

MAINE STATE LEGISLATURE

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Legislative Record
House of Representatives
One Hundred and Twentieth Legislature
State of Maine

Volume III

Second Regular Session

March 7, 2002 – April 25, 2002

First Special Session

November 13, 2002 - November 14, 2002

Pages 1771-2574

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House Legislative Sentiments
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ONE HUNDRED AND TWENTIETH LEGISLATURE
FIRST REGULAR SESSION
37th Legislative Day
Monday, March 25, 2002

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

Prayer by Reverend Jeffrey Belcher, Union Congregational Church, United Church of Christ, South Bristol.

National Anthem by Mahoney Middle School 8th Grade Band, South Portland.

Pledge of Allegiance.

The Journal of Friday, March 22, 2002 was read and approved.

SENATE PAPERS

The following Joint Order: (S.P. 821)

ORDERED, the House concurring, that the Task Force to Study a Universal Special Retirement Plan for All Levels of Law Enforcement Officers is established as follows.

1. Task force established. The Task Force to Study a Universal Special Retirement Plan for All Levels of Law Enforcement Officers, referred to in this order as the "task force," is established.

2. Membership. The task force consists of 11 members appointed as follows:

A. Three members of the Senate, appointed by the President of the Senate. When making the appointments, the President of the Senate shall give preference to members who serve on the Joint Standing Committee on Labor and the Joint Standing Committee on Appropriations and Financial Affairs;

B. Three members of the House of Representatives, appointed by the Speaker of the House. When making the appointments, the Speaker of the House shall appoint at least one member from a party that does not hold a majority of seats in the House and shall give preference to members who serve on the Joint Standing Committee on Criminal Justice;

C. One member representing the Maine State Retirement System, appointed by the Speaker of the House;

D. One member representing the Maine State Police, appointed by the President of the Senate;

E. One member representing local law enforcement agencies, appointed by the Speaker of the House;

F. One member representing county government, appointed by the President of the Senate; and

G. One member from the private sector representing a company that has knowledge of retirement plans, appointed by the President of the Senate.

3. Task force chair. The first named Senator is the Senate chair of the task force and the first named member of the House is the House chair of the task force.

4. Appointments; convening of task force. All appointments must be made no later than 30 days after adjournment. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been made. When the appointment of all members has been completed, the chairs of the task force shall call and convene the first meeting of the task force, which must be no later than August 15, 2002.

5. Duties. The task force shall study the feasibility, advantages, disadvantages, cost implications and other relevant

information concerning the establishment of a universal special retirement plan for law enforcement officers.

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

7. Compensation. Members of the task force are entitled to receive the legislative per diem and reimbursement for travel and other necessary expenses related to their attendance at authorized meetings of the task force. Public members not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses for their attendance at authorized meetings of the task force.

8. Report. The task force shall submit a report that includes its findings and recommendations, including suggested legislation, to the joint standing committee of the Legislature having jurisdiction over labor matters and the Legislative Council by January 31, 2003. The task force is authorized to introduce legislation related to its report to the First Regular Session of the 121st Legislature at the time of submission of its report.

9. Extension. If the task force requires a limited extension of time to complete its study and make its report, it may apply to the Legislative Council, which may grant an extension. Upon submission of its required report, the task force terminates.

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

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

READ.

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

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

COMMUNICATIONS

The Following Communication: (H.C. 432)

STATE OF MAINE

**ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON APPROPRIATIONS AND FINANCIAL
AFFAIRS**

March 21, 2002

Honorable Richard A. Bennett, President of the Senate

Honorable Michael V. Saxl, Speaker of the House

120th Maine Legislature

State House

Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Appropriations and Financial Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1135

An Act to Authorize a General Fund Bond Issue in the Amount of \$5,000,000 for the Testing of Marine Dredge Spoils and the Proper Disposal of Spoils that are Special or Hazardous Waste

- L.D. 1440 An Act to Authorize a General Fund Bond Issue in the Amount of \$7,000,000 to Provide Adequate Facilities for Business Expansion or Relocation in the State
- L.D. 1885 An Act to Transfer Funds From the Service Retirement Benefit Reserve to the Maine State Retirement System in Order to Fund the Change in Retirement Eligibility Requirements for Game Wardens and Marine Patrol Officers
- L.D. 1902 An Act to Fund the Maine Biomedical Research Program
- L.D. 1910 An Act to Establish the Retired Teacher Health Insurance Contribution Fund

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Jill M. Goldthwait
Senate Chair
S/Rep. Randall L. Berry
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 433)
STATE OF MAINE
ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON CRIMINAL JUSTICE

March 21, 2002
Honorable Richard A. Bennett, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Criminal Justice has voted unanimously to report the following bill out "Ought Not to Pass":

- L.D. 2167 An Act to Improve Public Safety by Regulating the Installation and Inspection of Fire Alarm Systems

We have also notified the sponsor and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Michael J. McAlevey
Senate Chair
S/Rep. Edward J. Povich
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 434)
STATE OF MAINE
ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES

March 21, 2002
Honorable Richard A. Bennett, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Health and Human Services has

voted unanimously to report the following bill out "Ought Not to Pass":

- L.D. 1882 Resolve, Directing the Department of Behavioral and Developmental Services to Recommend a Name for the New Psychiatric Treatment Center Located in Augusta

We have also notified the sponsor and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Susan W. Longley
Senate Chair
S/Rep. Thomas J. Kane
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 435)
STATE OF MAINE
ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES
COMMITTEE ON BANKING AND INSURANCE

March 21, 2002
Honorable Richard A. Bennett, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committees on Health and Human Services and Banking and Insurance have voted unanimously to report the following bill out "Ought Not to Pass":

- L.D. 1768 An Act to Create a Comprehensive Prescription Insurance Plan for Maine Seniors through the Implementation of the Recommendations of the Heinz Family Philanthropies Report

We have also notified the sponsor and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Susan W. Longley
Senate Chair
S/Rep. Thomas J. Kane
House Chair
S/Sen. Lloyd P. LaFountain III
Senate Chair
S/Rep. Christopher P. O'Neil
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 436)
STATE OF MAINE
ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON JUDICIARY

March 21, 2002
Honorable Richard A. Bennett, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Judiciary has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 2105 An Act to Enact the Maine Professional Service Corporation Act

We have also notified the sponsor and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Anne M. Rand
Senate Chair
S/Rep. Charles C. LaVerdiere
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 437)

STATE OF MAINE

**ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON NATURAL RESOURCES**

March 21, 2002

Honorable Richard A. Bennett, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Natural Resources has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 2155 An Act Pertaining to Environmental Fines

We have also notified the sponsor and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. John L. Martin
Senate Chair
S/Rep. Scott W. Cowger
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.P. 820)

STATE OF MAINE

120TH MAINE LEGISLATURE

March 20, 2002

Hon. Betty Lou Mitchell
Senate Chair, Joint Standing Committee on Education and Cultural Affairs
Hon. Shirley K. Richard
House Chair, Joint Standing Committee on Education and Cultural Affairs
120th Legislature
Augusta, ME 04333

Dear Senator Mitchell and Representative Richard:

Please be advised that pursuant to P.L. 1975, Chapter 771, Section 428, Governor Angus S. King, Jr. has withdrawn the nomination of Capt. Susan J. Clark, Esq. of Cape Elizabeth for appointment as member of the Maine Maritime Academy, Board of Trustees.

This nomination is currently pending before the Joint Standing Committee on Education and Cultural Affairs and confirmation by the Senate.

Sincerely,
S/Richard A. Bennett
President of the Senate
S/Michael V. Saxl
Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

READ and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** in concurrence.

The Following Communication: (S.C. 666)

**SENATE OF MAINE
OFFICE OF THE SECRETARY
3 STATE HOUSE STATION
AUGUSTA, ME 04333-0003**

March 22, 2002

The Honorable Michael V. Saxl
Speaker of the House
2 State House Station
Augusta, ME 04333

Dear Speaker Saxl:

In accordance with Joint Rule 506 of the 120th Legislature, please be advised that the Senate today has confirmed the following nominations:

Upon the recommendation of the Joint Standing Committee on Education and Cultural Affairs the nominations of Kathryn G. Underwood of Portland, for appointment to the Maine Technical College System Board of Trustees; Jana LaPointe of Falmouth, for reappointment to the Maine Technical College System Board of Trustees; Honorable Daniel E. Wathen of Augusta, for appointment to the Maine Technical College System Board of Trustees.

Upon the recommendation of the Joint Standing Committee on Education and Cultural Affairs the nominations of Ward I. Graffam of Portland for reappointment to the Maine Maritime Academy Board of Trustees and Robert S. Walker of Virginia Beach, VA, for appointment to the Maine Maritime Academy Board of Trustees.

Upon the recommendation of the Joint Standing Committee on Education and Cultural Affairs the nomination of Judith W. Andrucki of Lewiston, for reappointment to the University of Maine Board of Trustees.

Sincerely,
S/Pamela L. Cahill
Secretary of the Senate

READ and ORDERED PLACED ON FILE.

**PETITIONS, BILLS AND RESOLVES REQUIRING
REFERENCE**

Pursuant to Statute

Maine Fire Protection Services Commission

Representative QUINT for the **Maine Fire Protection Services Commission** pursuant to the Maine Revised Statutes, Title 5, section 3371 asks leave to report that the accompanying Bill "An Act to Provide Funding for the Office of the State Fire Marshal and the Maine Fire Training and Education Program" (EMERGENCY)

(H.P. 1704) (L.D. 2201)

Be **REFERRED** to the Committee on **CRIMINAL JUSTICE** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **CRIMINAL JUSTICE** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

ORDERS

On motion of Representative WHEELER of Bridgewater, the following Joint Order: (H.P. 1703)

ORDERED, the Senate concurring, that the Joint Standing Committee on Criminal Justice report out, to the House, a bill adding a representative of a statewide association of fire chiefs to the Emergency Medical Services' Board.

READ.

On motion of Representative NORBERT of Portland, **TABLED** pending **PASSAGE** and later today assigned.

On motion of Representative PINKHAM of Lamoine, the following Joint Order: (H.P. 1705)

ORDERED, the Senate concurring, that the Joint Standing Committee on Marine Resources report out, to the House, a bill dealing with one-time license transfers of sea urchin drag licenses.

READ.

On motion of Representative NORBERT of Portland, **TABLED** pending **PASSAGE** and later today assigned.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

James "Chico" Hernandez, of Washburn, a social worker at the Maine State Prison's Supermax facility in Warren and who is a world-class Sombo wrestler, was selected as one of six "everyday athletes" nationwide and whose image will appear on the boxes of Wheaties Energy Crunch Cereal. Mr. Hernandez serves his country as a combat and basic training instructor in the United States Army Reserves. He volunteers time conducting crime prevention programs and helping run children's sports programs in local schools. His athletic accomplishments, demanding work schedule and commitment to his community and nation make him a deserving champion;

(HLS 926)

Presented by Representative DESMOND of Mapleton. Cosponsored by Senator MARTIN of Aroostook.

On **OBJECTION** of Representative DESMOND of Mapleton, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Mapleton, Representative Desmond.

Representative **DESMOND**: Mr. Speaker, Colleagues of the House. Today I am please to congratulate a young man who has distinguished himself in the sport of wrestling. You may recognize his name as he has appeared a few times in our House Calendar over the last eight years for having been a member of two USA World Cup teams and part of various other national and world events. Winning the World Masters Championship in 2000. His latest achievements as one of the world's top Sombo wrestlers will be to appear on the Wheaties Energy Crunch Cereal boxes as a part of the everyday champions program. He was flown to Madison Square Garden for the announcement. James was chosen from more than 10,000 nominees and 50 state finalists. Entries were judged on community service as well as athletic accomplishments. He will receive a \$2,500 check and General Mills will donate another \$2,500 check to a charity of his choice. James is a social worker and commutes weekly to his job at the Maine Correctional Facility. He is also an instructor in the Maine National Guard.

James is married and a father of two. He and his family make their home in Washburn. Congratulations James. Thank you. **PASSED** and sent for concurrence.

Recognizing:

Eunice Stover, of Poland, who has been named Volunteer of the Year by the Catholic Charities of Maine for her work with the Seek Elderly Alone, Renew Courage and Hope (SEARCH) program in Lewiston. We extend our appreciation to Eunice for her dedication to the citizens of this State and congratulate her on this achievement;

(HLS 1080)

Presented by Representative SNOWE-MELLO of Poland.

Cosponsored by Senator DOUGLASS of Androscoggin, Representative MENDROS of Lewiston, Representative SHIELDS of Auburn.

On **OBJECTION** of Representative SNOWE-MELLO of Poland, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **SNOWE-MELLO**: Mr. Speaker, Right Honorable of the House. I rise today to honor a great lady from the Town of Poland. Eunice Stover means so much to me that I wanted to stand up and recognize her before anybody else did today. Anyway, I am extremely proud of Eunice Stover. She is a woman who knows the true meaning of giving, dedication and charity. She is a woman with a huge heart that knows no bounds. Eunice has received the Catholic Charities Outstanding Volunteer of the Year Award. She was chosen for this recognition for her work with the SEARCH, which means Seek Elderly Alone, Renew Courage and Hope Program. I know that Eunice often refers to her volunteering as connecting with others. These connections make a positive difference in our very busy world. Eunice feels and has often stated that people to people, that is what makes the difference. As I stand here, I know that Eunice would also like me to thank all the volunteers in this state who take time out of the their very busy lives to help others. Please join me in recognizing Eunice and all the other volunteers and the people that also work on the SEARCH Program in Maine who truly do make a difference for the State of Maine. Thank you.

PASSED and sent for concurrence.

Recognizing:

Katherine Buck, of Southport Island, on the special occasion of her 100th Birthday, August 15, 2002. Mrs. Buck was born in the town of Southport and raised four children: Robert, Barbara, William and John. She has 8 grandchildren. She has touched the lives of her many friends and family. We extend our congratulations and best wishes to her on the centennial of her birth;

(HLS 1082)

Presented by Representative BUCK of Yarmouth.

Cosponsored by Senator KILKELLY of Lincoln, Representative HONEY of Boothbay.

On **OBJECTION** of Representative BUCK of Yarmouth, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Yarmouth, Representative Buck.

Representative **BUCK**: Mr. Speaker, Ladies and Gentlemen of the House. August 15, 2002 will by my mother's 100th birthday

and as her youngest son, I am very proud to present this sentiment. She was born and raised on Southport Island, taught school before she met and married my father, Clifford Buck. She was an active and involved citizen. She has voted in every presidential election since women have had the right to vote. She has voted 20 times for presidents. She is an avid reader and a music lover and she particularly enjoys playing the classics on the piano even at the age of 100. She is known in the neighborhood as a person of many virtuous characteristics. She has never, with the exception of President Roosevelt and perhaps President Truman, uttered an unkind word about anyone. She raised four children. Three of whom became active and productive members of society. The fourth became a member of this Legislature. Happy Birthday Ma.

PASSED and sent for concurrence.

**REPORTS OF COMMITTEE
Divided Report**

Majority Report of the Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "B" (S-483)** on Bill "An Act to Ban the Use of Aircraft While Hunting"

(S.P. 746) (L.D. 2078)

Signed:

Senators:

CARPENTER of York
KILKELLY of Lincoln
WOODCOCK of Franklin

Representatives:

DUNLAP of Old Town
TRAHAN of Waldoboro
HONEY of Boothbay
USHER of Westbrook
McGLOCKLIN of Embden
BRYANT of Dixfield

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

Signed:

Representatives:

CLARK of Millinocket
PERKINS of Penobscot
TRACY of Rome

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-483).**

READ.

Representative DUNLAP of Old Town moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House. I urge you today to vote against the pending motion. Why do we need a law in place that we don't need? We are not having that many problems with people hunting from aircraft. A lot of people in my district, especially the northern part of Mt. Chase and Soldier Pond, use a guide service to go hunting for either deer, bear or moose. What they do is they fly them up from either Portland or Boston and land them and then they go hunting. They do not spot from the airplane to go hunting. This bill, if you remember correctly, had three reports the last time it was here and not one report passed. That is why we brought it back to committee and bring it back before you with only two reports.

With the report that we have in front of you, it is a little bit better than what it was before. It has a mechanism in it that says that you can fly in on the same day that you can hunt. Say that on Sunday your hunting trip goes from Sunday to Saturday. For some reason the weather in Maine is unpredictable and instead of flying in on Sunday because the weather was too foggy, you fly in on Monday. You can still go hunting on that Monday. The problem is we don't have any problems with what we have now. Why fix something that isn't broke. Mr. Speaker when the vote is taken, I request the yeas and the nays.

Representative CLARK of Millinocket **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 Old Town, Representative Dunlap.

Representative DUNLAP: Mr. Speaker, Men and Women of the House. We just clearly explained what this report does. This, as stated before, is in response to some complaints that the committee received after the last moose hunting season. What this report will do is it says that you cannot use an airplane to hunt from or to assist you in a hunt. In other words, you cannot have an airplane direct you to a big game animal if you were on the ground hunting. That is all it says. It has nothing to do now with prohibition on hunting the same day you fly into a sporting camp. That has been struck out. This was the Majority Report of the committee. It is addressing some complaints. There is some acknowledgement that this is happening out there. The committee felt very strongly that this is an issue surrounding fair chase. I urge you to support the pending motion and thank you.

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. 553

YEA - Annis, Ash, Berry DP, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Brooks, Bruno, Bryant, Bull, Canavan, Chick, Chizmar, Colwell, Cote, Cowger, Crabtree, Cummings, Davis, Dorr, Dudley, Duncan, Dunlap, Duplessie, Estes, Etnier, Fisher, Foster, Fuller, Gagne, Gerzofsky, Gooley, Green, Hall, Hatch, Hawes, Heidrich, Honey, Hutton, Jacobs, Jodrey, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lovett, Madore, Mailhot, Marley, Matthews, Mayo, McDonough, McGlocklin, McKee, McLaughlin, McNeil, Michael, Michaud, Mitchell, Murphy E, Muse C, Muse K, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Perry, Pinkham, Povich, Quint, Richard, Richardson, Rines, Savage, Schneider, Shields, Simpson, Smith, Snowe-Mello, Sullivan, Tarazewich, Tessier, Tobin D, Tobin J, Trahan, Twomey, Usher, Volenik, Watson, Weston, Mr. Speaker.

NAY - Andrews, Belanger, Buck, Bumps, Bunker, Carr, Chase, Clark, Clough, Collins, Daigle, Desmond, Dugay, Duprey, Glynn, Goodwin, Haskell, Jones, Kasprzak, Labrecque, Lundeen, MacDougall, Marrache, McGowan, McKenney, Murphy T, Perkins, Pineau, Rosen, Sherman, Skoglund, Stanley, Stedman, Thomas, Treadwell, Waterhouse, Wheeler EM, Wheeler GJ, Winsor, Young.

ABSENT - Bagley, Baker, Cressey, Landry, Mendros, Morrison, Peavey, Tracy, Tuttle.

Yes, 102; No, 40; Absent, 9; Excused, 0.

102 having voted in the affirmative and 40 voted in the negative, with 9 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "B" (S-483)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "B" (S-483)** in concurrence.

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-990)** on Resolve, to Promote the Interests of the People of Maine when Public Funds are Used to Acquire Conservation Easements (H.P. 1593) (L.D. 2096)

Signed:

Senators:

KNEELAND of Aroostook
KILKELLY of Lincoln

Representatives:

McKEE of Wayne
VOLENIK of Brooklin
HAWES of Standish
CARR of Lincoln
JODREY of Bethel
FOSTER of Gray
GOOLEY of Farmington
PINEAU of Jay

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

Signed:

Senator:

NUTTING of Androscoggin

READ.

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

The Resolve was **READ ONCE**. **Committee Amendment "A" (H-990)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Resolve was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-990)** and sent for concurrence.

Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-974)** on Bill "An Act to Implement the Majority Recommendations of the Committee to Study Issues Concerning Changes to the Traditional Uses of Maine Forests and Lands" (H.P. 1599) (L.D. 2100)

Signed:

Senators:

RAND of Cumberland
FERGUSON of Oxford

Representatives:

LaVERDIERE of Wilton
BULL of Freeport
JACOBS of Turner
MITCHELL of Vassalboro
SIMPSON of Auburn
SHERMAN of Hodgdon

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

Signed:

Senator:

McALEVEY of York

Representatives:

MUSE of South Portland
MADORE of Augusta
WATERHOUSE of Bridgton

READ.

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

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

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act to Implement the Minority Recommendations of the Committee to Study Issues Concerning Changes to the Traditional Uses of Maine Forests and Lands" (H.P. 1600) (L.D. 2101)

Signed:

Senators:

McALEVEY of York
FERGUSON of Oxford

Representatives:

BULL of Freeport
JACOBS of Turner
MUSE of South Portland
MADORE of Augusta
WATERHOUSE of Bridgton
SHERMAN of Hodgdon
MENDROS of Lewiston

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-973)** on same Bill.

Signed:

Senator:

RAND of Cumberland

Representatives:

LaVERDIERE of Wilton
MITCHELL of Vassalboro
SIMPSON of Auburn

READ.

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

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-971)** on Bill "An Act to Ensure Proper Disbursement of Matching Funds under the Maine Clean Election Act" (H.P. 1664) (L.D. 2169)

Signed:

Senators:

WOODCOCK of Franklin
BROMLEY of Cumberland
DOUGLASS of Androscoggin

Representatives:

CHIZMAR of Lisbon

COTE of Lewiston
ESTES of Kittery
TUTTLE of Sanford
O'BRIEN of Lewiston
HEIDRICH of Oxford
PATRICK of Rumford
DUNCAN of Presque Isle
MAYO of Bath

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

Signed:
Representative:
LABRECQUE of Gorham

READ.

On motion of Representative CHIZMAR of Lisbon, **TABLED** pending **ACCEPTANCE** of either Report 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. 671) (L.D. 1874) Bill "An Act to Give the Department of Administrative and Financial Services, Bureau of General Services Discretion Regarding Building Codes" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-432)**

(H.P. 1437) (L.D. 1934) Resolve, to Provide Access to Personal Care Assistant Home Care Services (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-997)**

(H.P. 1611) (L.D. 2108) Bill "An Act to Coordinate the Maine Overtime Pay Provisions with the Federal Fair Labor Standards Act Regarding Exceptions for Businesses Involved in the Transportation of Persons or Goods" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-999)**

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

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

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

ENACTORS

Emergency Measure

An Act to Establish Municipal Cost Components for Unorganized Territory Services to be Rendered in Fiscal Year 2002-2003

(H.P. 1613) (L.D. 2110)
(C. "A" H-914)

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 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Change the Governing Board of the George Stevens Academy in Blue Hill

(H.P. 1639) (L.D. 2142)
(C. "A" H-921)

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. 112 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Allow Qualified Shellfish Harvesters to Continue to Sample Water Quality

(H.P. 1646) (L.D. 2152)
(C. "A" H-933)

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. 109 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Portions of Chapter 10, Section 17(A)(2), (3) and (6), Standards for the Clearing of Vegetation for Development, Major Substantive Rules of the Maine Land Use Regulation Commission within the Department of Conservation

(H.P. 1590) (L.D. 2095)
(C. "A" H-919)

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. Not understanding the difference between DEP regulations and LURC as far as setbacks are, I would just like to know whether this bill would make it more or less restrictive for landowners?

The **SPEAKER**: The Representative from Newport, Representative Kasprzak 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. When the Natural Resources Committee looked at both sets of rules together, our attempt was to bring some uniformity across the state. To be honest with you, I don't remember. There was some give and take on both sides and the rules provide more flexibility in many, many cases and in other cases it provides a lot more consistency. That is all the information I have at this point.

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. 84 voted in favor of the same and 41 against, and accordingly the Resolve **FAILED FINAL PASSAGE** and was sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 691, Section 3-A, Siting Restrictions for New Facilities, a Major Substantive Rule of the Bureau of Remediation and Waste Management within the Department of Environmental Protection
(H.P. 1618) (L.D. 2117)

(C. "A" H-917)

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. 111 voted in favor of the same and 2 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 9: Rules Governing Administrative Civil Money Penalties for Labor Law Violations, a Major Substantive Rule of the Department of Labor, Bureau of Labor Standards
(H.P. 1634) (L.D. 2137)

(H.P. 1634) (L.D. 2137)

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. 112 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Mandate

An Act Regarding Workers' Compensation Benefits for Firefighters, Rescue Workers and Safety Workers Who Contract Certain Communicable Diseases
(H.P. 1283) (L.D. 1746)

(H.P. 1283) (L.D. 1746)

(C. "A" H-931)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, 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 Mandate was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Acts

An Act to Allow Federal Law Enforcement Officers to Enforce Maine Statutes
(H.P. 1458) (L.D. 1955)

(H.P. 1458) (L.D. 1955)

(C. "A" H-927)

An Act Concerning Student Threats
(H.P. 1474) (L.D. 1975)

(H.P. 1474) (L.D. 1975)

(C. "B" H-922)

An Act to Establish Educational Requirements for Granting Noncommercial Lobster Licenses
(H.P. 1493) (L.D. 1996)

(H.P. 1493) (L.D. 1996)

(C. "A" H-935)

An Act to Amend the Laws Concerning Specialty License Plates
(H.P. 1506) (L.D. 2009)

(H.P. 1506) (L.D. 2009)

(C. "A" H-928)

An Act to Facilitate Compliance with Spill Prevention Requirements and Authorize Reimbursement for Certain Oil Spill Remediation Expenses

(H.P. 1513) (L.D. 2016)

(C. "A" H-945)

An Act to Provide Incentives for Multimunicipal Development
(H.P. 1559) (L.D. 2061)

(H.P. 1559) (L.D. 2061)

(C. "A" H-944)

An Act to Clarify the Use of Municipal Rate of Growth Ordinances
(H.P. 1560) (L.D. 2062)

(H.P. 1560) (L.D. 2062)

(C. "A" H-918)

An Act to Amend the Law Relating to Growth-related Capital Investments
(H.P. 1566) (L.D. 2071)

(H.P. 1566) (L.D. 2071)

An Act Regarding Workers' Compensation and Liability Immunity Coverage for Emergency Management Forces
(H.P. 1578) (L.D. 2084)

(H.P. 1578) (L.D. 2084)

An Act to Implement the Recommendations of the Committee to Study the Loss of Commercial Fishing Waterfront Access and Other Economic Development Issues Affecting Commercial Fishing
(H.P. 1619) (L.D. 2118)

(H.P. 1619) (L.D. 2118)

(C. "A" H-934)

An Act Regarding the Local Governance of School Administrative Units
(S.P. 791) (L.D. 2143)

(S.P. 791) (L.D. 2143)

(C. "A" S-479)

An Act to Amend the Rule-making Authority of the Department of Conservation Regarding Timber Harvesting in Shoreland Areas
(H.P. 1678) (L.D. 2181)

(H.P. 1678) (L.D. 2181)

An Act to Implement the Recommendations of the Returnable Container Handling and Collection Study
(H.P. 1685) (L.D. 2184)

(H.P. 1685) (L.D. 2184)

An Act to Amend Maine State Retirement System Statutes
(H.P. 1686) (L.D. 2185)

(H.P. 1686) (L.D. 2185)

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, Regarding Legislative Review of Amendments to Chapter 305, Permit by Rule Standard and Chapter 310, Wetland Protection Regarding Cutting and Removal of Vegetation, Major Substantive Rules of the Department of Environmental Protection
(H.P. 1571) (L.D. 2076)

(H.P. 1571) (L.D. 2076)

(C. "A" H-920)

Resolve, to Require the Maine Fire Protection Services Commission to Report Regarding Methods to Improve the Recruitment and Retention of Firefighters and the Provision of Healthcare
(H.P. 1643) (L.D. 2148)

(H.P. 1643) (L.D. 2148)

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 Require Major Water Users to Provide Public Information About Their Annual Water Withdrawals from Public Water Resources
(H.P. 1119) (L.D. 1488)

(H.P. 1119) (L.D. 1488)

(C. "A" H-936)

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

On motion of Representative TRAHAN of Waldoboro, was **SET ASIDE**.

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

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

The SPEAKER: The Representative may pose his question.

Representative **TRAHAN**: Mr. Speaker, Men and Women of the House. To anyone in the chamber, could they explain this bill please?

The SPEAKER: The Representative from Waldoboro, Representative Trahan 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 was a unanimous committee report out of the Natural Resources Committee. We spent an awful lot of time working on this bill. It is very important given the state of the drought in Maine that we start looking at water use issues in a broad way. This bill is going to require that major water users report their water use and allow us to start collecting data so that when we develop a water use policy down the road in future years, it will have good information in which to base that data.

I was asked by the Department of Agriculture, who we worked very closely with this bill, to actually read a statement into the record so that the legislative intent of this bill is very clear and that it really is an opportunity to collect data. I would like to read that statement.

"This bill requires major water users to report water use above prescribed thresholds to either the Department of Environmental Protection, Agriculture, Conservation or DHS. The agency to which each major water user would report would depend on their kind of use. In Section 470D of this bill, the bill outlines what the reports must contain. It further request that individual departments provide data to the DEP for assessing watersheds and establishing priorities so that we can make good policy in the future.

The intent of this bill is that each department, whether it is DEP, Agriculture, Conservation or DHS, will collect water reports, maintain the data confidentially within the department. Each department shall then aggregate those individual reports on a watershed basis before reporting the aggregated data to DEP. The data, as aggregated by watershed, will then allow the DEP to develop water use policy and will provide it in the information necessary to meet the obligations in this legislation."

I hope you will support this unanimous report. The committee did work very hard on it.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. As my colleague from Hallowell, I urge you to support this pending motion. Further, I would add that originally this bill asked to get detailed information on water withdrawal. We amended this in committee to require only estimates in broad categories. As an analogy I would ask you to consider that if somebody were to be surveying the respective health of the members of this body, as would have been originally in the bill, we would have asked you to report by name your individual body weights. As we have amended this bill, realizing that is not necessary, we are simply asking for people to say whether they are small, medium or large and will generally have a number of how many people are small and how many people are medium and how many people are large and then would decide if there were further requirements to look at water withdrawal here in the state. It is not the original bill. It is far less than that. It is broad estimates. Aggregate and sanitized to

provide us with the snapshot we need to know if this problem needs further legislative action next year.

The SPEAKER: The Chair recognizes the Representative from Hartland, Representative Stedman.

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

The SPEAKER: The Representative may pose his question.

Representative **STEDMAN**: Mr. Speaker, Men and Women of the House. Could someone please define to me what a major water user is?

The SPEAKER: The Representative from Hartland, Representative Stedman 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. It is going to depend on the type of water body that the water is being taken from. It is generally speaking, 20,000 gallons per day for a river or stream. I believe it is 40,000 gallons a day if it is coming from a lake and I believe it is 50,000 gallons a day if it is coming from a well that is influenced by another surface water body. There are also numerous other exemptions. For example, if a small farm is taking water out of the Kennebec River, if they are less than 1 percent of the volume of the Kennebec River, then there is no need to even estimate or report. We have created the broadest exemptions possible to still be able to collect some estimates from water users to develop a good database.

Representative **CLOUGH** of Scarborough **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 Arundel, Representative Daigle.

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. To further respond to that question, the 20,000 gallons a day minimum threshold if you are pulling from a river would be equivalent to providing a water source that would serve somewhere around 200 people. That is a pretty substantial public water source if you are trying to provide water for that larger group. Again, we are only asking for broad estimates, not precise numbers. There is no requirement for a regulated body to buy equipment and maintain these and so forth. There should be no need for that. It should generally look at how you are pulling water and very quickly be able to come up with an estimate. That is all the state needs at this point.

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. 554

YEA - Andrews, Annis, Berry RL, Bliss, Bouffard, Brannigan, Bruno, Bryant, Bull, Bunker, Canavan, Chick, Clark, Colwell, Cote, Cowger, Crabtree, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Dunlap, Duplessie, Estes, Etnier, Fisher, Gagne, Gerzofsky, Green, Hall, Hawes, Hutton, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Mailhot, Marley, Marrache, Matthews, McDonough, McKee, McLaughlin, McNeil, Michaud, Mitchell, Murphy E, Norbert, O'Brien LL, O'Neil, Paradis, Patrick, Pineau, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Simpson, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Twomey, Usher, Volenik, Watson, Wheeler GJ, Mr. Speaker.

NAY - Ash, Belanger, Berry DP, Bowles, Brooks, Bumps, Carr, Chase, Chizmar, Clough, Collins, Cressey, Dugay, Duncan, Duprey, Foster, Fuller, Glynn, Gooley, Haskell, Hatch, Heidrich, Honey, Jacobs, Jodrey, Kasprzak, Labrecque, Ledwin, Lovett,

Lundeen, MacDougall, Madore, Mayo, McGlocklin, McGowan, McKenney, Mendros, Michael, Murphy T, Muse C, Muse K, Nass, Nutting, O'Brien JA, Perkins, Pinkham, Sherman, Shields, Skoglund, Snowe-Mello, Stedman, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor, Young.

ABSENT - Bagley, Baker, Blanchette, Buck, Goodwin, Landry, Morrison, Norton, Peavey, Perry, Smith, Tracy, Tuttle.

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

80 having voted in the affirmative and 58 voted in the negative, with 13 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

An Act to Amend the Motor Vehicle Laws
(H.P. 1406) (L.D. 1844)
(C. "A" H-941)

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

On motion of Representative FISHER of Brewer, was **SET ASIDE**.

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

An Act to Allow Mechanics Licensed by the Manufactured Housing Board to Install and Maintain Oil Tanks

(S.P. 686) (L.D. 1888)
(S. "A" S-466)

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

On motion of Representative RICHARDSON of Brunswick, was **SET ASIDE**.

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

An Act to Phase Out the Availability of Mercury-added Products

(H.P. 1501) (L.D. 2004)
(C. "A" H-925)

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

On motion of Representative COWGER of Hallowell, was **SET ASIDE**.

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

An Act to Authorize County Extension Building Associations to Borrow Money

(H.P. 1614) (L.D. 2111)
(C. "A" H-943)

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

On motion of Representative MCKEE of Wayne, was **SET ASIDE**.

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

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

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-943)** was **ADOPTED**.

The same Representative presented **House Amendment "A" (H-969)** to **Committee Amendment "A" (H-943)** which was **READ** by the Clerk.

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

Representative **WATERHOUSE**: Thank you Mr. Speaker. Parliamentary inquiry.

The **SPEAKER PRO TEM**: The Representative may state his inquiry.

Representative **WATERHOUSE**: Thank you Mr. Speaker. Is it appropriate at this time to discuss the amendment?

The **SPEAKER PRO TEM**: The Chair would answer in the affirmative. The Representative may proceed.

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. Not having the amendment before me at this present time, I don't find it in my folder, could the good Representative from Wayne, Representative McKee, explain what the amendment does?

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

Representative **MCKEE**: Mr. Speaker, Ladies and Gentlemen of the House. I had no idea that everyone didn't have it right before them. This came out of a unanimous report of the committee. The original bill would allow county commissioners to form a county extension building association under the non-profit corporation laws of this state. In drafting the amendment, we left out some wording that would clarify that a county building association is a political subdivision of the state and therefore tax exempt. It does not bind any counties or groups for those bonds. Thank you.

House Amendment "A" (H-969) to **Committee Amendment "A" (H-943)** was **ADOPTED**.

Committee Amendment "A" (H-943) as Amended by **House Amendment "A" (H-969)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (H-943)** as Amended by **House Amendment "A" (H-969)** thereto in **NON-CONCURRENCE** and sent for concurrence.

An Act to Establish a Centralized Voter Registration System for the State

(H.P. 1683) (L.D. 2182)

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

On motion of Representative **WATERHOUSE** of Bridgton, was **SET ASIDE**.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I apologize for delaying the process, but every time I see something that says centralization or centralized it gives me the willies. Could somebody explain to me if this is an effort by the Secretary of State's Office and others to drag us towards a point in the future where we may decide we

want to vote by mail or by e-mail? Could somebody address that?

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

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH** with the exception of matters being held.

The House recessed until the Sound of the Bell.

(After Recess)

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.

The House recessed until 4:00 p.m.

(After Recess)

The House was called to order by the Speaker.

Under suspension of the rules, members were allowed to remove their jackets.

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

ORDERS

On motion of Representative LEMOINE of Old Orchard Beach, the following Joint Order: (H.P. 1707)

ORDERED, the Senate concurring, that the Joint Standing Committee on Education and Cultural Affairs report out, to the House, legislation to modify both the valuation portion and the student enrollment portion of the school funding formula.

READ and PASSED.

Sent for concurrence. **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. 718) (L.D. 1920) Bill "An Act to Address Liquidation Harvesting" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-488)**

(H.P. 1680) Joint Order Directing the Joint Standing Committee on Health and Human Services to report out a Bill Directing the Bureau of Insurance to Adopt Rules Requiring the Issuance of Standardized Prescription Drug Cards Following the Model of the National Council for Prescription Drug Programs by all Health Coverage Providers Beginning With Cards Issued on or after January 1, 2003 Committee on **HEALTH AND HUMAN**

SERVICES and Committee on **BANKING AND INSURANCE** reporting **Ought to Pass**

(H.P. 1535) (L.D. 2038) Bill "An Act to Assist the Maine Lead Advisory Council in Testing High-risk Children for Lead Poisoning" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1007)**

(H.P. 1665) (L.D. 2170) Bill "An Act to Ensure Maine Citizens in Recovery from Drug Addiction Equal Access to Public Assistance" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1003)**

(H.P. 1666) (L.D. 2171) Bill "An Act to Withdraw from the Texas Low-level Radioactive Waste Disposal Compact" (EMERGENCY) Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1006)**

(7-6) (H.P. 1671) Joint Study Order to Study the Creation of a Registry of Personal Care Attendants Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1008)**

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

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

ENACTORS

Acts

An Act Regarding Site Selection Criteria for Parking for State Facilities

(H.P. 1557) (L.D. 2059)
(C. "A" H-916)

An Act to Establish the Community Preservation Advisory Committee

(H.P. 1565) (L.D. 2070)
(C. "A" H-950)

An Act to Encourage Regionalism in Municipal Growth Management

(H.P. 1588) (L.D. 2094)
(C. "A" H-951)

An Act to Establish the Maine Public Library of Geographic Information

(H.P. 1617) (L.D. 2116)
(C. "A" H-952)

An Act to Amend the Animal Welfare Laws and Increase Funding for Animal Welfare

(H.P. 1638) (L.D. 2141)
(C. "A" H-963)

An Act to Implement the Recommendations of the Commission to Study Assisted Living

(H.P. 1697) (L.D. 2195)

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, Regarding Legislative Review of Amendments to Chapter 127, Instructional Program, Assessment and Diploma Requirements, a Major Substantive Rule of the Department of Education

(H.P. 1633) (L.D. 2136)
(C. "A" H-954)

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 Address the Health Coverage Crisis for Maine's Small Businesses and Self-employed Persons

(H.P. 1324) (L.D. 1784)
(C. "A" H-970)

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. 555

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

NAY - NONE.

ABSENT - Annis, Bagley, Baker, Bliss, Lovett, Matthews, Morrison, O'Brien LL, Povich, Tracy.

Yes, 141; No, 0; Absent, 10; Excused, 0.

141 having voted in the affirmative and 0 voted in the negative, with 10 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act to Ensure the Safety of Maine Children While Riding in a Vehicle

(H.P. 1421) (L.D. 1867)
(C. "A" H-896)

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

On motion of Representative WATERHOUSE of Bridgton, was **SET ASIDE**.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. If you remember, this bill had to deal with child safety seats. The bill requires a child who weighs less than 40 pounds to be secured in a child safety seat. It also requires a child who weighs at least 40 pounds, but less than 80 pounds and who is less than eight years of age to be secured in any federally approved child restraint system when riding in a motor vehicle. It also says a child under 12 years of age or who weighs less than 100 pounds is required to be secured in the back seat of a vehicle if possible.

I will not go through all the arguments that we had, the pros and cons. Many of you had many calls from your constituents on this bill. This is your last chance to do the right thing. Mr. Speaker, I ask for the yeas and nays and hope that you will defeat this unnecessary and intrusive bill. Thank you.

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 Poland, Representative Snowe-Mello.

Representative **SNOWE-MELLO**: Mr. Speaker, Honorable Members of the House. I also failed to stand up and debate this when it came around to us the first time. I really should have. I have kicked myself ever since for not debating this bill. I walked away feeling pretty terrible that we just passed a pretty incredibly bad bill. I am going to tell you why.

We voted on emotion and that is not the reason why we should be passing a bill in this House. We should be doing it with our thoughts and our minds. The reason that this is such a bad bill is because you have relatives that are coming into this state and they have flown in and they have to go out and they have to rent a car. They have to abide by this law also. That means that they have to run out and buy these booster seats. I think that is not really very friendly to tourists when we put this burden on them.

Another reason, I visited a couple of friends this weekend. They all had these booster seats. They know of this new law. They showed me that their child was in the weight that this bill refers to. That child sat in that booster seat and they closed it over them and they literally could not breath. Do we want to do this to our children? Another reason is it is faulty. The booster belt comes to your stomach right here when you are sitting down. If you have any kind of impact, you are going to fall over and you are not going to get the protection the child needs. I could really go on and on, but I am asking you to please think twice and do not support this bill.

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. 556

YEA - Andrews, Ash, Berry DP, Berry RL, Blanchette, Bouffard, Brannigan, Brooks, Bruno, Bull, Bumps, Canavan, Chick, Chizmar, Colwell, Cote, Cowger, Crabtree, Cummings, Davis, Desmond, Dorr, Dudley, Dugay, Duplessie, Duprey, Estes, Etnier, Fisher, Fuller, Gerzofsky, Glynn, Green, Hall, Hawes, Honey, Hutton, Jacobs, Jones, Kane, Koffman, Landry, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, Mailhot, Marley, Matthews, Mayo, McDonough,

McGowan, McKee, McLaughlin, McNeil, Michaud, Murphy E, Murphy T, Norbert, Norton, O'Brien JA, O'Neil, Paradis, Patrick, Perry, Pineau, Quint, Richard, Richardson, Rines, Simpson, Skoglund, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tuttle, Usher, Volenik, Weston, Wheeler GJ, Mr. Speaker.

NAY - Belanger, Bowles, Bryant, Buck, Bunker, Carr, Chase, Clark, Clough, Collins, Cressey, Daigle, Duncan, Dunlap, Foster, Gagne, Goodwin, Gooley, Haskell, Hatch, Heidrich, Jodrey, Kasprzak, Labrecque, MacDougall, Madore, Marrache, McGlocklin, McKenney, Mendros, Michael, Mitchell, Muse C, Muse K, Nass, Nutting, Peavey, Perkins, Pinkham, Rosen, Savage, Schneider, Sherman, Shields, Smith, Snowe-Mello, Stedman, Trahan, Treadwell, Waterhouse, Winsor, Young.

ABSENT - Annis, Bagley, Baker, Bliss, Lovett, Morrison, O'Brien LL, Povich, Tracy, Twomey, Watson, Wheeler EM.

Yes, 87; No, 52; Absent, 12; Excused, 0.

87 having voted in the affirmative and 52 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.

ORDERS

On motion of Representative MENDROS of Lewiston, the following Joint Resolution: (H.P. 1706) (Cosponsored by Representative: MATTHEWS of Winslow)

JOINT RESOLUTION COMMEMORATING MARCH 25TH AS GREEK INDEPENDENCE DAY

WHEREAS, on March 25, 1821, the Feast Day of the Annunciation, the Greek nation reclaimed its ancient heritage as the "Cradle of Democracy" by throwing off the yoke of oppression that had enslaved its people since the fall of Constantinople in 1453. Conquered by the Ottoman Turks in the 15th century, Greece waged a successful War of Independence, 1821-1829, and reinstated a democratic form of government; and

WHEREAS, it was the genius of Greece that first ignited the flame of freedom in the 6th and 5th centuries B.C., when Athens introduced the idea of direct representative government to the world, thus ushering in a Golden Age of art, architecture, philosophy and drama under such giants of Western history as Pericles, Sophocles, Euripides, Socrates, Pythagoras, Hippocrates and Plato; and

WHEREAS, from a historical perspective, Greece was the host to the first modern Olympic Games in 1896 and is the home to the Theological School of Halki, an educational institution for Orthodox Christian leadership; and

WHEREAS, Greece is only one of 3 nations in the world, beyond the former British Empire, that have been allied with our nation in every major international conflict in the last 100 years; and

WHEREAS, America's founders drew heavily upon the political experience and philosophy of ancient Greece in forming our representational democracy, and these and other ideals have forged a close bond between our 2 modern nations; and

WHEREAS, the State of Maine would like to join its thousands of residents of Greek ancestry who are justly proud of their Greek heritage to recognize Greek Independence Day as a gesture of goodwill and recognition of the close bond between our 2 nations and their people; 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, commemorate March 25th as Greek Independence Day as we all celebrate Greek and American democracy; and be it further

RESOLVED: That on this day of national celebration, we pause to applaud all of the efforts involved in the reopening of the Theological School of Halki and extend our best wishes to the citizens of Greece as they prepare for the return of the Olympic Games to Athens in the year 2004; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Ambassador of Greece to the United States in Washington, D.C. and to the Consulate General of Greece in Boston, Massachusetts, as a symbol of our recognition of Greek Independence Day.

READ.

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

Representative MENDROS: Mr. Speaker, Ladies and Gentlemen of the House. I watched the Olympics earlier this year in Salt Lake City. It reminded me of how proud I am to be an American of Greek descent. The Greeks come out first and then the host country, the Americans, coming out last. It certainly filled me with pride in both the homeland of my ancestors and my current homeland. I am thinking every time I come in here in the Legislature and I think of my ancestors in Greece who invented democracy and my ancestors here in American who perfected it. What a great union. Every one of us should be proud as legislators of the democracy and where it was invented and perfected.

I would also like to point out to all of you that starting this fall at the University of Southern Maine there is going to be a modern Greek program so that when you hear it is all Greek to you, well I hear that often and I always say, I wish, because then I could understand it. Greek is being offered at the University of Southern Maine and I urge you all to take it and then maybe you would understand what I was talking about when I give my long speeches.

Finally, on a serious note, this is the fourth year we have recognized Greek Independence Day. Every other year I was always proud to have my father come up and take part in it. Unfortunately this year he is no longer with our family, but I think it is something he taught me, a Greek expression that he would always say. Ya'Hara. I say it every year, but it means a little more this year. It is a Greek expression of fellowship, hello, goodbye. Ya'Hara means health and happiness. Really in life that is all you need. I say that to each of you sincerely. Ya'Hara.

ADOPTED.

Sent for concurrence.

ENACTORS

Emergency Measure

An Act to Conform Maine Tax Law to the Federal Mobile Telecommunications Sourcing Act

(S.P. 667) (L.D. 1871)

(C. "A" S-481)

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. 120 voted in favor of the same and 2 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Acts

An Act Concerning Rules of the Bureau of Parks and Lands
(S.P. 720) (L.D. 1922)
(C. "A" S-480)

An Act Concerning Disability Retirement Benefits under the
Maine State Retirement System
(S.P. 816) (L.D. 2197)

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, Authorizing the Commissioner of Administrative and
Financial Services to Lease the Interests of the State in Property
at the Long Creek Youth Development Center in South Portland
(S.P. 675) (L.D. 1878)
(C. "A" S-482)

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

ENACTORS

Emergency Measure

An Act to Provide Full Utility of Retired School Buildings
(H.P. 1615) (L.D. 2114)
(C. "A" H-940)

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

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 50:
Variance From Educational Qualifications for Issuance of an
Interim Forester License, a Major Substantive Rule of the
Department of Professional and Financial Regulation, Office of
Licensing and Regulation
(H.P. 1625) (L.D. 2125)

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

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

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

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

ENACTORS
Emergency Measure

Resolve, Regarding Legislative Review of Chapter 21:
Statewide Standards for Timber Harvesting in Shoreland Areas, a
Major Substantive Rule of the Department of Conservation
(H.P. 1632) (L.D. 2135)
(C. "A" H-959)

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 Resolve was **FINALLY PASSED**,
signed by the Speaker Pro Tem and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 90:
Registration of Foresters for Supervision of Unlicensed
Personnel, a Major Substantive Rule of the Department of
Professional and Financial Regulation, Office of Licensing and
Regulation
(H.P. 1636) (L.D. 2139)

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
4 against, and accordingly the Resolve was **FINALLY PASSED**,
signed by the Speaker Pro Tem and sent to the Senate.

Emergency Measure

An Act to Strengthen Energy Conservation
(H.P. 330) (L.D. 420)
(C. "A" H-961)

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

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 220:
Methodology for Identification of Regional Service Centers, a
Major Substantive Rule of the Executive Department, State
Planning Office
(H.P. 1641) (L.D. 2144)

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

Representative NORBERT of Portland **REQUESTED** a roll
call on **FINAL PASSAGE**.

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

On further motion of the same Representative, **TABLED**
pending **FINAL PASSAGE** and later today assigned. (Roll Call
Ordered)

Acts

An Act to Allow the Department of Administrative and Financial Services, Bureau of General Services to Make Direct Selection of Architects, Engineers and Other Professionals Whose Services Do Not Exceed \$25,000 in Value

(H.P. 1427) (L.D. 1865)
(C. "A" H-826)

An Act to Amend the Law Regarding Severance Pay

(H.P. 1498) (L.D. 2001)
(C. "A" H-948)

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

ENACTORS

Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$15,000,000 for Biomedical Research and Development Equipment and Infrastructure

(H.P. 1696) (L.D. 2194)

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

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

Acts

An Act to Amend the Laws of the Board of Barbering and Cosmetology

(H.P. 1107) (L.D. 1476)
(C. "B" H-932)

An Act to Create the Washington County Development Authority

(S.P. 541) (L.D. 1672)
(H. "B" H-967 to C. "A" S-468)

An Act to Create the Office of Maine-Canada Trade Ombudsman

(H.P. 1505) (L.D. 2008)
(H. "A" H-809 to C. "A" H-791)

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

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

An Act to Authorize a General Fund Bond Issue in the Amount of \$15,000,000 for Biomedical Research and Development Equipment and Infrastructure

(H.P. 1696) (L.D. 2194)

Which was **TABLED** by Representative COLWELL of Gardiner pending **PASSAGE TO BE ENACTED**.

On motion of Representative RICHARDSON of Brunswick, 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 "A" (H-1004)** which was **READ** by the Clerk.

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

Representative **RICHARDSON**: Mr. Speaker, Men and Women of the House. This amendment adds a fiscal note to the bill.

Representative KASPRZAK of Newport **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-1004)**.

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 Adoption of House Amendment "A" (H-1004). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 557

YEA - Ash, Belanger, Berry DP, Berry RL, Blanchette, Bouffard, Bowles, Brannigan, Brooks, Bruno, Bryant, Bull, Bumps, Bunker, Canavan, Carr, Chase, Chick, Chizmar, Clark, Clough, Colwell, Cote, Cowger, Cummings, Davis, Desmond, Dorr, Dudley, Dugay, Duncan, Dunlap, Duplessie, Duprey, Estes, Etnier, Gerzofsky, Glynn, Green, Hall, Hatch, Hawes, Honey, Hutton, Jones, Kane, Koffman, Landry, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, Madore, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Michaud, Mitchell, Murphy E, Murphy T, Muse C, Muse K, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Neil, Paradis, Patrick, Peavey, Perkins, Perry, Pineau, Pinkham, Quint, Richard, Richardson, Rines, Rosen, Schneider, Sherman, Shields, Simpson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Trahan, Treadwell, Tuttle, Usher, Watson, Weston, Wheeler EM, Wheeler GJ, Young, Mr. Speaker.

NAY - Andrews, Buck, Collins, Cressey, Foster, Gagne, Gooley, Haskell, Heidrich, Jacobs, Jodrey, Kasprzak, Labrecque, MacDougall, Mendros, Michael, Snowe-Mello, Stedman, Twomey, Volenik, Waterhouse, Winsor.

ABSENT - Annis, Bagley, Baker, Bliss, Crabtree, Daigle, Fisher, Fuller, Goodwin, Lovett, Morrison, O'Brien LL, Povich, Savage, Tracy.

Yes, 114; No, 22; Absent, 15; Excused, 0.

114 having voted in the affirmative and 22 voted in the negative, with 15 being absent, and accordingly **House Amendment "A" (H-1004)** was **ADOPTED**.

Representative KASPRZAK of Newport **REQUESTED** a roll call on **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-1004)**.

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 Passage to be Engrossed as Amended by House Amendment "A" (H-1004). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 558

YEA - Ash, Belanger, Berry RL, Blanchette, Bouffard, Bowles, Brannigan, Brooks, Bryant, Bull, Bumps, Bunker, Canavan, Carr, Chase, Chick, Chizmar, Clark, Clough, Colwell, Cote, Cowger, Cummings, Desmond, Dorr, Dudley, Dugay, Duncan, Dunlap, Duplessie, Duprey, Estes, Etnier, Fuller, Gerzofsky, Glynn, Gooley, Green, Hall, Hatch, Hawes, Honey, Jones, Koffman, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, Madore, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Michaud, Mitchell, Murphy E, Murphy T, Muse C, Norbert, Norton, Nutting, O'Brien JA, Paradis, Patrick, Peavey, Perry, Pineau, Quint, Richard, Richardson, Rines, Sherman, Simpson, Skoglund, Smith, Stanley, Sullivan,

Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tuttle, Usher, Weston, Wheeler EM, Wheeler GJ, Young, Mr. Speaker.

NAY - Andrews, Berry DP, Bruno, Buck, Collins, Cressey, Foster, Gagne, Haskell, Heidrich, Jacobs, Jodrey, Kasprzak, Labrecque, MacDougall, Mendros, Michael, Muse K, Nass, Perkins, Pinkham, Rosen, Schneider, Shields, Snowe-Mello, Stedman, Trahan, Treadwell, Twomey, Volenik, Waterhouse, Winsor.

ABSENT - Annis, Bagley, Baker, Bliss, Crabtree, Daigle, Davis, Fisher, Goodwin, Hutton, Kane, LaVerdiere, Lovett, Morrison, O'Brien LL, O'Neil, Povich, Savage, Tracy, Watson.

Yes, 99; No, 32; Absent, 20; Excused, 0.

99 having voted in the affirmative and 32 voted in the negative, with 20 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-1004) in NON-CONCURRENCE** and sent for concurrence.

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

SENATE PAPERS
Non-Concurrent Matter

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$15,000,000 for the Construction of a Civic Center and Auditorium in Eastern Central Maine"

(H.P. 1690) (L.D. 2189)

Minority (3) **OUGHT NOT TO PASS** Report of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT READ** and **ACCEPTED** in the House on March 20, 2002.

Came from the Senate with Majority (10) **OUGHT TO PASS** Report of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-489) in NON-CONCURRENCE**.

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

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. If you remember, we had a very long debate on this issue. It went on for quite a lengthy period of time. I certainly won't go over the arguments, but the vote in this House was overwhelmingly to defeat this measure. It is now back in non-concurrence with the Senate having deeply debated and mulled this over, I am sure. I am hoping that we will Adhere to our present action and vote against the Recede and Concur.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. I was going to rise on a point of order about referring to the actions of the other body, however, now that I am up, I would urge my colleagues to support the pending motion and give this issue its just due before the proper committees and keep all of these options open. This is a very, very important issue for eastern Maine. The situation we are in with our infrastructure in that area is dire. If we don't do something, we are going to have a monumental task ahead of us in the future. I would urge my colleagues to keep this open as an option. We will have plenty of opportunity to dispense with it later.

Representative **DUNLAP** of Old Town **REQUESTED** a division on the motion to **RECEDE AND CONCUR**.

The Chair ordered a division on the motion to **RECEDE AND CONCUR**.

Representative **BROOKS** of Winterport **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 Bangor, Representative Perry.

Representative **PERRY**: Mr. Speaker, Ladies and Gentlemen of the House. I will keep this brief. We had a rather spirited debate here the other night on this issue. We sent it to the Senate. The Senate took the other position unanimously and has sent it back to us. It is now in non-concurrence. There were some legitimate issues raised in that debate. There were some questions that hadn't been answered on what this region would do with the bond and how we would come up with the matching funds. I think those questions have been answered satisfactorily. We do have a plan and this is just simply matching funds. I would just ask that we have the opportunity to go before the Appropriations Committee. If, at that point, people are not convinced of the value of this bill, you will have another chance with a very high threshold of a two-thirds vote, a very difficult threshold to meet. I would like the opportunity to testify in front of the Appropriations Committee tomorrow on this issue. Thank you.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. Some of the arguments we heard about this is setting a bad precedent with doing this. Let me tell you, there are precedents that have been set for bond money, General Fund money to go towards building ports, investing in ports in southern Maine because those are infrastructure type investments that help the surrounding area and help the entire state. We have done it for the trains in southern Maine. We have done many infrastructure type improvements for southern Maine. I think it is time we do some of these infrastructure improvements for northern Maine. The only way to turn the economy around in northern Maine is for a full investment to realize we have one Maine and we need to work together.

The SPEAKER: 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. 559

YEA - Berry RL, Blanchette, Brannigan, Brooks, Bryant, Bunker, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Cummings, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Duprey, Estes, Fuller, Gerzofsky, Gooley, Green, Hall, Haskell, Hatch, Hawes, Hutton, Jacobs, Kane, Koffman, Ledwin, Lundeen, Marley, Matthews, Mayo, McDonough, McGowan, McKee, McLaughlin, Mendros, Michael, Michaud, Mitchell, Muse C, Norbert, Norton, O'Neil, Paradis, Patrick, Perry, Pineau, Quint, Richard, Richardson, Rines, Rosen, Schneider, Sherman, Simpson, Sullivan, Tarazewich, Thomas, Tobin J, Trahan, Tuttle, Usher, Watson, Young, Mr. Speaker.

NAY - Andrews, Ash, Belanger, Berry DP, Bouffard, Bowles, Bruno, Buck, Bull, Bumps, Canavan, Carr, Chase, Clough, Collins, Cressey, Daigle, Davis, Duncan, Etnier, Foster, Gagne, Glynn, Heidrich, Honey, Jodrey, Jones, Kasprzak, Labrecque, Landry, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, MacDougall, Madore, Mailhot, Marrache, McGlocklin, McKenney, McNeil, Murphy E, Murphy T, Muse K, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Shields, Skoglund, Smith, Snowe-Mello, Stanley, Stedman, Tessier, Tobin D, Treadwell, Twomey, Volenik, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor.

ABSENT - Annis, Bagley, Baker, Bliss, Crabtree, Fisher, Goodwin, Lovett, Morrison, O'Brien LL, Povich, Savage, Tracy.

Yes, 72; No, 66; Absent, 13; Excused, 0.

72 having voted in the affirmative and 66 voted in the negative, with 13 being absent, and accordingly the House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$25,400,000 for Economic Development"

(H.P. 1691) (L.D. 2190)

Majority (12) **OUGHT TO PASS** (H.P. 1691) (L.D. 2190) Report of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED** in the House on March 20, 2002.

Came from the Senate with Majority (12) **OUGHT TO PASS** (H.P. 1691) (L.D. 2190) Report of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-490)** in **NON-CONCURRENCE**.

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

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1002)** on Bill "An Act Regarding Essential Programs and Services"

(H.P. 1602) (L.D. 2103)

Signed:

Senators:

MITCHELL of Penobscot
NUTTING of Androscoggin
ROTUNDO of Androscoggin

Representatives:

RICHARD of Madison
DESMOND of Mapleton
WATSON of Farmingdale
ESTES of Kittery
CUMMINGS of Portland
STEDMAN of Hartland
ANDREWS of York
WESTON of Montville
LEDWIN of Holden

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

Signed:

Representative:

SKOGLUND of St. George

READ.

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

Representative SKOGLUND of St. George **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 St. George, Representative Skoglund.

Representative **SKOGLUND**: Mr. Speaker, Ladies and Gentlemen of the House. I am not apologizing for standing up at this late hour, because some day you will thank me for this. This is another learning results bill and it is a very important bill. In fact, I would urge you to get out number 2103 to see how much it includes. The other day we had a vote on a learning results bill and I was much encouraged to see that the vote was going my way for a little while and then when it came to a roll call, buttons began to switch. That indicated to me that a great many of you, deep in your hearts, know that there is something wrong with learning results, but you don't know enough about it to explain it to the voters back home or to justify it to your school superintendents whom you presume are in favor of it.

I had another enlightenment on the idea of learning results that helped me understand it. It helped me understand the mentality behind learning results. Someone on television had commented that one of the problems worldwide now was a return of fundamentalism. I had always thought of fundamentalism as being rather positive, someone who had a very firm and unshakable faith. He went on to explain that fundamentalism is not just having a firm and unshakable belief. Today it also includes the willingness to impose it on others, either by law or by force. He mentioned several different types of fundamentalism now ramped in the world, that I don't need to repeat here. The idea of learning results to me is very similar. It is educational fundamentalism. It is the idea that we now have the truth and we can put it into law and force everyone to abide by it. This bill under discussion right now, number 2103, essential programs and services, in the preface to the bill it says, in order to achieve the system of learning results, essential programs and services must be available in all schools on an equitable basis. What this is going to do, we hope, is to equalize school funding so that schools will be equally funded throughout the state. Each child in school will receive the amount of money necessary to carry out what are thought to be essential programs and services, which may be a good idea. I am not saying that we have a perfect idea of school funding now. Because learning results is simply an ideal, it can never be achieved no matter how much money you spend on it. You cannot guarantee that all children are going to be lifelong learners. That is one thing I don't like about this whole idea.

The second thing I don't like about it and I stand corrected if I am wrong, but it was my understanding that this essential programs and services if it went into effect and it is anticipated by the department that we will put it into effect, would cost over \$100 million a year more in education costs. I hope someone will give the accurate figure on that. It was more than \$100 million. I suggested that perhaps we hadn't ought to do anything that would increase educational costs that much, even though it might help education, without first finding a different method of funding education. The answer was, we can do both. We can initiate essential programs and services and go ahead with it and reform our tax system simultaneously. I don't think I trust that we are going to reform our tax system. I don't think we can stand any higher property taxes to go on to fund more essential programs and services.

I hope you will look this over very carefully. I hope you will give it consideration and vote against it. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Monmouth, Representative Green.

Representative **GREEN**: Mr. Speaker, Ladies and Gentlemen of the House. Representative Skoglund is, in fact, correct. This is an ideal. It is not real. As an educator, I would love to think that all that is in the learning results would happen, but unfortunately I know better. All of those people who have

said we can do it all are not being completely honest. I am not sure, actually, how I am going to vote on this item, but I think before you vote you should know what this is all about. With your indulgence, I am going to read to you from just one section of the learning results. Under social studies, and I will only be reading to you what is necessary to do in the secondary grades. Please know that there are learning results for elementary grades pre-K through 2 and elementary grades 3 and 4 and middle grades 5 through 8. "Secondary grades, civics in government, rights and responsibilities and participation. In the secondary grades all students will develop and defend a position on public policy within our democracy, access the reasons why participation of an attentive, knowledgeable and competent citizenry is important to constitutional democracy using examples from personal or historical experience." That should be interesting. "Describe the circumstances under which civil disobedience might be justified. Demonstrate an understanding of the processes of voter registration and voter participation. Under civics and government, purpose and types of government in the secondary grades. All students will compare and contrast the purpose and the structure of the United States Government with other governments, parliamentary dictatorship, monarchy, with respect to ideology, values and histories. Two, access the different jurisdictions and roles of local, state and federal governments in relation to an important public policy issue. Analyze the major arguments for and against representative government as distinguished from direct democracy, assess the tension between the public's need for government services and the varying availability of revenue through taxes at the local, state and federal levels." That is my personal favorite. "Evaluate the role of the media and public opinion in the United State politics including ways the government and media influence public opinion. Civics in government, fundamental principles of government and constitutions. Explain the historical foundations of constitutional government in the United States, for example, Magna Charta, Roman Republic, Colonial Experience, Declaration of Independence, Articles of Confederation and the Constitution of the United States. Evaluate the federalist and anti-federalist positions on the ratification of the Constitution in light of historical developments. Evaluate the effectiveness of the Constitution as a vehicle for change. Demonstrate an understanding of the meaning and importance of traditional and democratic assumptions, such as individual rights, the common good, self-government, justice equality and patriotism. Demonstrate how the United States Constitution uses checks and balances."

The SPEAKER: Would the Representative please defer? During the course of debate this evening I have allowed several things to go, which I probably should not have allowed. The current practice that the Representative is engaged in is reading a statement into the record, which is against the rules, but may be permitted by the other side. However, it is typically permitted only for the purpose of actual debate. Otherwise it is considered dilatory. The Chair apologizes to the Representative. The Representative may proceed.

Representative GREEN: Mr. Speaker, Ladies and Gentlemen of the House. I will not continue, but I will tell you there are 10 pages chock full of good stuff. That is just for social studies.

My point here is to point to you that in the summary of the Committee Amendment on page 9, number 4, it says that there is a waiver of certain statutory provisions for the implementation of the system of learning results. A waiver from compliance may be provided for the requirements and it goes on. Again, I question how this is going to happen. It is not necessarily a bad thing, but

I think if we believe that all this will happen, all our children will be tremendously well educated, all of these things will happen, it is not true. It is idea and it is a good ideal, but it is not real. That is my point. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Estes.

Representative ESTES: Mr. Speaker, Ladies and Gentlemen of the House. I think we are getting confused between LD 2106, which went by us earlier today. That is the resolve, which implemented the Chapter 127, which is the learning results. What we are looking at here in LD 2106 is actually the essential programs and services bill, which moves us toward a new funding formula. We debated Friday afternoon on education funding and many people got up and railed about the problems of the current funding formula. We are moving towards a new funding formula based on essential programs and services. That is what this bill is about. The references in here to learning results, the good Representative Green made note of the waiver. The waiver is in Chapter 127. What the Education Committee did was we took those rules for the waiver for districts having a difficult time meeting the learning results and put them into statute, into this bill, so that it would be guaranteed that districts who are having problems would be able to slow things down. They would be able to get assistance from the department in order to come into compliance.

The other thing on Page 4 of the amendment is a task force to review the status of implementation of the system of learning results. This is something else that we put into this bill because learning results and essential programs and services are paralleling each other. What we wanted to do was we wanted to find out what were the problems out there and to have the task force come back to the Education Committee and report no later than January 15, 2003 what those problems were. This is essential programs and services where we put in some guarantees that we were going to be able to help districts deal with the implementation through the waivers if they were having problems, but also to have accountability by having this report back of the task force to review the status of the implementation of the system of learning results to the Education Committee in the next regular session. Thank you.

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

Representative SULLIVAN: Mr. Speaker, Men and Women of the House. If I had my druthers, I would be talking about the other learning results bill, but I don't. I am going to talk about this one. If you look under the summary of this bill, it says that it provides funding essential programs and services in the state and local partnership. I need to tell you that I don't trust state and local partnerships on funding of schools. I believe we had a debate last Friday on that. The learning results are fine if indeed we really would be willing to put the money there, but I maintain we won't be in the long run. I think up until the beginning of this session when we had a different idea for collecting state taxes this was the only way we had to work with in trying to do something for the communities. We have already had the learning results and we weighed three of those learning results. These were the things that this chamber said that all students need to know. Those three were career preparation technology, visual and performing arts and foreign and classical language. We needed those. We had to have them. We really debated that. Gee, then we waived them because it is not so important now because we have a money problem. I told you last week in the debate that we had an unfunded mandate. I don't see how this is going to provide any equality because if you continue reading the number three under the summary on that state and

local partnership it says that the local school administrative units retain the authority to determine how to expend funds once they are received from the state. They may decide to buy 5 million pencils instead of laptops.

This bill doesn't sound it out. We aren't funding our education correctly now and we are going to jump into another one and see what else we can do. That is not fair to your systems. Go back to your districts and ask what they are doing now for professional development in order to meet part of the requirement that 90 percent of all assessment must be local. Find out what your school systems are spending on professional development that was promised \$4 million when we passed learning results. Unfortunately this is all we have at this present time for learning results. I am not afraid of accountability as a teacher in the classroom and I can read you from 5, 6, 7 or 8 grade level, which I teach. I can do that. I have to answer to three different sections, social studies, language arts, including a reading part of English. I have to have the support of my school system. They have to have the money. This system still sets up a system where there is just so much money to put out. If they don't have enough money, what goes? We need to be sure we have the money before we enact a law. We enacted the learning results before we had the money to do it. You can't do that. Unfortunately this is the up and down vote we need. I ask you to think very carefully about this and be sure that the people come back here in the 121st are willing to give the money and rewrite this language so it won't be determined that some communities can spend it on something different. Read the bill. Look at number three and be able to explain an unfunded mandate as it is right now to your districts because that is what we have. Thank you.

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

Representative **CUMMINGS**: Mr. Speaker, Ladies and Gentlemen of the House. The bill you have in front of you, I want to be very clear, is not a learning results bill, but for those of you who are struggling with learning results, let me also be clear that if you are, as Representative Skoglund has said, confused about how to explain it to your constituents, let me help you. It says what our children will know and be able to do when they leave high school. I believe, the State Chamber of Commerce believes and numerous educational groups believe that is a good thing. If you turn away from this bill today, you will have already said that learning results are a good thing, but you will have under minded the funding and the appropriate methods to make sure that it happens for all children. The essential programs and services bill holds enormous promise for the work that we need to do because it looks at the children in those schools to decide exactly what type of children are in there and what kind of support do they need to make sure that learning results occur.

You have an opportunity today to do something that I think you will like. We have in this bill 50 percent of the costs of K-12 education will over the phase in period of this bill be paid for by the state. For those of you who are struggling with local property tax pressures and I know that in my community we are, this is good news. Over the next six years the implementation of this program is contingent upon that phase in. For those local property taxpayers and for your children, this program begins to make a lot of sense. For those of you concerned about implementation of learning results there is built in a task force for the first time to look at where school districts are. We believe this bill has been well thought out and this 11 to 1 decision took a lot of discussion. I think it is time for us to move forward. Thank you.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Clough.

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

The SPEAKER: The Representative may pose his question.

Representative **CLOUGH**: Mr. Speaker, Ladies and Gentlemen of the House. This amendment ends with the statement that the amendment also adds a fiscal note to the bill. Could anyone tell us what that fiscal note is?

The SPEAKER: The Representative from Scarborough, Representative Clough has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Hartland, Representative Stedman.

Representative **STEDMAN**: Mr. Speaker, Ladies and Gentlemen of the House. The fiscal note is in the amendment. It says that the cost for keeping this program going can be born by the department.

I think one point that the good Representative from Portland, Representative Cummings, stated, but I think needs emphasis and is the main reason why I supported this amendment was the fact that there is going to be a task force created that will look at how the learning results have been implemented to date. I think one of the issues we are concerned about is where various schools are in their learning results implementation process. If we don't find out where that is, we can't go forward with funding or anything until we find out what the need is. By putting out a task force to look at this situation as it now stands in the school systems around the state, we can better understand what real essential programs and services are going to be needed down the road. Thank you.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Estes.

Representative **ESTES**: Mr. Speaker, Ladies and Gentlemen of the House. Also, to add on the question of the fiscal note, for the task force there is a fiscal note of \$10,000, but that is going to be born by the Department of Education out of their budget from federal funds that have been allocated to the department for next year to provide for school administrative unit accountability for students meeting the standard. This is actually fiscal neutral in terms of having any impact on the General Fund.

The other thing I want to say is that people need to be aware that there was an Education Committee study from July until November of this year and the report that came out based on this concept of a formula that would be created based on essential programs and services. The legislation that was originally from this report, LD 2103, has been substantially amended. To reiterate the point that the good Representative from Portland, Representative Cummings, said, this is not a learning results bill. It is putting us in motion for eventually implementing a new funding formula that will be far more fair than the one that we currently have. Thank you.

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

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

The SPEAKER: The Representative may pose her question.

Representative **PEAVEY**: Mr. Speaker, Men and Women of the House. To anyone who can answer, in this amendment where it talks about the 50 percent, how does that affect special ed costs?

The SPEAKER: The Representative from Woolwich, Representative Peavey has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Hartland, Representative Stedman.

Representative **STEDMAN**: Mr. Speaker, Men and Women of the House. I couldn't understand the question. Could she repeat the question?

The SPEAKER: The Chair will repeat the question. The question was considering the percentage of 50 percent, how would that impact special education costs? The Representative may proceed.

Representative **STEDMAN**: Mr. Speaker, I am not sure that is part of the information we are trying to develop here. Special education costs are going to be built in depending on the individual needs of the students. As each student is evaluated to what he or she needs for their education, that will be factored in as to what the schools will receive and then the state will do their share, hopefully 50 percent by the year 2007. It is one of the factors that is going to be built into what is essential for each student to complete their education according to their plan.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I agree with several of the speakers in stating that the current school funding formula has significant problems and does need to be totally overhauled. However, I do have some concerns that are raised by the language of the proposal that is in front of us, specifically dealing with the issue of subsidy cushions. It was a promise and it was a commitment of the Legislature as well as the Education Committee that as we phased in the per pupil guarantee that there would be adequate cushions to lessen the blow of communities that would be adversely affected by school funding. Obviously I don't agree that that happened this session, because our community received a 32 percent cut in our school funding in one year.

When looking at the language dealing with subsidy cushions, I see, again, no guarantees to school districts that this new school funding formula is phased in that it will be done in a manner which will allow a community to budget and provide for locally the reductions that will happen as a result of the new school funding formula.

I would like to ask if any member on the committee or a member of this body could speak to the issue of subsidy cushions and the percentage guarantee maximum that communities will be cut as a result of this new funding formula phase in?

The SPEAKER: The Representative from South Portland, Representative Glynn has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Montville, Representative Weston.

Representative **WESTON**: Mr. Speaker, Men and Women of the House. The dialogue about cushions actually tells us that the formula needs help. Essential programs and services is saying that we want to move away from that. We want to find out what does it cost to educate a child, no matter where he lives. We take into consideration a child who has special needs. That child is going to be weighed more. Once you determine the needs of the child, you find out what is that essential program each needs and then you move towards to funding of that essential program for each child. It is a partnership. It is going to take more money only because we are doing differently. It is going in the right direction. It is instead of what we spent last year, it is determining really what are the costs. It is not going to be this district can only spend \$4,000 per student because that is all we have. First we need to know what is it that it really costs. We don't know that yet. This is a timeline to get us there. Thank you.

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

Representative **RICHARD**: Mr. Speaker, Men and Women of the House. Most of the things that need to be said have been

said, but in response to a question that was asked a few minutes ago, in the sheet that we have on essential programs and services, one of the statements is with current economic constraints policy makers can adjust the time frame, the appropriate cushions for adverse impacts on school districts and other variables to keep the transition to the model realistic.

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

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

The SPEAKER: The Representative may pose his question.

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. I am a bit confused. It seemed to me the first speaker on this issue, as I understood it, this is basically the funding mechanism for learning results. That is kind of what I got from it. At least one of the other speakers mentioned that this is the funding mechanism for learning results. Is that true, what this is? If the answer is affirmative, I would like to speak on that idea.

The SPEAKER: The Representative from Penobscot, Perkins Richard has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Madison, Representative Richard.

Representative **RICHARD**: Mr. Speaker, Men and Women of the House. I could not hear his question, could it be repeated?

The SPEAKER: Would the Representative please repeat his question?

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. The question is, is this issue in front of us basically the funding mechanism for learning results that we passed about six years ago?

The SPEAKER: The Representative from Penobscot, Representative Perkins has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Madison, Representative Richard.

Representative **RICHARD**: Mr. Speaker, Men and Women of the House. On this issue before us, we have gotten off the issue actually. The issue before us is that we have a very learner group who is working to determine what it is that is essential for every student to know and be able to do and then to determine how much it is going to cost to have those students be able to know and do those things. The funding formula will come later. This is a process of determining what it is that our students should know and then determining how much it would cost to have each student educated in that way and then it would be a more equitable funding formula that would come out of this as an end result.

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

Representative **SKOGLUND**: Mr. Speaker, Ladies and Gentlemen of the House. As usual, I hope anyone will correct me on this, but I remember distinctly asking a member of the Education Department if it was necessary to include the term learning results in this bill. The reply was yes. In order to achieve this system of learning results, essential programs and services must be available in all schools. It does say right in the bill that in order to achieve learning results, essential programs and services must be available in all schools. This is a mechanism for funding learning results. Mr. Speaker, I urge people to answer my question. It seems that in order to implement this it would cost over \$100 million more than what we are spending now. The department is moving ahead on faith that we will find some alternative to the property tax, but I think we are getting in meshed in another tar baby. I think this will go ahead. I think essential programs and services will go ahead, but we will be stuck with the same old funding formula. Thank you.

The SPEAKER: The Chair recognizes the Representative from Hartland, Representative Stedman.

Representative **STEDMAN**: Mr. Speaker, Ladies and Gentlemen of the House. In response to the comments just heard, Representative Skoglund is close to being right. I think the number we heard in committee was \$160 million by the year 2007/2008. That would be needed to meet the demands of the education system.

One of the things concerning learning results I would like to address is regardless of how you feel about learning results, they are the law under which we are running our education system now. They are in the process of being implemented. In order to meet the demands of the law, we must address the costs of implementing learning results. This process, under this bill that we have in front of us is to come up with a fairer way of doing that. Hopefully the essential programs and services idea will be that way. Next year as we go forward the department is charged with the responsibility of coming up with a plan that might be incorporated into essential programs and services funding and also a parallel plan based on the current funding formula. The choice then will be to decide how long along that line to essential programs and services do we want to go or do we stay with the current formula. All of this will only happen if we have this effort made at this point in time to forward this bill through and let them go to work on it. I would urge you to support the bill as it now stands in the amendment. Thank you.

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

Representative **MATTHEWS**: Mr. Speaker, Ladies and Gentlemen of the House. When I talked to my superintendent back in Winslow they were concerned about how they were going to pay for learning results. I would like to ask a question. I have heard it mentioned in this debate that the most learned of our state will be assembled to look at what our children need to know. I have my Greek resolution in front of me. My question is this, are those learned people, Socrates, Plato and some of the other folks? Are those the folks we are going to us?

The SPEAKER: The Representative from Winslow, Representative Matthews has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Hartland, Representative Stedman.

Representative **STEDMAN**: Mr. Speaker, Men and Women of the House. To answer the question, I think our only chance is to do that today, since it was Greek Day before the House.

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

Representative **PERKINS**: Mr. Speaker, Colleagues of the House. Please be patient. I may ramble, but it will be very short. I have to say something on this issue. I guess it was six years or so we debated the learning results. I remember precisely standing and we had the booklet in our hands. I had learning results in my hand. I remember saying, here it is. Why don't we send it out to everybody? Why don't we send it out to all the school districts? We kept hearing in the debate that these are guidelines. Send it out to the folks. I never got an answer why we had to put it into statute. Out in the lobby two or three people would come up and say that we have to put it in law because some of the districts won't do it. Some of them won't do it. Most of them would do it. My answer was, aren't they all professionals in all the districts. These are professional people. I never really could figure it out. It took me quite a while to figure out this whole scheme of what a mandate is, unfunded mandates.

I heard someone mention tonight, here is another unfunded mandate. When are we going to send the money? It has finally

come to me that nobody, as far as I can see, invents these so-called unfunded mandates in either of these bodies. After we passed learning results, for example, I got back in my district. I got a call from one of the school people in my district saying, boy, I hope this isn't going to be another one of those unfunded mandates you have passed. I remember seeing that person's name of the list of the committee that kind of brought that forward. I said, wait a minute. You are one of the main proponents of this. It took me quite a while and maybe a lot of you came to that conclusion earlier or maybe it is erroneous or maybe it is not true. These so-called unfunded mandates watch out for them. They are kind of tricky. People like to gripe about them, but eventually my guess is, they figure they are going to get funded. If you follow where the money goes then you will find out probably who is behind these so-called unfunded mandates. It looks to me like it has been couched in language that makes it a little bit complicated. The more we talked about it, apparently it is the funding mechanism for learning results, but it wasn't that clear right on its surface.

Perhaps there is nothing wrong with what we are doing, but I would just like to go on record and maybe my great grandchildren will come in here and see what I wanted to say, but this has been inside me and I wanted to share it. Watch out for those unfunded mandates and where they really come from.

A quick aside, it is related, I kept getting a lot of calls back home a while back about the unfunded mandates for the volunteer firemen. I put in a bill two years ago that would exempt volunteer fire departments from mandates from the state unless we sent the money. Guess who came over and spoke against my bill? It is a very interesting situation. Thank you.

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

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. I, too, was around here when we fought the learning results and those kinds of things. I want you to know that I voted against the learning results because I had some of the concerns of the prior speaker. I have to tell you folks that I have been dead set starting from eight years ago saying that we have to define what essential services are so we can move forward in this state and provide equal education to all levels of this state and not just the more affluent communities against the poorer communities and imbalance of the dam system and everybody can stand here and complain about the formula. I have been complaining for eight years. Ladies and gentlemen, until we allow this bill to go forward and to define what essential services are and to put a price tag to moving forward and defining a level playing field for education, we are going to sit here and have this same argument that we have had for the last eight years. Some people bring up the cushion, some people bring up the formula and all that. That is the problem. We keep messing around here and we haven't defined the end results yet. Let's move forward with this 12 to 1 report. Allow us to define essential services and we can have this debate next year. Thank you.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. My question concerning cushions, I don't believe was answered. I would like to refer to a section of the original bill that says during the phase in period, in Section 4 of the bill under essential programs and services, Section 15671, Section 4. What the section states is regarding subsidy cushions. During the phase in period described in this act the impact of any reduction in subsidy between consecutive years for any school administrative unit must be cushioned. It makes a fairly definitive statement that cushions in fact are necessary when changing

from funding formula to funding formula. However, when I look at the Majority Report, I find no similar language, definitive language, about how, in fact, we are going to transition these. Listening to several of the comments from previous speakers, one of which sits on the Education Committee, stating quite definitively that there would not be cushions. It tells me that there seems to be a misunderstanding or a undefined portion about how we will transition folks in their communities from one funding formula to the second.

One thing that is clear to me is that the current system that we have does not protect local school districts and, in fact, my district was cut 32 percent as a result of Friday's budget vote, which represents \$1.5 million to my local school district. When we look to phasing in new funding formulas, you bet cushions are a big concern and how they are phased in is a very big concern to my school district. That needs to be straightened out for me when we vote on this issue. In fact, how is this phase in period going to happen? What is a maximum loss for one year that a school district is going to sustain? Thirty-two percent was regarded as manageable by this Legislature. What will it be by the next? I need that answer before I vote.

We also have the whole issue about the funding of this new school funding formula. If, in fact, it is going to require it pumped with \$160 million of additional funding looking at the downward times that we have had in this economy and in this state, what happens when we don't meet those funding levels and, again, that phase in is going to be balanced on somebody's school district? What is the guarantee that that school district is going to be left whole? If there is a member of this body that would like to answer these questions, I would like that answer. Thank you.

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. 560

YEA - Andrews, Ash, Belanger, Berry RL, Blanchette, Bouffard, Bowles, Brannigan, Brooks, Bruno, Bryant, Bull, Bumps, Bunker, Canavan, Carr, Chick, Clark, Collins, Colwell, Cote, Cowger, Cummings, Daigle, Davis, Desmond, Dudley, Duncan, Dunlap, Estes, Etnier, Fisher, Fuller, Gerzofsky, Gooley, Hatch, Hawes, Heidrich, Honey, Hutton, Kane, LaVerdiere, Ledwin, Lemoine, Lundeen, Madore, Mailhot, Marley, Marrache, Mayo, McDonough, McGlocklin, McKenney, McLaughlin, McNeil, Mitchell, Murphy E, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Neil, Paradis, Patrick, Peavey, Pineau, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Shields, Stanley, Stedman, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Trahan, Tuttle, Usher, Watson, Weston, Winsor, Young, Mr. Speaker.

NAY - Berry DP, Buck, Chase, Chizmar, Clough, Cressey, Dugay, Duplessie, Duprey, Foster, Gagne, Glynn, Goodwin, Green, Haskell, Jacobs, Jodrey, Jones, Kasprzak, Labrecque, Landry, Laverriere-Boucher, Lessard, MacDougall, Matthews, McGowan, McKee, Mendros, Michael, Michaud, Murphy T, Muse C, Muse K, Perkins, Pinkham, Sherman, Simpson, Skoglund, Smith, Snowe-Mello, Sullivan, Treadwell, Twomey, Volenik, Waterhouse, Wheeler EM, Wheeler GJ.

ABSENT - Annis, Bagley, Baker, Bliss, Crabtree, Dorr, Hall, Koffman, Lovett, Morrison, O'Brien LL, Perry, Povich, Tracy.

Yes, 90; No, 47; Absent, 14; Excused, 0.

90 having voted in the affirmative and 47 voted in the negative, with 14 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-1002)** 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-1002)** and sent for concurrence.

ENACTORS

Emergency Measure

An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2002 and June 30, 2003

(H.P. 1574) (L.D. 2080)
(H. "K" H-986 to C. "A" H-968)

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

Representative KASPRZAK of Newport **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 Kennebunk, Representative Murphy.

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

The SPEAKER: The Representative may pose his question.

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. What is the size of the structural gap contained in this budget that is before us?

The SPEAKER: The Representative from Kennebunk, Representative Murphy has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Livermore, Representative Berry.

Representative **BERRY**: Mr. Speaker, Men and Women of the House. From the blue sheet we had, the work sheet, with the budget documents the other day, I think the estimate was between \$500 an \$600 million.

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. It seems like just three years ago we were concerned about a structural gap moving up over \$100 million. We say in this session when we had a \$250 million shortfall we saw almost daily demonstrations, rallies, letters, editorials and e-mails talking about the impact on Medicaid and the state agency kids with their full reimbursement was not going to be included and what that meant without fully funding GPA cushion. If I could pose an additional question, Mr. Speaker?

The SPEAKER: The Representative may pose his question.

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. To anyone from the Appropriations Committee, within this budget that is before us, that includes a projection for GPA in each of the two years, what would be that percentage increase for each year?

The SPEAKER: The Representative from Kennebunk, Representative Murphy has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Acton, Representative Nass.

Representative **NASS**: Mr. Speaker, Men and Women of the House. I am a little puzzled by the question. I am not sure it is a number that I am familiar with. Hopefully someone from the Education Committee might know what the projected increase is,

I think the question was, for the upcoming two years. I am not sure I have seen that.

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. Over the last two legislative days we have had extensive legislative debate over GPA cushions and what happens when you don't fully fund education. We are being asked this evening to vote on a budget, which has a tail of \$500 to \$550 million. That is based on a reprojection. If we hit that reprojection, which was a very optimistic reprojection, if we hit it right on the button, we are still going to be \$500 to \$550 million short. We haven't been told yet what in that tail includes money that is committed two years out to GPA. Does that mean we are not only \$550 million short, but we are short of whatever it would take to do GPA in those two years? Is that added to that? We have heard in debate this evening a cost of \$160 million a couple years out, but that may very well begin in the second year of the next biennium and that is added to that. Mr. Speaker, might I ask a question to any member of the Taxation that might want to respond.

The SPEAKER: The Representative may pose his question.

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. For a \$550 million shortfall, how many cents would it take on the sales tax to make that up or how many percentages in the income tax would we have to increase to make up that \$550 million?

The SPEAKER: The Representative from Kennebunk, Representative Murphy has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Gardiner, Representative Colwell.

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. I rose a little late. I was actually going to answer the previous question, but I can probably do the math on that one as well. It is my understanding that the first question was, what is the percentage of education that would be included in that \$500 to \$550 million structural gap that the good Representative from Kennebunk was referring to? I think when you think about that structural gap you have to realize that that is set by statute. One of the statutes that is in play there is that the State of Maine would fund education at 55 percent. I believe that over 50 percent of that structural gap would be the GPA figures.

I would just like to say that I am not sure what the good Representative is getting at, but certainly he is not suggesting that we cut general purpose aid to education to reduce that structural gap. None of us want to do that. It has been a real struggle to try to increase it to get it up to the \$730 million dollar figure as well. I hope that that answers the good Representative's question.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Dunlap.

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

The SPEAKER: The Representative may pose his question.

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. In light of the Representative from Kennebunk's question about the structural gap, if we enact this budget, I guess my question would be, what would be the structural gap if we adopted no supplemental budget at all?

The SPEAKER: The Representative from Old Town, Representative Dunlap has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Acton, Representative Nass.

Representative **NASS**: Mr. Speaker, Men and Women of the House. All these structural gap questions today are just going to

exhibit our lack of knowledge about the structural gap. In order to determine the structural gap, you are talking about the economic projections, tax revenues and additional spending. We are chasing down a road here where these answers are not going to be fruitful. There are things that we can't necessarily project. They are based on current levels of spending. They are estimates based on most of those factors.

I would like to go back and address some of the earlier questions. There is in the structural gap a projection for the increase in education funding. My recollection is that we are currently at about 6 percent per year. Those projected increases in GPA are part of the structural gap. I guess we need more of an analysis of the gap up here to answer some of these other questions.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. I would like to thank my good friend from Acton, Representative Nass. That was my point exactly.

The SPEAKER: The Chair recognizes the Representative from Hartland, Representative Stedman.

Representative **STEDMAN**: Mr. Speaker, Ladies and Gentlemen of the House. One of the earlier questions I thought what is the percentage of increase in this year's budget for education? Under the plan that was adopted, I believe, the \$730.8 million budget for education, that is a 4.11 percent increase in total budget. There is no increase in operating because what we did was arrive at the same level it was in 01-02. There is a 10 percent increase in program money, a 2.75 percent increase in foundation costs, a 9.1 percent increase in debt service money and an 18.37 percent increase in the adjustments, which include those things such as state ward and state agency clients, which we did put money into in addition to what had originally been requested. Those are the numbers that deal with the percentages of increase in each line item in the budget this time around. Thank you.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. How much is enough? I did some research on line. I looked up the State of Oregon. We are all familiar with that state. It is considered a pretty liberal state. There is 94,000 square miles in their land area. Maine is 30,000 square miles. They are a little more than three times our size. Their population is 3.4 million. Our population is 1.2 million. They are a little less than three times our size. They are even more sparsely populated than we are. Their biennial budget is \$5.1 billion. It is less than ours. A liberal state three times our size, but their budget is less than ours. Granted, they got rid of Commissioner Concannon. It probably saved them some money in their DHS budget, but since he brought MTBE to Maine, it probably saved them some money in their DEP budget. The fact remains that our budget is big. If you take a look at me, I am not using myself as a prop, I am overweight. I get to the point where I get so overweight that I have to go on a diet or I have to start exercising or I have to do something. That is the state budget. Our state budget is beyond overweight. It is bloated. We have to get it on a treadmill. We have to get it to the gym. It probably needs liposuction. The problem with being that overweight, whether you are a person or a budget, is you collapse. That is where we are headed. In a best case scenario, we have \$500 million structural gap. That means if revenues are great our budget is going to go from \$5.2 billion to \$5.7 billion for the next 121st Legislature to have to deal with, assuming they have no new programs. I am tired of going on line and looking at AOL

and having AOL say that Maine is the highest taxed state in the country. Do you know why we are the highest taxed state in the country? We spend too much.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Etnier.

Representative **ETNIER**: Mr. Speaker, Men and Women of the House. In reference to the budget that is before us, a couple of points of interest that I thought you might like to know. One is that of the budget that is before us tonight, 45 percent of the cost of this budget is conformity, conforming to the federal tax code, the two major changes that they made in the last few months. Twenty-five percent of this budget is dedicated to education. You asked about the structural gap in the upcoming years relative to conformity, according to the Office of the Bureau of Revenue Services, the cost of conforming to the conforming passage passed by Congress last December is approximately \$58 million. On top of that the so-called economic stimulus package that passed a couple weeks ago adds another \$20 million to year to conform to the other pieces. It is approximately \$100 million in the next biennium for conformity and economic stimulus. Thank you.

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

The SPEAKER PRO TEM: 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.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken.

ROLL CALL NO. 561

YEA - Ash, Belanger, Berry DP, Berry RL, Blanchette, Bouffard, Bowles, Brannigan, Bruno, Bryant, Buck, Bull, Bumps, Bunker, Canavan, Carr, Chase, Chick, Chizmar, Clough, Colwell, Cote, Cowger, Daigle, Davis, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hatch, Hawes, Heidrich, Hutton, Jacobs, Jones, Kane, Koffman, Labrecque, Landry, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, Madore, Mailhot, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McKenney, McNeil, Michaud, Mitchell, Murphy E, Muse K, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Neil, Paradis, Patrick, Peavey, Pineau, Pinkham, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Shields, Simpson, Skoglund, Smith, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Trahan, Tuttle, Twomey, Usher, Volenik, Watson, Weston, Wheeler EM, Wheeler GJ, Young, Mr. Speaker.

NAY - Andrews, Brooks, Clark, Collins, Cressey, Cummings, Duprey, Foster, Glynn, Goodwin, Gooley, Haskell, Honey, Jodrey, Kasprzak, MacDougall, Marley, McLaughlin, Mendros, Michael, Murphy T, Muse C, Perkins, Quint, Stedman, Tobin J, Treadwell, Waterhouse, Winsor.

ABSENT - Annis, Bagley, Baker, Bliss, Crabtree, Dorr, Hall, Lovett, Morrison, O'Brien LL, Perry, Povich, Tracy.

Yes, 109; No, 29; Absent, 13; Excused, 0.

109 having voted in the affirmative and 29 voted in the negative, with 13 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

Representative DUDLEY of Portland **OBJECTED** to sending all matters **FORTHWITH**.

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

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:

(S.P. 461) (L.D. 1514) Bill "An Act to Ensure Fairness in the Regulation and Reimbursement of Nursing Facilities" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-501)**

(S.P. 689) (L.D. 1891) Bill "An Act to Require Majority Resident Representation on the Board of Any Assisted Living Facility Receiving Bonds from the Maine Health and Higher Education Facilities Authority" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-502)**

(S.P. 801) (L.D. 2160) Bill "An Act to Amend the Maine Criminal Code to Address Terrorism" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-499)**

(H.P. 1676) (L.D. 2177) Bill "An Act to Implement the Recommendations of the Joint Standing Committee on State and Local Government Pursuant to Reviews Conducted under the State Government Evaluation Act" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass**

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 and the House Paper was **PASSED TO BE ENGROSSED** and sent for concurrence.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-448)** on Bill "An Act to Require Appropriate Public Notice of a State Building Project"

(S.P. 742) (L.D. 2067)

Signed:

Senators:

PENDLETON of Cumberland

ROTUNDO of Androscoggin

Representatives:

BAGLEY of Machias

McDONOUGH of Portland

HATCH of Skowhegan

LESSARD of Topsham

McLAUGHLIN of Cape Elizabeth

MURPHY of Berwick

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

Signed:

Senator:

YOUNGBLOOD of Penobscot

Representatives:

KASPRZAK of Newport
CHASE of Levant
HASKELL of Milford
CRESSEY of Baldwin

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-448) AS AMENDED BY SENATE AMENDMENT "A" (S-497)** thereto.
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" (S-448)** was **READ** by the Clerk.

Senate Amendment "A" (S-497) to **Committee Amendment "A" (S-448)** was **READ** by the Clerk and **ADOPTED**.

Committee Amendment "A" (S-448) as Amended by Senate Amendment "A" (S-497) 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-448) as Amended by Senate Amendment "A" (S-497)** thereto in concurrence.

Divided Report

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Bill "An Act to Appropriate Funds for a Study to Determine the Feasibility of a Medical School in Maine" (EMERGENCY)

(S.P. 501) (L.D. 1588)

Signed:

Senators:

MARTIN of Aroostook
LONGLEY of Waldo

Representatives:

KANE of Saco
FULLER of Manchester
NUTTING of Oakland
BROOKS of Winterport
LAVERRIERE-BOUCHER of Biddeford
DUDLEY of Portland
O'BRIEN of Augusta
LOVETT of Scarborough

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-500)** on same Bill.

Signed:

Representative:

SHIELDS of Auburn

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

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

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

HOUSE DIVIDED REPORT - Majority (9) **Ought to Pass as Amended by Committee Amendment "A" (H-974)** - Minority (4) **Ought Not to Pass** - Committee on **JUDICIARY** on Bill "An Act to Implement the Majority Recommendations of the Committee to Study Issues Concerning Changes to the Traditional Uses of Maine Forests and Lands"

(H.P. 1599) (L.D. 2100)

Which was **TABLED** by Representative LaVERDIERE of Wilton pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. This bill before us now, as far as I am concerned, deals with basic property rights. You may hear talk as some of us in the committee heard talk about two sets of property rights, the property rights of the leaser and the property rights of the lessee. This has to do with leases.

However, from my perspective on property rights, the owner of the land has primary rights on their property. The person leasing the land only has those rights in property voluntarily transferred from the owner by mutual agreement in a contract. We heard about the legal theory or the bundle of sticks. Where the property owner has those bundles of sticks, which are his rights and property. As a property rights owner in that land, you voluntarily transfer one of those sticks to somebody else in whatever mutual agreement that is. It is a contract between citizens. We, in this bill, are interjecting government into the mutual agreement or their contract arbitrarily. Make no mistake about it, when government does that, they are using the police power of the state to enforce that. Transferring one of those property right sticks from the bundle from the original owner in that property to somebody else. When rights are diminished, regardless of the good intentions, our freedoms in those rights are diminished as well.

I might also point out that this bill will do nothing for those people who thought that their leases would go on forever because of the traditional leasing arrangement in the area where this bill affects. It can't do that. It would be an impairment of contract, from my point of view and I am sure others, would be unconstitutional. The very people who want this bill now know because of their testimony that circumstances have changed in the long-term leasing of those properties. This is prospective. The landowners very well may, if this bill is passed, decide to stop leasing the very land that those people are concerned with.

Property rights, make no mistake about it, are civil rights, no less than freedom of speech. The right to own, use and dispose of property is a fundamental right that is the foundation of our free society. Reduce those rights and put them in the hands of the state and we become slaves subject to the whims of governmental power. Do I have sympathy for people who build structures on leased property and then are told they have to leave within 90 days? Certainly. My brother was one of those. He had a structure on a leased piece of property. He was told that he had to leave in a certain amount of time. He called me up and told me about it. I expressed sympathy, but I said, "Michael, did you learn anything from this?" He said, "Yes, never to do that on leased property again."

The bill gives somebody one year to get the structures off the property instead of 90 days, which is present law. Although it may sound fair for something you might want to do because of your sympathy for someone, put yourself in the other shoes and you are selling a piece of land and now you are told by the state that instead of three months to make a transaction, it is now going to take you a year. That is impairing on your rights to

transfer you property. It is an infringement on your primary rights and property and giving them to somebody else. As I said before, there is talk of two sets of property rights, but the primary rights are in the owner and the transfer of any rights he has in that property should be voluntarily done between him and the person who wants some of those rights. I urge you to vote against the pending motion.

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

Representative LAVERDIERE: Mr. Speaker, Men and Women of the House. The bill before you, as outlined by the good Representative from Bridgton, deals with the question of the extent to which people who lease camp lots will be entitled to remove their property if, in fact, that lease is terminated. This bill does not say that a company cannot terminate the lease. In fact, they can. For many people that own camps in Maine on leased land, and have for generations, these are your constituents, the people who are in many cases mostly from Maine that have leased land all over the north Maine woods and all over the State of Maine for years. If, in fact, the company chooses to terminate their lease, under current law there is no restriction whatsoever on the time frame. Many leases themselves have 90-day periods or 20-day periods or 30-day periods, but there is nothing that says anything in the law with regard to that time frame. If I should own a camp in northern Maine that is only accessible by water and I am given a notice in March that I have 90 days to move that camp, that may be impossible for me to do that, because of ice out, I may not be able to get to it other than by water and I can't remove it over the ice. For a whole variety of reasons that there may be times when a 90-day period is not appropriate in terms of removing that camp from the leased property.

Camp owners from all over the state came to us and said to give us a one-year time period. That is not unprecedented in the law. In fact there is a one-year time period now with regard to mobile home parks. It is the same kind of legislation. It is a one-year notice.

What we did in the committee was to adapt the law so that it would give someone a one-year notice if you intend to terminate a lease and have to remove your property. I would tell you that this bill is not being actively opposed by the industry. We had a number of people there that objected to certain portions of the original bill. We removed those portions of the original bill and what is before you now is something that is not being actively opposed by the people in the industry. That is why you have not heard about it in the halls constantly as I am sure you would if, in fact, this created a very serious problem for a number of these companies.

Finally, I want to tell you that this is something that is extremely important for those of your constituents who have properties that are leased from various companies. I would urge that join with the majority of the committee in supporting this very important piece of legislation. Thank you.

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

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House. The good Chair of Judiciary made a good argument. Unfortunately, I still don't agree with them. You might want to take a little closer look at the bill. The Chair talked about people in Maine, your constituents, and then talked tangentially about the company. This affects anybody that has land in the unorganized territory. That could very well be you, not a big company. It could be your constituent, Maine native, maybe somebody who has had generations of Mainers. If you own 1,000 acres and you lease some of that, you are under this

provision. Make no mistake about it, it is not just big companies against Maine natives.

The other thing about this is that the one year to remove structure under present law can be put into a lease. It is a mutual agreement. You can ask for five years for removal. You could ask for anything you wanted because it was a mutual contract. As I said, this bill is not retroactive. Anybody who has a lease now and it hasn't expired or won't expire for three or four years, that lease will not be detected under this statute.

The other thing the good Representative said was that the industry wasn't fighting this. I don't know how long everybody has been up here, but I have been up here eight years and it has been my observation that a great many times when people who are lobbying against the bill that is so onerous that they are desperate to have something done about it, will finally reach the point where they know they don't have the votes and will take the least of the worst. It doesn't mean they want to see this thing passed. They realize if they fight it any further, they are going to get something worse. That is my perspective on this. I hope you will vote against this Majority Ought to Pass Report.

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

Representative BULL of Freeport **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 Lewiston, Representative Mendros.

Representative MENDROS: Mr. Speaker, Ladies and Gentlemen of the House. I was going to say I will be brief and I didn't intend to speak, but Representative Berry isn't here to notice. I had serious concerns with this legislation when it originally came in. One thing that people need to understand is this gives people with leases one year to remove their property. That doesn't mean a five-year lease becomes a six-year lease. It means that if you were a property owner and you know you have given somebody a five-year lease and you want them off when the lease is up. You have four years to give them that notice. When their lease is up, they don't get any extra time. If you wait until a month before and notify them that you want them off, then, as the good Representative from Wilton pointed out, they need some time because some times it is impossible. It doesn't add an automatic year onto a lease. It merely says that notice has to be given a year earlier.

When you have property that you have leased and you have built property on your leased land, you go in to renew your lease, you are really over a barrel. They can tell you with two weeks left in your lease that they are changing all these stipulations in your lease and if you don't sign onto your new lease, then you only have 90 days to get your property off here. Something needs to be done to protect these people who have built to at least be able to get the structure they put together off the property.

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. 562

YEA - Andrews, Ash, Belanger, Berry DP, Berry RL, Blanchette, Bouffard, Brannigan, Brooks, Bruno, Bryant, Bull, Bumps, Bunker, Canavan, Carr, Chase, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cowger, Cummings, Daigle, Davis, Desmond, Dugay, Duncan, Dunlap, Duplessie, Duprey, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Glynn, Goodwin, Gooley, Green, Haskell, Hatch, Hawes, Heidrich, Honey, Hutton,

Jacobs, Jodrey, Jones, Kane, Koffman, Labrecque, Landry, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Mendros, Michael, Michaud, Mitchell, Murphy E, Murphy T, Muse C, Muse K, Norbert, Norton, Nutting, O'Neil, Paradis, Patrick, Peavey, Pineau, Pinkham, Quint, Richard, Richardson, Rines, Savage, Sherman, Shields, Simpson, Skoglund, Smith, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Trahan, Tuttle, Twomey, Usher, Volenik, Watson, Weston, Wheeler EM, Wheeler GJ, Young, Mr. Speaker.

NAY - Bowles, Buck, Cressey, Foster, Kasprzak, Ledwin, MacDougall, Madore, Nass, O'Brien JA, Perkins, Rosen, Schneider, Stedman, Treadwell, Waterhouse, Winsor.

ABSENT - Annis, Bagley, Baker, Bliss, Crabtree, Dorr, Dudley, Hall, Lovett, Marrache, Morrison, O'Brien LL, Perry, Povich, Tracy.

Yes, 119; No, 17; Absent, 15; Excused, 0.

119 having voted in the affirmative and 17 voted in the negative, with 15 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-974)** 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-974)** and sent for concurrence.

Representative DUDLEY of Portland **WITHDREW** his **OBJECTION** to sending all matters **FORTHWITH**.

Representative DUDLEY of Portland moved that the House **RECONSIDER** its action whereby An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2002 and June 30, 2003

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2080)

(H. "K" H-986 to C.
"A" H-968)

Was **PASSED TO BE ENACTED**.

Subsequently, with unanimous consent of the House, Representative DUDLEY of Portland **WITHDREW** his motion to **RECONSIDER** whereby the Bill was **PASSED TO BE ENACTED**.

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

On motion of Representative BRANNIGAN of Portland, the House adjourned at 7:47 p.m., until 9:00 a.m., Tuesday, March 26, 2002.