 1,100 people, is 44 years old for a woman and 46 years old for a man. The majority of them thanked the foster parent group to invite them to participate in this survey because they are really anxious to have insurance. However, a few of them said they already had insurance through their spouse. You would not have this entire 1,400 people come on board, but you would have those who value, especially those who have young children. A lot of our foster parents have their own biological children and they need to supply them with insurance and they cannot and they do not qualify for Medicaid. Therefore, you would have probably families coming on, those with little children. Foster children are covered under Medicaid and that is a totally different thing.

I hope that this answers some of your questions and your worries. I think that this is a good bill. It is a good amendment and it would allow another group of people to find coverage and it would be of no cost to the state. They would pay for their own insurance. I hope that you support this. Thank you.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. The testimony that we have just heard from the good Representative, I think there are a lot of valid points in what she has to offer. However, I would like to point out to the body these topics of attaching this to the state employee health plan was not the subject of our public hearing and consequently was not subject of our work sessions. This is not an amendment offered by either the majority or the minority of the Banking and Insurance Committee. This is something after the fact that hasn't had the benefit of a public hearing. We have not heard from the Banking and Insurance Committee, it has not been weighed in upon by those folks who are responsible for controlling costs on the state employee health plan. Those that I have had candid conversations with outside of the committee process have some real concerns that we are, in fact, going to raise the cost of the state employee health plan. For those reasons, I think we need to vote against this bill at this time. However, if a member would like to propose legislation dealing with this topic and allow it to go through the committee process, I think that we could try and find a way to come up with a scenario that would not adversely affect the taxpayers and the state employees. Thank you.

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

Representative **DUDLEY**: Mr. Speaker, Men and Women of the House. The Representative from South Portland, Representative Glynn, is correct. This wasn't a topic of discussion of the Banking and Insurance Committee at the public hearing or the work session, but I can say that since that time I have had time to consider this amendment and I think it is a great idea. Thank you.

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

Representative **MAYO**: Mr. Speaker, Ladies and Gentlemen of the House. I find myself in a rather awkward position this afternoon with regard to LD 353. I supported the original bill in committee. I think there apparently is some quirk in the law that is being used by some of the insurers to not allow what many of us consider to be a group to purchase group insurance. This bill, in its original form, was reported out of the committee and it would correct that and I think possibly move the situation along, for the foster parents who certainly wish to buy insurance should be given the opportunity and the expense would be less through a group situation than it would be on an individual basis.

Where I begin to diverge from the report is with the amendment. This would be a new concept, basically. We did,

for those of you who were here in the previous session of the Legislature, we did allow 12 employees who worked in the cafeteria in the basement of this building, the opportunity to purchase into the state employee health plan. None of those people availed themselves of the opportunity and it was felt for basically one reason, according to Frank Johnson, the head of the program. The cost at that point was around \$11,250. It was more than any of those people wished to spend. I think we may find a somewhat similar situation this time. The cost now would be \$12,000 for people to buy into the plan. We don't know at this juncture whether or not there will or will not be adverse selection. If there is adverse selection, it will affect, in the future, the cost of that plan to the active participants and to the retired participants. That is something that we do not know.

The plan is very concerned about that situation. I have not talked directly with Mr. Johnson this week. Yesterday he was away from Augusta and today he is in New York. I have talked with him through his administrative assistant. He is concerned with the adverse selection situation and wanted that brought before this body. I would urge that we defeat the amendment and pass the bill without an amendment. I would ask that you not support the motion to Recede and Concur, but support a subsequent motion. Thank you.

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

**ROLL CALL NO. 292**

YEA - Ash, Bagley, Baker, Berry RL, Blanchette, Bliss, Brooks, Bryant, Bull, Bunker, Canavan, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Cummings, Dorr, Dudley, Dugay, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Goodwin, Green, Hall, Hatch, Hawes, Hutton, Jacobs, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Marrache, McDonough, McGlocklin, McGowan, McKee, McLaughlin, Michaud, Mitchell, Murphy E, Norbert, Norton, O'Brien LL, Paradis, Patrick, Perkins, Pineau, Povich, Quint, Richardson, Savage, Simpson, Skoglund, Smith, Sullivan, Tarazewich, Tessier, Tobin D, Tracy, Tuttle, Twomey, Volenik, Watson, Mr. Speaker.

NAY - Andrews, Annis, Belanger, Berry DP, Bouffard, Bowles, Bruno, Buck, Bumps, Carr, Chase, Clough, Collins, Crabtree, Cressey, Davis, Desmond, Duncan, Duprey, Foster, Glynn, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, MacDougall, Madore, Mayo, McKenney, McNeil, Mendros, Michael, Morrison, Murphy T, Muse C, Nass, Nutting, O'Brien JA, O'Neil, Peavey, Pinkham, Richard, Rines, Rosen, Schneider, Sherman, Shields, Snowe-Mello, Stanley, Thomas, Tobin J, Trahan, Treadwell, Usher, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Young.

ABSENT - Brannigan, Daigle, Gooley, Landry, Lovett, Matthews, Muse K, Perry, Stedman.

Yes, 79; No, 63; Absent, 9; Excused, 0.

79 having voted in the affirmative and 63 voted in the negative, with 9 being absent, and accordingly the House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH.**

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

**CONSENT CALENDAR**

**First Day**

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

(H.P. 1153) JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ALLOW IMPROVED MEDICARE SUPPLEMENT INSURANCE POLICIES OFFERING

**PRESCRIPTION DRUG COVERAGE Committee on BANKING AND INSURANCE reporting Ought to Pass**

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

There being no objection, the House Paper was **ADOPTED** and sent for concurrence.

**ENACTORS**

**Acts**

An Act to Amend the Clean Car Incentives Pilot Program (S.P. 629) (L.D. 1813)

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

On motion of Representative BOWLES of Sanford, 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: 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. To anyone who might answer, I am a little confused about this LD. I believe we passed a act to repeal the current incentive pilot program this morning. If someone could explain what this does and what the difference is between those two, I would appreciate it.

The SPEAKER: The Chair would answer to the Representative that this is the legislation that had an error in a previous supplement. There was an engrossing error. The correct title is, "An Act to Amend the Clean Car Incentives Pilot Program."

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. Was the mistake the repeal part or the amending part? Was there a transfer of the words?

The SPEAKER: The correct title is "An Act to Amend the Clean Car Incentives Pilot Program."

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

Representative **KASPRZAK:** Mr. Speaker, what we saw earlier was repeal and that was the mistake?

The SPEAKER: That is correct.

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. 293**

YEA - Ash, Bagley, Baker, Berry RL, Blanchette, Bliss, Bouffard, Brooks, Bryant, Bull, Bunker, Canavan, Chick, Chizmar, Colwell, Cote, Cowger, Cummings, Desmond, Dorr, Dudley, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hall, Hatch, Hawes, Hutton, Jacobs, Jones, Kane, Koffman, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Marrache, Mayo, McDonough, McKee, McLaughlin, Michael, Michaud, Murphy E, Muse C, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Perkins, Pineau, Povich, Quint, Richard, Richardson, Rines, Savage, Simpson, Skoglund,

Smith, Sullivan, Tarazewich, Tessier, Thomas, Twomey, Usher, Volenik, Watson, Mr. Speaker.

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

ABSENT - Brannigan, Daigle, Goodwin, Gooley, Landry, Lovett, Matthews, Mitchell, Muse K, Norbert, Perry, Stedman.

Yes, 77; No, 62; Absent, 12; Excused, 0.

77 having voted in the affirmative and 62 voted in the negative, with 12 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

#### 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 DIVIDED REPORT – Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (H-591)** – Minority (5) **Ought Not to Pass** – Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Make Active Public Health Investigation Records Confidential"

(H.P. 1027) (L.D. 1384)

TABLED – May 25, 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 Winterport, Representative Brooks.

Representative **BROOKS**: Mr. Speaker, Ladies and Gentlemen of the House. Just a brief explanation of the current status of this bill on an informal status. The bill when it first came out, if you refer to it, was objected in the original report by a minority of five people. Very specifically what we objected to was a section in the bill that would have allowed the department to continue to keep information on epidemiological studies, investigations, away from public scrutiny. An amendment came at that last minute, which was designed as a technical amendment and it did, in fact, change that period of time when information could be kept confidential to the period of time when data collection is going on. It is not the full investigation period, but instead the data collection period. That has brought several of us, all of us, to a point where we no longer object to this piece legislation. Rather than carry it back to the committee for a revote, we decided just to speak this on the floor. Had this bill been taken up earlier with this amendment, it probably would have gotten a unanimous Ought to Pass. Thank you Mr. Speaker. I urge my colleagues in the House to accept the current motion, which is 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" (H-591)** 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-591)** and sent for concurrence.

An Act to Regulate Push Polling

(S.P. 308) (L.D. 1055)  
(H. "D" H-545)

TABLED – May 29, 2001 (Till Later Today) by Representative TUTTLE of Sanford.

PENDING – **PASSAGE TO BE ENACTED**.

On motion of Representative PATRICK of Rumford, 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**.

The same Representative **PRESENTED House Amendment "F" (H-641)** which was **READ** by the Clerk.

Representative TRAHAN of Waldoboro moved that **House Amendment "F" (H-641)** be **INDEFINITELY POSTPONED**.

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

Representative **TRAHAN**: Mr. Speaker, Honorable Members of the House. We have had a very extensive debate on this issue. For those that were here a year and a half ago, this was my amendment that I presented at 2 o'clock in the morning after a very lengthy debate. My amendment asks the Ethics Commission to develop rules regulating push polling. I am having circulated to you a response from the Ethics Commission on that very same amendment that we are looking at today. They said, and I will quote from a letter dated October 12, 2000, "We have given considerable thought to the matter of push polling, which has appeared as an agenda item for our September and October meetings. The resolve directed the commission to adopt rules regulating push polling. The resolve specified that such rules would be major substantive rules defined in Title 5, Chapter 375, however, the resolve did not define the term push polling, nor does it provide any guidance on how push polling activity should be regulated."

Ladies and gentlemen of the House, I have submitted an amendment to this bill, which defined push polling from Nevada law, current statutes. The bill in its present form, without this amendment, is a solid piece of legislation. You have seen many amendments come before you that would dilute the bill. That is very concerning to me and I will tell you why. When we are elected to office we have before our name the word honorable and we have that for the rest of our lives. When we run for office, whether we are elected or not, candidates have an impact on that word honorable in the way that they run for office.

All of you know that push polling as defined by Nevada law is to degrade another to reach that office. When someone does that, it reflects upon this body and this institution. When we pass a bill like the current one, without this amendment, we are making a statement that we want people to act above and beyond the average citizen, to act in a way that is ethical and honorable and push polling is not. I wonder why the resistance to bringing forward a bill that would make a policy statement from this Legislature that we don't want that kind of action. When we go to schools and we talk to children and when we take part in



our responsibilities as a legislator, we do them in an honorable way and we expect others to do that as well.

I ask you to Indefinitely Postpone this amendment. Let's go with a very good bill that was before us earlier and stop trying to dilute this and let's get on with our business. Thank you.

Representative TRACY of Rome **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "F" (H-641)**.

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

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "F" (H-641). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 294**

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

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

**ABSENT** - Brannigan, Cummings, Daigle, Gooley, Kane, Landry, Lovett, Madore, Matthews, Muse K, Perry, Stedman.

Yes, 56; No, 83; Absent, 12; Excused, 0.

56 having voted in the affirmative and 83 voted in the negative, with 12 being absent, and accordingly the motion to **INDEFINITELY POSTPONE House Amendment "F" (H-641) FAILED**.

Representative **TRAHAN** of Waldoboro **REQUESTED** a roll call on the motion to **ADOPT House Amendment "F" (H-641)**.

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

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

Representative **TRAHAN**: Mr. Speaker, Honorable Members of the House. I stand because I want to be on the Legislative Record with this, what you are you doing today. I heard no one stand in this body to tell me what was wrong with the original bill. I had no one criticize anything about it or even why they brought this amendment.

I am going to explain to you what the current bill before you amend it, what it defined push polling as. As used in this section, which was from the Nevada law, that we put into the bill that was before us, before this amendment. Push poll means the canvassing of persons by means other than established method of scientific sampling by asking questions or offering information concerning a candidate, which is designed to provide information that is negative or derogatory about the candidate or his family. That is pretty simple. We know what push polling is.

It is someone who calls up an individual on behalf of a candidate and says something to the effect of, would it affect your vote if you knew that Representative Trahan didn't pay back his college tuition and then hangs up the phone. It is meant to place a doubt in a person's mind about a certain candidate, giving another candidate an advantage and using this information.

In the real world, you would go to court and you could be sued for slander by doing this type of thing. It goes on in elections all the time. This piece of legislation is trying to address that to bring more integrity upon this body. With this amendment, which I showed you from the Ethics Commission, that they could not do what is in this current amendment now that is before us, they could not do it because they don't have the regulatory power. We are putting that off for another year or two. It is in the letter for you, ladies and gentlemen, read it. I gave it to you. They cannot do what this amendment requires. We are taking a very good bill that no one here has argued against. We are diluting it and we are putting it off. To me, that does not reflect positively about this body.

Ladies and gentlemen, I ask you to defeat this amendment and let's move on with a very good bill.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Adoption of House Amendment "F" (H-641). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 295**

**YEA** - Ash, Baker, Berry RL, Blanchette, Bliss, Bouffard, Brooks, Bryant, Bull, Bunker, Canavan, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Dudley, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Goodwin, Green, Hall, Hatch, Hawes, Hutton, Jacobs, Jones, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Marrache, Mayo, McDonough, McGlocklin, McGowan, McKee, McLaughlin, Michaud, Mitchell, Muse C; Norbert, Norton, O'Brien LL, O'Neil, Patrick, Pineau, Povich, Quint, Richard, Richardson, Rines, Savage, Sherman, Simpson, Smith, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tuttle, Twomey, Usher, Watson, Wheeler GJ, Mr. Speaker.

**NAY** - Andrews, Annis, Belanger, Berry DP, Bowles, Bruno, Buck, Bumps, Carr, Chase, Clough, Collins, Crabtree, Cressey, Davis, Desmond, Dorr, Dugay, Duncan, Duprey, Foster, Glynn, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, MacDougall, McKenney, McNeil, Mendros, Michael, Morrison, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, Paradis, Peavey, Perkins, Pinkham, Rosen, Schneider, Shields, Snowe-Mello, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Volenik, Waterhouse, Weston, Wheeler EM, Winsor, Young.

**ABSENT** - Bagley, Brannigan, Cummings, Daigle, Gooley, Kane, Landry, Lovett, Madore, Matthews, Muse K, Perry, Skoglund, Stedman.

Yes, 78; No, 59; Absent, 14; Excused, 0.

78 having voted in the affirmative and 59 voted in the negative, with 14 being absent, and accordingly **House Amendment "F" (H-641) was ADOPTED**.

On motion of Representative **PATRICK** of Rumford, 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 "D" (H-545) was ADOPTED**.

The same Representative moved that **Committee Amendment "D" (H-545) be INDEFINITELY POSTPONED**.

Representative **CLOUGH** of Scarborough **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE Committee Amendment "D" (H-545)**.

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

On motion of Representative TUTTLE of Sanford, **TABLED** pending the motion of Representative PATRICK of Rumford to **INDEFINITELY POSTPONE Committee Amendment "D"** (H-545) and later today assigned. (Roll Call Ordered)

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

**SENATE PAPERS**  
**Non-Concurrent Matter**

Bill "An Act to Encourage Greater Acquisition, Deployment and Use of Automated External Defibrillators"

(H.P. 1069) (L.D. 1432)

House **INSISTED** to **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-569) in the House on May 29, 2001.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-569) **AS AMENDED BY SENATE AMENDMENT "B"** (S-294) thereto in **NON-CONCURRENCE**.

On motion of Representative POVICH of Ellsworth, the House voted to **RECEDE AND CONCUR**.

**Non-Concurrent Matter**

Bill "An Act to Speed Up the Decision Process on Workers' Compensation Claims"

(H.P. 921) (L.D. 1235)

Majority (7) **OUGHT TO PASS AS AMENDED** Report of the Committee on **LABOR READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-488) in the House on May 29, 2001.

Came from the Senate with the Minority (6) **OUGHT NOT TO PASS** Report of the Committee on **LABOR READ** and **ACCEPTED** in **NON-CONCURRENCE**.

On motion of Representative BUNKER of Kossuth Township, the House voted to **RECEDE AND CONCUR**.

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

**Non-Concurrent Matter**

Bill "An Act to Exclude Credit Balances Between Business Associations from Unclaimed Property"

(H.P. 1088) (L.D. 1457)

Majority (9) **OUGHT TO PASS AS AMENDED** Report of the Committee on **JUDICIARY READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-605) in the House on May 29, 2001.

Came from the Senate with the Minority (4) **OUGHT NOT TO PASS** Report of the Committee on **JUDICIARY READ** and **ACCEPTED** in **NON-CONCURRENCE**.

Representative LaVERDIERE of Wilton moved that the House **ADHERE**.

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

**CONSENT CALENDAR**

**First Day**

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

(S.P. 395) (L.D. 1310) Bill "An Act to Amend the Maine Health Data Organization Laws" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A"** (S-290)

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.

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

**SENATE DIVIDED REPORT** - Majority (10) **Ought Not to Pass** - Minority (3) **Ought to Pass as Amended by Committee Amendment "A"** (S-273) - Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Establish Guidelines for High School Sports"

(S.P. 11) (L.D. 3)

Which was **TABLED** by Representative RICHARD of Madison pending her motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

Subsequently, the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

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

**ENACTORS**

**Emergency Measure**

Resolve, to Create the Commission to Study Privacy Laws

(H.P. 672) (L.D. 872)

(C. "A" H-606)

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. 103 voted in favor of the same and 23 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

**SENATE PAPERS**

**Non-Concurrent Matter**

Bill "An Act to Require Certain Employers to Provide Certification for Employees Who Dispense Medications"

(H.P. 603) (L.D. 758)

House **INSISTED** on its former action whereby the Majority (7) **OUGHT TO PASS AS AMENDED** Report of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-464) **AND HOUSE AMENDMENT "A"** (H-541) in the House on May 24, 2001.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Minority (6) **OUGHT NOT TO PASS** Report of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** was **READ** and **ACCEPTED** and **ASKED FOR A COMMITTEE OF CONFERENCE** in **NON-CONCURRENCE**.



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

---

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

An Act to Increase the Homestead Property Tax Exemption from \$7,000 to \$10,000

(H.P. 116) (L.D. 120)

(C. "A" H-600)

Which was **TABLED** by Representative NORBERT of Portland pending **PASSAGE TO BE ENACTED**.

Representative COLWELL of Gardiner **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. 296**

**YEA** - Andrews, Annis, Ash, Baker, Belanger, Berry DP, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brooks, Bryant, Bull, Bumps, Bunker, Canavan, Carr, Chase, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cowger, Crabtree, Cressey, Cummings, Davis, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Duprey, Estes, Etnier, Fisher, Foster, Fuller, Gagne, Gerzofsky, Glynn, Goodwin, Green, Hall, Haskell, Hatch, Hawes, Heidrich, Honey, Hutton, Jacobs, Jodrey, Jones, Kane, Kasprzak, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, MacDougall, Mailhot, Marley, Marrache, Mayo, McDonough, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Mendros, Michael,

Michaud, Mitchell, Morrison, Murphy E, Murphy T, Muse C, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perkins, Pineau, Pinkham, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Shields, Simpson, Smith, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tuttle, Twomey, Usher, Volenik, Waterhouse, Watson, Weston, Wheeler EM, Winsor, Young, Mr. Speaker.

**NAY** - NONE.

**ABSENT** - Bagley, Brannigan, Bruno, Buck, Daigle, Duncan, Gooley, Landry, Lovett, Madore, Matthews, Muse K, Nass, Perry, Skoglund, Stedman, Wheeler GJ.

Yes, 134; No, 0; Absent, 17; Excused, 0.

134 having voted in the affirmative and 0 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.

---

The **SPEAKER**: The Chair recognizes the Representative from Baldwin, Representative Cressey who wishes to address the House on the record.

Representative **CRESSEY**: Mr. Speaker, Ladies and Gentlemen of the House. In reference to Roll Call 289 on LD 796, if I had been present, I would have voted yea. In reference to Roll Call 290 on LD 796, if I had been present, I would have voted nay.

---

On motion of Representative McGOWAN of Pittsfield, the House adjourned at 5:26 p.m., until 9:00 a.m., Thursday, May 31, 2001.