

# 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  
SECOND REGULAR SESSION  
15th Legislative Day  
Wednesday, February 15, 2002

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

Prayer by Reverend Edward Hatch, Palermo Christian Church.

National Anthem by Doctor A. Jan Berlin, South Freeport.

Pledge of Allegiance.

Doctor of the day, A. Jan Berlin, M.D., South Freeport.

The Journal of yesterday was read and approved.

---

**SENATE PAPERS**

The following Joint Order: (S.P. 770)

ORDERED, the House concurring, that the Joint Standing Committee on Taxation report out, to the Senate, a bill concerning adjustments of state valuation due to a sudden and severe disruption of valuation.

Came from the Senate, **READ** and **PASSED**.

**READ** and **PASSED** in concurrence.

---

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

---

The Speaker resumed the Chair.  
The House was called to order by the Speaker.

---

**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

**Pursuant to Statute  
Department of Education**

Representative RICHARD for the **Department of Education** pursuant to the Maine Revised Statutes, Title 5, section 8072 asks leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Administration of Medicine in the School Setting, a Major Substantive Rule of the Department of Education (EMERGENCY)

(H.P. 1608) (L.D. 2106)

Be **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

---

**Pursuant to Statute  
Public Utilities Commission**

Representative SAVAGE for the **Public Utilities Commission** pursuant to the Maine Revised Statutes, Title 5, section 8072 asks leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 395 - Construction Standards and Ownership and Cost Allocation Rules for Electric Distribution Line Extensions, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY)

(H.P. 1609) (L.D. 2107)

Be **REFERRED** to the Committee on **UTILITIES AND ENERGY** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **UTILITIES AND ENERGY** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

---

**ORDERS**

On motion of Representative COWGER of Hallowell, the following Joint Order: (H.P. 1606)

ORDERED, the Senate concurring, that the Joint Standing Committee on Natural Resources report out, to the House, legislation requiring penalties for environmental violations to be deposited in the General Fund.

**READ** and **PASSED**.

Sent for concurrence.

---

On motion of Representative COWGER of Hallowell, the following Joint Order: (H.P. 1607)

ORDERED, the Senate concurring, that the Joint Standing Committee on Natural Resources report out, to the House, legislation regarding solid waste disposal facilities.

**READ** and **PASSED**.

Sent for concurrence.

---

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

---

On motion of Representative MORRISON of Baileyville, the following Joint Order: (H.P. 1589)

ORDERED, the Senate concurring, that the Commission to Study Issues Concerning Land Acquisition in Washington County is established as follows.

**1. Commission established.** The Commission to Study Issues Concerning Land Acquisition in Washington County, referred to in this order as the "commission," is established.

**2. Commission membership.** The commission consists of 7 members appointed as follows:

A. Two Senators appointed by the President of the Senate;

B. Two members of the House of Representatives, appointed by the Speaker of the House of Representatives;

C. Two members who are faculty members at the University of Maine at Machias, recommended by the President of the University of Maine at Machias and appointed by the Speaker of the House; and

D. One member of the public, appointed by the Speaker of the House.

**3. Chairs.** The first named Senator is the Senate chair of the commission and the first named member of the House is the House chair of the commission.

**4. Appointments; meetings.** All appointments must be made no later than 30 days following passage of this order. The appointing authorities shall notify the Executive Director of the Legislative Council once the appointments have been made. When the appointment of all members has been completed, the chairs of the commission shall call and convene the first meeting of the commission no later than 60 days following passage of this order.

**5. Duties.** The commission has the following duties:

A. To gather information pertaining to patterns of land ownership in Washington County and anticipated future land acquisition, including the acquisition of easements in Washington County; and

B. To examine the implications of these patterns of land ownership and anticipated future land acquisition for the economic and social condition of the citizens of Washington County.

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

**7. Compensation.** The members of the commission who are Legislators are entitled to the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for necessary expenses incurred for their attendance at authorized meetings of the commission. Other members of the commission who are not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses incurred for their attendance at authorized meetings.

**8. Report.** The commission shall submit a report that includes its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters by November 6, 2002. If the commission requires a limited extension of time to conclude its work, it may apply to the Legislative Council, which may grant the extension.

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

Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** suggested.

**READ** and **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**.

Sent for concurrence.

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

**SPECIAL SENTIMENT CALENDAR**

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

**Recognizing:**

Julie Raye, of Rockland, on being named the Rockland-Thomaston Area Chamber of Commerce's Chamber Person of the Year. Mrs. Raye is the owner of the House of Cards located on Main Street in Rockland. She is very active in local politics and civic activities and is the Chair of the SAD 5 school board and a director of the Rockland Lobster Festival. We extend our appreciation to her for her commitment to her community and congratulate her on receiving this award;

(HLS 872)

Presented by Representative McNEIL of Rockland.  
Cosponsored by Senator SAVAGE of Knox.

On **OBJECTION** of Representative McNEIL of Rockland, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

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

Representative **MCNEIL:** Mr. Speaker, Ladies and Gentlemen of the House. It is a great pleasure and a lot of fun today to present this sentiment to Julie because she thinks that she is here as the SAD 5 chairwoman to watch the cheerleaders get an award. This is kind of fun. Her husband Jim has been in on this for a while. If she wants to give him the dickens, you give it to him and not me.

Julie has for a very long number of years been behind the scenes pushing and in front of the pack pulling for the City of Rockland and its residents. She and her husband Jim and children Nicky and Anthony are the best of what is good about community volunteerism. From the bottom of my heart, thank you Julie, for all you give to the City of Rockland. We are very proud of you.

**PASSED** and sent for concurrence.

**Recognizing:**

the following members of the Rockland District High School Cheerleading Team, who won their 6th consecutive Kennebec Valley Athletic Conference Class B championship: Brie Thivierge, Heather Ledford, Melissa Leiter, Sean Curtin, Lindsey Applebee, Stacia Matthews, Wendy Daniels, Nate Grade, Dianne Grade, Trevor Davis, Matt Haj, Charissa Cayouette, Heather Brown, Jaime Fogg, Cara Ivey, Karen Dostie and Jessica Carpenter; Coach Mary Sidelinger and Assistant Coach Rachel Collamore. We extend our congratulations to the team on this accomplishment;

(HLS 873)

Presented by Representative McNEIL of Rockland.  
Cosponsored by Senator SAVAGE of Knox, Representative SKOGLUND of St. George.

On **OBJECTION** of Representative McNEIL of Rockland, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

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

Representative **MCNEIL:** Mr. Speaker, Ladies and Gentlemen of the House. It is with great pleasure that I present this sentiment to the Rockland District High School Cheerleading Team for their sixth consecutive win. Representative Skoglund and I would like to take this opportunity to commend these fine athletes for their hard work and dedication. Maintaining top grades and participating in high-energy activities is no easy task. We would also like to thank Coach Mary Sidelinger and Assistant Coach Rachel Collamore for a job well done. You all make Rockland proud. Congratulations to each of you.

**PASSED** and sent for concurrence.

**Recognizing:**

Liam Kozma, a junior at Gardiner Area High School, who placed first in the Eastern Class A Wrestling Championship in the 130-pound weight class. We send our congratulations to Liam on this accomplishment;

(HLS 876)

Presented by Representative COLWELL of Gardiner.  
Cosponsored by Senator TREAT of Kennebec, Representative COWGER of Hallowell, Senator KILKELLY of Lincoln, Representative WATSON of Farmingdale.

On **OBJECTION** of Representative COLWELL of Gardiner, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

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

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. I rise today as a proud member of the greater Gardiner community. We do a lot of things well in Gardiner. It is the city in Maine of broad shoulders, for sure. In athletics we are particularly proud of our football heritage and our strong wrestling heritage. Liam Kozma is another in a long line of champions from Gardiner in wrestling. We are very proud of that. He finished first in the Class A Eastern Division in the 130. He just finished second in the state in Class A. He is much more than that. He is eighth in her class. He is a tremendously smart kid. Also, he is very involved in his community. We are proud in Gardiner that we have a very strong community service requirement for graduation and I know he has been very active and involved in all our community efforts in town. It gives me great pleasure to be able to extend my congratulations and I know the congratulations of this Legislature. Thank you.

**PASSED** and sent for concurrence.

**Recognizing:**

Taj McKay, a senior at Gardiner Area High School, who placed first in the Eastern Class A Wrestling Championship in the 135-pound weight class. Taj also holds the titles in this weight class for the Westlake Tournament and the Tiger Invitational where he received the Outstanding Wrestler Award. We send our congratulations to Taj on this accomplishment;

(HLS 877)

Presented by Representative COLWELL of Gardiner. Cosponsored by Senator TREAT of Kennebec, Representative COWGER of Hallowell, Senator KILKELLY of Lincoln, Representative WATSON of Farmingdale.

On **OBJECTION** of Representative COLWELL of Gardiner, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

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

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. This young man is certainly a champion. He is an outstanding wrestler and like Liam Kozma an outstanding member of our community. Unfortunately he was unable to attend today. He has a bad case of the hives or so his mother tells me. His mother is a person that many of you around in this chamber know well, Lee Ann McKay. She is staffer in the House Republican Office. Although she is on the wrong side of the hall, she is a good friend, a very good friend and a great member of our community, as is her husband Len. It seems like every year there is a McKay that is being awarded a championship in wrestling. Taj's older brother, Elijah was actually a state champion among other things. It does give me great pleasure to be able to stand and honor both of these fine young men. I am sorry that Taj could not be here today.

**PASSED** and sent for concurrence.

**REPORTS OF COMMITTEE**

**Divided Report**

Majority Report of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-411)** on Bill "An

Act Regarding Certain Educational Requirements for Licensed Social Workers"

(S.P. 709) (L.D. 1911)

Signed:

Senators:

YOUNGBLOOD of Penobscot  
BROMLEY of Cumberland  
SHOREY of Washington

Representatives:

THOMAS of Orono  
RICHARDSON of Brunswick  
BRYANT of Dixfield  
DORR of Camden  
MICHAUD of Fort Kent  
HATCH of Skowhegan

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

Signed:

Representatives:

MORRISON of Baileyville  
DUPREY of Hampden  
CLOUGH of Scarborough  
MURPHY of Kennebunk

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-411).**

**READ.**

On motion of Representative RICHARDSON of Brunswick, the Bill and all accompanying papers were **COMMITTED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH.**

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on Bill "An Act to Create the Office of the Maine-Canada Envoy"

(H.P. 1505) (L.D. 2008)

Signed:

Senators:

PENDLETON of Cumberland  
YOUNGBLOOD of Penobscot

Representatives:

McDONOUGH of Portland  
McLAUGHLIN of Cape Elizabeth  
KASPRZAK of Newport  
CHASE of Levant  
CRESSEY of Baldwin

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-791)** on same Bill.

Signed:

Representatives:

BAGLEY of Machias  
HATCH of Skowhegan  
LESSARD of Topsham  
MURPHY of Berwick  
HASKELL of Milford

**READ.**

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

---

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-792)** on Bill "An Act to Amend the Laws Governing the Washington County Emergency Medical Services Authority"

(H.P. 1490) (L.D. 1993)

Signed:

Senators:

PENDLETON of Cumberland  
YOUNGBLOOD of Penobscot  
ROTUNDO of Androscoggin

Representatives:

BAGLEY of Machias  
McDONOUGH of Portland  
HATCH of Skowhegan  
LESSARD of Topsham  
McLAUGHLIN of Cape Elizabeth  
MURPHY of Berwick  
CHASE of Levant  
HASKELL of Milford

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

Signed:

Representatives:

KASPRZAK of Newport  
CRESSEY of Baldwin

**READ.**

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-792)** 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-792)** and sent for concurrence.

---

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

---

**CONSENT CALENDAR**  
**First Day**

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

(S.P. 714) (L.D. 1916) Bill "An Act to Improve the Effectiveness of the Driver Education and Evaluation Programs" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass**

(H.P. 253) (L.D. 289) Bill "An Act Regarding Horse Racing" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-794)**

(H.P. 1464) (L.D. 1961) Bill "An Act to Allow Private Psychiatric Hospitalization of Residents of Department of Corrections Juvenile Facilities" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-796)**

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

---

**CONSENT CALENDAR**  
**Second Day**

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

(H.P. 846) (L.D. 1118) Bill "An Act to Enact the Paperwork Reduction Act" (C. "A" H-790)

(H.P. 1396) (L.D. 1835) Bill "An Act to Amend the Loan Broker Law" (C. "A" H-789)

(H.P. 1438) (L.D. 1935) Bill "An Act Concerning the State Board of Funeral Service" (C. "A" H-788)

(H.P. 1550) (L.D. 2053) Bill "An Act to Clarify the Treatment of Members of Limited Liability Companies Under the Workers' Compensation Laws" (C. "A" H-793)

No objections having been noted at the end of the Second Legislative Day, the House Papers were **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence.

---

**ENACTORS**

**Emergency Measure**

An Act to Repeal the Sunset Provision Regarding the State Police Providing Services at Cost to Governmental and Nongovernmental Entities

(H.P. 1457) (L.D. 1954)  
(C. "A" H-766)

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. 116 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.

---

**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.

Bill "An Act to Further Protect the Nesting Habitat of Endangered and Threatened Species"

(H.P. 1603) (L.D. 2104)

(Committee on **INLAND FISHERIES AND WILDLIFE** suggested) **TABLED** - February 12, 2002 (Till Later Today) by Representative DUNLAP of Old Town.  
**PENDING - REFERENCE.**

On motion of Representative CLARK of Millinocket, the Bill was **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**, ordered printed and sent for concurrence.

HOUSE DIVIDED REPORT – Majority (12) **Ought to Pass as Amended by Committee Amendment "A" (H-779)** – Minority (1) **Ought Not to Pass** - Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Increase the Licensing Fee Caps of the Board of Osteopathic Licensure"

(H.P. 1514) (L.D. 2017)

TABLED - February 12, 2002 (Till Later Today) by Representative DORR of Camden.

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

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

Representative MURPHY: Mr. Speaker, Men and Women of the House. I stand with trepidation on a 12 to 1 report because I know what usually happens. This is an issue that I have felt very strongly on since 1997-1998 when I first served on this committee. First of all, I served on a great committee. We worked very hard to find consensus. Everyone is listened to on that committee and we usually are able to turn out reports that are unanimous. On any bill that will come before us during this session that establishes fees by the use of a cap, I will always be on the Minority Report. I have very strong long-time feelings on that.

The difference on this report really is that philosophical difference. Even though we are a part-time Legislature, even though we are a term limited Legislature and that we have other things in our lives that engage us, I don't believe that we should give away our oversight and checked responsibility on the Executive Branch and also on the licensing and regulation side.

In the area of a definition, first of all, a board may come to the committee and to the Legislature to raise a cap. That actually, if it is enacted, allows that board to raise fees without ever coming to the Legislature or the committee for oversight until they reach that cap. The only oversight that occurs is when the legislation is in to raise the cap. A committee may not be able to ask questions of the board. It may not be able to analysis the cost, maybe for the whole length of time that the people serve in this Legislature, eight years. There is no oversight until you reach that cap.

With this particular board, the committee is really to be commended because they came in with two types of fees. One was in all categories applying to practitioners in this area of medicine, substantial fee increases, as well as permission to do a supplemental one-time fee if they needed it. This was going to be rather substantial. The committee, very much to its credit, took the cap down to a level that covers probably a one to two year projected time. They have come much closer to that accountability with the reduction of the fee. Usually the cap is a rather substantial increase. They can go to the well repeatedly without having to come back to justify that to the legislative oversight committee and the Legislature. It does not give a forum an opportunity for those people that are going to pay the fee to be able to make their case about whether it is just or unjust.

Looking at the bill that is specifically before us, in the testimony that we heard from the association, they raised very serious questions about the need for reform in this board and how it spends its money. They asked for an audit to be able to show that the money is being used wisely. They wanted better business practice philosophy adopted. That board has not done that. It will have to do that because under this cap or fee increase, if it passes, they don't have to do those efficiencies or reforms. They have got the money. The pressure to economize or to be more efficient has been taken away.

We have a lot of boards that are stagnant in terms of membership or actually are declining in the area of license holders. You will probably be told in the debate that this is a license that is a two-year license. It is a profession that is growing in numbers. The medical school in Biddeford at the University of New England is graduating many doctors who are practicing here in the State of Maine. Maine hospitals aggressively have gone after these graduates to do their internships here in the State of Maine because they know if you do your medical internship in a particular state the odds are you are going to stay. We have a shortfall in that area in terms of medical services. From 1991 to 2001, the number of active license holders in that profession increased 51 percent and it is accelerating. Nowhere in this fee increase or cap increase was there a discussion of the new revenues coming into the board. Those new revenues again, with the cap, take away that need for efficiency.

I think you have a couple of choices. It is very easy to go along and just say I don't have the time. I have to go to work. I don't want the committee to meet. Let's let the board deal with it. Let's set a cap. We are only going to get involved when they come to that cap. It is easier. The committee doesn't have to meet. The Legislature doesn't have to do that oversight in terms of raising it. You also don't have to sit in a room and listen to the people that are going to pay the fee and listen to their point of view. If the fee increases are falling within that cap, they have no forum or no one to take their case to. You have disenfranchised them. They can only be involved, those rare times, when the cap itself is raised.

The Minority Report is a stand for oversight any time a fee is increased. It also is a vote for the board having to justify to the Legislative Branch why those fees have to be increased. The Minority Report provides an opportunity for those that are going to pay that fee to make their case. Is it justified? Are there alternatives in terms of increased efficiencies or reforms? I think what came out of the hearing as well, I would hope that the members of the Appropriations Committee would look at it, that this board is having some problems because of the billings coming from the Attorney General's Office. I think not only does our committee have to look at that, I think the Appropriations Committee needs to look at the billing and the amount of the billing that is being done by the Attorney General's Office.

Again, I want to commend the committee that they did bring the cap down to that level of what would be a fee increase. The board said they are going right to the cap immediately. It is a cap rather than a specific fee increase. If you vote for the Majority Report, you are saying to the boards, you don't have to reform. You don't have to be efficient. You don't have to keep your costs down. You can raise the fees. The question we have to face as well is that those fees, you can debate whether they are a tax or a fee, but it is our constituents that are paying that fee. We should have a responsibility that we are willing to take the time in committee. We are willing to take the time in the Legislature that those boards have gone to the maximum of justifying. It should be a last resort to raise a fee. When you can no longer get any efficiencies, that the last of the reforms, this is your last choice to raise fees. We cannot guarantee our constituents or the people or professionals served by that board unless every time there is a fee increase, we require that board to come to the committee and to the Legislature and justify that increase. It is a pretty lonely position on a 12 to 1 report, but what I am asking you to do is to accept your oversight responsibilities, not only as a committee, but a Legislature. These increases should be the last resort and shouldn't be the easy way out.

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

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

The SPEAKER: The Representative may pose his question.

Representative TUTTLE: Mr. Speaker, Men and Women of the House. To anybody who might answer, how much is the present fee for osteopathic physicians and how much has it been raised under the bill?

The SPEAKER: The Representative from Sanford, Representative Tuttle has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Brunswick, Representative Richardson.

Representative RICHARDSON: Mr. Speaker, Men and Women of the House. To answer that question, it was \$350 and they are at the current cap levels.

It is tough to get up and argue against a 12 to 1 report. I understand that. It is like being an army of one when you are up doing that. I applaud the Representative, but I think the body needs to know a few things before it decides on how it is going to vote on this particular bill. State law currently requires that each board be self-sufficient. That means that no one else is going to pay the bills for this particular board other than the board itself. Also, the Department of Professional and Financial Regulation came in and proposed this increase to the fee caps to meet the financial needs of this particular board. The current fees are at the cap levels. If we do not increase the cap levels, this board will not have the necessary monies to investigate ethical violations against doctors, which members of the public bring to the board. Unfortunately, those issues of public safety would not be investigated.

The original bill required a fee increase of \$750, a cap of \$750. In other words, it could be no more than \$750. If as the good Representative from Kennebunk, Representative Murphy indicated that there are more osteopaths coming into the system who will be members of this board, then the fees actually can go down. This is just a cap. It can actually be less if there are more people in the system. We decided that the \$750 number was too high after hearing all the testimony. We also decided that the \$100 one-time assessment was not necessary. I think we met our oversight obligations with respect to this particular board. We ultimately in response to what the department wanted, we increased the fees to \$600, the cap to \$600. That doesn't mean it is going to \$600, but it means they have the ability to do if, in fact, there are a number of issues that have to be defended by this board or investigated by this board.

It is \$600. There is no one-time \$100 fee cap. The board of osteopathic medicine supported these changes. The Osteopathic Association had some concerns, which we dealt with when we reduced the cap to \$600 and eliminated the \$100 fee. The public member of this board urged us to support these changes in order to meet our obligations to the public safety issue. We did listen to the people. We listened to everyone who came in. Interestingly enough, there wasn't one osteopathic doctor who came forward to testify against the fee increase. I think it was because they understand that these fee increases are necessary in order to run an efficient board and meet their public safety obligations.

Finally, I would just say that if we fail here to increase these caps, because they are at the cap maximums, we will not have met our public safety obligations. Thank you very much. I ask you to support the Ought to Pass as amended report.

Representative STEDMAN of Hartland REQUESTED a roll call on the motion to ACCEPT the Majority Ought to Pass as Amended Report.

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

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

Representative BRUNO: Mr. Speaker, Men and Women of the House. I am going to stand here and support Representative Murphy's position on this bill. I maintain a license through this department also. I heard from the good Representative from Brunswick that no one came and testified against it. That is because most people who hold a license don't know what the boards are up to anyway. All you get is a bill in the mail at the end of year and you go, holy mackerel, what happened here? I have to pay \$600 versus \$350. Last year we passed a bill in this Legislature that allowed MHDO to collect medical information and they are going to collect that information by assessing a fee on all health care practitioners. Lo and behold, \$400 per pharmacy later, that is the fee. Is that a fee? Is it a tax? Guess what? We don't get to share the information for that \$400 per pharmacy. We just get to pay it so that they can run all their information.

Having served on the Appropriations Committee, you learn that this department carries huge, very large reserves, in these accounts. I happen to call down to the Office of Fiscal and Program Review and found out that the osteopathic licensing board has a surplus of \$192,000 in their reserve right now. What is the reserve balance in licensing and enforcement in that department? Ladies and gentlemen, \$9.8 million. I know that this is a separate board and it has to deal on its own, but that is a very large number. I don't understand why we need to carry a \$9.8 million surplus in that department. Why are we raising fees on everybody? I know there is a bill coming down the pike that is going to raise fee caps on pharmacists also. I will vote the same way on that bill as I am going to vote on this bill and that is no. Every board ought to have the right to set their own fees and then come to the Legislature and defend the reason why they need to raise the fees. For years the Department of Professional and Financial Regulation in the Pharmacy Board carried a \$300,000 surplus and said that they cannot hire another pharmacy inspector until we raise your fee. Ladies and gentlemen, that is just not right. You cannot carry surpluses to any extreme because you will just want to squirrel away money. We ought to make these boards justify their increases. We ought to notify every license holder so they are aware of this. I can guarantee you they don't know about it and that is why they are not there.

This is an oversight problem. The department should not be telling us what they want to raise the fees to. The boards ought to be telling us what they want to raise the fees to. Thank you Mr. Speaker.

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

Representative RICHARDSON: Mr. Speaker, Men and Women of the House. Just to correct the last speaker, the board did ask us to come forward and support this measure and asked us to increase the fees.

I would be remiss if I did not correct something I said earlier. I indicated it was 350. It was not 350. The current level is 500 of what the osteopaths are paying for a license. It has not been increased in 10 years. I think that is something you needed to know. Thank you.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House. In earlier comments the specter was raised that if

you accept the Minority Report, then the board will not be able to follow through on malpractice complaints. I would argue that if the Minority Report passed that within a week we would see another bill coming to the committee that rather than saying raise the cap would say raise the fee that amount. The hearing would be held and if they justified that fee and showed they were going to put in place reforms and efficiencies, then when it would come back to the floor, I would vote for it. This isn't all or nothing. Many times you can hold up the specter of this is it, the ship is leaving the port. We are around here probably for another month and half or two months. It is amazing the Executive Department, the quickness and the speed in which they can reintroduce an issue. They will do that. I guarantee you. If there are members of that profession who have had allegations made of malpractice, we will be able to act on this to make sure that they have the resources to follow up.

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. 473**

**YEA** - Ash, Baker, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Brooks, Bryant, Bull, Bunker, Canavan, Chizmar, Clough, Colwell, Cote, Cowger, Cummings, Davis, Desmond, Dorr, Dudley, Dunlap, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Hall, Hatch, Hawes, Jacobs, Jones, Koffman, Landry, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Matthews, McDonough, McKee, McLaughlin, Michaud, Mitchell, Morrison, Muse C, Norbert, O'Brien LL, O'Neil, Paradis, Patrick, Perry, Pineau, Povich, Quint, Richard, Richardson, Savage, Skoglund, Stanley, Sullivan, Tarazewich, Thomas, Tuttle, Twomey, Usher, Volenik, Watson, Mr. Speaker.

**NAY** - Andrews, Annis, Belanger, Berry DP, Bruno, Bumps, Carr, Chase, Chick, Clark, Collins, Crabtree, Cressey, Daigle, Dugay, Duncan, Duplessie, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, Lovett, MacDougall, Madore, Marrache, Mayo, McGowan, McKenney, McNeil, Mendros, Michael, Murphy E, Murphy T, Muse K, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Rines, Rosen, Schneider, Sherman, Shields, Simpson, Smith, Snowe-Mello, Stedman, Tessier, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Young.

**ABSENT** - Bagley, Buck, Goodwin, Green, Hutton, Kane, McGlocklin, Norton.

Yes, 75; No, 68; Absent, 8; Excused, 0.

75 having voted in the affirmative and 68 voted in the negative, with 8 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-779) 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-779)** and sent for concurrence.

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

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

**SENATE PAPERS**

The following Joint Resolution: (S.P. 772)

**JOINT RESOLUTION PROMOTING PHYSICAL FITNESS AND GOOD HEALTH IN MAINE**

WHEREAS, 3 out of 4 Maine citizens die from 4 often preventable diseases: cardiovascular disease, cancer, chronic lung disease and diabetes; and

WHEREAS, approximately 29,000 hospitalizations occur in Maine each year due to cardiovascular disease, and cardiovascular disease accounts for more than 1/4 of all hospital charges, exceeding \$397,000,000 annually; and

WHEREAS, physical inactivity, excess weight, obesity and poor nutrition are major risk factors for cardiovascular disease and diabetes; and

WHEREAS, fewer than 25% of adults and fewer than 33% of high school students in Maine get the recommended 30 minutes per day of physical activity on most days of the week; and

WHEREAS, 20% of Maine adults are obese, the highest rate in New England, and our youngest citizens' obesity rate is increasing; and

WHEREAS, physical inactivity is the major risk factor for excess weight and obesity; now, therefore, be it

**RESOLVED:** That We, the Members of the One Hundred and Twentieth Legislature now assembled in the Second Regular Session, on behalf of the people of the State of Maine, proclaim that all Maine people are encouraged to follow the United States Surgeon General's recommendations to get at least 30 minutes of physical activity on most days of the week, all Maine communities should promote physical activity whenever possible and all Maine children should engage in moderate to vigorous physical activity for 30 to 60 minutes 3 or more days a week; and be it further

**RESOLVED:** That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Department of Education and the Department of Human Services, Bureau of Health.

Came from the Senate, **READ and ADOPTED. READ and ADOPTED** in concurrence.

On motion of Representative MURPHY of Kennebunk, the House adjourned at 11:15 a.m., until 9:30 a.m., Thursday, February 14, 2002.