

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
SECOND REGULAR SESSION
41st Legislative Day
Tuesday, April 2, 2002

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

Prayer by Chaplain Scott Dow, Augusta Mental Health Institute.

National Anthem by Saco Middle School Band.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

SENATE PAPERS

Non-Concurrent Matter

An Act to Make the Use of Tokens or Tickets for Games of Chance at Agricultural Fairs Optional (EMERGENCY)

(H.P. 1552) (L.D. 2055)

(C. "A" H-853)

PASSED TO BE ENACTED in the House on March 11, 2002.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-853) AS AMENDED BY SENATE AMENDMENT "A" (S-512)** thereto in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

An Act to Update the Department of Defense, Veterans and Emergency Management Laws

(H.P. 1288) (L.D. 1752)

(C. "A" H-837; H. "C" H-946)

PASSED TO BE ENACTED in the House on March 26, 2002.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-837), HOUSE AMENDMENT "C" (H-946) AND SENATE AMENDMENT "A" (S-526)** in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act to Amend the Motor Vehicle Laws"

(H.P. 1406) (L.D. 1844)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-941) AND HOUSE AMENDMENT "A" (H-1009) in the House on March 26, 2002.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-941) AS AMENDED BY SENATE AMENDMENT "A" (S-524)** thereto in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Joint Order Establishing the Joint Select Committee on Research and Development

(H.P. 1711)

REFERRED to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** in the House on March 26, 2002.

Came from the Senate **REFERRED** to the Joint Select Committee on **JOINT RULES** in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Joint Study Order – Relative to Establishing the Task Force to Study the Creation of a Registry of Personal Care Attendants

(H.P. 1671)

PASSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1008) in the House on March 25, 2002.

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

Representative KANE of Saco moved that the House **RECEDE AND CONCUR**.

The same Representative **WITHDREW** his motion to **RECEDE AND CONCUR**.

On further motion of the same Representative, the House voted to **ADHERE**.

Non-Concurrent Matter

Joint Study Order – Relative to the Committee on Workforce Investment

(H.P. 1682)

PASSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1015) in the House on March 26, 2002.

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

On motion of Representative SMITH of Van Buren, the House voted to **ADHERE**.

COMMUNICATIONS

The Following Communication: (H.C. 438)

STATE OF MAINE

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

March 28, 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 bill out "Ought Not to Pass":

L.D. 2060

An Act to Authorize a General Fund Bond Issue in the Amount of \$8,000,000 to Make Public Infrastructure Improvements

We have also notified the sponsor 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. 439)

**STATE OF MAINE
ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON BUSINESS AND ECONOMIC
DEVELOPMENT**

March 28, 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 Business and Economic Development has voted unanimously to report the following bills out "Ought Not to Pass":

H.P. 1702 The Task Force to Study Regulatory Barriers to Affordable Housing
L.D. 2109 An Act to Prevent Price Gouging During Abnormal Market Disruptions

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

Sincerely,

S/Sen. Kevin L. Shorey
Senate Chair
S/Rep. John G. Richardson
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 440)

**STATE OF MAINE
ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

March 28, 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 Education and Cultural Affairs has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 2188 An Act Regarding the Withdrawal of Lake View Plantation from School Administrative District No. 41

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

Sincerely,

S/Sen. Betty Lou Mitchell
Senate Chair
S/Rep. Shirley K. Richard
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 441)

**STATE OF MAINE
ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON LABOR**

March 28, 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 Labor has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 2187 An Act to Provide Equity to Adoptive Parents with Respect to Parental Leave

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

Sincerely,

S/Sen. Betheda G. Edmonds
Senate Chair
S/Rep. George H. Bunker, Jr.
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 442)

**STATE OF MAINE
ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON NATURAL RESOURCES**

March 28, 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. 2176 An Act to Ensure Consistent Regulation of Air Emissions in the State

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: (H.C. 444)
**CITY OF BIDDEFORD, MAINE
205 MAIN STREET
P. O. BOX 586
BIDDEFORD, MAINE 04005**

March 26, 2002

Sen. John L. Martin, Senate Chair
Rep. Scott W. Cowger, House Chair
Joint Standing Committee on Natural Resources
State House Station 115
Augusta, ME 04333

RE: LD 2176 An Act to Ensure Consistent Regulation of Air Emissions in the State

Dear Senator Martin and Representative Cowger:

The City of Biddeford has listened carefully to the concerns and comments of all those who have participated in the public hearing on L.D. 2176. As a result, the City of Biddeford wishes to inform the committee that it is willing to provide an additional public hearing on the Biddeford Air Toxics Ordinance before the full City

that. We have no way to establish it as a pure product. We have no way to measure it as a product. It is not fully understood how it works. Therefore, I would endorse your vote against this resolution to Congress until these things have been determined and this substance can be controlled and properly administered.

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

Representative SULLIVAN: Mr. Speaker, Men and Women of the House. I would ask you to support this. I see no problem in simply sending this. It is the will of the people. We are here to support the will of the people. There has been a referendum on this. It doesn't mean you have to like it, but that is how democracy works. Democracy works by the majority of the vote. This vote was, this is what the people wanted. I would ask you to support it. We have done it in the past and many people say it doesn't really serve any good. It does send a message to the people of the State of Maine that we are willing to try to enforce their will.

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

ROLL CALL NO. 591

YEA - Ash, Berry RL, Bliss, Brannigan, Brooks, Bryant, Bull, Canavan, Chick, Chizmar, Clark, Colwell, Cowger, Cummings, Daigle, Dorr, Dudley, Dugay, Duplessie, Duprey, Estes, Etnier, Fuller, Goodwin, Green, Hall, Hawes, Hutton, Jones, Kane, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Lemoine, Lundeen, Marley, Matthews, McDonough, McGlocklin, McGowan, McLaughlin, McNeil, Mendros, Michael, Michaud, Mitchell, Muse C, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Perkins, Perry, Pineau, Quint, Richard, Richardson, Rines, Savage, Simpson, Smith, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tessier, Tracy, Tuttle, Twomey, Volenik, Watson, Mr. Speaker.

NAY - Andrews, Annis, Belanger, Berry DP, Blanchette, Bouffard, Bowles, Bruno, Bumps, Bunker, Carr, Chase, Clough, Collins, Cote, Crabtree, Cressey, Davis, Duncan, Dunlap, Foster, Gagne, Glynn, Gooley, Haskell, Hatch, Heidrich, Honey, Jacobs, Jodrey, Kasprzak, Ledwin, Lessard, Lovett, MacDougall, Madore, Mailhot, Marrache, Mayo, McKenney, Morrison, Murphy E, Murphy T, Muse K, Nass, Nutting, O'Brien JA, Peavey, Pinkham, Povich, Rosen, Schneider, Sherman, Shields, Stedman, Tobin D, Tobin J, Trahan, Treadwell, Usher, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Young.

ABSENT - Bagley, Baker, Buck, Desmond, Fisher, Gerzofsky, Landry, McKee, Skoglund, Thomas.

Yes, 75; No, 66; Absent, 10; Excused, 0.

75 having voted in the affirmative and 66 voted in the negative, with 10 being absent, and accordingly the Joint Resolution was **ADOPTED**.

Sent for concurrence.

On motion of Speaker SAXL of Portland, the following Joint Resolution: (H.P. 1728) (Cosponsored by Senator LONGLEY of Waldo and Senators: President BENNETT of Oxford, President Pro Tem MICHAUD of Penobscot)

JOINT RESOLUTION ENDORSING TAIWAN'S PARTICIPATION IN THE WORLD HEALTH ORGANIZATION

WHEREAS, good health is essential to every citizen of the world, and access to the highest standards of health information and services is necessary to improve public health; and

WHEREAS, the World Health Organization (WHO) set forth in the first chapter of its charter the objective of attaining the highest possible level of health for all people; and

WHEREAS, the achievements of Taiwan, the Republic of China, in the field of health are substantial, including having one of the highest life expectancy levels in Asia, having maternal and infant mortality rates comparable to those of western countries, eradicating infectious diseases like cholera, smallpox and the plague, and being the first country in Asia to eradicate polio and provide children with Hepatitis B vaccinations; and

WHEREAS, the United States Centers for Disease Control and Prevention and its Taiwanese counterpart agencies have enjoyed close collaboration on a wide range of public health issues; and

WHEREAS, in recent years, Taiwan has expressed a willingness to assist financially and technically in international health activities supported by the WHO; and

WHEREAS, direct and unobstructed participation in international health forums and programs is critical to limit the spread of various infectious diseases and to achieve good world health; and

WHEREAS, the European Parliament called on the World Health Assembly, in Geneva, Switzerland, to accept observer status for Taiwan and on its member states to support the application of Taiwan as an observer to the WHO; and

WHEREAS, the United States Congress has authorized the United States Secretary of State to endorse observer status for Taiwan at the World Health Assembly and President Bush and members of his administration have voiced support for Taiwan's participation in the WHO; 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 we represent, take this opportunity to commend and support the efforts of Taiwan, the Republic of China, on its application as an observer to the World Health Organization; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to President George W. Bush, the Secretary of Health and Human Services, the Director-General of the World Health Organization, the Director General of the Taipei Economic and Cultural Office in Boston and the Members of the Maine Congressional Delegation.

READ and ADOPTED.

Sent for concurrence.

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

On motion of Representative DUNLAP of Old Town, the following Joint Order: (H.P. 1729)

ORDERED, the Senate concurring, that Bill, "An Act to Amend Maine's Wild Turkey Hunting Season," S.P. 721, L.D. 1923, and all its accompanying papers, be recalled from the Governor's desk to the House.

READ and PASSED.

Sent for concurrence.

On motion of Representative JONES of Greenville, the following Joint Order: (H.P. 1727) (Cosponsored by Senator SAVAGE of Knox and Representatives: BUNKER of Kossuth Township, CLARK of Millinocket, DUGAY of Cherryfield, HALL of Bristol, STANLEY of Medway, Senators: CATHCART of Penobscot, DAVIS of Piscataquis, MARTIN of Aroostook)

ORDERED, the Senate concurring, that the Task Force on Rail Transportation is established as follows.

1. Task force established. The Task Force on Rail Transportation, referred to in this order as the "task force," is established to develop a rail transportation policy for the State.

2. Membership. The task force consists of 12 members appointed as follows:

A. Two members of the Joint Standing Committee on Appropriations and Financial Affairs, one of whom is appointed by the President of the Senate and one of whom is appointed by the Speaker of the House;

B. Three members of the Joint Standing Committee on Business and Economic Development, 2 of whom are appointed by the President of the Senate and one of whom is appointed by the Speaker of the House;

C. Three members of the Joint Standing Committee on Transportation, one of whom is appointed by the President of the Senate and 2 of whom are appointed by the Speaker of the House;

D. One member representing the Board of Directors of the Maine Port Authority, appointed by the President of the Senate;

E. One member representing railroad shippers, appointed by the Speaker of the House;

F. One member representing an airport that currently is integrated with an existing rail system, appointed by the President of the Senate; and

G. One member representing the Northern New England Passenger Rail Authority, appointed by the Speaker of the House.

3. Task force chairs. 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 of the Second Regular Session of the 120th Legislature. 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 June 15, 2002.

5. Duties. The task force shall:

A. In cooperation with the Commissioner of Transportation, develop a rail transportation policy and plan that integrates rail, highway, marine and air transportation into an efficient and cohesive system for the entire State that best meets the needs of Maine citizens and Maine businesses;

B. Develop visions for an integrated transportation system to be established in 5 and 10 years, and beyond, as far as practicable, and develop the steps that must be taken to achieve each vision within each specified time period;

C. Develop emergency and backup plans for railroads that are confronted with the possibility of bankruptcy, significant financial problems or significant reductions in service;

D. Review and evaluate current transportation system policies and plans;

E. Identify any obstacles to the successful implementation of current and proposed transportation system policies and plans;

F. Determine the resources, including "personal services," "capital" and "all other" funding, needed to achieve each vision, including the means by which these resources can be made available; and

G. Create a plan for educating the Legislature and the public with respect to the transportation plans and policies developed by the task force.

6. Meetings. The task force may meet a maximum of 4 times.

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

8. 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.

9. Report. The task force shall submit a report that includes its findings and recommendations, to the Legislative Council by November 6, 2002.

10. 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.

11. 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's budget, expenditures incurred and paid and available funds.

Reference to the Committee on **TRANSPORTATION** suggested.

READ and **REFERRED** to the Committee on **TRANSPORTATION**.

Sent for concurrence.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

David Gonyea, Head Coach of the Central Maine Technical College Men's Basketball Team, who has been named the United States Collegiate Athletic Association's Athletic Director of the Year. We commend him on his excellence and extend our congratulations to him on his achievement;

(HLS 1067)

Presented by Representative SHIELDS of Auburn.

Cosponsored by Senator DOUGLASS of Androscoggin, Representative BERRY of Livermore, Representative BOUFFARD of Lewiston, Representative CHIZMAR of Lisbon, Representative COTE of Lewiston, Representative GREEN of

Monmouth, Representative HEIDRICH of Oxford, Representative JACOBS of Turner, Representative MAILHOT of Lewiston, Representative MENDROS of Lewiston, Representative MICHAEL of Auburn, Representative O'BRIEN of Lewiston, Representative SCHNEIDER of Durham, Representative SIMPSON of Auburn, Representative SNOWE-MELLO of Poland, Senator NUTTING of Androscoggin, Senator ROTUNDO of Androscoggin, President BENNETT of Oxford.

On **OBJECTION** of Representative SHIELDS of Auburn, was **REMOVED** from the Special Sentiment Calendar.

READ and **PASSED** and sent for concurrence.

Recognizing:

the following members and coaches of the Central Maine Technical College Men's Basketball Team, the Mustangs, who reached a milestone in Maine intercollegiate athletics history in basketball when the United States Collegiate Athletic Association Division 2 awarded the team the National Title on March 9, 2002: Ryan Myles; Joshua Berard; Joshua Hodgkins; Shaun Lewis; John Csoros; Darren Winchenbach; Nicholas Hamel; Patrick Dempsey; Captains David Brown and Daniel Graham; Rory Dupuis; Assistant Coaches Geoff Robbins, Jim Foy, Todd Crossley and Chris Cormier; Manager Kelley Cormier; and Head Coach David Gonyea, also named the United States Collegiate Athletic Association's Athletic Director of the Year. This is the first team in the State to obtain a national title in basketball from any collegiate conference. We commend the team on its excellent achievement and extend our congratulations;

(HLS 1068)

Presented by Representative BERRY of Livermore.

Cosponsored by Senator DOUGLASS of Androscoggin, Representative BOUFFARD of Lewiston, Representative CHIZMAR of Lisbon, Representative COTE of Lewiston, Representative GREEN of Monmouth, Representative HEIDRICH of Oxford, Representative JACOBS of Turner, Representative MAILHOT of Lewiston, Representative MENDROS of Lewiston, Representative MICHAEL of Auburn, Representative O'BRIEN of Lewiston, Representative SCHNEIDER of Durham, Representative SHIELDS of Auburn, Representative SIMPSON of Auburn, Representative SNOWE-MELLO of Poland, President BENNETT of Oxford, Senator NUTTING of Androscoggin, Senator ROTUNDO of Androscoggin.

On **OBJECTION** of Representative BERRY of Livermore, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. This year Central Maine Technical College in Auburn on the shores of beautiful Lake Auburn hosted the United States Collegiate Athletic Association Division II Basketball Tournament. Twenty-two teams from around the country participated. Central Maine Technical College did not have a player taller than 6 foot 3. In a 72 hour span, four teams had a chance to knock Central Maine Technical College System out of the tournament and none succeeded. Central Maine Technical College became the first college or university from Maine to win a national basketball championship. The United States Collegiate Athletic Association has granted Central Maine Technical College its Division II Men's and its Division I Women's national tournaments throughout the year 2004. I give my congratulations to this outstanding achievement of this school's

athletes, their coaches and the support from the school administration.

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

Representative **BERRY**: Mr. Speaker, Men and Women of the House. The good Representative stole most of my lines. I have been here eight years and I was almost going to leave without standing to speak to a basketball team sentiment. I want to add my congratulations to this team. There was a nice article in the *Sun Journal* the other day talking about their work ethic, their team spirit, their cooperation and their determination. I think they make us proud. I think for the Androscoggin County Delegation, I think we are all proud of the Technical College Team and their success. Again, congratulation and thank you.

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

Representative **BOUFFARD**: Mr. Speaker, Men and Women of the House. I, too, rise to congratulate this wonderful team on their effort. This is not the first time that CMTC has proven themselves quite athletic. Congratulations to this team and to their coach and to the Central Maine Technical College.

The **SPEAKER**: The Chair recognizes the Representative from Lewiston, Representative Cote.

Representative **COTE**: Mr. Speaker, Ladies and Gentlemen of the House. It gives me great honor to rise and congratulate CMTC's men's basketball team. I, too, was a member of CMTC back in 1991 and 1992. I was also a mustang. I get up and I congratulate the mustangs for winning the national title. I, too, will be going back CMTC soon to finish and get my degree. It is a great honor to have my name on this sentiment. I wish the basketball team a good year next year and the year after. Congratulations, gentlemen.

PASSED and sent for concurrence.

Recognizing:

Kristy Marie Veazie, of Dexter, for her accomplishments in high school field hockey as well as being an excellent honor student. Kristy has lettered in field hockey all 4 years of high school and has been named to numerous all-state teams, including being named Player of the Year by the *Portland Press Herald*. She holds the state single-season scoring record of 34 goals and the state career scoring record of 102 goals. We extend our congratulations to Kristy Marie Veazie for her achievements and wish her success on all her future endeavors;

(HLS 1074)

Presented by Representative TOBIN of Dexter.

Cosponsored by Senator DAVIS of Piscataquis.

On **OBJECTION** of Representative TOBIN of Dexter, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Dexter, Representative Tobin.

Representative **TOBIN**: Mr. Speaker, Ladies and Gentlemen of the House. It is a distinct honor and privilege this morning to honor another Maine state champion, Kristy Veazie of Dexter and the other players of the Dexter Regional High School Field Hockey Team who have won the State Class C Championship three times out of the last four years. I had Kristy's mother in school some 30 years ago, give or take a couple of years. I won't say the exact number. Her mother was Margaret Clark at that time and she was also an excellent student and probably one of the most highly competitive young ladies that I had an opportunity to stand before. Christy has not only established new state records with 34 goals in a single season and 102 career scoring

goals, she has shattered the previous record and is the most likely, to the best of my knowledge, these records may remain for some time. Kristy is also an honor student. She is very active in her community. It is indeed a privilege to honor her this morning. I wish her and the other members of the team the best of luck in all their future endeavors. Thank you Mr. Speaker.

PASSED and sent for concurrence.

Recognizing:

the following members of the Gardiner Area High School Ice Hockey Team, who have won the 2002 Eastern Maine Class B Hockey Championship: Troy Cobb, Ken Jackson, Ryan Jean, Chris Rogers, Mike Trimm, Nate Ellis, Luke Gould, Ben Brown, Shawn Kelley, Kevin McKay, Scott Moulton, Justin Stangel, Mike Capen, Travis McGuire, Ben Kramer, Justin Lebourdais, Shane Lahaie, Mike Patrick, Tad Nelson, Mallory Nutting, Spencer Lahaie, Manager Lianna Gorneau, Coach Chris Buck and Assistant Coach K.C. Johnson. We extend our congratulations to all members of the team on this victory and extend our best wishes on their future endeavors;

(HLS 1129)

Presented by Representative COLWELL of Gardiner.

Cosponsored by Senator TREAT of Kennebec, Representative COWGER of Hallowell, Senator KILKELLY of Lincoln, Representative WATSON of Farmingdale, Representative RINES of Wiscasset, Representative MITCHELL of Vassalboro, Senator DAGGETT of Kennebec.

On **OBJECTION** of Representative COWGER of Hallowell, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. It gives me great pleasure to introduce the 2002 Eastern Maine Class B Hockey Champions to this chamber. I have known many of them since they were little Adams, Squirts and Mites. They were winners then when they were little kids skating around the ice, barely able to do it and they are winners today. This is the second year in a row that our high school has won the Class B Eastern Maine championship. These days when we honor our athletic teams, on a day like today, it is an honor and it is an even about community and it is an event about team work, hard work and I think more importantly about character. I just want to congratulate them on being the winners they are. Our community is proud of them. Although the good Representative from Yarmouth, Representative Buck, is not here today, I want to make him aware that for two years it has been a tough road with Yarmouth, but he is term limited this time and it is a good thing because we are only retiring four seniors from this team and next year the Gardiner Tigers will be back and it will be a successful year for us again. I urge the House to join me in welcoming these young men here. Thank you Mr. Speaker.

PASSED and sent for concurrence.

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

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Resolve

Report of the Committee on **TAXATION** on Bill "An Act Relating to Tax Expenditure Review and Other Tax Reporting Requirements"

(S.P. 828) (L.D. 2210)

Reporting **Ought to Pass** pursuant to Resolve 2001, chapter 17, section 2.

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

Report was **READ** and **ACCEPTED**. The Bill was **READ ONCE**.

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

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

Ought to Pass Pursuant to Joint Order

Representative RICHARDSON from the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Create the Maine Rural Development Authority"

(H.P. 1724) (L.D. 2212)

Reporting **Ought to Pass** pursuant to Joint Order 2001, H.P. 1610.

Report was **READ** and **ACCEPTED**. The Bill was **READ ONCE**.

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

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

Representative TUTTLE from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Include a Woman Veteran on the Board of Trustees of the Maine Veterans' Homes"

(H.P. 1723) (L.D. 2211)

Reporting **Ought to Pass** pursuant to Joint Order 2001, H.P. 1689.

Report was **READ** and **ACCEPTED**. The Bill was **READ ONCE**.

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

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

Representative LEMOINE from the Committee on **MARINE RESOURCES** on Resolve, Dealing With One-time License Transfers of Sea Urchin Drugging Licenses (**EMERGENCY**)

(H.P. 1726) (L.D. 2213)

Reporting **Ought to Pass** pursuant to Joint Order 2001, H.P. 1705.

Report was **READ** and **ACCEPTED**. The Resolve was **READ ONCE**.

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** and sent for concurrence.

Divided Report

Majority Report of the Committee on **LABOR** reporting **Ought Not to Pass** on Bill "An Act to Implement the Recommendations of the Workers' Compensation Board Governance Study" (S.P. 789) (L.D. 2133)

Signed:

Senator:

EDMONDS of Cumberland

Representatives:

BUNKER of Kossuth Township

MATTHEWS of Winslow

HUTTON of Bowdoinham

NORTON of Bangor

SMITH of Van Buren

TARAZEWICH of Waterboro

DAVIS of Falmouth

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-486)** on same Bill.

Signed:

Senators:

TURNER of Cumberland

SAWYER of Penobscot

Representatives:

TREADWELL of Carmel

MacDOUGALL of North Berwick

CRESSEY of Baldwin

Came from the Senate with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-486)**.
READ.

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

ENACTORS

Emergency Measure

An Act to Enhance Economic Development Capacity (S.P. 337) (L.D. 1144) (C. "B" S-517)

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

Representative RICHARDSON of Brunswick **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.

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

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

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

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

Representative **WATERHOUSE**: Mr. Speaker, Men and Women of the House. I see on this piece of legislation there is a pretty hefty fiscal note. It is about \$4 million. Could somebody in the House tell me where that money is supposed to come from?

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

Representative **RICHARDSON**: Mr. Speaker, Men and Women of the House. To answer that question, there are a number of items in here which we hope will have an opportunity to compete down on the table. That is where we hope the money will come from. If ultimately the table does not have enough money, then this measure fails. It gives it an opportunity to go down and compete.

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. 592

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

NAY - Crabtree, Cressey, Foster, Kasprzak, Labrecque, Ledwin, Lovett, MacDougall, Stedman, Waterhouse, Weston, Winsor.

ABSENT - Bagley, Baker, Buck, Gerzofsky, Goodwin, Landry, Madore, McKee, Perry.

Yes, 130; No, 12; Absent, 9; Excused, 0.

130 having voted in the affirmative and 12 voted in the negative, with 9 being absent, 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 3: Maine Clean Elections Act and Related Provision Amendments, Major Substantive Rules of the Commission on Governmental Ethics and Election Practices

(H.P. 1684) (L.D. 2183)

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. 113 voted in favor of the same and 10 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Acts

An Act to Provide Maine State Retirement System Representation on the State Employee Health Commission (S.P. 817) (L.D. 2198)

(C. "A" S-516)

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 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)
(S. "A" S-515)

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

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

UNFINISHED BUSINESS

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

Resolve, Regarding Legislative Review of Portions of Chapter 750: Standardized Health Plans, Part II HMO Guidelines, a Major Substantive Rule of the Department of Professional and Financial Regulation (EMERGENCY)

(H.P. 1635) (L.D. 2138)

TABLED - March 22, 2002 (Till Later Today) by Representative COLWELL of Gardiner.

PENDING - FINAL PASSAGE.

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. 115 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.

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

ORDERS

On motion of Representative GLYNN of South Portland, the following Joint Order: (H.P. 1730)

ORDERED, the Senate concurring, that the Joint Standing Committee on Appropriations and Financial Affairs report out, to the House, a bill, "An Act to Transfer \$3,500,000 from the Maine Learning Technology Endowment to the General Purpose Aid Cushion."

Reference to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested.

READ.

Representative GLYNN of South Portland moved that the Joint Order be **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. Before you is Supplement 1, (4-1). What it is is an order asking that the Appropriations and Financial Affairs Committee report out a bill to transfer \$3.5 million from the Learning Technology Endowment Fund to the general purpose aid to education cushion. When the budget vote was complete, I was approached by a number of my constituents and a number of members of this body who were very concerned about how we left the state of affairs of the state following the supplemental

budget. We have under general purpose aid for education, under the funding formula distributions, 99 school districts in the State of Maine who have lost money from last year as a result of our budget and the applications through the school funding formula. One hundred and eighty-one made out a little bit better. Those districts that have been affected are suffering from enormous cuts in their local school budgets and our local school boards are now grappling with the effects of that budget. One of the problems with several of the amendments that were offered was a fear on the part of many members of this body as expressed on the floor that any amendment made to the budget would unravel the budget deal. Because putting through the budget was of a high priority in this chamber, members chose not to tack on any budget amendments. However, the budget has been settled and that is over. We can now look as a fresh day at where we stand as a state on our funding for general purpose aid for education, look at the losses for those 99 school districts and look at the funding that we have left over in the Maine Learning Technology Endowment Fund and set a priority. Should our one-time appropriations of \$3.5 million, should that be for additional laptop computers or should it be for the one-time education purpose of a general purpose aid cushion for those districts that are going to be cut as a result of the action for the 120th Legislature. I believe that we support education as a chamber. I believe we would support keeping our school districts whole and I believe that we should send a resounding message to the Appropriations and Financial Affairs Committee that we want an opportunity to vote this item up or down, not tied to other issues. Thank you Mr. Speaker. Mr. Speaker, when the vote is taken, I respectfully request the yeas and nays.

The same Representative **REQUESTED** a roll call on the motion to **REFER** the Joint Order to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

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, May I pose a question through the Chair?

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

Representative **DAIGLE**: Mr. Speaker, Men and Women of the House. Just thinking about these problems with these various school districts throughout the state and I use, for example, the one from my good friend from South Portland. I see from the education report that cost per student in South Portland, for example, was \$6,621.00 per student in the years 1999 to 2000, whereas in my district it was only \$4,799.00 per student. It is 37 percent less than it is in South Portland. I was wondering if that is still the case?

The **SPEAKER**: The Representative from Arundel, Representative Daigle has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Biddeford, Representative Sullivan.

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. It will not come to the surprise of anyone here that I would support this. I support it, not because my system is losing money. I support it from an educational belief that if we indeed believe that education is the one thing that will move us forward, if you truly believe that all children receive an equal chance to be successful, if you truly believe we are only as strong as our weakest member or unit, I believe we must look at an ongoing program versus a new program that has four years funding for total unregulated, unsupervised implementation. There is no demand that it come back and report for an analysis of how effective it is. There is no planned issue for the way it will

be put together in each school. My first term in this House we arranged for some cushion to hold Lewiston and other losers. Isn't it amazing that we find it okay to ask school systems to be losers? The way we are going to be successful, we fund losers and winners. It goes against every single principle of education.

As you know, we had an amendment in this House that came very close to winning. The voice of the constituents, the voice that said all children, regardless as far as South Portland versus Arundel and what we spend per child, we would not have some of these big losers if we did not have a problem with special education. Take a look at your larger school systems. Take a look at the fact that 31 languages are spoken in the Portland School System. Think of the extra caseworkers. Think of the extra special ed needs. We are not moving this system forward. We are not moving this state forward when we purposefully vote for something that will allow a vast number of our student to be treated unfairly.

The system is flawed. I hear that again and again and again. The formula is flawed and yet we refuse as adults to do anything about it. The children should suffer because the system is flawed. We have tweaked it so many times. If we have money for tax reductions, if we have money for health care, if we have money for so many things, then we have money to somehow cover the losers. If it were your child or your grandchild, you would not want a system that was known as the losers. We don't want to fund education. It sounds good out on the campaign trail. Education is very important. We get here and we say, let's continue to fund a flawed system. I ask you to support this Joint Order and let us vote for it either up or down. It is not only about a system of education, a formula that everybody admits is flawed, but it is about children and the key to success. It is about fairness and honesty and it is about a chance to set the record straight on how this chamber wants to support their constituents and not what the Chief Executive wants to insist on. I ask you to please vote this in. Let's have this debate and let's do what is right for all students. Thank you.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative Wheeler.

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. It is pretty sad reading the paper everyday now and seeing how many teachers are going to be laid off from different school districts. It is a fact folks. Just this morning I read of a strong town that has to lay off teachers because of a loss of revenues from the state. This Joint Order is perfect. It needs to be heard on the Appropriations Committee. The deals are done on the budget. The budget is closed. Let's move forward and try to represent our constituents. Could I pose a question? To anyone who might answer, I would like to know how many teachers are going to be laid off compared from South Portland to Arundel after this last budget that was just passed?

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. In answer to the good Representative's question, in my school district in South Portland, we are looking at a layoff of 35 teaching positions. As a result of the funding cuts that have been directed by this Legislature back home, I understand that the Portland School District is looking in the vicinity of 60 or 65 teachers laid off. I am unaware in the school district of Arundel who received an increase in subsidy if they are laying anyone off. My best guess would be that is false. That would not be happening.

Mr. Speaker, if I may continue?

The SPEAKER: The Representative may proceed.

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. One of the most fascinating things about personalities and dynamics in the Legislature, I realized my first term up here that when I came up here and I realized that there were actual people that believed that certain towns are rich and other towns are poor. I just found it absolutely amazing. I have met individuals that are just convinced that towns in southern Maine are rich. I have met other people that just believe the towns are absolutely poor. That is just an absolute falsehood. We have rich and we have poor people in every community.

I would like to share with you the effects of some of these people. In my district down in South Portland, if you go over by the mall we have a tenement over there. It is called Red Bank Village. It houses about 550 families. The children of that school district all walk to their local neighborhood school. Our free lunch program is taken advantage of by a number of the school children there because their families can't afford to buy a school lunch. Additionally, in that neighborhood school, we have a great program that we have offered for lock key children. Children who when they leave school at the end of the day their parents, a lot of them are from single homes, and when they get out of school there is no parent to be home and their parents can't afford a babysitter. They come home to apartments where there are no adults or no adult supervision and we have actually found that we had families where the child would come home and just lock themselves into their apartment. These are some of the problems that we have had in our area. I can tell you that rents have increased down in our district as a result of the property tax increases that we have forwarded back to the school district as a result of this. Rents are now around \$900 a month and they are the most affordable apartments. It has now put it outside of being reimbursable for Section 8, federal assistance for subsidized housing. What we have done is we have impacted this school district, the one I represent, by raising the cost of rent through tax increases because we cut funding and we also have cuts in programs and cuts in staff for our kids.

You might think and look at the Maine Mall and say, there is the wealthiest city I have ever seen in my whole life. Maybe that is a big building. There is no question about it. I served on our town council down in South Portland and I can tell you almost every dollar that comes in from the taxes that the Maine Mall pays goes right back out for road improvements, police protection and fire protection and it is a break even proposition down in our municipality. You would believe a child, whether they are at the top of the state, the bottom of the state or the middle of the state, they deserve an equal chance at public education. If you agree and if you believe they deserve an equal chance at public education, you will support this order. If you believe that towns are absolutely rich and wealthy beyond imagination and that there aren't any poor people that live in cities like the City of South Portland and you look at life that way, then you can vote against it. I think prudent minds and prudent legislators will realize that we have rich and we have poor everywhere you go. Thank you.

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

Representative **QUINT**: Mr. Speaker, Men and Women of the House. I also want to get up and speak about the notion that some of the southern cities are rich and some people joke that the streets of Portland are paved in gold. I want to tell you that is not true. For those of you who are interested, 45 percent of the students in Portland, attending Portland schools, qualify for the federal school lunch programs. All the people that could afford to live in Portland are now living in the suburbs because their

property taxes are cheaper because of sprawl and all those things that we talk about here in the chamber. I just want to go on record as saying that I represent, the delegation represents 45 percent of the kids who qualify for the federal school lunch program. That is a national indicator of students and their parent's ability to pay and buy their own lunches and bring their lunches to school. That is one of the reasons why I supported the laptop program. We do represent a lot of very poor children in the City of Portland because they can't afford computers at home.

I represent places like Kennedy Park, Park Street and Sherman Street with a lot of very poor families that are struggling to get by. I have to say that the people I represent are not wealthy at all. I think it is very important that we once again reconsider this. I also want to say that it is not either or. This discussion about taking \$3.5 million out of the fourth year of the laptop program isn't going to bring the laptop program to a stand still. I believe in the laptop program. I think it is going to be so successful that when we come back in the next session, there is going to be so much public pressure so that other schools can get their laptops because they have been so successful in all the pilot programs across the state. I think we will find that to be true. I have always supported that. I also think it is fair to say that the assumption that southern Maine communities are rich and they can raise their property taxes to make up the difference is not a fair statement. Maine is a poor state, in general, and I think we all have our concentrations of them in our own districts, but I think that Portland, as a rule, based on the federal school lunch program, 45 percent are at poverty or lower. Thank you Mr. Speaker.

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

Representative **MUSE**: Mr. Speaker, Men and Women of the House. I apologize for rising and I will be brief. I felt compelled to rise when my good friend from South Portland introduced this bill. There are so many with so many needs. This bill is truly for the children. It is fiscally responsible and I think it is the right thing to do. We heard today how sad it is that teachers will be laid off. I think it is equally sad, in fact, discouraging, when we turn on the news and see that constituents are picketing in front of member's homes. I have never seen that happen in the years that I have been here. Your constituents are speaking very loudly. I don't like the idea that this conversation this morning is turning into a north south all about Portland, because this issue is not about Portland. This is about education, the education of the children of the State of Maine. Two votes was all it would have taken a week ago. I understand there were people concerned about the entire budget package falling apart. That is not going to happen now. The budget is in. It is passed. Let's move on. This is the right direction to move in.

Three and a half million dollars, as it has been said, is not going to cripple the laptop program. In fact, the program will move on. I believe wholeheartedly that when we come back here the two years that those students will have those laptops are going to prove the value of those laptop computers. I stand before you today hoping that you will follow my light and do the right thing. Thank you Mr. Speaker.

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

Representative **MCDONOUGH**: Mr. Speaker, Men and Women of the House. I will be very brief. I tend to concur with everything that has been said about this issue. I have empathy for all the communities that are involved that are losing school funding. My community and your communities are hemorrhaging. Portland is hemorrhaging. I look at Casco Bay

and it looks like a red sea. It is an issue that we need to deal with. I hope when we come back here in the next Legislature that we will deal with it and try to make the funding formula more fair to everybody. We are all in the same boat here. Nobody wants to see his or her communities lose one dime. That is understandable. I don't want to see my communities do that. I had to say that to the body. I think it is very, very important that we do the right thing for education. Representative Sullivan brought up an awful lot of good points. I hope that you all listened to her and the next time around we will do something about it. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Medway, Representative Stanley.

Representative **STANLEY**: Mr. Speaker, Ladies and Gentlemen of the House. I rise today to support the people from Portland. I live in Medway, which is 180 to 200 miles away from Portland. I have the same problems and concerns as the people of Portland have. What they are losing is about the same amount of money that I am losing. I am losing about \$100,000, three teaching positions and I don't exactly know for sure how many positions down in Portland, but I will tell you what. It is sad when we are here representing the people of the State of Maine and trying to do the right thing here and we are not adequately funding the education of our citizens that need the help. These are the children. We all talk about college educations, but in order to get a college education, you have to have the basics. We are letting some of the basics slide by here. When you take a city like Portland that is going to lose 30 or 35 teachers, it is the kids that are really going to hurt. It is just like up in Medway. I am going to lose three teachers. That is going to hurt. You are losing more of the one on one contact that you have with your students. They are our future. The kids in school today are our future. What we have to do is provide them with all the tools necessary to be able to go out in that world and go to college and get the education that we want them to have to be productive citizens in the State of Maine. When we are not adequately funding the needs of these children, the children are losing. Overall we are the losers. When we get ready to retire, a lot of these kids probably won't even be working, because they will not have the education to go with them.

The other thing I would like to say is coming from the area where I come from and you are all starting to feel the same effects, we are in a recession. We are losing jobs here. Every time you lose a job, there is somebody out there with a home that has to pay property tax. Every time he pays that property tax, it is coming out of the pocket of that family. There more and more that we do away with so that people have to pay these types of taxes, you are running into all types of social problems with these kids because they are not getting the education that will be needed, because we, as adults, are not funding the programs adequately. It is my belief that we ought to be doing this. I think Representative Glynn has a good proposal here. I think we ought to start moving forward here. I will tell you what, when we lose our youth, we lose ourselves. They are our future. What affects Portland will affect Medway and all kinds of other places throughout the state. I will say it again, unemployment is hitting these areas too. When that property tax bill comes in and there is no money to pay for the property tax, because these communities had to raise more dollars, then I will tell you what, we are all losers. I don't want to be in that position and I think this is a good time to do this. I fully recommend that you support this. Thank you.

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

Representative **CUMMINGS**: Mr. Speaker, Ladies and Gentlemen of the House. Two-thirds of you in this room are probably saying, why should I care? Most of us were winners in the recent budget negotiations. As a student of history, we might be reminded that in the last 10 years we have seen an enormous cycle of changes within the impacts of school funding. When a Senator from Aroostook County spoke to us and said to us, yes, when you called us for a cushion five years and we called you for a cushion, we accepted that challenge. We accepted that challenge to give you the help that you needed and we did it.

Right now an opportunity exists to show true compassionate integrity around this issue. We are not asking for a hold harmless. We are simply asking for a balance of educational priorities. Here today we have an opportunity to say to the Chief Executive, you must play by the same basic rules that we all play by. You are committed to a biennium budget. In four years you cannot anticipate that you can pull out \$25 million simply for a project just because you like it. You must play by the same rules. We, as members of the Education Committee, or at least I am required, that it is best for us to balance out our educational priorities in the interest of all students. We will still lose money, but we will not do it a way that is unnecessarily harsh to the students of this state. I urge that your compassion be with us today. Please know that in four or five years if evaluations go up in the rest of the state, which they are bound to do, when you come knocking on my door in four or five years to ask for mercy and compassion, it will be there.

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

Representative **TWOMEY**: Mr. Speaker, Ladies and Gentlemen of the House. I have sat here listening to the debate and I hear about how we care about education, but we haven't made it our priority. When we have to have these last minute amendments, we haven't gotten our message across. The Chief Executive's priority has not been school funding. It has been laptops. God knows that we have tried and tried and tried to bring the message home that we need teachers, schoolbooks and we need to educate our children. Every one of us brings home that guilt. Until we find courage and political will to stick to our guns and say that school funding really is our priority, this is what is going to happen. Thank you.

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

Representative **MORRISON**: Mr. Speaker, Ladies and Gentlemen of the House. Just a couple of points. I would be repeating myself last time we went around this laptop issue. Your decision, again, comes down to either biting the bullet here or passing the costs onto the local districts. They are going to have to make decisions on either cutting costs, increasing taxes or both. We don't seem to want to do that here. The Representative from Arundel mentioned the per pupil cost differentiation between Arundel and South Portland. I am not sure if Arundel has the lowest per pupil cost in the state. I forget what the figure was that he mentioned. You can turn that around the other way and maybe there is a district out there that has per pupil cost of \$3,500. Should we suggest that Arundel be brought down to the \$3,500 level because they are apparently doing an excellent job in that other district? You can't do that. There is a difference in cost. For example, it costs more to live in Portland and South Portland area. There are factors in there that those local school boards are making decisions based upon the best knowledge they have in their area. If you were a local person

and you have a problem, you would go to your local school board and say, you are part of that community. You take part and you can help reduce those costs if you think that is the problem. For me to sit back here and say South Portland is spending too much and Arundel is not spending enough or whatever, I feel uncomfortable with that. The same thing with town to town. I live in a town. I can go to my down town meeting. I can make suggestions of where I think the cuts should be made, but to look down the road and tell the other town that they are not doing it right, you just can't do it.

The laptop, as I said before, should be a pilot project. Some have more faith than I do. I was in education. I am not sure to what extent the laptops will actually work. Try the pilot project. I don't see taking \$50 million, down to \$30 million and I guess we have spent \$5 million now. If it works, fine, then this will be the answer to education. We will pump all kinds of money into it and give laptops or main frames or any other kind of technology that we think we might need. There was a report that I read not too long ago that Silicone Valley, the hotbed of technology, and it pumped all kinds of technology in the schools. The teachers aren't doing anything different than they did 20 years. They have done it for the past 20 years out there in California. It may become a learning tool. In other words, the kids will pick up and use those things, but I am concerned about to what extent it will be a teaching tool. To what extent will the teachers actually use those laptops for a teaching tool? That is a concern I have. I would like to see that. I guess I am from Maine, but people from Missouri use the term, I want to be shown. Instead of just pumping all kinds of money and letting those laptops just sit there in schools and not be effectively used, I have a problem with that.

Education funding is a key thing. We do need to fund education appropriately in this state. I heard someone say that it is one-time money. We kind of shot that out of the water last year. We are using one-time money. We have used some of the laptop money last year and we are using the Rainy Day Fund. We used some last year and we used some this year. We are using one-time money. I can't see a better place to put one-time money than into a sure thing the education costs that we know is out there and is in need or with the hope for success of laptops that we are not sure of.

The north south thing, it isn't a north south as far as I am concerned. Students are students, I don't care if they are in Portland, Fort Kent or Baileyville or wherever. I don't care because students are students. Taxpayers are taxpayers whether they pay their taxes in Portland or if they pay their taxes in Baileyville. That is the issue. It is not a north south thing. I definitely support Representative Glynn's proposal.

I do have one question. This would be to the Representative from South Portland, Representative Glynn, the \$3.5 million does that, I haven't done the figures, cover the costs of all the districts that are losing? If so, I think that is a good thing. It should be done. I don't think any district should lose.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. In answer to the good Representative's question, this is not a hold harmless proposition at all. Hold harmless is when an amount of money is allocated through school funding and that there are no losers in the state. With this budget proposal, there are still going to be loses and there are still going to be losers in the state. In my district of South Portland is still going to lose a great deal of money, but it will cut our loses in half and bring us down to around a \$900,000 loss as opposed to what

we are on the hook for now. That is what this proposal is meant to do, to mitigate the loses and curb the hemorrhaging of the local school districts to get it down to something where we don't have the number of layoffs that are anticipated, statewide.

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

Representative **MUSE**: Mr. Speaker, Men and Women of the House. I certainly didn't intend to speak on this issue a second time. I wish that we could clear up this whole education mess in the Constitution and then we wouldn't have to deal with this repeatedly. However, we keep hearing about the layoffs that are going to occur. Something we all want to consider in addition to that is while school districts are going to work very diligently, of course, to avoid layoffs of teachers, the only alternative that that gives them is to cut programs. I think it is important at this time of year to remember that when we stand up day in and day out recognizing state champion teams, basketball teams and field hockey teams, these are the programs that are going to go out the window in order to maintain and hold on to our teachers. I can't for the life of me understand why anybody would oppose this amendment. We keep the budget. We keep the laptop programs. We simply pump some more money into education. This is a win, win proposal. It is very straightforward and very simple. I would ask you again to please follow my light on this. Thank you Mr. Speaker.

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. For the last four years as we have gone through the budget process, for both political parties, the price of the dance has been putting the laptops into a cocoon. Bury the laptops so deeply, protect the laptops, and then you can dance with the Chief Executive on developing a budget. That has been the price.

I have had the good fortune over the last 22 years of serving in a leadership position with three different governors, a Democrat, a Republican and an Independent. I can tell you that when those negotiations begin and they are behind closed doors that when you look at where the Chief Executive wants to start and where the Chief Executive, I am talking about all three, wants to finish up is not where the Legislature has wanted to finish up. The education is a local issue that affects every one of our districts. All three Chief Executives have always known that when it came to GPA, the Legislature itself, would do the GPA. Over the last 20 years they would do the cushion. We are a co-equal branch of government. The Chief Executive can propose, we dispose. I think as you look over the last two decades from both comers, Democrat and Republican, that the initial, this is as far as I will go, that both political parties have said no, Chief Executive, it is not enough. We are a co-equal branch and because it is our schools and it is our local districts. Until the laptops came along in this particular budget. To understand the costs, not only for those that are considered the losers, that is the tag that is in the printout, but those of you that had gains, it does not reflect the cost of what has happened at the local level and your property taxes are going up. The laptops were put into a cocoon. There was not a policy decision made concerning the laptops.

When you think back to just last month in terms of the amendment that was offered, any amendment that is attempted to be placed on a budget this year, two years ago, 20 years ago, have to overcome the opposition of four leaders, 10 House members of Appropriations, 15 or so chairs and that Sullivan amendment came within one or two votes. You don't start from zero. You are automatically 20 or 25 votes behind and that

narrowly passed. I think that showed the depth of concern within this House. Every member of this Legislature understands that the role education plays in the area of economic development. When we go door to door we not only talk about education for our districts, we talk about the education of all Maine children, not north, south, urban, rural. We talk about all children. The thing that has distressed me the most in this session, because as we have gone along, the years that I have served here in the Education Committee and on the floor, we have always used the word we. We heard reference to this cushion. The cushion moves like a pendulum on a clock. Some years it is needed in the south, some years it is needed in the north. When the housing market collapsed during the recession and valuations collapsed in the south, the way that formula was written, all the education money, like a slippery slope should have slid to those communities that had that collapse. If you go back and check the Legislative Record, legislators from the south understanding the concept of we, put in place cushions to protect the rural areas because they understood that when you began to cut the investment in education, the damage it does to all Maine children. That cushion has been a moving target. When it is needed, the other regions of the state have responded to help those that have been getting hurt. I spent a lot of time this session sitting in the audience in the Education Committee. A good friend that serves as the House Chair that I have known for 22 years, I saw her frustration as a leader on that committee, because for the first time when I heard communities talk about this is the pain that it is causing back in our district to school children, I saw members of that committee turn their backs on people that were trying to talk from the heart about what was going to happen in their districts. I have seen it on this floor that we have started to go to need, my region, period. We have forgotten about that we.

The other night when I did the budget, I tried to raise questions and it was late at night and I was tired and had been sick for about two weeks and didn't do a very good job. I tried to wave a caution flag that as you look at a \$550 million deficit and we have the same Chief Executive that is going to propose the budget when we come in here in January it is not going to be the new Republican or the new Democrat or the new Green Governor, it is going to be this Chief Executive. If there is ever a time that a message needs to be sent, it needs to be sent now in terms of the, we, that this Legislature cares about every child. We do not support pitting one region against the other. You may turn your back on a region or you may turn your back on the casualties, remember, they are called losers, 60,000 Maine school children. That is what the printouts call them. Next year I am afraid between that structural gap, the additional \$120 million to \$160 million in new money that is going to have to come forward for GPA that we need each other. I am afraid that the hit is going to be across the board as we look at the next Legislature, all Maine children, not just these 60,000.

You are a coequal branch of the Legislature. We had to do the dance to do the budget, because the tune was being played by the Chief Executive. There has never been a straight up and down vote on the laptops. People ask me in my district, what is your position on laptops? I say that I really don't know, I haven't had an opportunity to think about it other than kids in my district hemorrhaging and people that are retired on limited social security from the shoe shops in Kennebunk that closed in the 1950s and 1960s to have their mortgage paid, but they can't pay their property tax. When we talk about diversity in our communities, you heard it from South Portland, you heard it from Portland, there are too many stereotypes in this House in terms of what we think of the people from the north and the south and the coast and the farms. We have fallen victim of stereotypes in

this Legislature and once you do stereotypes and you can turn your back on the other regions of this state and then you don't feel the pain of what a budget, a funding formula that doesn't work and it gets magnified when it is underfunded, then you can turn your back and you can sleep at night. Every one of us that is coming back to this Legislature next January is going to need every one of us, whether you live in the mountains, the south, on the coast or in a mill town, I predict all Maine's children are going to take a hit in the budget we are going to see next January or February. If there is ever a time that we talk about education and we talk about we and we talk about listening to our fellow citizens, instead of turning our backs on them, whether it is in committee or with a vote, we need to be friends of education. People ask me when they see the cuts that the district is going to take, they say, you have all kinds of caucuses up there, why isn't there an education caucus? I tell them it is such a basic issue. Why would you have to get people together to reaffirm the importance of education and the importance of keeping property taxes down? Why would you need to meet once a week to reaffirm that?

We are a coequal branch. You can correct an injustice in the budget and the budget is all over. There is no need for people to line up and say we have to meet this amendment. What was done was not right. This amendment corrects it. It takes \$6.6 million for a hold harmless. This is \$3.5 million. The pain is still going to be there. There may be some layoffs. There definitely will be property tax increases. You have an opportunity to the architect of the next budget who will start preparing that within 30 days after we leave to send a message that we, as the Maine House, believe in the we and that funding of education shouldn't have as its victims or its casualties 60,000 Maine children. You are a coequal standing up asking for a vote of support on this bill.

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

Representative SULLIVAN: Mr. Speaker, Men and Women of the House. I just wanted to put one issue to bed. One of the reasons why Arundel would have a lower cost per pupil is because they do not have a high school. They send their children to other districts. It is more expensive to educate high school children, the labs, the needs for all of the things that make a program that allow our Maine children to compete for colleges and further education. That would be one issue that I think we need to say.

The other thing I want to say is I couldn't agree more with the Representative from Kennebunk, Representative Murphy. We have put labels here and we talked during human rights day that labels are destructive. You can be a loser, you can be a Republican, you can be a Democrat, you can be gay, you can be straight, you can be so many things and it automatically puts you into a category, a neat little box. Let me tell you about children don't fit into neat little boxes. We have all those children coming from all those families. Children, I teach them every day, adolescents and they see black and white. If you tell them that this little boy is going to have four pork chops for supper and this little boy is going to have one, children will rise to the occasion and they will say that if I gave one away, we would both have the same. Children understand fairness. Children don't see the grays that allow us to rationalize. I used the allegory last week about animal farms. All animals are equal and in the cover of darkness we add all animals are equal, but some are more equal than others. I am committed to education. I am committed to children. It has been my life's work. I believe all children are equal and it is our responsibility here to make sure that we do not label them. It is our responsibility to step up to the plate and say, all children can learn. You passed, we passed, the Maine

learning results. I told you it was an unfunded mandate, but we passed it anyway. Now we are saying the funds aren't there for all children. It is the antithesis and I would ask you to support this and see this from the eyes of a child. Let's play and share our toys. In this case our toys happens to be money. Thank you.

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

Representative MCKEE: Mr. Speaker, Men and Women of the House. I will be very brief. I could no more have said anything any better than the good Representative from Kennebunk just stated. I greatly respect everything that he had to say. We are about building an economy that will float all boats. Hopefully through this measure we can float all schools. We have a project called the laptops that has no proven record of success. Nine out of 10 of the people that we speak to on the streets don't want it any way and we are sitting on our hands and doing nothing about a problem that exists throughout the state regarding our schools. We do have schools with proven records of success. This is a straight forward way to address a problem that will float all boats and would have in the beginning, if we could have worked it out through the process. Unfortunately that was not possible. You and I know that the people of this state would like to see us do this. I hope that you will support the reference to the Appropriations Committee. Thank you.

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

Representative RICHARD: Mr. Speaker, Men and Women of the House. There are just two or three things that I feel I need to clear up or I would be remiss. It was stated by one of the previous speakers that we need to clear up this education mess. I agree with him. Hold harmless and cushions are the worst things that could happen. You get a cushion one year and the next year you are that far down to begin with. That is not the way to go. We do have a plan that we are started. We are not going to get it finished this year. For those of you who are going to be around in the future, I hope that you can finish it.

There was another thing that was mentioned about superintendents who said they would have to lay off teachers. That may be true in some places. I would question whether your superintendent made that statement based on the letter that he received from the commissioner of Education back when we started this discussion or whether he made that statement after the final budget was passed, Plan 7. We went from Plan 1 to Plan 7 in our education program. Plan 7 does do better than Plan 1. I would wonder if your superintendent made that statement before he got Plan 7.

It isn't very nice of me to say, but I have to say it. From St. Agatha to Cape Elizabeth and from Fayette to Machias, there are 45 towns that pay more mils for education than South Portland does.

The SPEAKER: A roll call has been ordered. The pending question before the House is Refer the Joint Order to the Committee on Appropriations and Financial Affairs. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 593

YEA - Andrews, Annis, Ash, Berry DP, Blanchette, Bliss, Bowles, Brannigan, Brooks, Bryant, Bull, Bumps, Bunker, Canavan, Carr, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cowger, Cressey, Cummings, Davis, Dorr, Dudley, Dugay, Duplessie, Duprey, Estes, Fisher, Fuller, Gagne, Glynn, Green, Hall, Hatch, Hawes, Heidrich, Hutton, Jacobs, Kane, Kasprzak, Labrecque, Laverriere-Boucher, Lemoine, Lessard, Lovett, Lundeen, MacDougall, Madore, Marley, Marrache, Matthews, McDonough, McGlocklin, McGowan, McKee, McKenney, McLaughlin, Mendros, Michael, Michaud, Mitchell, Morrison,

Murphy E, Murphy T, Muse C, Norbert, Norton, Nutting, O'Brien JA, Paradis, Patrick, Peavey, Perry, Pinkham, Povich, Quint, Richardson, Rines, Schneider, Shields, Simpson, Skoglund, Smith, Snowe-Mello, Stanley, Stedman, Sullivan, Tarazewich, Tessier, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tuttle, Twomey, Volenik, Waterhouse, Watson, Wheeler EM, Wheeler GJ, Mr. Speaker.

NAY - Belanger, Berry RL, Bouffard, Bruno, Chase, Chick, Crabtree, Daigle, Desmond, Duncan, Dunlap, Etnier, Foster, Gooley, Haskell, Honey, Jodrey, Jones, Koffman, LaVerdiere, Ledwin, Mailhot, Mayo, McNeil, Muse K, Nass, O'Brien LL, O'Neil, Perkins, Pineau, Richard, Rosen, Savage, Sherman, Thomas, Usher, Weston, Winsor, Young.

ABSENT - Bagley, Baker, Buck, Gerzofsky, Goodwin, Landry. Yes, 106; No, 39; Absent, 6; Excused, 0.

106 having voted in the affirmative and 39 voted in the negative, with 6 being absent, and accordingly the Joint Order was REFERRED to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS.

Sent for concurrence.

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

The House recessed until 3:00 p.m.

(After Recess)

The House was called to order by the Speaker.

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

SENATE PAPERS

The following Joint Resolution: (S.P. 829)

JOINT RESOLUTION RECOGNIZING THE WEEK OF APRIL 14TH TO 20TH IN 2002 AS NATIONAL RESTORATIVE JUSTICE WEEK IN MAINE

WHEREAS, Restorative Justice is a value-based approach to criminal justice, with a balanced focus on the offender, victim and community; and

WHEREAS, the basis of Restorative Justice is to determine the harm resulting from a crime, what needs to be done to repair the harm and who is responsible for repairing the harm; and

WHEREAS, currently, the primary approach to criminal justice is retributive justice and is focused on determining what law was broken, who broke it and how they should be punished; and

WHEREAS, Restorative Justice is a response to a crime as much as punishment, but it focuses on restoring the losses suffered by victims, holding offenders accountable for the harm they have caused and restoring peace within the communities; and

WHEREAS, Restorative Justice uses victim-offender mediation conferencing, victim assistance, ex-offender assistance, restitution, community service and countless other ways to help those who have been injured, including the victim, the offender and the community; and

WHEREAS, Restorative Justice is a concept that has many adherents and is internationally recognized, and many communities and police departments in our own State are interested in pursuing restorative justice; 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 we represent, take this opportunity to announce that the week of April 14th to April 20th in 2002 is National Restorative Justice Week in Maine and that we encourage communities throughout the State to learn about this helpful system; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Friends Committee on Restorative Justice, the Renaissance Lawyer Society, the Chief Justice of the Maine Supreme Judicial Court and the Maine Council of Churches.

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

Majority Report of the Committee on INLAND FISHERIES AND WILDLIFE reporting Ought Not to Pass on Bill "An Act to Permit Small Game Hunting on Private Property on Sunday in Unorganized Territory"

(H.P. 1698) (L.D. 2196)

Signed:

Senators:

CARPENTER of York
KILKELLY of Lincoln
WOODCOCK of Franklin

Representatives:

DUNLAP of Old Town
PERKINS of Penobscot
TRAHAN of Waldoboro
CHICK of Lebanon
HONEY of Boothbay

Minority Report of the same Committee reporting Ought to Pass as Amended by Committee Amendment "A" (H-1038) on same Bill.

Signed:

Representatives:

McGLOCKLIN of Embden
CLARK of Millinocket
USHER of Westbrook
BRYANT of Dixfield

READ.

On motion of Representative DUNLAP of Old Town, TABLED pending ACCEPTANCE of either Report and later today assigned.

Majority Report of the Committee on EDUCATION AND CULTURAL AFFAIRS and the Committee on TAXATION reporting Ought to Pass as Amended by Committee Amendment "A" (H-1055) on Bill "An Act to Supplement Maine's Academic Attainment and to Retain Talent"

(H.P. 1655) (L.D. 2162)

Signed:

Senators:

MITCHELL of Penobscot
GAGNON of Kennebec
LEMONT of York
KNEELAND of Aroostook

Representatives:

RICHARD of Madison
DESMOND of Mapleton
SKOGLUND of St. George
WATSON of Farmingdale
ESTES of Kittery

CUMMINGS of Portland
WESTON of Montville
LEDWIN of Holden
GREEN of Monmouth
GAGNE of Buckfield
McGOWAN of Pittsfield
MURPHY of Berwick
BUCK of Yarmouth
BUMPS of China
BOWLES of Sanford
McLAUGHLIN of Cape Elizabeth

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

Signed:

Representatives:

STEDMAN of Hartland
ANDREWS of York
STANLEY of Medway

READ.

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

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

Representative **STEDMAN**: Mr. Speaker, Ladies and Gentlemen of the House. This bill, LD 2162, has some real good parts to it. The fact that people would be getting tax credits for contributing to scholarship programs, businesses or corporations would be contributing to scholarship programs or would be willing to pay off education loans for employees and getting credit for that has merit.

The reason that I am on the Ought Not to Pass Report is I don't think the language has been cleared up sufficiently to make it work. Secondly, I don't think that the state, at this time, can afford the fiscal note that is attached to this. It is estimated to be over \$600,000 in the first year and by the years 2004/2005 as much as nearly \$5 million in lost revenue because of tax credits given for this program. Other than that, I think this might make a great LD 1 for the 121st Legislature because I think there are some things in it that are valuable. I am not sure that we are ready to enact such a law at this time. Thank you.

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

A vote of the House was taken. 84 voted in favor of the same and 20 against, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-1055)** 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-1055)** and sent for concurrence.

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

Majority Report of the Committee on **BANKING AND INSURANCE** reporting **Ought Not to Pass** on Bill "An Act to Allow Health Insurance Premiums to be Eligible for Medical Savings Accounts"

(H.P. 1151) (L.D. 1554)

Signed:

Senators:

LaFOUNTAIN of York
DOUGLASS of Androscoggin

Representatives:

DUDLEY of Portland
SMITH of Van Buren
O'NEIL of Saco
SULLIVAN of Biddeford
CANAVAN of Waterville

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1048)** on same Bill.

Signed:

Senator:

SMALL of Sagadahoc

Representatives:

MICHAEL of Auburn
YOUNG of Limestone
MAYO of Bath
MARRACHÉ of Waterville
GLYNN of South Portland

READ.

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

Subsequently, the same Representative **WITHDREW** his motion to **ACCEPT** the Minority **Ought to Pass as Amended** Report.

The same Representative moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I hope that you will vote against the pending motion. Not too long ago in sessions of the past I had introduced legislation for medical savings accounts. I remember the debate on that. A number of the people who wouldn't support the measure at that time thanked me very much for bringing the issue forward. They thought it was a good issue, but for whatever reason they didn't think the time was right. I think the time is right now to go ahead and do this. I said at the time and I had mentioned a number of people who had supported medical savings accounts to make sure it wasn't a partisan issue. Sometimes we look at the divided reports and sometimes it breaks down that way for whatever reason. I mentioned some Democrats in Congress who thought that medical savings accounts were a wonderful idea or alternative. One of those was Senator Tom Dashel who said that they have introduced a medical cost containment act, which will allow employers to provide their employees with an annual allowance and a medical care savings account to pay for routine health care needs. He also said that required small dollar deductibles create a hardship for financially stressed individuals or families seeking regular preventative care services. With medical savings accounts, however, that same individual or family would have this critical money in their account to pay for needed services. I could go on and on.

There are a couple of other quotes from good Democrats in Congress who see this as a good alternative. We do a lot of things up here to try to expand coverage for people. A lot of it is shifting money around from one place to another. We do a lot of mandating on certain provider services, but we don't do very much to allow consumer choice. Certainly medical savings accounts are one of those. It is one of those small things that some people can take advantage of and get insurance coverage

that would allow them to have a high deductible and a co pay to pay for out-of-pocket services and then have money in the medical savings account to do that and get a policy that would cover catastrophic health care coverage, which would cover the other stuff.

This is a great alternative. I see it as a choice, a positive step and I hope that you will vote against this pending motion and go on to the Minority Report, which if it passes, I have a wonderful amendment that you will really love. Thank you.

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

Representative O'NEIL: Mr. Speaker, Men and Women of the House. The good Representative from Bridgton is right. This is an idea that employs innovation and tries to look forward in this whole health care crisis that we are in. Unfortunately, in the interest of trying to save us all a little bit of time and debate and wind, I would like to cut right to the chase. The bill that was brought forth by the good Representative from South Portland, Representative Glynn, was brought to us last session. We carried it over. This is traditionally something that the people on the right side of the spectrum tend to like and the people on the left side of the political spectrum tend not to like for all the reasons that we have all heard about. We don't have to worry about all of those. We don't have to debate those today.

The bill as it was brought in sought to mirror federal legislation that does allow medical savings accounts to be used in today's market in Maine. There is no prohibition on medical savings accounts now, as of four years after medical savings accounts were allowed by federal statute, only a little over 50,000 of them were actually in use throughout the country. They just haven't really caught on.

There is a nugget of truth in that while people are getting more and more into high deductible policies, medical savings accounts will make a little bit more sense. It is a lousy way to fund health care, but if you are going to have to do it, traditionally it has been said that the healthy and the wealthy get the tax benefit and the benefit of insuring for something they don't need. We are slightly moving away from that. This bill, I say this in deference to the good Representative from Bridgton, is an empty vessel. It doesn't do anything that isn't allowed already. There is no prohibition for carriers to write policies that work in conjunction with medical savings accounts now. It is allowed by federal statute. There is no state prohibition. There is no tax advantage to somebody in Maine who would employ them. In essence, we would be writing in a body of law that just uses ink and paper. We are on the Ought Not to Pass report. Thank you.

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

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House. Some of the things that the previous speaker said are true in this particular bill. That is why I floated out there the potential for correcting all those defects in the proposal before us if we passed the Minority Report so I could put my amendment on, which does all those wonderful things that the good Representative thinks that we should do. The other thing is the critics have claimed that medical savings accounts are regressive, providing benefits primarily for the wealthy. That is not true. The system of providing medical savings accounts and providing a tax break on employer provided insurance is far more regressive. If we pass this Minority Report, we can correct all those defects and have a wonderful item to present to the people of the State of Maine. Thank you.

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

Representative GLYNN: Mr. Speaker, Ladies and Gentlemen of the House. I urge you to vote against the pending motion and move on to the Minority Ought to Pass Report and further consider additional amendments. The proposal that we are contemplating dismissing here in the House actually provides enabling legislation for health insurance carriers to offer medical savings accounts in conjunction with the regular health insurance products. Here in Maine, although medical savings accounts as the previous speaker, the Chairman of the committee, had noted are available here in the United States. Here in Maine, they are not available and the reason they are not available is you have to have a vehicle. You have to have a health insurance carrier or health insurance provider offer a product and then your company that you work for can offer that health insurance product and make it available to you. What are we really talking about with medical savings accounts is we are talking about when we have the money taken out of your paycheck every week and these are just working people. They work at your business and they work at mine. They receive their paycheck and several things are taken out of there and among them are premium dollars that are going to be paid for the health insurance coverage for their kids, their spouse or even for themselves if they have an 80/20 co plan. If you have a medical savings account and you take that money out of your paycheck, you can reduce about one-third of the amount of money that you pay in income taxes. That stays with you as an employee of your company. You can either buy more health insurance costs with it or you can better absorb health insurance expenses.

Right now we have a real health care crisis in Maine. As a member of the Banking and Insurance Committee, I have been very heavily involved in the debate on affordable and quality health care. According to estimates in the Maine Bureau of Insurance, approximately 13 percent of Maine people, that is 130,000 Mainers who currently go without health insurance. It is regardless of what source you speak with, if it is an insurance company, leaders in the insurance industry, small businessmen, citizens in your district or any of the endless studies on the topic, the source of the problem is routinely identified as insurance premium costs. Folks don't have health insurance because they can't afford the health insurance policy. We have an option available to us, we have this pilot project at the federal level. In 1996 Congress enacted it. It is available. People in Maine can't take advantage of it, because we don't have medical savings account products available.

Over the summer, I had the opportunity to meet with Anthem and Anthem is considering offering a pilot program I brought forward, that proposal to the Banking and Insurance Committee. The Banking and Insurance Committee was not interested in pursuing a tax credit. A corresponding Maine tax credit that matches the federal. We went to the next best alternative, which was to come up with this proposal, this Minority Report, which, in fact, is a vehicle that allows for medical savings accounts, offers the technical assistance of the department, which is going to be necessary to get these things off the ground. It is very complicated. Maine's tax code, I know I am not the only member who knows this, is very complicated, especially in this area. They need some technical assistance. These costs can be absorbed. If you do defeat this pending motion, you can move on to a Minority Report, which will help facilitate medical savings accounts in the State of Maine. You have that as an option. If you don't like that option, you are going to have another option of an amendment from the good Representative from Bridgton, Representative Waterhouse. He is going to offer you the full-blown package. You can have any version of medical savings accounts that you want. You can have a solution to this health

care crisis. Is it going to solve all the problems? Absolutely not. We have a whole lot of problems with health insurance. It is going to help a sector of people, the people that are currently affording insurance. They are right on the line. They can't afford any more increases. This is a way to make health insurance affordable and allow families to expand their coverage within the family. Thank you Mr. Speaker. When the vote is taken, I request the yeas and nays.

Representative GLYNN of South Portland **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

The **SPEAKER**: The Chair recognizes the Representative from Standish, Representative Hawes.

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

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

Representative **HAWES**: Mr. Speaker, Men and Women of the House. What would the maximum contribution be that one could make into one of these savings accounts?

The **SPEAKER**: The Representative from Standish, Representative Hawes has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative **O'NEIL**: Mr. Speaker, Men and Women of the House. Under the federal legislation, which is what enables it today, the annual out-of-pocket expenses other than for premiums for covered benefits under the plan may not exceed \$3,000 for individual coverage or \$5,500 for family coverage. The Minority Report looks to mirror that. Again, we are not taking about the bill, Mr. Speaker. The bill is little more than a Legislative Sentiment. There is no tax break within the bill that is presented, the Minority Report. To push against the boundaries of decorum, I got a look at the amendment to which previous speakers had alluded and if we want to go down that route, we have already gone that way in committee and the sponsor of the bill backed off from that. We have the option now. If somebody wants to get a medical savings account, they should contact their insurer and ask them to provide one for them. There are no prohibitions to that now.

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

ROLL CALL NO. 594

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

NAY - Andrews, Annis, Belanger, Berry DP, Bowles, Bruno, Buck, Bumps, Carr, Chick, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, Lovett, MacDougall, Madore, Marrache, Mayo, McKenney, McNeil, Mendros, Michael, Morrison, Murphy E, Murphy T, Muse K, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Rines, Rosen,

Schneider, Sherman, Shields, Snowe-Mello, Stedman, Tessier, Tobin D, Trahan, Treadwell, Waterhouse, Wheeler EM, Young.

ABSENT - Bagley, Baker, Brannigan, Gerzofsky, Landry, Laverriere-Boucher, Tobin J, Weston, Winsor.

Yes, 81; No, 61; Absent, 9; Excused, 0.

81 having voted in the affirmative and 61 voted in the negative, with 9 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

HOUSE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (H-1038)** - Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Permit Small Game Hunting on Private Property on Sunday in Unorganized Territory"

(H.P. 1698) (L.D. 2196)

Which was **TABLED** by Representative DUNLAP of Old Town pending **ACCEPTANCE** of either Report.

Representative McGLOCKLIN of Embden moved that the House **ACCEPT** the Minority **Ought to Pass as Amended** Report.

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

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

The **SPEAKER**: The Chair recognizes the Representative from Embden, Representative McGlocklin.

Representative **MCGLOCKLIN**: Mr. Speaker, Men and Women of the House. Just last week this body voted to raise permit fees on sportsmen in Maine. The revenue was needed for the Department of Inland Fisheries and Wildlife in part because less people are buying hunting and fishing licenses.

Do you have less people in your districts who want to hunt and fish? I doubt it. But in today's increasingly busy world, most people who enjoy such activities now only have Saturdays to do it. Therefore, less sportsmen are finding it worth their while to purchase a license.

So what do we do about it? We raise the fees on a dwindling pool of sportsmen willing to pay for them. Just another move that will give a new group of our constituent's reason to think we are being very short sighted.

Why is it that every time departments in this state face financial difficulties, we feel the need to come up with quick fixes, like raising fees? If any other solutions are out there, we need to find them. And then, when all other routes are exhausted should we consider raising fees?

The bill before you is one such solution. It would raise an estimated \$300,000 for the department annually, according to Fiscal and Program Review. It would do this while expanding opportunities for our sportsmen, in addition to providing a needed economic boost for northern rural areas.

This bill is drawn very narrowly. It would allow Sunday hunting for only rabbits and grouse, only in the unorganized territories, only with landowner permission, only if the landowner owns more than 500 acres, only if the land is not adjacent to public land and only with the permission from the commissioner.

When I consider how to vote on any given issue, I first think of who the legislation may help and who it may harm. This bill helps sportsmen in your districts and mine, helps the department's budget problems and most importantly, harms no one.

In summary, this means that Sunday hunting would be taking place in northern areas that are far away from other user groups and only on lands authorized by the Department as a designated Sunday hunt property.

Don't allow this outdated Blue Law to stay on the books and let's join the 41 other states who permit Sunday hunting. Let's give more to our sportsmen instead of just asking for more from them. Let's use Sunday Hunting as a more creative way of raising money for the department.

Please accept the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lebanon, Representative Chick.

Representative **CHICK**: Mr. Speaker, Men and Women of the House. My experience on the Fish and Wildlife Committee has been the entire time that I have spent here in the Legislature, which is currently the limit. The one thing that has always been mentioned when hunting on Sunday has been proposed would be the use of land to hunt on. Sunday, from all of the testimony I have heard, would be that day when landowners can select boughs for wreaths, ride their saddle horses, gather fuel for the winter and I have never heard any landowner that has come to a hearing to do with Sunday hunting that has not said, Sunday hunting will put an end to the use of my land by people. Currently, land in Maine is going out as far as hunting and signs to keep out or whatever. I would believe that it is well here today to not vote for Sunday hunting in Maine. Thank you.

The SPEAKER: The Chair recognizes the Representative from Dixfield, Representative Bryant.

Representative **BRYANT**: Mr. Speaker, Ladies and Gentlemen of the House. Not to belabor the issue, but I do want to put some facts into the issue. A lot of times that is hard to do when you try to talk about an issue to put some facts in. The fact is that there is no landowner that will allow anybody to hunt if they don't want to do that. It is a choice for the landowner. The other fact is that most landowners that don't want anybody to hunt on Sunday will have the option not to allow it. If the opportunity is there and landowners want to allow their land open to hunting on Sunday, they should have the opportunity to do that. Representative McGlocklin has come up with a good idea that allows landowners to have access to their own land. People who don't want to be on there and don't want people on their land on Sunday, that is going to stay the same. We are not interfering with anybody's ability to control Sunday hunting on their own land. I just put a few of those facts in here that only the people that want Sunday hunting on their land would be allowed to do it. It won't affect anybody else. It is a good alternative. I would encourage you to vote for the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Fort Kent, Representative Michaud.

Representative **MICHAUD**: Mr. Speaker, Men and Women of the House. If we were to start asking people not to fish on Sunday or not to do anything on Sunday, I think this issue of Sunday hunting has finally arrived. It has arrived in this particular bill in a way that it sunsets in 2005. What better opportunity do we have to actually put something that has been discussed for years and years and years and argued, put it to the test. We have already got a deficit in the Fish and Wildlife account. People are gladly going to pay it because they are going to be getting a service in return for it. The department is going to be \$300,000 to the positive as a result of it. We may actually find out that all those concerns that we have about Sunday hunting are not founded. In fact, if we do find that it is a problem, don't worry the bill will sunset in 2005. I would urge you to support the pending motion.

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

ROLL CALL NO. 595

YEA - Ash, Bouffard, Brooks, Bryant, Bunker, Canavan, Clark, Cote, Daigle, Davis, Desmond, Dorr, Dugay, Duplessie, Duprey, Foster, Fuller, Gagne, Goodwin, Green, Hall, Hatch, Jacobs, Jodrey, Marrache, Matthews, McGlocklin, McLaughlin, Mendros, Michaud, Morrison, Muse C, Muse K, Nutting, O'Neil, Paradis, Patrick, Perkins, Perry, Pineau, Quint, Richard, Richardson, Rines, Savage, Simpson, Stanley, Tarazewich, Tessier, Tuttle, Usher, Waterhouse.

NAY - Andrews, Annis, Belanger, Berry DP, Berry RL, Blanchette, Bliss, Bowles, Bruno, Buck, Bull, Bumps, Carr, Chase, Chick, Chizmar, Clough, Collins, Colwell, Cowger, Crabtree, Cressey, Cummings, Dudley, Duncan, Dunlap, Estes, Etnier, Glynn, Gooley, Haskell, Hawes, Heidrich, Honey, Hutton, Jones, Kane, Kasprzak, Koffman, Labrecque, LaVerdiere, Ledwin, Lemoine, Lessard, Lovett, Lundeen, MacDougall, Madore, Mailhot, Marley, Mayo, McDonough, McGowan, McKee, McKenney, McNeil, Michael, Mitchell, Murphy E, Murphy T, Nass, Norbert, Norton, O'Brien JA, O'Brien LL, Peavey, Pinkham, Povich, Rosen, Schneider, Sherman, Shields, Skoglund, Snowe-Mello, Stedman, Sullivan, Thomas, Tobin D, Tracy, Trahan, Treadwell, Twomey, Volenik, Watson, Weston, Wheeler EM, Wheeler GJ, Young, Mr. Speaker.

ABSENT - Bagley, Baker, Brannigan, Fisher, Gerzofsky, Landry, Laverriere-Boucher, Smith, Tobin J, Winsor.

Yes, 52; No, 89; Absent, 10; Excused, 0.

52 having voted in the affirmative and 89 voted in the negative, with 10 being absent, and accordingly the Minority **Ought to Pass as Amended Report was NOT ACCEPTED.**

Subsequently, the Majority **Ought Not to Pass Report was ACCEPTED** 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 Safeguard Volunteer Firefighters' Regular Employment"

(H.P. 1449) (L.D. 1946)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-947) in the House on March 26, 2002.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-947) AS AMENDED BY SENATE AMENDMENT "A" (S-536)** thereto in **NON-CONCURRENCE.**

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

Non-Concurrent Matter

An Act to Control Internet "Spam"

(H.P. 1538) (L.D. 2041)

(C. "A" H-906)

PASSED TO BE ENACTED in the House on March 22, 2002.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-906) AS AMENDED BY SENATE AMENDMENT "A" (S-520)** thereto in **NON-CONCURRENCE.**

On motion of Representative SAVAGE of Buxton, the House voted to **ADHERE**.

**REPORTS OF COMMITTEE
Ought to Pass as Amended**

Report of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Reduce Medical Errors and Improve Patient Health"

(S.P. 419) (L.D. 1363)

Reporting **Ought to Pass as Amended by Committee Amendment "A" (S-527)**.

Came from the Senate with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-527) AS AMENDED BY SENATE AMENDMENT "A" (S-532)** thereto.

Report was **READ** and **ACCEPTED**. The Bill **READ ONCE**. **COMMITTEE AMENDMENT "A" (S-527)** **READ** by the Clerk. **SENATE AMENDMENT "A" (S-532)** **TO COMMITTEE AMENDMENT "A" (S-527)** **READ** by the Clerk and **ADOPTED**. **COMMITTEE AMENDMENT "A" (S-527) AS AMENDED BY SENATE AMENDMENT "A" (S-532)** thereto **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-527) as Amended by Senate Amendment "A" (S-532)** thereto in concurrence.

**SENATE PAPERS
Non-Concurrent Matter**

Bill "An Act to Eliminate Department of Professional and Financial Regulation, Bureau of Insurance Travel Restrictions for Obtaining Health Care"

(H.P. 1462) (L.D. 1959)

Bill and accompanying papers **INDEFINITELY POSTPONED** in the House on March 26, 2002.

Came from the Senate with the Majority (7) **OUGHT TO PASS AS AMENDED** Report of the Committee on **BANKING AND INSURANCE** **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-965)** in **NON-CONCURRENCE**.

On motion of Representative O'NEIL of Saco, the House voted to **ADHERE**.

Non-Concurrent Matter

JOINT RESOLUTION - RELATIVE TO MEMORIALIZING CONGRESS TO CHANGE THE SCHEDULED DESIGNATION OF MARIJUANA TO ALLOW FOR LIMITED MEDICAL USE

(H.P. 1725)

READ and **ADOPTED** in the House on April 2, 2002.

Came from the Senate **READ** and **FAILING** of **ADOPTION** in **NON-CONCURRENCE**.

Representative KANE of Saco moved that the House **ADHERE**.

On motion of Representative KASPRZAK of Newport, the House voted to **RECEDE AND CONCUR**.

Majority Report of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and the Committee on **LEGAL**

AND VETERANS AFFAIRS reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1035)** on Resolve, to Study the Impact of a Maine-based Casino on the Economy, Transportation Infrastructure, State Revenues and the Job Market

(H.P. 1700) (L.D. 2200)

Signed:

Senators:

BROMLEY of Cumberland
SHOREY of Washington
YOUNGBLOOD of Penobscot

Representatives:

THOMAS of Orono
RICHARDSON of Brunswick
BRYANT of Dixfield
DORR of Camden
MICHAUD of Fort Kent
MORRISON of Baileyville
DUPREY of Hampden
LABRECQUE of Gorham
CHIZMAR of Lisbon
COTE of Lewiston
PATRICK of Rumford
DUNCAN of Presque Isle
ESTES of Kittery
TUTTLE of Sanford
O'BRIEN of Lewiston
HEIDRICH of Oxford
HATCH of Skowhegan

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

Signed:

Senators:

WOODCOCK of Franklin
DOUGLASS of Androscoggin

Representatives:

MAYO of Bath
MURPHY of Kennebunk
CLOUGH of Scarborough

READ.

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

The **SPEAKER**: The Chair recognizes the Representative from York, Representative Andrews.

Representative **ANDREWS**: Mr. Speaker, Men and Women of the House. I am going to ask you to oppose this Majority Ought to Pass Report and go on to the Minority Ought Not to Pass Report. I would like to tell you why.

From the beginning the casino issue has appeared to have a life of its own. To the residents of York County it has appeared as if there have been many dealings going on that they were not privy to. This item here only adds to their concern. I will tell you why. It has to do with process. When this item was originally proposed, I was going to testify neither for nor against because I, like many others, felt that the bill had merit. We needed to research the issue. When I took this down to the constituents in York County, they had concerns with how the bill was written. The people had no input in this public hearing. I do realize that a week ago last Friday that it was announced in this body at the end of the day that there would be a public hearing on it. I was not present for that, but neither was I absent for the day as was given out for the newspapers.

Having said that, I was concerned about notifying the individuals, the public, who had concerns as to how this study bill

was written and wish to have their concerns addressed. When I came in Monday morning I immediately went to my desk to look for the listing of public hearings and work sessions for that day. There were none. I learned about this at approximately 10:30 in the morning when the bill came across the desk.

I called individuals who wished to testify on this bill, but, of course, they could not get up here for the public hearing. I have done some research since then and I do know that it was not announced in the other body. There was no notice to that effect in the other body on Friday. Having said this, I went to the public hearing. Let me tell you who was at the public hearing, the individual who submitted the bill, as he should have been, representatives of the Native Americans, special interests and the lobbyists. There was not one member of the public there to speak on this bill. I have attempted to bring forward some of their concerns regarding this study bill, but I am not sure if I was able to bring those all forward on such short notice.

It is the feeling of the residents of York County that this is just another example of trying to put something over on them. They are not left with a very pleasant taste in their mouth. This is a very divisive issue, a very contentious issue. It will be impacted in the polls in November, I can guarantee you. Anything that is so divisive and contentious as this should have public input in the process.

York County is very concerned about this issue. There have been many things put forward that a casino would do. It is going to bring up 4,000 jobs. York County doesn't need any jobs. We can't fill the jobs that we have, whether you put it in Kittery or now as the paper is suggesting, Wells, it will deplete the job market for our existing tourism industry. It will be good paying jobs, \$25,000. In York County that is not adequate to live. We are the tenth highest place in the United States in which to live. The other tenth spot is in California. There are many other issues that the residents of York County are concerned about. My concern regarding this bill as it is now, the people that are going to be most affected, the residents of York County, have not had a say or anyone else who have had areas of concern regarding casinos. That is why I am now asking you to vote against the Majority Report. Thank you.

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

Representative **RICHARDSON**: Mr. Speaker, Men and Women of the House. I first want to stand to apologize to the good Representative from York, Representative Andrews. She was at the public hearing and we attempted to do our best as a committee to incorporate her concerns. I think we did so to some extent. I will say two things about the concerns which she has raised here.

Remember, this is just a study. The public input will occur over the next couple of months as this study gets underway because it is written into as a result of Representative Andrews request that we will, in fact, have public hearings around the state in order to take the concerns of the public into account. This study, however, is necessary, in my opinion, because it is going to provide the Legislature with the closest thing we can get to an objective analysis about how this casino concept will impact our economy, impact our social services, impact our transportation network, impact crime and things of that nature. I think looking at this information, gaining as much information as possible about the effect of the various considerations we put in the study is a good thing.

Two concerns arose at the hearing. One was that the opponents claim that the study should be done by the backers of the casino. I don't think that is a very good idea from a public policy standpoint. I think that the state should be funding this

casino study because we want objective and independent information to the greatest degree possible. We tried very much to balance the needs in this study. We put four public members on this study, two for and two against. We added law enforcement officers to this study and also someone from the neighborhood association about the impact that this will have.

Finally, it has been suggested that voter's views have already been made regarding gambling. They made it clear in the 2000 referendum when they rejected a proposal to allow slot machines at Scarborough Downs. I think that argument is flawed and here is why. I remember that the referendum was carefully worded to permit slot machines at only one racetrack while claiming, in fact, that this was going to help the harness racing industry. That couldn't be more apart from the truth. As a result, I don't think we got a very good idea from that referendum, as limited as the concept was, slot machines rather than casinos affecting only one race track as oppose to affecting the entire racing industry.

Finally, here is why I think it is so important to do this. This was a request, government to government. I think that should mean something to us. When the Tribal Nations come to this Legislature and ask for assistance and all they are asking for is a study, I think that we should be in a position to help them as much as possible. From a government-to-government standpoint, I think we are doing the right thing. We have been asked by the Tribal Nations to look at this and I think we are meeting our obligations. I would ask you to support the study. Thank you.

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

Representative **MUSE**: Mr. Speaker, Men and Women of the House. I will be very brief. We have heard that this is very divisive. It probably is. For that very reason, I believe we need to do this study. The impact that gambling and casinos have on Las Vegas and the impact that gambling and casinos have in Atlantic City and the impact that gambling and the casinos have at Foxwoods are different in every region. Clearly the impact that a casino would have in the State of Maine is very different. For that reason, we need to study this. We need to study the impact that it will have on everything from traffic to trafficking. As a member of the only chartered group of Gamblers Anonymous in the State of Maine and as a member of the board of directors for that organization, I highly support this study. Thank you Mr. Speaker.

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. Last month, I think, when most of us were more optimistic about being able to finish up our work and leave, we started something that for a week or two looked much like a two minute drill in a football game as you get to the end when we were hustled about the need to do a casino in this session before we went home. We were told that we needed to do it. We needed to do it right away because New Hampshire was going beat us to it. It turned out the lobbyists who were making that pitch didn't bother to tell us that that had been turned down in New Hampshire already and that every gubernatorial candidate in New Hampshire has taken a written pledge that if by chance a casino was passed in New Hampshire, they would veto it. For that we have got to rush before New Hampshire beats us, they have looked at it and decided that they really don't want any part of casino gambling.

It has been interesting to watch the effect of waving some money, supposedly \$100 million and how people respond. I would bet that between now and next January whatever your pet project is or whatever your focused interest is, you will probably see promises made for the monies to go there. We will probably

see a situation where never so much has been promised to so many by so few.

We are told that we need to study this. We are told that we are going to look at an economic activity that is going to separate the overwhelming majority of the people that come through the doors, we are going to separate them from their money. That is being pitched as entertainment. We are going to separate them from their money, but we are going to call it entertainment. If I could draw an analogy, that would be like Jesse James and his brother Frank and their activity of robbing banks and trains, calling that an afternoon tea party. We have been told this is economic development. If you studied casino gambling and riverboat gambling all throughout the Midwest, they pick out the area of the state that is beyond redemption. It doesn't even qualify as being economically deprived. I won't use the phrase that I used in our caucus. It is beyond hope and then you throw the Hail Mary and hope that casino gambling will allow them to survive. When you go to those areas and you look at the impact and you walk two blocks away from the riverboat or from the casino nothing changes. I guess we need to study to see what level of increased bankruptcy is acceptable to us. We need to study to see what increased rate of embezzlement is acceptable to us. We need to study to see what percentage of increased addiction is acceptable to us. We need to look to see, in terms of this offset, the money versus the social cost, what the increased crime rate will be. We call this economic development, but when you look at the proposal where they are looking for it to go, as you have heard earlier, the most expensive housing in Maine with the greatest shortage, unemployment that is almost nonexistent. I read in the paper the other day that Old Orchard Beach has contracted with 100 eastern European college students to come in and work this summer, because there is no one to work in that resort community. It is that way in Kittery and York and all the way through in terms of the unemployment rate. As I have reminded you constantly, whether it is the turnpike or Route 1, for a good part of the year, our traffic is at gridlock. We are talking about another 30,000, 40,000 or 50,000 cars a day. This is a bad bill and it is being put into the worst possible location.

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

Representative SULLIVAN: Mr. Speaker, Men and Women of the House. When I first heard about the casino, I was less than pleased. However, this bill is a study and for all the reasons that have been given, what is the impact on crime rate? I have also asked. I would like to see what pay level. We have been talking about a living wage. Are we going to be paying a living wage? It is a Maine-based casino. I would hope that we might find out that southern Maine is not the place for a Maine-based casino. I think the study needs to happen or we are going to be back here next year, again, without the information. Part of our job as legislators is to gather information, to have a source on which to base our decisions. Without this study, we do not have this information. I hear, he says, she says or who can put up the best lobbyists. Let's do the study. Let's be prepared and hear what is happening and in the 121st session come back, take a serious look, find out what we have learned and maybe we will decide that southern Maine is not the place. We are not willing to turn in Maine, the way life should be for this. We don't know until we have this study. It is the only time we will have real, honest information. I am not opposed to honest truths and can make our decision from there. Please support this study for a Maine-based casino. Thank you.

The SPEAKER: The Chair recognizes the Representative from the Penobscot Nation, Representative Loring.

Representative LORING: Mr. Speaker, Men and Women of the House. The Penobscot Nation is in favor of this study. On March 11, the Chiefs of the Penobscot Nation and Passamaquoddy Tribe addressed a joint session of this Legislature for the first time in Maine history. They spoke of the historic relationship between the state and the Tribal Governments. They spoke of our sacred relationship with the land and our obligation to Earth Mother. They spoke of our struggle for survival. They spoke of our present economic struggles. They spoke to this Legislature and the people of Maine as representatives of sovereign Tribal Governments.

The Penobscot Nation and the Passamaquoddy Tribe have put forth a proposal from our Tribal Governments to the government of the State of Maine. This is a government-to-government proposal. This legislative body is a policy making body. I would ask that you give the Tribal Governments proposal due diligence and respect. I would ask that you consider this study carefully. Thousands of jobs have been lost in the past year and perhaps many more will be lost in the coming weeks and months. There is a projected infrastructure gap of \$500 million. The tribes are suffering economically as well. The economic opportunity they have proposed has the potential of bringing thousands of jobs to Maine and millions of dollars to the state coffers. As policy makers you have an obligation to thoroughly study this proposal. There has been much media attention paid to the possible negative effects of a casino. There is worry about crime, increased traffic, sprawl and loss of control. A study would answer these concerns and throw some light on these issues.

The Penobscot Nation and Passamaquoddy Tribe proposed a casino as a viable and sustainable economic venture. It is working well for other tribes and states across the country. The State of Maine cannot afford to reject this proposal out of hand. I ask you to give the Tribal Governments the respect they deserve and vote for the Majority Report. Thank you.

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

Representative O'BRIEN: Mr. Speaker, Ladies and Gentlemen of the House. There are few issues that I am closed minded about. This is one of them. Casinos in Maine is certainly an issue that I don't really have an open mind about. However, for that reason, I support the Majority Ought to Pass Report on this study. I know full well that in the future, this issue will come before us again. I am convinced that because of the composition of the study committee, the issues that they are going to be studying and the impartiality and objectivity with which they are intending to proceed, will give us findings that will be very valuable in the future. I intend to use those findings to argue against a casino in the future. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from York, Representative Andrews.

Representative ANDREWS: Mr. Speaker, Men and Women of the House. I am not against the study. As I originally stated, I was going to speak neither for nor against because I felt there were some issues that needed to be addressed in the study. What I am attempting to do here is to represent my constituents who feel that they were not given due process in this procedure.

We had another bill a week or so ago, another rather contentious bill, and the word was certainly gotten out on that issue. It was very well attended. That is my concern. My constituents, everyone else was represented here, but the public, my constituents, were not represented. I do not know if all their areas of concern are addressed in this study. That is my concern. Thank you.

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

Representative **TUTTLE**: Mr. Speaker, Men and Women of the House. I would hope that you would support the Majority Report. I have said on the floor many times that I believe that regulation works and prohibition does not. I think in this area, from reviewing, I would refer you to (H-1035), which is what the report does. As far as representation, there will be two members from the Senate, five members from the House, two members from the public in support of Maine-based casinos, two members from the public opposed to Maine-based casinos, a representative from the Maine State Police, a designee from the Attorney General's Office, a member from the independent neighborhoods, a member from the Chief of Police Association, a representative from the Chamber of Commerce, a representative from the Maine Tourism Association, a representative from the Office of Substance Abuse and there will also be a member of the Maine Harness Racing Commission. I think there has been enough input and study where the issues and the concerns can be addressed.

I am from York County. I do have my concerns, but from talking to many of my constituents from my area, they think that the study commission is a good idea because we don't know what we are going to get from the study. I think with the number of individuals that we have on this study commission, I think those answers can be reached.

As most of us know, the review of various types of issues that will affect the people of Maine and study commissions are instruments that the Legislature use every year. A casino, in my opinion, is a very important issue. It needs to be studied in a non-partisan manner. I am sure it will be done that way. I think that this review will allow the people of Maine to have the true facts and figures on any potential endeavor. I think that these facts will prevail from the study committee or task force.

We did have testimony at the public hearing from the Maine State Police. The Chief of the Maine State Police testified neither for nor against the bill. They said that the Maine State Police would be glad to assist the study committee task force in any way. As you see in the amendment, they are included. They said that a representative of the Maine Chief of Police Association should be added to the task force, which it is. It said, a casino, located in any city or town with an organized police department. I think that impacts that department and the Maine Chiefs would bring valuable information to the study. I think that input is there. I think that if we don't do this, we are putting our heads in the sand and not really addressing the issue. I am asking that we would support the study. Mr. Speaker, I would request a roll call.

Representative **TUTTLE** of Sanford **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 Lebanon, Representative Chick.

Representative **CHICK**: Mr. Speaker, Ladies and Gentlemen of the House. This subject this afternoon is something that contains the same things in my district, as a legislator, that many other items have over the time that I have been here. When I am questioned about some item that is of great controversy, I try to explain, if I have the information, as best I can without taking sides and privately out here, I would discuss this with anyone. I believe that the only way to have the electorate knowledgeable, and I am sure with all respect to you people here in the House,

that this afternoon if we had a little questionnaire here that there are some items that would go unmarked because you don't have the information. Only as a result of this study committee will we have this information. I don't know how many here this afternoon have had inquiries by people in your district that wish to have their name put in nomination for this group that the Representative from Sanford just mentioned. I have. I have taken time to go and have the names placed with the people that will be gathering information about those interested to serve on this commission. I would highly recommend that this study take place and that the State of Maine, as a whole, that I am interested in, will benefit from it. I would ask that you would support the pending motion.

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

Representative **CARR**: Mr. Speaker, Men and Women of the House. I do want to touch upon a couple of things. I am not going to ask for your vote for this, because I know we all come from different areas of the state. Some people come from areas that are not interested in having a study and there are other areas that are interested. That is going to be entirely up to you on how you vote on this issue. Because of some of the previous testimony, I think it is necessary for me to stand and straighten out a few things that have been implied.

Number one, I did not discuss with any of the Tribal members about this study before I put this in. That has been implied in different areas. I put this in for one purpose and one purpose only. That was to generate information that could be used in future legislation, if it comes forward. The idea was to study the impact of traffic, the labor force to see if there was labor that would be sufficient if it came forth, study crime to see how that would be affected upon the state and also the social affects. We heard one side of the story and I thought it necessary to hear both sides of the story. For that reason and for that reason only, that is why I put this study in. I don't think that anyone here or anyplace else has heard me say that I am in favor of a casino in the State of Maine. I am in favor of studying the effects if we did have a casino. I believe that is exactly what this study would do. Thank you Mr. Speaker.

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

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

The SPEAKER: The Representative may pose his question.

Representative **MICHAEL**: Mr. Speaker, Men and Women of the House. Could someone please clarify the relationship between the Indian Tribes and this study? I had heard that the Tribe had requested the study, but there is nothing in the language that I can see that would prevent the study from being a statewide study on gambling and not necessarily owned by Indians. Could someone please clarify that?

The SPEAKER: The Representative from Auburn, Representative Michael has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from the Passamaquoddy Tribe, Representative Soctomah.

Representative **SOCTOMAH**: Mr. Speaker, Ladies and Gentlemen of the House. This bill is about a fact-finding study, which has a lot of various issues attached with it. There is a lot of misinformation and damaging accusations being circulated by the opponents of this proposal. The vote today isn't about supporting or not supporting a casino. It is about presenting to the next Legislature accurate information, to make wise decisions on and coming up with remedies in areas of those concerns. Maine is

entitled to the true facts from this task force. I ask you to support the Majority Report on this bill. Thank you.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House. To respond to the question that was asked, because I think the question needs to be answered, it is my understanding from the hearing and the work session that it does not make reference to a Native American casino. It could be a state owned or state run or private enterprise. I think, if I remember correctly, it makes no reference to York County, Kittery or York, but could be anywhere in the state.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Thomas.

Representative THOMAS: Mr. Speaker, Men and Women of the House. Just to add onto what the Representative from Kennebunk, Representative Murphy just said, I think we actually added on, also, included in the study, to find where the most feasible sight, if any, was for the casino. I think that that is also an important issue to be addressed.

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

Representative TUTTLE: Mr. Speaker, Men and Women of the House. The good Representative from Auburn did bring up a good question. I would assume having been a member of this institution as many years as he has, I would pretty much be assured that the input as we have heard from the tribes will be heard at the study committee once it is evaluated. That is why I think that these questions are good questions. That is why as the process goes on the more input we get, hopefully, all of this can be included in that ramification and I would thank the good Representative for his question.

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. 596

YEA - Annis, Ash, Belanger, Blanchette, Bliss, Bouffard, Bowles, Brooks, Bruno, Bryant, Bull, Bumps, Bunker, Canavan, Carr, Chick, Chizmar, Clark, Collins, Colwell, Cote, Cowger, Cummings, Desmond, Dorr, Dugay, Duncan, Dunlap, Duplessie, Duprey, Estes, Fisher, Fuller, Goodwin, Green, Haskell, Hatch, Hawes, Heidrich, Honey, Hutton, Jacobs, Jodrey, Jones, Kane, Labrecque, LaVerdiere, Ledwin, Lessard, Lovett, Lundeen, Mailhot, Marley, Marrache, Matthews, McDonough, McGlocklin, McGowan, McKee, McLaughlin, Michaud, Mitchell, Morrison, Muse C, Muse K, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Perry, Pineau, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Shields, Simpson, Smith, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tracy, Treadwell, Tuttle, Twomey, Usher, Volenik, Watson, Weston, Young, Mr. Speaker.

NAY - Andrews, Berry DP, Berry RL, Buck, Chase, Clough, Crabtree, Cressey, Daigle, Davis, Dudley, Etnier, Foster, Gagne, Glynn, Gooley, Hall, Kasprzak, Koffman, Lemoine, MacDougall, Madore, Mayo, McKenney, McNeil, Mendros, Michael, Murphy T, Nass, Peavey, Perkins, Pinkham, Sherman, Skoglund, Snowe-Mello, Stedman, Tobin D, Trahan, Waterhouse, Wheeler EM, Wheeler GJ, Winsor.

ABSENT - Bagley, Baker, Brannigan, Gerzofsky, Landry, Laverriere-Boucher, Murphy E, Tobin J.

Yes, 101; No, 42; Absent, 8; Excused, 0.

101 having voted in the affirmative and 42 voted in the negative, with 8 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Resolve was **READ ONCE**. **Committee Amendment "A" (H-1035)** was **READ** by the Clerk.

Representative CARR of Lincoln **PRESENTED House Amendment "B" (H-1059)** to **Committee Amendment "A" (H-1035)**, which was **READ** by the Clerk.

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

Representative CARR: Mr. Speaker, Men and Women of the House. This would add one member to the committee. It would be a member of the Maine Civil Liberties. That would just add that one position.

Representative RICHARDSON of Brunswick moved that **House Amendment "B" (H-1059)** to **Committee Amendment "A" (H-1035)** be **INDEFINITELY POSTPONED**.

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

Representative RICHARDSON: Mr. Speaker, Ladies and Gentlemen of the House. I appreciate the thought that the good Representative from Lincoln, Representative Carr, had. We had considered all of the various people that should sit on this particular casino study bill. We have two people currently that can be for this piece of legislation and two that are against the legislation. I would encourage Representative Carr or any other Representative for that matter who has someone that might want to sit on this committee to go ahead and apply for those positions. I think it is inappropriate, whether it is a casino study or some other study that the State Legislature does, to impose, essentially, religion into what we do here. How are we to choose whether it is the Maine Christian Civic League or any other organization? I think it is dangerous that we would go down this road. For that reason, respectfully, because I do respect that organization, I am moving to Indefinitely Postpone. I think the religious and social or moral aspects can be dealt with as someone coming before the casino study group and making their views known. Thank you.

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

Representative CARR: Mr. Speaker, Men and Women of the House. I need to correct my previous statement. It should be the Maine Christian Civic League. It was a senior moment.

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

Representative MICHAEL: Mr. Speaker, Ladies and Gentlemen of the House. It doesn't matter, they are both religions anyway.

The Chair ordered a division on the motion to **INDEFINITELY POSTPONE House Amendment "B" (H-1059)** to **Committee Amendment "A" (H-1035)**.

A vote of the House was taken. 81 voted in favor of the same and 38 against, and accordingly **House Amendment "B" (H-1059)** to **Committee Amendment "A" (H-1035)** was **INDEFINITELY POSTPONED**.

Representative MENDROS of Lewiston **PRESENTED House Amendment "A" (H-1056)** to **Committee Amendment "A" (H-1035)**, which was **READ** by the Clerk.

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

Representative MENDROS: Mr. Speaker, Ladies and Gentlemen of the House. This amendment simply adds a new paragraph and the things that are going to be specifically looked at in the study. How a casino will be impacted by the potential for the referendum question that is most likely going to be on the ballot in 2003. There is a petition drive out now to allow video gambling at harness racing and how it is going to affect harness racing and video gambling. Both of these groups are telling us

that there is this big huge pot of money that is going to come into the State of Maine and how it is going to affect each other. Where is the pot going to go? Is it going to be two different pots? Basically I just think there is a lot of questions that specifically relate to how this is going to affect harness racing and should be looked at as its own separate paragraph.

On motion of Representative TUTTLE of Sanford, **House Amendment "A" (H-1056) to Committee Amendment "A" (H-1035) was INDEFINITELY POSTPONED.**

Subsequently, **Committee Amendment "A" (H-1035) was 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-1035)** and sent for concurrence. **ORDERED SENT FORTHWITH.**

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

The House recessed until 6:15 p.m.

(After Recess)

The House was called to order by the Speaker.

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

UNFINISHED BUSINESS

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

An Act to Expand Family Life Education Services in Maine Schools

(H.P. 1180) (L.D. 1603)
(C. "A" H-1024)

TABLED - April 1, 2002 (Till Later Today) by Representative COLWELL of Gardiner.

PENDING - **PASSAGE TO BE ENACTED.**

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:** 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. 597

YEA - Andrews, Ash, Belanger, Berry RL, Blanchette, Bliss, Bouffard, Brooks, Bruno, Bryant, Bull, Bumps, Canavan, Chick, Chizmar, Collins, Colwell, Cote, Cowger, Cummings, Daigle, Desmond, Dorr, Dudley, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Green, Hall, Hatch, Hawes, Heidrich, Honey, Hutton, Jacobs, Jodrey, Kane, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lovett, Lundeen, Madore, Marley, Marrache, Matthews, Mayo, McDonough, McKee, McKenney, McLaughlin, Michaud, Mitchell, Murphy T, Muse C, Muse K, Nass, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil,

Paradis, Patrick, Peavey, Pineau, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Shields, Simpson, Skoglund, Smith, Sullivan, Tessier, Thomas, Tracy, Tuttle, Usher, Volenik, Watson, Mr. Speaker.

NAY - Annis, Berry DP, Bowles, Buck, Bunker, Carr, Chase, Clark, Clough, Cressey, Davis, Dugay, Duncan, Dunlap, Duprey, Foster, Glynn, Goodwin, Gooley, Haskell, Jones, Kasprzak, Ledwin, MacDougall, McGowan, McNeil, Mendros, Michael, Morrison, Pinkham, Sherman, Snowe-Mello, Stanley, Stedman, Tobin D, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor, Young.

ABSENT - Bagley, Baker, Brannigan, Crabtree, Gerzofsky, Landry, Mailhot, McGlocklin, Murphy E, Norbert, Perkins, Perry, Povich, Tarazewich, Tobin J, Twomey, Wheeler GJ.

Yes, 92; No, 42; Absent, 17; Excused, 0.

92 having voted in the affirmative and 42 voted in the negative, with 17 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

REPORTS OF COMMITTEE

Divided Report

Seventeen Members of the Committee on **HEALTH AND HUMAN SERVICES** and the Committee on **JUDICIARY** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (H-1062)** on Bill "An Act to Provide Government with the Necessary Authority to Respond to a Public Health Emergency Caused by an Act of Bioterrorism"

(H.P. 1656) (L.D. 2164)

Signed:

Senators:

LONGLEY of Waldo
TURNER of Cumberland
MARTIN of Aroostook
RAND of Cumberland
FERGUSON of Oxford

Representatives:

KANE of Saco
LaVERDIERE of Wilton
FULLER of Manchester
DUDLEY of Portland
LAVERRIERE-BOUCHER of Biddeford
LOVETT of Scarborough
O'BRIEN of Augusta
BULL of Freeport
JACOBS of Turner
MITCHELL of Vassalboro
SIMPSON of Auburn
MADORE of Augusta

Five Members of the same Committees report in Report "B" **Ought to Pass as Amended by Committee Amendment "B" (H-1063)** on same Bill.

Signed:

Senator:

McALEVEY of York

Representatives:

BROOKS of Winterport
DUGAY of Cherryfield
SHIELDS of Auburn
NUTTING of Oakland

Four Members of the same Committees report in Report "C" **Ought Not to Pass** on same Bill.

Signed:

Representatives:

WATERHOUSE of Bridgton

SHERMAN of Hodgdon

MUSE of South Portland

MENDROS of Lewiston

READ.

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

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

Representative **WATERHOUSE:** Mr. Speaker, Ladies and Gentlemen of the House. This is a pretty important piece of legislation. The original bill has been paired down quite a bit to what you have in front of you now. I was unable to support it and I am about to tell you why. One thing, it suspends due process rights, the Fourteenth Amendment. By bypassing the court system to have people put in isolation, quarantined, medically examined and forced vaccinations. A lot of this legislation that we have seen before us this session dealing with terrorism, I think is well meaning, but I think in adopting some of these measures we are surrendering to the very thing that we are trying to fight. Make no mistake, this is an assault on our civil liberties, our due process rights. Crisis and threats have resulted in expansion of government power with a result in loss of civil liberties for citizens. That has been so in the past. It is so now and it will be so in the future. That is why I think we have to be vigilant when we look at issues like this.

I always felt as through securing a person's rights, not protecting citizens, is the foremost government responsibility. Public safety is a pre-condition for the exercise of rights, but not an end unto itself. Strong emotions make for poor decision making and certainly what is happening in our society in different situations that we have seen in the news and happened in the past in the Twin Towers and other episodes evoke strong emotions and in a lot people fears too. If our actions are governed by our rage, grief and fear, we risk losing more than the terrorists could ever take from us ourselves. Responding to the spasms of calls for officials to do something, the greatest worry that I have is that government will get so frightened that we will become a minor kind of police state. That may sound like rhetorical hyperbole, but I don't think any democracy has ever lost their freedom by a cataclysmic event. I think it has been incremental.

One of the things that I listened to on the committee was different scenarios of what could happen. When we had the joint committee meeting, there was a give and take with different ideas and concerns and I listened to those concerns and said nothing for quite a while until one person on the committee kind of boohooed the people who were concerned with civil liberties. I responded to that. I had been writing down notes and thoughts at the time. What I wrote down, I quoted that in response to what that person said. I said on December 7, 1941, and we don't call that 12-7, we call that Pearl Harbor, the United States was attacked. We went to war against an axis power, the factious powers. We were united against a common enemy to preserve our civil liberties and our freedoms. On September 11, the Twin Towers were attacked by a group of terrorists and now we are taking measures against that treat. However, in this instance we are surrendering our liberties to fight terrorism, the exact opposite of what we did in World War II. I realize you can't compare World War II with what is going on now in the world, but nonetheless, by taking these steps, incremental as they may be for so called security, we are doing exactly that, in my opinion.

If we continue down this path, we will surrender to the terrorists and they will have won. Somebody said in the committee, who would really care about civil liberties, if there was a deadly disease and they had to get medical attention? Certainly survival is instinct, but so is liberty. I would remind the ladies and gentlemen of the House, and I am sure they don't need reminding, but I will say it anyway, that millions of people have died for liberty. People who had security, had wealth, comfort and all the things that we want in life, surrendered those for the very things that we are willing to give up to protect ourselves.

The report on this bill said they believe the mission is to create security in order to protect our freedom. I think we have that in reverse and I think the report had that in reverse.

I will say one final thing and I may respond to some things that are said for the proponents of this bill depending on what is said, but I think that terrorists cannot destroy a free society, but they can scare a free society into destroying itself. Thank you.

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

Representative **BROOKS:** Mr. Speaker, Ladies and Gentlemen of the House. It isn't often that I rise in total support with what my good friend from Bridgton, Representative Waterhouse, has said. I wanted a few minutes on the floor tonight to tell you where I am coming from on this legislation and to tell you that I do support what he has said. Every year for the past several years I have been asked to go to the small Town of Prospect and deliver the Memorial Day speech. I am sure that all of you in this House have had that opportunity to do that as elected officials. Almost every year I reminisce about my father and I reminisce about others who have been military men and gone off to war and sacrificed their freedom and sometimes have been wounded and sometimes haven't come home. Almost every year I say that as a member of the Maine State Legislature if I am ever given the opportunity to rise from the floor and make a speech that will protect or attempt to protect those things that we hold nearest and dearest to us and cherish. That is our rights. I would rise and do that in the strongest way that I can. That is what I am saying to you here tonight.

On September 11 of last year, when terrorists struck, we all were seriously saddened and worried about our own safety. As a person who spent many years in the profession of newspapering, the next thing that came to my mind after I got over that initial shock was, what is going to happen to this country? Not in devastation, because I thought we could rise up and we could reject the forces from other countries that we may be in peril over. I wondered what we would do to ourselves? I wondered what would happen as edict after edict began to flow from Washington to this state and to other states that might, in fact, erode our rights that are guaranteed under the Constitution. I have said on more than one occasion including the hearing on this bill that I would be one of the first to rise and say no. This bill goes too far. I agree. We need to be looking at the security of this country. We need to invest in certain people and in certain agencies abilities to protect us from bio-terrorism or terrorism as a whole. Mr. Speaker, this is a terrible resolution. This would invest in the Chief Executive of this state almost complete and total police power. This would usurp the court system. This would allow people to be locked up under an amended version of this bill for 48 hours without a court hearing. This would allow the courts another 24 hours in which to react to these lock ups.

I didn't live through the time, but I do remember and I have learned about TB sanitariums and the fears that we have gone through over the past years and the number of wars when people, not necessarily of this country, born in another country,

were locked up. Where are the civil liberties when you allow that power to be vested in one individual? I had suggested during the public hearing on this and during work sessions that the bill provides for a medical review board. That medical review board would be called into place once there is an emergency declaration by the Chief Executive. Why not have him consult with that review board before? That was rejected out of hand. It left me only in the position that I can't support the legislation. I can't support Report "A" and I have to vote against the Ought to Pass. I don't want to see us in that position. At some point if this truly does happen and if we are genuinely at risk, there are federal and state laws that allow the Chief Executive to put us in marshal law and do some of the things that this bill requires. They say that this is just another step that is intermediary. I am sorry. I can't go there. I don't want to see us dismiss the bill completely. I don't want to see us totally unprotected and unprepared, but this isn't the legislation that I can support. Again, I think that it does.

Beware, all of us in this body, of the people that come to us and say we are doing this to protect you. We will begin to erode away some of those rights that we have so enjoyed and the peacetime that we have enjoyed recently. Beware, let's not throw it away. If we can get beyond this report, Report "A", there are other reports waiting in the wings that we can move. One will allow us to study this and bring it back to the next session. Again, I am not in favor of studying things. Sometimes I think that doesn't go anywhere, but it just kills the bill. In this particular case, we need a little bit more room. This legislation was brought to us again at the eleventh hour of this Legislature. Frankly, I haven't had enough time to absorb the ramifications of this legislation. Because I can't support "A" and I don't want to throw it completely away, allow us the opportunity. Follow my light. Vote against this, vote no and then we can move on to other things. I, frankly, will feel a whole lot better if we do not invest in our Chief Executive this unparallel level of power. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative McKenney.

Representative **MCKENNEY**: Mr. Speaker, Men and Women of the House. You are starting to hear some of the reasons why this is a remarkable bill. I would like to call your attention to the fiscal note, which I find quite remarkable myself. It is remarkable in the fact that there isn't one. Let me read it to you. The additional cost associated with establishing a system to address extreme public health emergencies and exercising emergency powers upon declaration of an extreme public health emergency can be absorbed by the Bureau of Health. They are telling you that they have a huge stock of vaccine, a huge stock of needles, a place to put all these people they are going to quarantine, a staff to do it, and they can absorb that within their own budget. I think they need to be audited.

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

Representative **LAVERDIERE**: Mr. Speaker, Men and Women of the House. This is a bill that I hope you will take the time to read carefully. I hope that you will take the time to read the report that was issued. Anybody that believes that there are not threats in the world today must not be living in the same kind of state that I am living in and reading the same kinds of newspapers that I am reading. There is no doubt about the fact that we live in a different world today. I have heard people tonight talk about the constitutional nature of this bill. For the past 15 years, up until recently, I have been a Justice of the Peace. I have received phone calls at 2:00 in the morning, police officers asking me to sign papers to put someone into detention

for 48 hours to receive mental health evaluations and mental health assistance. I have signed papers allowing people to be held pending arraignment. I have signed papers allowing a number of people to be held in jail for up to 48 hours. What we are talking about is not unusual. The reason that they are allowed to do that is because the Constitution requires only that there be due process. There is due process in this situation.

I want to relate to you some of the information that we found out in the committee. If there is a terrorist that decides that they want to be a suicide terrorist and they want to infect themselves with small pox and they want to go to a facility somewhere in the State of Maine or somewhere in the nation, call it the Super Bowl, and they want to at that point in time, infect large numbers of people, who then return back to the State of Maine or wherever they came from, the medical facts are that that spreads geometrically. That spreads instantly and that large numbers of people are at risk. We also learned that there is not a vaccine readily available at the moment to be able to provide for everyone that may need or want to be vaccinated. What this is talking about is in an extreme situation, the Governor will have the authority to be able to declare a medical emergency, quarantine individuals, provide them with vaccinations, people will have the availability of opting out of receiving treatment or vaccination, because of religious or conscientious belief, they don't have to be vaccinated. They don't have to be treated. They can opt out. If, in fact, we are faced with this situation, it authorizes the government to take necessary precautions it only lasts for 30 days. At the end of 30 days, the powers terminate.

In addition, the Legislature has the ability to come into session and if it feels that the Governor has acted inappropriately, it can take appropriate action. Finally, the original bill that was put forward was an extremely extensive bill. We have narrowed it down and we have tried to narrow this bill down so that it deals only with extreme emergencies and only in the short run. I say only in the short run because we have put a sunset on this that will require that people take the time to come forward with potential changes to this so that we can have a full discussion of the issue. In the meantime we have to protect the citizens of the State of Maine from potential harm. This provides the opportunity to do that. You have heard people talk about that the Governor can declare marshal law. That is a misconception. There is no such thing as marshal law in the State of Maine. What there is is emergency powers and the emergency powers we are talking about are these. This is reasonable legislation. Look at the committee report and I urge you to support the Majority Report that is before you. Thank you.

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

Representative **SAVAGE**: Mr. Speaker, Men and Women of the House. I don't rise today to speak for or against the bill because I haven't decided whether I am going to vote for this bill or against this bill. I do think this is a good time for me to point out that as the Representative from Wilton pointed out to you, this isn't anything new.

What we have done in the name of war on prohibited alcohol during prohibition, what we have done in the name of the war on drugs, war on crime and now the war on terrorism is pretty antithetical to what we stand for. I want to point out that the only thing extreme about the definition of extreme public health emergency is the name of the section. If you would parse through the definition on Page 4 of the Committee Amendment, Section 4A, extreme public health emergency means the occurrence of an imminent, which means merely immediate, imminent has that ring of danger. All it means is immediate threat of widespread exposure to a highly infectious or toxic

agent that poses an imminent, again, immediate threat of substantial harm to the population of the state. All that section requires is an immediate threat of a substantial harm. That is all. It doesn't speak to me of extremity. Thank you.

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

Representative KANE: Mr. Speaker, Men and Women of the House. As Representative LaVerdiere pointed out, this bill before us is a significantly watered down version, not only of what was originally developed by the Bureau of Health, but is a contrast to far more extreme models that has been promoted by the Center for Disease Control and adopted by so many other states. Maine decided that it was going to take as least an intrusive approach as possible in the event of an emergency. The bill was developed with protection of civil rights as its very centerpiece. No where in my experience in the development of legislation have I seen the ACLU participate in such an active leadership role in the development of legislation to ensure from the get go the protection of civil rights that this bill has had. In fact, the ACLU warned us that in the event of a terrorist attack and decision making in times of crisis, the situation would be so much more extreme and therefore result in far more serious threats to both civil liberties and to public safety.

As was brought up in our work session on the bill, I don't think any of us want to be in the position to have a terrorist attack occur and see our state unprepared and regret not having taken the action that is required of us tonight. Thank you Mr. Speaker.

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

Representative MENDROS: Mr. Speaker, Ladies and Gentlemen of the House. Two hundred and twenty six years ago we were formed as a fledgling country. We had powerful enemies, much more powerful than we were surrounding us. We had just won our revolution and yet the framers of our constitution decided that even though we were a very weak country in the scheme of the world that our number one priority would be to protect the freedom of our citizens and not to worry about what foreign entities can do to us. Now 226 years later, we are the most powerful country in the world. Now, we are looking at taking away the freedoms that were put in place in a time when security was at much greater risk than it is now. We want to dismantle them.

What I see us doing is turning our decision making powers, turning the freedom that makes our country great, turning that over to terrorists and saying you have achieved victory. You have taken away what you hated the most about the United States. We are the freest country in the world. You got to take that away from us. That is what they envy. That is why we were attacked. In his country, the Taliban didn't allow freedom and they resented us that we have freedom in this country and they wanted to destroy it. We are giving them an opportunity to chip away at it. We heard some scenarios in the committee about small pox and someone going to the Super Bowl or the Olympics. We asked, why would Maine be a target of terrorism like this? We wouldn't. The scenario they gave us was someone going to the Olympics with small pox. Small pox has been around for a long time. Terrorists have been blowing themselves up for a long time. The scenario of someone going to the Olympics and spreading small pox and all those people going back home, in my opinion, would create a point where marshal law would be declared by our President. Not everyone at the Super Bowl or the Olympics is from Maine. It would be a national emergency. There are provisions for marshal law. The reason those provisions are so extreme is because they are not supposed to be used. When we water them down and trample on our basic

due process rights, we make that too easy to do and it is done more often. It is done and people who aren't affected say it is not affecting me. They are not rounding me up and making me wait in this camp. They are not dragging me off to a 24th Century leper colony. It is happening to somebody else. I can go about my business. If it is something extreme, then marshal law should be declared and whoever the Chief Executive or the President or whoever declares it has to be accountable for their actions in declaring it. That is why these powers are there. They are supposed to be rarely used. They are not supposed to be watered down. When you water down how they can be used, you water down the amount of people who care about them being used.

All through this when I saw this scenario and they were talking about it, all I could think about was that book by Steven King, *The Stand*. They round the people up. I thought about how scary that was and how scary this has the potential of being to the civil rights and the due process rights of the people of Maine. We are giving them all away in the name of terrorism. We are letting the terrorists know that the blow they struck affected the civil rights of the people of the State of Maine. I say no.

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

Representative DUDLEY: Mr. Speaker, Men and Women of the House. I am very encouraged by the level of debate that I have heard here this evening. It makes me feel very happy to know that I am among so many civil libertarians because I certainly am a strong one myself. I want to thank all of you for the level of debate. I rise this evening to support the comments of my committee chair and the Judiciary Committee chair, who I think both made excellent comments relative to this bill. I agree with them in their entirety. Additionally, what was really the final issue that solidified my support for this committee report, Committee Amendment "A" was the fact that I am a strong libertarian and I recognize that the Governor already has broad authority available to him by declaring a state of emergency, marshal law, as the Representative from Lewiston was talking about. That gives the Governor very broad authority. He has that authority right now. Nothing we do here today relative to this bill and this Committee Amendment is going to change that.

What we are going to do, I hope, is add a more focused ability of the Governor to deal with a bio-terrorism threat, the threat of something like small pox. It is particularized. It gives him broad authority, granted, but it is less than the authority he would have under a general state of emergency declaration. This preserves civil liberties now. Were the Chief Executive to be faced with a bio-terrorism right now, he would have one tool at his disposal and I, for one, would support his using it if we had the threat of small pox in the State of Maine. I would much rather that he have a tool like this to use, which is a much more focused ability to deal with the threat posed by bio-terrorism. A vote for this Committee Amendment is a vote in support of civil liberties.

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

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

The SPEAKER: The Representative may pose his question.

Representative TRACY: Mr. Speaker, Men and Women of the House. To anyone who wishes to answer this, could anybody tell me how many other states have passed a piece of legislation like this that is far reaching to the citizen's Constitution rights. Thank you.

The **SPEAKER**: The Representative from Rome, Representative Tracy has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Saco, Representative Kane.

Representative **KANE**: Mr. Speaker, Men and Women of the House. The Director of the Bureau of Health indicated to us that at this point that the vast majority of states have already implemented it in response to the alert from the CDC or are in the process of some form of enactment of the national model legislation. As I indicated earlier, our proposal here in Maine is far more moderate, far more focused and far more restrictive and protective of civil rights. Thank you.

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

Representative **MUSE**: Mr. Speaker, Men and Women of the House. In regard to the question that was just asked, everybody received this handout from *Time Magazine*, I don't know if anybody has taken the time to read handouts top to bottom these days, but this is from the newest edition. It says that 30 states have tried to enact this as it came from the CDC and all but Utah have killed it or taken a watered down version of it. I have heard repeatedly that our version is watered down. If you could have seen the original bill, say if we had the water that was used to water it down, we wouldn't have a drought in the State of Maine right now.

I listened to Representative Waterhouse speak first on this bill. For those of you who have made up your mind and agreed with him, I want you to just sort of close your mind and don't even listen to me. Those that might still be sitting on the fence, let me say this. I listen to Representative Waterhouse give a very passionate speech about of freedoms and liberty. It is my opinion, after watching him for the last six years that there are very few people in this body that are as passionate about our freedoms and our Constitution than Representative Waterhouse. It was pretty evident when he walked up, probably the proudest day in his legislative career when he walked up to the rostrum to assume the role of speaker pro tem. He didn't go up empty handed, he brought his *Mason's Manual* with him. It is something that he probably knows inside and out as well as Mr. Mason, but he brought it with him nonetheless. I want to disagree with him.

This is where I hope the people that do agree with him won't even pay attention to me. He referred to Pearl Harbor and the events that took place then and how devastating that was. Truly it was the most devastating event that had occurred in the history of our country, but it is a different type of devastation. It is not like what we are facing today. It is not like an individual being able to walk into a subway station in New York City and drop a vial, one vial, of a biohazard down on the tracks, turn around and walk out and we don't even feel the ramifications of that for a couple of weeks when tens of thousands of people are infected. That is a biological fact that can, in fact, happen.

My take on this is that when we are confronted with different types of situations, we need to deal with them effectively and expeditiously. With the exception, perhaps of Representative Waterhouse, I don't know how many members in this room would watch somebody being dragged off by the biohazard police because they are grossly infected with some sort of nasty whatever, saying that I didn't get to make my phone call. How many members are going to say, come into my house and use my phone because your rights are being trampled on. We live in a different day and age. We live in a time, unfortunately, that requires our government to act in an expeditious manner to deal with the problem immediately. We are talking about extreme health emergencies. It is my belief and I have talked with three

different attorneys now who have agreed that when, in fact, an extreme health emergency is declared, there is nothing in this bill that the Chief Executive can't do now. We are creating a solution looking for a problem. Whatever this bill says, it can be done now. The Chief Executive can do this. We can do this. In the event of an extreme emergency, I am pretty comfortable thinking that we would do this.

I know that there are other amendments hanging out there waiting to be looked at proposing study committees and all sorts of things. That is a great thing. Maybe we can look at those. I just think we have gone too far with this. We are going down a road that we don't need to travel down. Thank you Mr. Speaker.

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

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. There is one aspect of this bill that does trouble me. The bill does give to the department, I assume they are talking about the Department of Human Services, the authorization of the right to act without a court order on their determination that a person is going to pose a risk and take that person and put them away for up to 48 hours before they have a chance to be heard by a judge. I don't think that is right. I don't trust the judgment at all times by the Department of Human Services. I don't think that people should be able to be taken and put away for 48 hours solely on the judgment of somebody in the Department of Human Services. Yes, it might be exercised correctly some times, but there may be times when it won't be. We have always had a basic protection in this country that people will be secure in their persons and in their homes and that the state could not act without having probable cause and authorization from a judge or a magistrate. There is nothing like this here. It would not be asking too much to say that if you want to take somebody and put them away, get authorization from a judge. To say you can come in on a department's authorization and put someone away for 48 hours that is not right. Keep in mind that the Department of Human Services is not fully accountable. They are immune. They can do what they please and you can't do a darn thing about it. I am going to vote against this because we still need that basic protection.

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

Representative **BULL**: Mr. Speaker, Men and Women of the House. I rise to ask you to support the strong bipartisan Majority Ought to Pass Report on this bill. Seventeen members of both the Committees on Health and Human Services and Judiciary voted for this. This is an issue that I did first look at very skeptically and asked many of the same questions that have been by members in this body and had some great concerns. We did work very hard on this to make this a workable document that addressed many of the concerns that I had in terms of civil liberties of individuals and the potential of people being kept and quarantined for 48 hours.

I did want to respond directly to the comments of Representative Smith because the reason this language is in here is we need to have quick, decisive action. If there is an outbreak of small pox or some other bio-terrorism event here in Maine, by the time we go to a court and get a court order to try and quarantine an individual it is going to be too late. The damage will be done. Many of these viruses and many of these diseases spread very, very quickly. Unfortunately time is of the utmost importance and the sooner we get that infected individual out of the mainstream of society the better off we will be. That is why we had to have this provision in here that allowed the department to take this decisive action. Remember, the department can only take this decisive action upon the

declaration of this public health emergency. It is not just something they can do on a whim. It is something they are going to take very seriously and only act upon after a declaration by the Chief Executive. I think we did put some very strong safeguards in this bill. I would again encourage you to look at the committee report.

I would also remind you that reference was made to an article earlier from *Time Magazine*. None of the provisions on that article are in this bill at all. It is totally off the mark in terms of what we are trying to propose here today. This is a very limited, very controlled, very deliberate effort to give the State of Maine time to have something in place that if a public health emergency does occur, allows us to act. This provision is repealed October 31, 2003. It gives the various interested parties time to come together, solicit more information and come back to us with a better proposal if need be. This is nothing that is going to be in place forever. It is something that we did consider very carefully. I would urge your very care consideration of this. This could potentially lead to some problems if a bio-terrorism even does happen here in Maine. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Hodgdon, Representative Sherman.

Representative SHERMAN: Mr. Speaker, Ladies and Gentlemen of the House. We have been asked several times to look at this bill. I think the good Representative from Van Buren and the Representative from Buxton did, they highlighted what attorneys see wrong with this bill. If you read through this, can you find these things? Is this procedure we are setting up, is that based on present day knowledge of how things are transmitted, new ways of transmitting a number of diseases or is this just set up on the old kind of quarantine set up? Is there anything in here for how you are going to coordinate county government, state government or local government? Is there anything in here to keep the Legislature informed? Is there anything in here for maximizing service of health care personnel and the entities that are going to deal with this? Is there anything in there that is going to determine what are the strengths and weaknesses as of this moment for handling bio-terrorism? Is there anything in here for monitoring any bio-terrorism events during the event itself? I think this lacks a number of things and maybe that could be addressed in another report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Belmont, Representative Berry.

Representative BERRY: Mr. Speaker, Men and Women of the House. In just a few minutes of listening here there are some things that concern me greatly about this whole procedure. I would just like to address one. If this state and this country is attacked by any form of terrorism and if that form should come as any organism, virus, bacteria or any other exoreic that has been developed, the first group that is going to be called once something is here is going to be the Center for Disease Control. Once the Center for Disease Control walks into this state, they then have the power to do a whole lot of things that you might not like. I would point out to you that what this bill does is nothing compared to what would happen. This becomes a federal issue, not a state issue because of the identification of these types of organisms by the center for disease control. This bill is not necessary. Thank you.

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

Representative KANE: Mr. Speaker, Men and Women of the House. This was one of the substantive questions that was raised and discussed with the Bureau of Health in the work session process. It is clear that this bill is intended to be a delegation of the authority and responsibility of the CDC. In the

event of a terrorist event, this bill would take priority in terms of the implementation here pending improvements. I also wanted to respond to some excellent questions that Representative Sherman raised, what about emergency management and so on? The director of the Department of Emergency Preparedness is an interval part of the team, as are all of the emergency management agencies locally. Every component of the Emergency Management System is tied into this emergency response. There is a lot of detail between the lines that is not reflected in this bill. It is currently going on as part of that process. I assure you that having this in place is going to prevent the kind of more serious and more constrained CDC intervention that would otherwise occur. Thank you Mr. Speaker.

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

Representative SKOGLUND: Mr. Speaker, Ladies and Gentlemen of the House. For the past month I have been going through my grandfather's diaries quite methodically from 1893 to 1919. It surprised me that the last case of small pox in St. George occurred between 1910 and 1915. Grandfather wrote in his diary, quite a lot of excitement in town over the small pox. He mentioned a person who had died. It was not that long ago. Small pox, of course, was a serious disease then as it is now. It is interesting that in those days when terrible plagues still swept through the nation, people were aware of how they were spread. They managed to attempt to control those plagues and diseases without eroding constitutional rights. This is a maybe and what if situation now. In the last century it was a matter of fact. They knew it was going to happen. They did deal with it on a local level. People were quarantined, but they did not diminish our constitutional rights. We may have already been infected with a virus, the worst kind of virus and that is the virus of fear and apprehension. Naturally we have to be prepared, but we don't need to overreact. We don't need steps taken that would diminish our personal freedoms and constitutional rights. Thank you.

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

Representative FULLER: Mr. Speaker, Ladies and Gentlemen of the House. I will be brief. I just want to reinforce the seriousness of what we are talking about. Small pox is an extremely communicable and highly contagious and highly fatal disease. We are concerned about impaling our civil liberties, but I will tell you that what they did back in the old days was quarantine people and that is exactly what this bill provides for as well as vaccinations. If people don't want to be vaccinated, they can be quarantined. That is what they did back in the old days when they had small pox plagues.

We have made reference to the article from *Time Magazine* tonight and I would direct your attention to the very last sentence in this article that the Deputy Attorney General warned that there is nothing to stop someone with small pox from walking out of the hospital. Without this tool that is provided in this bill, how else can we minimize the loss of life? In spite of all those other comments in there, the bottom line is if small pox does reach our community, heaven help us, nobody wants it to happen, but if it does, we do need to be prepared for it.

I would also remind people that the bill does provide that this then becomes an emergency under the powers for the emergency agency and without this bill the FEMA people or the MEMA people cannot intervene and do some of the things that would need to be done because the authority is not there to call them up without this bill. It is really important that we pass it. Thank you.

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

Representative **VOLENIK**: Mr. Speaker, Men and Women of the House. Most terrorists don't come from countries that are politically free and economically healthy. Most terrorists come from countries that are poor and that are run as police states, by dictators or by corrupt oligarchies. They come from countries that are exploited by outside economic interests. They come from countries whose law is often by the gun of death squads armed by the highly profitable arms merchants of the world. They come from countries whose civil liberties have been suspended or totally destroyed. As we reduce our own civil liberties, the terrorists that we will face may not be from without, they may be our own citizens struggling once again to be free. Before we get to that point, we should attempt to combat terrorism with a new marshal plan and help to being some prosperity and some economic independence, some self-rule back to the politically and economically oppressed peoples of the world. In the meantime, however, since we can't do that tonight, please vote against this motion. Thank you.

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

Representative **BERRY** of Belmont **REQUESTED** a roll call on the motion to **ACCEPT Report "A" Ought to Pass as Amended**.

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

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

ROLL CALL NO. 598

YEA - Berry RL, Blanchette, Bull, Bunker, Chick, Chizmar, Colwell, Cote, Cowger, Cummings, Dudley, Dunlap, Estes, Etnier, Fisher, Fuller, Green, Jacobs, Jones, Kane, LaVerdiere, Laverriere-Boucher, Lemoine, Lovett, Lundeen, Madore, Mailhot, Marrache, Matthews, Mayo, McDonough, McKee, McLaughlin, Michaud, Mitchell, Norton, O'Brien JA, O'Brien LL, O'Neil, Patrick, Pineau, Richard, Richardson, Rines, Schneider, Tessier, Thomas, Tuttle, Mr. Speaker.

NAY - Andrews, Annis, Ash, Belanger, Berry DP, Bliss, Bouffard, Bowles, Brooks, Bruno, Bryant, Buck, Bumps, Canavan, Carr, Chase, Clark, Clough, Collins, Cressey, Daigle, Davis, Desmond, Dorr, Dugay, Duncan, Duplessie, Duprey, Foster, Gagne, Glynn, Gooley, Hall, Haskell, Hatch, Hawes, Heidrich, Honey, Hutton, Jodrey, Kasprzak, Koffman, Labrecque, Ledwin, Lessard, MacDougall, Marley, McGlocklin, McGowan, McKenney, McNeil, Mendros, Michael, Morrison, Murphy T, Muse C, Muse K, Nass, Nutting, Paradis, Peavey, Pinkham, Quint, Rosen, Savage, Sherman, Shields, Simpson, Skoglund, Smith, Snowe-Mello, Stanley, Stedman, Sullivan, Tarazewich, Tobin D, Tracy, Trahan, Treadwell, Usher, Volenik, Waterhouse, Watson, Weston, Wheeler EM, Winsor.

ABSENT - Bagley, Baker, Brannigan, Crabtree, Gerzofsky, Goodwin, Landry, Murphy E, Norbert, Perkins, Perry, Povich, Tobin J, Twomey, Wheeler GJ, Young.

Yes, 49; No, 86; Absent, 16; Excused, 0.

49 having voted in the affirmative and 86 voted in the negative, with 16 being absent, and accordingly Report "A" **Ought to Pass as Amended** was **NOT ACCEPTED**.

Representative **BROOKS** of Winterport moved that the House **ACCEPT Report "B" Ought to Pass as Amended**.

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

Representative **WATERHOUSE**: Mr. Speaker, Men and Women of the House. I hope we are not going to go over the whole debate again. I certainly am not. I hope that you will vote against this motion and go on to accept Committee Report "C." I think this is something we don't need. I think as been mentioned in some of the debate before, the power is already there to us. It should be used only when necessary. Thank you.

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

Representative **BROOKS**: Mr. Speaker, Men and Women of the House. It was inevitable, Representative Waterhouse and I don't agree again. This is a study. This is an opportunity for us to take a look at it, not abandon everything and come back in January and report to the next session. I don't think it is in the least bit controversial. I don't think that it is going to interfere with anybody's rights. To me it responds to all the questions that were raised in the previous debate.

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

Representative **CLOUGH** of Scarborough **REQUESTED** a roll call on the motion to **ACCEPT Report "B" Ought to Pass as Amended**.

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

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

ROLL CALL NO. 599

YEA - Andrews, Ash, Blanchette, Bliss, Brooks, Bunker, Chizmar, Cote, Cowger, Dudley, Dunlap, Estes, Etnier, Fisher, Fuller, Gagne, Green, Hatch, Honey, Hutton, Jones, Kane, LaVerdiere, Laverriere-Boucher, Lemoine, Lovett, Lundeen, Madore, Marley, Marrache, Matthews, Mayo, McDonough, McKee, McLaughlin, Michaud, Muse C, Nutting, O'Brien LL, O'Neil, Pineau, Quint, Richard, Richardson, Rines, Schneider, Sherman, Shields, Sullivan, Tessier, Thomas, Tobin D, Tuttle, Mr. Speaker.

NAY - Annis, Belanger, Berry DP, Berry RL, Bouffard, Bowles, Bruno, Bryant, Buck, Bull, Bumps, Canavan, Carr, Chase, Chick, Clark, Clough, Collins, Colwell, Cressey, Cummings, Daigle, Davis, Desmond, Dorr, Dugay, Duncan, Duplessie, Duprey, Foster, Glynn, Gooley, Hall, Haskell, Hawes, Heidrich, Jacobs, Jodrey, Kasprzak, Koffman, Labrecque, Ledwin, Lessard, MacDougall, Mailhot, McGlocklin, McGowan, McKenney, McNeil, Mendros, Michael, Mitchell, Morrison, Murphy T, Muse K, Nass, Norton, O'Brien JA, Paradis, Patrick, Peavey, Pinkham, Rosen, Savage, Simpson, Skoglund, Smith, Snowe-Mello, Stanley, Stedman, Tarazewich, Tracy, Trahan, Treadwell, Usher, Volenik, Waterhouse, Watson, Weston, Wheeler EM, Winsor.

ABSENT - Bagley, Baker, Brannigan, Crabtree, Gerzofsky, Goodwin, Landry, Murphy E, Norbert, Perkins, Perry, Povich, Tobin J, Twomey, Wheeler GJ, Young.

Yes, 54; No, 81; Absent, 16; Excused, 0.

54 having voted in the affirmative and 81 voted in the negative, with 16 being absent, and accordingly Report "B" **Ought to Pass as Amended** was **NOT ACCEPTED**.

Subsequently, Report "C" **Ought Not to Pass** was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH**.

ENACTORS

Emergency Measure

An Act to Provide Flexibility in the Rate of Interest Charged on Delinquent Taxes

(H.P. 1661) (L.D. 2166)
(C. "A" H-1028)

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 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 Amend the Charter of the Winterport Water District

(H.P. 1719) (L.D. 2207)

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

The **SPEAKER**: On the record. Chair would read to members Rule 311 from the Joint Rules. It states that prior to reporting out any omnibus bill concerning errors and inconsistencies in the laws of Maine, the Joint Standing Committee on Judiciary shall after giving notice and an opportunity to be heard, hear proposed amendments and determine which amendments should be included in the bill reported out. A floor amendment may not be entertained in either chamber unless the amendment is printed and distributed at least 24 hours prior to introduction. It is the intention of the chair at this time to give this bill its first reading and then to have the floor leader table it pending adoption of Committee Amendment "A." If members know of any errors or inconsistencies and wish to have them considered by this body you may do so, but you must have that amendment before the body for 24 hours. If you want to leave this session, as I do, you will want to submit those amendments this evening.

REPORTS OF COMMITTEE
Ought to Pass as Amended

Representative LaVERDIERE from the Committee on **JUDICIARY** on Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (EMERGENCY)

(H.P. 1577) (L.D. 2083)

Reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1071)**.

Report was **READ** and **ACCEPTED**. The Bill was **READ ONCE**. **Committee Amendment "A" (H-1071)** was **READ** by the Clerk.

On motion of Representative COLWELL of Gardiner, **TABLED** pending **ADOPTION of Committee Amendment "A" (H-1071)** and later today assigned.

ENACTORS
Acts

An Act to Update the Property Tax Exemption for Pollution Control Facilities to Promote Clean Production through Pollution Prevention and Toxics Use Reduction

(H.P. 1170) (L.D. 1570)
(C. "A" H-1029)

An Act Concerning Custody and Visitation for Sex Offenders

(H.P. 1468) (L.D. 1969)
(C. "C" H-1033)

An Act to Amend the Motor Vehicle Laws

(H.P. 1485) (L.D. 2018)
(C. "A" H-1032)

An Act Regarding the Requirements for Documenting Pretest and Post-test Counseling for HIV Tests

(H.P. 1651) (L.D. 2157)

An Act to Implement the Recommendations of the Secretary of State and the University of Maine System to Develop a Comprehensive Plan for Preserving and Protecting Historical Records and Access to Those Records

(H.P. 1721) (L.D. 2209)

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 Purchase Land in Machias, Maine

(H.P. 1631) (L.D. 2134)
(C. "A" H-1030)

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 Stabilize the Funding of the Department of Inland Fisheries and Wildlife

(H.P. 1432) (L.D. 1929)
(C. "A" H-1021)

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

On motion of Representative DUNLAP of Old Town, 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-1021)** was **ADOPTED**.

The same Representative presented **House Amendment "A" (H-1061)** to **Committee Amendment "A" (H-1021)** which was **READ** by the Clerk.

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

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. This amendment corrects a drafting error in Committee Amendment "A," which when we basically removed the season license for the expanded archery hunt as a committee and put in its place separate tags for does and any deer permits, we failed in the drafting to remove the fee for the season license. Essentially by doing this, we prevent a doubling of the fee and

prevent much dismay and chaos in the general public. I urge my colleagues to accept this House Amendment.

House Amendment "A" (H-1061) to Committee Amendment "A" (H-1021) was ADOPTED.

Committee Amendment "A" (H- 1021) as Amended by House Amendment "A" (H-1061) thereto was ADOPTED.

Representative KASPRZAK of Newport **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended.**

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. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 600

YEA - Ash, Berry DP, Berry RL, Blanchette, Bliss, Bouffard, Brooks, Bruno, Bryant, Bull, Bumps, Canavan, Carr, Chase, Clough, Collins, Colwell, Cote, Cowger, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Green, Hatch, Hawes, Heidrich, Hutton, Jacobs, Jodrey, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lovett, Lundeen, Madore, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGowan, McKee, McKenney, McLaughlin, McNeil, Michaud, Mitchell, Murphy T, Norton, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Pineau, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Shields, Simpson, Skoglund, Smith, Stanley, Sullivan, Tessier, Thomas, Trahan, Treadwell, Usher, Volenik, Watson, Weston, Winsor, Mr. Speaker.

NAY - Andrews, Annis, Belanger, Bowles, Buck, Chick, Chizmar, Clark, Cressey, Duncan, Duprey, Foster, Glynn, Gooley, Hall, Haskell, Honey, Kasprzak, Labrecque, MacDougall, McGlocklin, Mendros, Michael, Morrison, Nass, Nutting, Pinkham, Sherman, Snowe-Mello, Stedman, Tarazewich, Tobin D, Tracy, Tuttle, Waterhouse, Wheeler EM.

ABSENT - Bagley, Baker, Brannigan, Bunker, Crabtree, Gerzofsky, Goodwin, Landry, Murphy E, Muse C, Muse K, Norbert, Perkins, Perry, Povich, Tobin J, Twomey, Wheeler GJ, Young.

Yes, 96; No, 36; Absent, 19; Excused, 0.

96 having voted in the affirmative and 36 voted in the negative, with 19 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H- 1021) as Amended by House Amendment "A" (H-1061) thereto in NON-CONCURRENCE** and sent for concurrence.

BILL RECALLED FROM GOVERNOR

(Pursuant to Joint Order - House Paper 1729)

An Act to Amend Maine's Wild Turkey Hunting Season (EMERGENCY)

(S.P. 721) (L.D. 1923)
(C. "A" S-430)

- In House, PASSED TO BE ENACTED on March 4, 2002.

- In Senate, PASSED TO BE ENACTED on March 27, 2002.

On motion of Representative DUNLAP of Old Town, 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 ENACTED.**

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 the Bill was **PASSED TO BE ENGROSSED.**

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-430) was ADOPTED.**

The same Representative presented **House Amendment "A" (H-1076) to Committee Amendment "A" (S-430)** which was **READ** by the Clerk.

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

Representative **DUNLAP:** Mr. Speaker, Men and Women of the House. We thought we were doing something good in promoting some safety out there during the turkey hunt by removing a prohibition for the use of electronic calls. When that was done it was drafted in such a way that struck out all the prohibitions associated with turkey hunting so that as the bill was enacted, it would have allowed hunting turkeys with dogs, bait or any number of now considered impolite ways of hunting. What this amendment does is put those prohibitions back in place with the provision that electronic calls may be used for the purposes of better hunter safety. I urge the House's indulgence to adopt this House Amendment.

House Amendment "A" (H-1076) to Committee Amendment "A" (S-430) was ADOPTED.

The **SPEAKER:** The Chair recognizes the Representative from Lebanon, Representative Chick.

Representative **CHICK:** Mr. Speaker, Ladies and Gentlemen of the House. I happen to own some fine hound dogs. In no way to do I consider the use of these hounds in the pursuit of game in the State of Maine to be impolite. Thank you.

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

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

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

Representative **TRACY:** Mr. Speaker, Men and Women of the House. To Representative Dunlap from Old Town, would this have included honey-dipped doughnuts?

Committee Amendment "A" (S-430) as Amended by House Amendment "A" (H-1076) thereto was ADOPTED.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-430) as Amended by House Amendment "A" (H-1076) thereto in NON-CONCURRENCE** and sent for concurrence.

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

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

**SENATE PAPERS
Non-Concurrent Matter**

Bill "An Act Allowing for a Public Hearing Process for Certain Actions Relating to Dams"

(H.P. 1720) (L.D. 2208)

Minority (2) **OUGHT TO PASS** pursuant to Joint Order 2001, H.P. 1693 Report of the Committee on **NATURAL RESOURCES READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED** in the House on April 1, 2002.

Came from the Senate with the Majority (9) **OUGHT NOT TO PASS** pursuant to Joint Order 2001, H.P. 1693 Report of the Committee on **NATURAL RESOURCES READ** and **ACCEPTED** in **NON-CONCURRENCE**.

On motion of Representative COWGER of Hallowell, the House voted to **RECEDE AND CONCUR**.

**CONSENT CALENDAR
First Day**

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

(H.P. 1596) (L.D. 2099) Bill "An Act to Provide for Livable, Affordable Neighborhoods" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "B" (H-1075)**

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

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

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

**REPORTS OF COMMITTEE
Divided Report**

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-531)** on Resolve, to Allow Persons with Disabilities to Purchase Coverage Under the Medicaid Program

(S.P. 699) (L.D. 1901)

Signed:

Senators:

LONGLEY of Waldo
MARTIN of Aroostook

Representatives:

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

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

Signed:

Senator:

TURNER of Cumberland

Representatives:

SHIELDS of Auburn

NUTTING of Oakland

Came from the Senate with the Reports **READ** and the Resolve and accompanying papers **INDEFINITELY POSTPONED**.

READ.

On motion of Representative ETNIER of Harpswell, the Resolve and all accompanying papers were **INDEFINITELY POSTPONED** in concurrence.

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

HOUSE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (5) **Ought to Pass as Amended by Committee Amendment "A" (S-486)** - Committee on **LABOR** on Bill "An Act to Implement the Recommendations of the Workers' Compensation Board Governance Study"

(S.P. 789) (L.D. 2133)

Which was **TABLED** by Representative NORBERT of Portland pending **ACCEPTANCE** of either Report.

Representative BUNKER of Kossuth Township moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. This is probably one of the most important bills to come before the Labor Committee this year. Since 1993 there have been two studies of the workers' comp system. The first one was conducted by Cooper and Librand and the second by Berry, Dunn, McNeil, which was done last summer as a result of legislation that we passed here in the Legislature requiring the Department of Administrative and Financial Services to conduct the study and the Chief Executive submitted this bill, LD 2133, as a result of that study.

LD 2133 addresses two primary areas in the workers' comp system, the governance of the board and the budget. The bill also proposes several changes to the executive director's position. First, it changes the appointment process for the Executive Director to more closely resemble the process used to appoint the heads of FAME, the Maine State Housing Authority, the Bureau of Insurance and other departments of state government. Currently the Executive Director serves at the pleasure of the board. The bill would authorize the Chief Executive to appoint the Executive Director for a five-year term. The nomination would be subject to confirmation in the same fashion as other high-level state officials and cabinet members. This would provide a level of accountability for the Executive Director and give the Chief Executive a role in selection process. The bill clarifies and strengthens the duties of the Executive Director. Right now the Executive Director walks a tight rope. He serves at the pleasure of both the management and labor membership of the board and cannot afford to alienate either group. He is charged with running the agency, but in many cases his hands are tied.

The bill revises the assessment mechanism for insurers so that the amount collected is a sum certain. It would continue to be a uniform percentage of premiums for all insurers based on the prior calendar years premium. As a result, the agency will know exactly how much it needs to access to meet its budgetary needs. The mechanism for accessing self-insurers already meets these criteria and therefore is unchanged in the bill. The bill also proposes elimination of the reserve fund because such a reserve is unnecessary to maintain under the new assessment process. The bill proposes raising a statutory cap of \$8.6 million.

It requires an affirmative act of the Legislature to authorize increased spending. Any revenues received in excess of the budget would be automatically credited to the subsequent years assessment so that a build up of reserve does not occur.

These changes represent a positive step to restore predictability of revenue while providing the agency with more sound financial management tools for the future. The board would need to live within the cap in coming years. The bill also requires development of a technology plan to coordinate with the Department of Administrative and Financial Services, Department of Labor and interested parties by January 1, 2003. LD 2133 represents a much needed effort to address some of the more serious governance and budget issues that have plagued the workers' compensation board and workers' comp system. I would urge you to reject the pending motion and move on to accept the Minority Report.

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

Representative **MACDOUGALL**: Mr. Speaker, Ladies and Gentlemen of the House. As my good colleague from Carmel, Representative Treadwell, laid out many components of the bill. I am opposed to the bill. The point I want to focus on comes from the latest report from Barry, Dunn, McNeil and Parker that was completed and presented in December 2001. That study had found that the workers' comp board had made some good progress towards implementing recommendations set forth in the earlier study of the Coopers Siebrand Report in 1997. Some of those successes were significant reduction in wait time during the dispute resolution process, progress towards a score card to measure the workers' comp board accomplishments and the development of a compliance component to the MAE Program, which is the Monitoring Audit and Enforcement Program that has been implemented. However, there are areas where the latest report, the Barry, Dunn, McNeil and Parker Report stress some concerns. That was the governance of the workers' comp board. It should be changed to help the board members and management better focus and carrying out the mission of the workers' comp board.

In the legislation that we are proposing, in carrying out its duties of this act, the board shall focus on efficiency, worker safety, prompt resolution of disputes, reduction over time in the costs to the workers' compensation system in this state in relation to other states, those four elements. In this particular bill, if it were to pass, would change that governance and very important area and that would be the composition of the board. Currently it is comprised of four management members and four members representing labor. You have a four to four vote. Initially in the 1992 comp reforms that was a compromise measure that has worked very well from that initial time until recently. Some of those things that I have outlined that they were able to accomplish like the MAE Program and shortening the wait time are great accomplishments. However, we are at a crossroads in the workers' comp system. These two studies indicate that. In the presentation of the bill Janet Waldren, Commissioner of the Department of Administration of Financial Services, referred to the study report and I quote, "It has been increasingly difficult for the workers' compensation board of directors to work effectively and their governance issues require attention. Recently the board has been unable to reach agreement on key policy areas, including its own budget and extension of benefits under Section 213 of the Workers' Comp Act." They were at an impasse.

One of the key components of the legislation is changing that 4 by 4 board to a 3 by 3 by 3. That would be three members from management, three members from labor and three members of the public, the public at large. You would go from an

even number to an odd number. Currently the status quo of the 4 by 4 board kind of provides a sense of security for both sides. A year ago I introduced a bill that went to our committee and I was in favor of the conversation, but I really wasn't in favor of the bill. I put by request on the bill and it was to change the board structure to one management, one labor and one public member. I had difficulty changing that 4 by 4 vote because I felt comfortable with it.

Through dealing with the workers' comp issues from that time until now, I have come to this point tonight with the benefit of two very, very good studies, very well done and legislation that was beautifully and carefully crafted. To go to a 3 by 3 by 3 board at this time, it is the time. The 4 by 4 board currently reminds me of a two man saw and as long as one is pulling and the other is pushing and vice versa, the saw moves and the goal of the tree getting cut is accomplished, but was developed into a situation now where we have both pulling at the same time and we have both pushing at the same time. Hence, the critical things of the budget and governance go unattended and there is gridlock. Something has to be done. Why now? We have an election coming up in November. We will have a new Chief Executive and we will have the 121st Legislature. We don't know how that is going to turn out. This is an equal opportunity risk, you might say. Therefore, now is the time, straight-faced time. People back home expect us to take measures and to take a lead, take a step and expect us to make those tough decisions. This is one of them. We have an opportunity to make a change in the workers' comp system that is very proactive, very productive, very positive. It is saying that we are going to allow the public, the people of Maine, to participate in the workers' comp board and to help that two-man saw, help for the time when the saw should be pushed to be pushed and when it should be pulled, it gets pulled.

I was looking through some materials. The debates get long, as you know, sometimes you have made up your minds and you look through some of the material on the desk and the book that has been passed out the last few Legislatures has been called *The Measures of Growth* by the Maine Development Foundation. I was just kind of going through it. Why I believe this current motion, why I disagree with it and hope you will vote against it so we can go on and pass the legislation, because I think it will help the workers' comp act work better. It will be a win/win. As I read from the legislation to make the system more efficient and to over time make it cost effective and in line with other states will allow our businesses to be more competitive, which allows better wages and benefits and opportunities for Maine workers, but also that it focuses on the safety of workers. The public that I know are very concerned about injured workers and safety in the workplace. I think in both areas we can make great progress in that way. Both sides of the issue, management and labor are still strongly present on the board and yet when the decision needs to be made there will be fresh perspective brought to the front.

Some of those measures of growth, however, involve some areas and categories that are of great concern to all of us in this room. Indeed, I would suggest that we all run for office, partly because of some of these things. We would like to do something about them. Personal income, for example, was a red flag. The performance measure gets a red flag again this year because of lack of progress and increasing the personal income of Maine people relative to other states in the union. New business starts, the rate of new businesses across New England outpaced Maine, again, during the same period of time. Job growth among new businesses, long-term growth in the economy requires not only that increasing number of new businesses it started each year, but that existing businesses actually add jobs. Things that impact positive growth in these areas are things like the workers' comp

system running efficiently for safety and for the cost of the system and the cheaper and more effective that is for the people of Maine, the better it is for opportunities for jobs and for growth. Ladies and gentlemen, we have an opportunity tonight to lead, to take a proactive step that is an equal opportunity risk. Some may perceive that depending on which party may get in power for the Chief Executive or which house or both houses have the majority that potentially the public members might be swayed towards one direction or the other.

I will just remind you that as we get into the waning hours of session and we are rapped up in the policies that we debate here that often times when you go home a lot of the people don't even know you have gone through the agony that you have put yourself through. They expect you to do your job up here. We have an opportunity to do that tonight. We have an opportunity to lead. I would ask that you would vote against the pending motion. Thank you.

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House. I will be brief. This bill was presented by the Chief Executive and it was presented as apparently the result of a study committee, which was requested by the Chief Executive and the composition of the committee had at least four members of the Chief Executive's staffing on there. Not surprisingly, the study committee came back saying that the workers' compensation board should be more under the control of the Chief Executive.

I can't support that bill and the reason I can't is that the workers' compensation system, which has existed for 80 years has always been somewhat independent from the Chief Executive and it should indeed continue to be so. This bill would allow the Chief Executive to tilt the balance that presently exists and which is a protection to all parties. Presently the board, by design, in 1992 was designed to compose four management and four employee representatives. This presents the board from being caught up in any political groundswells or any kind of action that would change the long-term direction of the board. Keep in mind that the intent of the act is to see that employees who are injured are reasonably compensated. It is necessary to make sure that there is a balance that will reflect the needs of the employees as well as the employers. If this bill is passed, the Chief Executive can now appoint that tie breaking member and now the board can proceed to consider actions, which will not result in the matter that Representative MacDougall discussed as being pulled both ways. I can assure you that the saw will only pull one way. It won't be in favor of the injured worker. This bill is not necessary. It is not necessary also because of the funding. There has been a funding problem. I do want to tell you. You will hear about that with regard to a later bill. The workers' compensation board, not through their actions, they have unanimously wanted to access a reserve fund, which the law by design gives them to take care of contingencies. The Chief Executive has prevented their access to it.

Last year we had to pass a special bill to give the board some of the funds that they requested. It was a unanimous request from all eight members of the board. If there is any difficulty, it doesn't come from the board and we should not turn over the workers' compensation system to the Chief Executive at this point. Thank you.

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

Representative BUNKER: Mr. Speaker, Ladies and Gentlemen of the House. To wrap it up, I know it is late this evening and I know this is an important issue to labor for sure. I

would ask for the full support of the members on both sides of the aisle. This issue is over 100 pages long, the bill that the Chief Executive submitted to us. I think that all members on the committee saw needs and want to make some changes. I think that the changes that are trying to be pushed through here are just coming too fast. The committee of jurisdiction hasn't had to work through all of the issues. I know I personally had many issues revolving around the Chief Executive and the funding and that I wanted to correct. Unfortunately other folks wanted to correct other things and of course the Chief Executive had one way, his way or no way. Unfortunately his way and no way is not something that we can agree to because of the good things that the good Representative from Van Buren mentioned, is that he wants control over this independent agency. We think that workers' comp should be a board that looks completely toward the workers' comp issues, the injuries and revolves around the mandated duties that they have in statute. We don't think that bringing that in under the Chief Executive is a good thing. That is why this bill shouldn't go forward.

I agree with some of the folks about changing numbers of the board. We just haven't got there. I made the commitment to whole committee that we will continue to work this through the summer and try to come to resolution on the makeup of the board. Many of these issues that the good Representative before us mentioned are very, very true. They are very, very necessary to move and to make some action. It is just not ready yet. Let me be clear. The three, three, three members, if you want to move to this type of board, look at the clarification of the amendment here, public members. The three public members that we are going to put on the board, by this amendment, it basically says, that those three public members have to swear that they are going to vote furthering the intent of workers' compensation law to reduce injuries, reduce cost and to improve efficiency. That is the charge of those three members we are going to put on the board. There is nothing in there about employee's health, employee's injuries and helping them get back to work or any of those things. It is all reduced costs, reduced injuries and to approve efficiency. We are giving a charge to those three new members that the Chief Executive is going to appoint. This definitely pulls that saw in one direction and not the other. I ask for your support in passing this Ought Not to Pass and we do have further legislation that we ask for your support on.

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

Representative TREADWELL: Mr. Speaker, Ladies and Gentlemen of the House. I think I need to address a couple of points that have been brought up. First of all, I think the two studies we have had now, I don't think we need another study or more delay in trying to determine what needs to be done with the workers' comp system. The Barry, Dunn, McNeil Report is reflected almost totally in the bill. It is not totally coming from the administration. It is out of the Barry, Dunn, McNeil Report, all of the recommendations in this bill. To answer the makeup of the study committee, that was brought up by the good Representative from Van Buren. That study committee was formed with four members of the Labor Committee, the House Chair, the Senate Chair and two other members of the committee, one from the Senate and one from the House. There was adequate representation for the Legislature on that committee. It was not a stacked committee. At least I got the impression that that was the accusation here. The workers' comp board at the current time is unable to agree on about anything. They couldn't even decide on who was going to be the chair of the committee. I don't know what process they used, but they

finally do have a chair. They were unable to vote to have a chair for their committee. They couldn't come to a vote on the budget. They are dysfunctional. Something needs to be done and it needs to be done this year.

The reserve fund, it was mentioned that it couldn't be used because the administration was sitting on it, there were some complications involved in that issue. This bill will take care of that because it will eliminate the reserve fund. There is no need to have a reserve fund if you have responsible budgeting and good fiscal management. It will do away with it. They will be allowed to access 10 percent more than their budget to cover any contingencies that may arise. There are provisions there for that. Mr. Speaker, I request a roll call.

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

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

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

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. We are at the last few days of the session. Having been here and served under two previous Chief Executives, I would urge the body and issue a warning to my colleagues in this House, don't beware only of Greeks bearing gifts, but beware of those Chief Executives bearing gifts in their last few days of office.

The current Chief Executive has been here for eight years. Lord knows the last three or four of them I remember the board is working fine. The 1992 reforms were a delicately crafted compromise. From my perspective it didn't compromise for the health and safety of injured workers. We made it a little better, but we didn't get too much on that score. The Chief Executive and others around here were saying that we can't disturb that balance. They are doing well. The advocate program is working. The four, four board, management and labor was intended to work in a deliberative fashion, not to take us in any policy direction, one way or the other. It certainly has done that.

The three public members, I guess the only thing I can think of in terms of this particular bill from the Chief Executive is we have to come up with three neutral members. I appreciate the good Chair from Kossuth Township sharing with us the three neutral members as articulated by the Chief Executive with a mission that doesn't mention the engine. That is an interesting discussion point. In thinking of three impartial members, I am reminded of my father when he taught about Greek history to me and going up to the monastery. It was called Mt. Athos. He would go up in the basket when he was young. The monks in this monastery spent each day reading the scripture and making wine and cheese. I imagine that they were pretty cloistered as monks usually are. Maybe those are the three public members we can have join the board.

We do have a new Chief Executive coming in. This is not the time to take this board and the comp agency or whatever we want to call it in some different direction. Lord knows I haven't been all that happy with some of their decisions. I know folks on the other side haven't been happy. Some say that is the art of compromise and that is the kind of thing you want in terms of not pulling a board in one direction or the other. The MAE Program has been an outstanding program. This Committee on Labor, my colleagues on the Democrat side have fought hard for that program. I would say also that the members of the other party on the Labor Committee. My current chair has fought hard for that MAE Program. The past House chair fought tirelessly for the MAE Program. The Chief Executive didn't really want that to

work and management didn't really want that to work. They have had three or four people, I think, working in the MAE Program, but able to save the people of this state thousands. It can actually get accountability with insurers that are tying up the system and not paying benefits legally due to injured workers.

I have a few concerns about workers' comp myself from the other side. I want to tell you, if you want to open up this issue in this last few days of the Chief Executive, I will enjoy participating in that debate. Now is not the time.

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

Representative **MACDOUGALL**: Mr. Speaker, Ladies and Gentlemen of the House. What are we afraid of? Are we afraid of the public participating in this policy area? The way the legislation was crafted, I had read earlier about worker's safety, prompt resolution of disputes as being two of those components. It only makes sense that the public members are charged with representing the broad public interest of the state by balancing management and labor interests and in furthering the intent of the workers' compensation law to reduce injuries. That is in the legislation so don't say its not. Right now the leadership on the 4 by 4 board is adrift. There is no leadership. We have an opportunity with this bill to provide that opportunity with the good people of Maine. Now is the time because the current Chief Executive will be leaving office and we will have a new one. I don't know which party he will belong to. Maybe he won't be a Republican or a Democrat. Now is the time in good faith. The structure, by nature, causes gridlock. A ship without a rudder doesn't get to port. We are not getting to port under the current status quo.

The concept of public members is not new. A number of state boards and commissions currently require public or at large members. There is nothing new here. In fact, this actually models the governance of the Finance Authority of Maine, which also has an odd numbered board and a CEO. We have a model that we are following. Again, I would just say that we have an opportunity to lead or we can just stick our head in the sand and say we will just leave everything the way it is. We know it is broken. We have an opportunity to fix it. We have two outstanding reports, what more do you have to do? Please vote against the pending motion.

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

ROLL CALL NO. 601

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

NAY - Andrews, Annis, Belanger, Berry DP, Bowles, Bruno, Buck, Bumps, Carr, Chase, Clough, Collins, Cressey, Daigle, Dugay, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, Lovett, MacDougall; Madore, Mayo, McGowan, McKenney, McNeil, Mendros, Morrison, Murphy T, Muse K, Nass, Nutting, O'Brien JA, Peavey, Pinkham, Rosen, Schneider, Sherman,

Shields, Snowe-Mello, Stedman, Tobin D, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Bagley, Baker, Brannigan, Crabtree, Gerzofsky, Goodwin, Landry, Murphy E, Norbert, Perkins, Perry, Povich, Tobin J, Twomey, Wheeler GJ, Young.

Yes, 79; No, 56; Absent, 16; Excused, 0.

79 having voted in the affirmative and 56 voted in the negative, with 16 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** in **NON-CONCURRENCE** and sent for concurrence.

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1036)** on Bill "An Act to Increase the Workers' Compensation Insurance Assessment to Fund a Hearing Officer Position"

(H.P. 1548) (L.D. 2051)

Signed:

Senator:

EDMONDS of Cumberland

Representatives:

BUNKER of Kossuth Township

MATTHEWS of Winslow

HUTTON of Bowdoinham

NORTON of Bangor

SMITH of Van Buren

TARAZEWICH of Waterboro

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

Signed:

Senators:

TURNER of Cumberland

SAWYER of Penobscot

Representatives:

TREADWELL of Carmel

MacDOUGALL of North Berwick

DAVIS of Falmouth

CRESSEY of Baldwin

READ.

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

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

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. Because of the lateness of the hour, I will speak first on this bill, even though I usually don't do that. This is the report that we alluded to when we had our debate before this bill. It provides the proper funding to the workers' comp board that has been denied by the Chief Executive due to lack of access to the reserve account at one point and also the fact that with the Chief Executive's help and that study the administration did go over there and help put together a firm budget that reflected all of the needs of the workers' comp board that we have been neglecting in the past. This sets the assessment at \$8.3 million. That is \$300,000 less than what you just voted on in the last bill. We think there are some fiscal savings that can be done through efficiencies. The money in this bill will move forward to work on the MAE Program and all of the other programs. Electronic data collection over there is a very big thing and needs to be moved forward. That is a high priority. Also this bill funds the hearing officer that we approved last year and what has initially brought this vehicle before the committee. There is a title change. This bill is now the proper vehicle to fund the workers' comp board appropriately. I would ask for your support.

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

Representative **TREADWELL**: Mr. Speaker, Men and Women of the House. The chair of the Labor Committee is absolutely correct. This bill, which was intended originally to be nothing more than a hearing officer in Caribou is now the funding mechanism for the workers' comp board. The major difference that I see that I don't like in this board is that it does keep a reserve account of 10 percent of the annual budget of the comp board to use as they see fit. It becomes a revolving account that they can dip into anytime they want it. One of the problems of the Barry, McNeil Report identified for us was that the budgeting in the fiscal management on the comp board was not responsible. By using this 10 percent overage on the workers' comp assessments, we are going to continue with that policy and merely ask for a 10 percent increase and use that as our slush fund. I hate to say that, but I guess it is the right word to use. I would much rather have preferred to have the previous bill go through. I don't think that this bill will do what it was intended to do. I would ask that we vote against the pending motion.

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

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. One thing to keep in mind, the present law has a 25 percent reserve fund, which has not been allowed any access. This reduces that reserve fund to 10 percent. Keep in mind that the reserve fund can't be accessed unless the board, which is composed of a balance of four management and four employee representatives, unless the majority of that board votes in favor of accessing the reserve fund. There is a considerable restraint and balance there to using that reserve fund. We suggest that this allows the board to function the way the law intended it to function. Let's give it a chance.

Representative TREADWELL of Carmel **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 North Berwick, Representative MacDougall.

Representative **MACDOUGALL**: Mr. Speaker, Ladies and Gentlemen of the House. The problem with this particular bill in front of us is nothing has been done about the fiscal responsibility of the board. We still have a ship that is rudderless with no leadership and no direction. All we are doing is raising that cap and adding fuel so that the ship can go faster to nowhere. Please vote against the pending motion. 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. 602

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

NAY - Belanger, Berry DP, Bouffard, Bowles, Bruno, Buck, Bumps, Carr, Chase, Clough, Collins, Cressey, Davis, Dugay, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, MacDougall, Madore, Mayo, McGowan, McKenney, McNeil, Mendros, Morrison, Murphy T, Muse K, Nutting, O'Brien JA, Peavey, Pinkham, Rosen, Schneider, Sherman, Shields, Snowe-Mello, Stedman, Tobin D, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM.

ABSENT - Andrews, Annis, Bagley, Baker, Brannigan, Crabtree, Daigle, Estes, Fisher, Gerzofsky, Goodwin, Landry, Lovett, Murphy E, Nass, Norbert, Perkins, Perry, Povich, Tobin J, Twomey, Wheeler GJ, Winsor, Young.

Yes, 75; No, 52; Absent, 24; Excused, 0.

75 having voted in the affirmative and 52 voted in the negative, with 24 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-1036)** 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-1036)** and sent for concurrence.

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

On motion of Representative LEMOINE of Old Orchard Beach, the House adjourned at 9:11 p.m., until 9:00 a.m., Wednesday, April 3, 2002.