

# MAINE STATE LEGISLATURE

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Senate Legislative Record  
One Hundred and Twentieth Legislature  
State of Maine

Volume 2

First Regular Session (Continued)  
May 24, 2001 to June 22, 2001

First Confirmation Session  
October 24, 2001

Second Confirmation Session  
December 6, 2001

Second Regular Session  
January 2, 2002 to April 1, 2002

Pages 912 - 1844

**STATE OF MAINE  
ONE HUNDRED AND TWENTIETH LEGISLATURE  
FIRST REGULAR SESSION  
JOURNAL OF THE SENATE**

In Senate Chamber  
Wednesday  
May 30, 2001

Senate called to order by President Michael H. Michaud of Penobscot County.

Prayer by Reverend Desmond Parker, Retired.

**REVEREND PARKER:** Would you please be seated for a moment. I was asked to give a brief inspirational message and I figured we'd have that before the prayer. You don't want to be standing all the time, I'm sure.

In 1476 a Portuguese explorer, Bartolomei Dias, sailed along the west coast of Africa. Eventually he came to a large piece of land jutting out into the sea. Here the seas were savage and his vessels were almost shipwrecked. So he turned his fleet around and sailed for home. He reported his experience to the King and named the land 'the Cape of Storms.' The monarch however saw another significance in what Dias had reported. He saw a possible route to India and so he renamed the land 'the Cape of Good Hope.' A few years later another explorer, Vasco Da Gama, sailed around the cape, and sure enough, he came to India. Hope had now become a reality. He had ventured forth into the unknown and he was not disappointed. I am sure that as Senators you are tempted to stay with the familiar and there are times when that's a fine and right thing to do. But there are also times when, like the crew of the USS Enterprise, you are called to boldly go where no one has gone before. Times when you are called to courageous adventuring into untried territory. Times when you may be misunderstood and accused of betraying your trust. But make no mistake about it, it is the bold adventurer, the follower of truth and conscious, in spite of political consequences, who will make lasting and meaningful legislation. I am sure that it is only to such people that the God of all will say 'well done, good and faithful servant, enter into the joy of your Lord.' Please stand for prayer.

Gracious God, give to all assembled here insight to see the truth, strength to follow its leading in spite of political pressure, and the assurance that Your strength will be sufficient for them. Grant that they may so weigh their words that their words may carry weight and that their actions may bring our highest hopes to fruition and lead this state and nation in the way that You would have us go. In Your name we pray. Amen.

Doctor of the day, James Raker, M.D., Mid-Coast Hospital in Brunswick.

Reading of the Journal of Tuesday, May 29, 2001.

Off Record Remarks

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

HOUSE REPORTS - from the Committee on **BANKING AND INSURANCE** on Bill "An Act Concerning Managed Care Provider Agreements"

H.P. 336 L.D. 426  
(C "B" H-589)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-588)** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-589)** (4 members)

In House, May 24, 2001, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-588)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-588)**.

In Senate, May 25, 2001, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-589)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-589)**, in **NON-CONCURRENCE**.

Comes from the House, that Body **ADHERED**.

On motion by Senator **LAFOUNTAIN** of York, the Senate **ADHERED**.

Off Record Remarks

**COMMUNICATIONS**

The Following Communication: S.P. 639

**STATE OF MAINE  
120<sup>TH</sup> LEGISLATURE**

May 29, 2001

Hon. Peggy A. Pendleton, Senate Chair  
Hon. Martha A. Bagley, House Chair  
Joint Standing Committee on State and Local Government  
120<sup>th</sup> Legislature  
Augusta, ME 04333

Dear Senator Pendleton and Representative Bagley:

Please be advised that Governor Angus S. King, Jr. has nominated James M. Connellan of Brunswick for reappointment and John R. Hanson of Bangor and M. Jane Sheehan of Kennebunkport for appointment as members of the Civil Service Appeals Board.

Pursuant to Title 5, M.R.S.A. §7081, these nominations will require review by the Joint Standing Committee on State and Local Government and confirmation by the Senate.

Sincerely,

S/Michael H. Michaud  
President of the Senate

S/Michael V. Saxl  
Speaker of the House

**READ and REFERRED to the Committee on STATE AND LOCAL GOVERNMENT.**

Sent down for concurrence.

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**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, to Ensure Consumer Access to Home Care Services  
H.P. 500 L.D. 640

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-621).**

Comes from the House with the Report **READ and ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-621).**

Report **READ and ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-621) **READ and ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-621)**, in concurrence.

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The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, Directing the Department of Human Services to Adjust the Cap on Direct-care Staff Costs for Residential Care Facilities  
H.P. 853 L.D. 1125

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-622).**

Comes from the House with the Report **READ and ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-622).**

Report **READ and ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-622) **READ and ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-622)**, in concurrence.

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The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Create the Maine Health Data Processing Center"  
H.P. 980 L.D. 1304

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-620).**

Comes from the House with the Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-620).**

Report **READ and ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-620) **READ and ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-620)**, in concurrence.

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**Divided Report**

The Majority of the Committee on **LABOR** on Bill "An Act to Ensure That State Employees Receiving Workers' Compensation and Filling a Limited Period Position Remain in Their Respective Bargaining Units"

H.P. 592 L.D. 747

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-547).**

Signed:

Senator:  
EDMONDS of Cumberland

Representatives:

BUNKER of Kossuth Township  
MATTHEWS of Winslow  
CRESSEY of Baldwin  
DAVIS of Falmouth  
HUTTON of Bowdoinham  
NORTON of Bangor  
SMITH of Van Buren  
TARAZEWICH of Waterboro

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Senators:

TURNER of Cumberland  
SAWYER of Penobscot

Representatives:

TREADWELL of Carmel  
MacDOUGALL of North Berwick

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-547)**.

Reports **READ**.

Senator **EDMONDS** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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**Divided Report**

The Majority of the Committee on **LABOR** on Bill "An Act to Ensure that the Annual Inflation Adjustment for Partial Compensation for Injuries occurring Prior to November 20, 1987 is Fully Recognized and Paid"

H.P. 723 L.D. 943

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-616)**.

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

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Senators:

TURNER of Cumberland  
SAWYER of Penobscot

Representatives:

TREADWELL of Carmel  
CRESSEY of Baldwin  
DAVIS of Falmouth  
MacDOUGALL of North Berwick

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-616)**.

Reports **READ**.

Senator **EDMONDS** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

---

**Divided Report**

The Majority of the Committee on **LABOR** on Bill "An Act to Require that Benefits for Total Disability be Continued During a Period of Vocational Rehabilitation under the Workers' Compensation Act"

H.P. 883 L.D. 1175

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-365)**.

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

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Senators:

TURNER of Cumberland  
SAWYER of Penobscot

Representatives:

TREADWELL of Carmel  
DAVIS of Falmouth  
MacDOUGALL of North Berwick  
CRESSEY of Baldwin

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-365)**.

Reports **READ**.

Senator **EDMONDS** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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**Divided Report**

The Majority of the Committee on **LABOR** on Bill "An Act to Speed Up the Decision Process on Workers' Compensation Claims"

H.P. 921 L.D. 1235

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-488)**.

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

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Senators:

TURNER of Cumberland  
SAWYER of Penobscot

Representatives:

TREADWELL of Carmel  
DAVIS of Falmouth  
MacDOUGALL of North Berwick  
CRESSEY of Baldwin

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-488)**.

Reports **READ**.

Senator **EDMONDS** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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**Divided Report**

The Majority of the Committee on **LABOR** on Bill "An Act to Prohibit the Use of State Funds by Health Care Providers to Influence Union Organizing"

H.P. 1037 L.D. 1394

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-567)**.

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

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Senators:

TURNER of Cumberland  
SAWYER of Penobscot

Representatives:

TREADWELL of Carmel  
CRESSEY of Baldwin  
DAVIS of Falmouth  
MacDOUGALL of North Berwick

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-567)**.

Reports **READ**.

Senator **EDMONDS** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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**Divided Report**

The Majority of the Committee on **LABOR** on Bill "An Act to Improve Pension Benefits for Employees in the Department of Environmental Protection, Division of Oil and Hazardous Waste Facilities Regulation"

H.P. 1166 L.D. 1566

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-619)**.

Signed:

Senators:

EDMONDS of Cumberland  
TURNER of Cumberland  
SAWYER of Penobscot

Representatives:

BUNKER of Kossuth Township  
MATTHEWS of Winslow  
DAVIS of Falmouth  
HUTTON of Bowdoinham  
NORTON of Bangor  
TARAZEWICH of Waterboro

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Representatives:

TREADWELL of Carmel  
CRESSEY of Baldwin  
MacDOUGALL of North Berwick

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-619)**.

Reports **READ**.

On motion by Senator **EDMONDS** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

**READ ONCE**.

Committee Amendment "A" (H-619) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-619)**, in concurrence.

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**Divided Report**

The Majority of the Committee on **LABOR** on Bill "An Act Regarding the Length of Service for Retirement Benefits and Limits on Earnable Compensation for Certain State Employees"  
H.P. 1333 L.D. 1789

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-615)**.

Signed:

Senators:

EDMONDS of Cumberland  
SAWYER of Penobscot  
TURNER of Cumberland

Representatives:

BUNKER of Kossuth Township  
MATTHEWS of Winslow  
TREADWELL of Carmel  
DAVIS of Falmouth  
MacDOUGALL of North Berwick  
HUTTON of Bowdoinham  
NORTON of Bangor  
SMITH of Van Buren  
TARAZEWICH of Waterboro

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Representative:

CRESSEY of Baldwin

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-615)**.

Reports **READ**.

On motion by Senator **EDMONDS** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-615) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-615)**, in concurrence.

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**Divided Report**

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Repeal the Presidential Preference Primary Elections"

H.P. 960 L.D. 1273

Reported that the same **Ought to Pass**.

Signed:

Senator:

WOODCOCK of Franklin

Representatives:

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

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-556)**.

Signed:

Senators:

DOUGLASS of Androscoggin  
BROMLEY of Cumberland

Comes from the House with the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Reports **READ**.

Senator **BROMLEY** of Cumberland moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**.

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**Divided Report**

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Exclude Credit Balances Between Business Associations from Unclaimed Property"

H.P. 1088 L.D. 1457

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-605)**.

Signed:

Senators:

McALEVEY of York  
FERGUSON of Oxford

Representatives:

LaVERDIERE of Wilton  
JACOBS of Turner  
MUSE of South Portland  
MADORE of Augusta  
WATERHOUSE of Bridgton  
SHERMAN of Hodgdon  
MENDROS of Lewiston

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Senator:

RAND of Cumberland

Representatives:

BULL of Freeport  
MITCHELL of Vassalboro  
SIMPSON of Auburn

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-605)**.

Reports **READ**.

Senator **RAND** of Cumberland moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

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**Committee of Conference**



The Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill "An Act to Legalize Hemp for Agricultural Purposes"

H.P. 882 L.D. 1174

Had the same under consideration, and asked leave to report:

That they are **Unable to Agree**.

On the Part of the Senate:

Senator KNEELAND of Aroostook  
Senator NUTTING of Androscoggin  
Senator KILKELLY of Lincoln

On the part of the House:

Representative BULL of Freeport  
Representative HAWES of Standish  
Representative CHICK of Lebanon

Comes from the House with the Committee of Conference Report  
**READ** and **ACCEPTED**.

Report **READ** and **ACCEPTED**, in concurrence.

---

**Senate**

**Ought to Pass  
Pursuant to Joint Order**

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

S.P. 638 L.D. 1817

Reported that the same **Ought to Pass**, pursuant to Joint Order (S.P. 613).

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

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**.

Sent down for concurrence.

---

**Ought to Pass As Amended**

Senator KNEELAND for the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Amend the Animal Welfare Laws"

S.P. 356 L.D. 1170

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-286)**.

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

**READ ONCE.**

Committee Amendment "A" (S-286) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-286)**.

Sent down for concurrence.

---

Senator MITCHELL for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Establish Equity in the School Funding Formula"

S.P. 283 L.D. 994

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-285)**.

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

**READ ONCE.**

Committee Amendment "A" (S-285) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-285)**.

Sent down for concurrence.

---

Senator MITCHELL for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Increase the Number of Licensed Speech-Language Pathologists to Serve Maine Schools"

S.P. 508 L.D. 1595

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-284)**.

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

**READ ONCE.**

Committee Amendment "A" (S-284) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-284)**.

Sent down for concurrence.

Senator TURNER for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Recognize Exemplary Efforts to Lower the Cost of Prescription Drugs"

S.P. 560 L.D. 1722

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-287)**.

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

**READ ONCE**.

Committee Amendment "A" (S-287) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-287)**.

Sent down for concurrence.

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**Divided Report**

The Majority of the Committee on **BANKING AND INSURANCE** on Bill "An Act to Address Issues in the Maine Health Insurance Market"

S.P. 573 L.D. 1745

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-274)**.

Signed:

Senators:

LaFOUNTAIN of York  
DOUGLASS of Androscoggin

Representatives:

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

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (S-275)**.

Signed:

Senator:

ABROMSON of Cumberland

Representatives:

MICHAEL of Auburn  
YOUNG of Limestone  
GLYNN of South Portland

Reports **READ**.

Senator LAFOUNTAIN of York moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-274)** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-274)** Report.

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**Divided Report**

The Majority of the Committee on **CRIMINAL JUSTICE** on Bill "An Act Concerning the Sentencing of Persons to County Jails"  
S.P. 354 L.D. 1168

Reported that the same **Ought Not to Pass**.

Signed:

Senator:

O'GARA of Cumberland

Representatives:

POVICH of Ellsworth  
O'BRIEN of Lewiston  
TOBIN of Dexter  
PEAVEY of Woolwich  
GERZOFKY of Brunswick  
MITCHELL of Vassalboro

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-277)**.

Signed:

Senator:

McALEVEY of York

Representatives:

BLANCHETTE of Bangor  
QUINT of Portland  
SNOWE-MELLO of Poland  
WHEELER of Bridgewater

Reports **READ**.

On motion by Senator **McALEVEY** of York, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

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**Divided Report**

The Majority of the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Amend the Laws Pertaining to the Department of Corrections"

S.P. 580 L.D. 1758

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-280).**

Signed:

Senators:

McALEVEY of York  
O'GARA of Cumberland

Representatives:

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

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (S-281).**

Signed:

Representatives:

QUINT of Portland  
MITCHELL of Vassalboro

Reports **READ.**

On motion by Senator **MCALVEY** of York, the Majority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-280)** Report **ACCEPTED.**

**READ ONCE.**

Committee Amendment "A" (S-280) **READ and ADOPTED.**

Under suspension of the Rules, **READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-280).**

Sent down for concurrence.

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**Divided Report**

The Majority of the Committee on **LABOR** on Bill "An Act to Create the Advisory Commission for Persons Who are Blind or Visually Impaired"

S.P. 558 L.D. 1720

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-283).**

Signed:

Senators:

EDMONDS of Cumberland

TURNER of Cumberland

Representatives:

BUNKER of Kossuth Township  
MATTHEWS of Winslow  
CRESSEY of Baldwin  
DAVIS of Falmouth  
MacDOUGALL of North Berwick  
TREADWELL of Carmel  
HUTTON of Bowdoinham  
NORTON of Bangor  
SMITH of Van Buren  
TARAZEWICH of Waterboro

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass.**

Signed:

Senator:

SAWYER of Penobscot

Reports **READ.**

On motion by Senator **EDMONDS** of Cumberland, the Majority **UGHT TO PASS AS AMENDED** Report **ACCEPTED.**

**READ ONCE.**

Committee Amendment "A" (S-283) **READ and ADOPTED.**

Under suspension of the Rules, **READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-283).**

Sent down for concurrence.

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**ENACTORS**

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

**Emergency Measure**

An Act to Amend the Motor Vehicle Laws

H.P. 512 L.D. 652  
(C "A" H-555)

On motion by President Pro Tem **BENNETT** of Oxford, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

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**HELD MATTER**

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require a 2/3 Vote for the Maine Government Facilities Authority to Issue Securities

H.P. 1298 L.D. 1767

(In Senate, May 29, 2001, Reports from the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS READ** and the Resolution and accompanying papers **COMMITTED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**, in concurrence.)

Senator **TREAT** of Kennebec moved the Senate **RECONSIDER** whereby it **COMMITTED** the Resolution and accompanying papers to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**, in concurrence.

On motion by President Pro Tem **BENNETT** of Oxford, **TABLED** until Later in Today's Session, pending motion by Senator **TREAT** of Kennebec to **RECONSIDER** whereby the Resolution and accompanying papers was **COMMITTED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**, in concurrence

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#### ORDERS OF THE DAY

##### Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (5/24/01) Assigned matter:

##### Emergency Measure

An Act Adopting and Implementing the National Crime Prevention and Privacy Compact

S.P. 545 L.D. 1691

Tabled - May 24, 2001, by Senator **TREAT** of Kennebec

Pending - **ENACTMENT**, in **NON-CONCURRENCE**

(In Senate, May 15, 2001, **PASSED TO BE ENGROSSED**.)

(In House, May 23, 2001, Bill and accompanying papers **INDEFINITELY POSTPONED**.)

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with 1 Senator having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and signed by the President, in **NON-CONCURRENCE**.

Sent down for concurrence.

---

The Chair laid before the Senate the following Tabled and Later (5/24/01) Assigned matter:

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Resolve, to Allow Medicaid Reimbursement for Certain Drugs Without Requiring Prior Authorization

S.P. 471 L.D. 1535

Majority - **Ought Not to Pass** (12 members)

Minority - **Ought to Pass As Amended by Committee Amendment "A" (S-254)** (1 member)

Tabled - May 24, 2001, by Senator **TURNER** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report

(In Senate, May 24, 2001, Reports **READ**.)

On motion by President Pro Tem **BENNETT** of Oxford, **TABLED** until Later in Today's Session, pending motion by Senator **TURNER** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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The Chair laid before the Senate the following Tabled and Later (5/25/01) Assigned matter:

HOUSE REPORTS - from the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Require Certain Employers to Provide Certification for Employees Who Dispense Medications"

H.P. 603 L.D. 758

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-464)** (7 members)

Minority - **Ought Not to Pass** (6 members)

Tabled - May 25, 2001, by Senator **BROMLEY** of Cumberland

Pending - motion by Senator **SHOREY** of Washington to **ADHERE**

(In House, May 22, 2001, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-464) AND HOUSE AMENDMENT "A" (H-541)**.)

(In Senate, May 24, 2001, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

(In House, May 24, 2001, that Body **INSISTED**.)

Senator **SHOREY** of Washington requested and received leave of the Senate to withdraw his motion to **ADHERE**.

On further motion by same Senator, the Senate **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

Sent down for concurrence.

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Senate at Ease.

Senate called to order by the President.

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Out of order and under suspension of the Rules, the Senate considered the following:

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act Directing the Department of Human Services to Annually Adjust Dental Reimbursement Rates Under the Medicaid Program"

H.P. 375 L.D. 477

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-625)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-625)**.

Report **READ** and **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-625) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-625)**, in concurrence.

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The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Convert Hospital Administrative District No. 1 to a Nonprofit, Nonstock Private Corporation"

H.P. 561 L.D. 716

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-624)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-624)**.

Report **READ** and **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-624) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-624)**, in concurrence.

---

Out of order and under suspension of the Rules, the Senate considered the following:

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **LABOR** on Bill "An Act to Enhance the Safety and Health of Students in Public School Facilities"  
H.P. 1249 L.D. 1697

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-626)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-626)**.

Report **READ** and **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-626) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-626)**, in concurrence.

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The Committee on **TRANSPORTATION** on Resolve, Regarding Legislative Review of Chapter 299: Highway Driveway and Entrance Rules, Parts A and B, a Major Substantive Rule of the Department of Transportation (EMERGENCY)  
H.P. 1311 L.D. 1774

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-627)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-627)**.

Report **READ** and **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-627) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-627)**, in concurrence.

---

Out of order and under suspension of the Rules, the Senate considered the following:

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **CRIMINAL JUSTICE** on Joint Order relative to Establishing the Joint Select Committee to Find a Sustainable Source of Funding for Gun Safety Classes  
H.P. 1245

Reported that the same **Ought Not to Pass**.

Signed:

Senator:

O'GARA of Cumberland

Representatives:

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

The Minority of the same Committee on the same subject reported that the same **Ought to Pass**.

Signed:

Representative:

QUINT of Portland

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

On motion by Senator **MCALLEVEY** of York, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

---

Out of order and under suspension of the Rules, the Senate considered the following:

**ENACTORS**

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

**Emergency Measure**

An Act to Allow County Corrections Personnel to Participate in the Same Retirement Plan as Other Corrections Personnel  
H.P. 963 L.D. 1276  
(C "A" H-568)

On motion by President Pro Tem **BENNETT** of Oxford, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

---

Out of order and under suspension of the Rules, the Senate considered the following:

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Guarantee Girls Equal Access to Sports Teams"  
H.P. 1281 L.D. 1741

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

MITCHELL of Penobscot  
NUTTING of Androscoggin  
ROTUNDO of Androscoggin

Representatives:

RICHARD of Madison  
SKOGLUND of St. George  
ESTES of Kittery  
ANDREWS of York  
WESTON of Montville  
LEDWIN of Holden  
STEDMAN of Hartland

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-623)**.

Signed:

Representatives:

DESMOND of Mapleton  
WATSON of Farmingdale  
CUMMINGS of Portland

Comes from the House 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" (H-623)**.

Reports **READ**.

On motion by Senator **MITCHELL** of Penobscot, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

Off Record Remarks

Senator **NUTTING** of Androscoggin was granted unanimous consent to address the Senate off the Record.

Senator **SMALL** of Sagadahoc was granted unanimous consent to address the Senate off the Record.

Senator **DAGGETT** of Kennebec was granted unanimous consent to address the Senate off the Record.

Senator **SMALL** of Sagadahoc was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

**RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

Off Record Remarks

Out of order and under suspension of the Rules, the Senate considered the following:

**ENACTORS**

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

**Emergency Measure**

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

H.P. 1169 L.D. 1569  
(C "A" H-593)

On motion by Senator **GOLDTHWAIT** of Hancock, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

**Emergency Measure**

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

S.P. 568 L.D. 1732  
(H "A" H-573 to C "A" S-180)

On motion by Senator **GOLDTHWAIT** of Hancock, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

**ENACTORS**

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

**Acts**

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

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

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

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

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

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

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

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

An Act to Amend Certain Motor Vehicle Laws  
H.P. 1223 L.D. 1664  
(C "A" H-355; H "A" H-574)

An Act to Further Reduce Mercury Emissions from Consumer Products  
H.P. 1224 L.D. 1665  
(C "A" H-417; H "A" H-471; S "A" S-247)

**PASSED TO BE ENACTED** and having been signed by the President were presented by the Secretary to the Governor for his approval.

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An Act Regarding Veterans  
H.P. 231 L.D. 268  
(C "A" H-583)

On motion by Senator **GOLDTHWAIT** of Hancock, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

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An Act to Assist Low-income Families with the Purchase or Repair of Vehicles  
H.P. 796 L.D. 1040  
(C "A" H-592)

On motion by Senator **GOLDTHWAIT** of Hancock, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

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An Act to Require Sprinkler Protection in all Secondary and Postsecondary Dormitories  
H.P. 1161 L.D. 1561  
(C "A" H-595)

On motion by Senator **GOLDTHWAIT** of Hancock, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

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An Act to Provide Pension Equity for Mental Health Workers  
S.P. 494 L.D. 1583  
(C "A" S-249)

On motion by Senator **GOLDTHWAIT** of Hancock, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

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Out of order and under suspension of the Rules, the Senate considered the following:

**ENACTORS**

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

**Emergency Measure**

An Act to Establish the Maine Military Authority  
S.P. 441 L.D. 1495  
(C "A" S-246)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with no Senators having voted in the negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

---

**Emergency Resolve**

Resolve, Regarding Legislative Review of Chapter 60: New School Siting Approval, a Major Substantive Rule of the Department of Education

H.P. 1322 L.D. 1783

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with no Senators having voted in the negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

---

Out of order and under suspension of the Rules, the Senate considered the following:

**ENACTORS**

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

**Pursuant to Constitution  
Public Land**

Resolve, Authorizing Certain Land Transactions by the Bureau of Parks and Lands

S.P. 612 L.D. 1792  
(C "A" S-244)

In accordance with the provisions of Article IX, Section 23 of the Constitution, this requires the affirmative vote of two-thirds of the entire elected Membership of the Senate, 32 Senators having voted in the affirmative and no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.



Out of order and under suspension of the Rules, the Senate considered the following:

**ENACTORS**

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

**Emergency Resolve**

Resolve, Regarding Legislative Review of Chapter 115, Part I, Section 8.5: Targeted Need Certificate, a Major Substantive Rule of the State Board of Education

H.P. 1345 L.D. 1802

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Acts**

An Act Authorizing Patients to Designate Visitors

H.P. 1160 L.D. 1560  
(C "A" H-578)

An Act to Amend the Charter of Bates College

S.P. 623 L.D. 1805

**PASSED TO BE ENACTED** and having been signed by the President were presented by the Secretary to the Governor for his approval.

---

Out of order and under suspension of the Rules, the Senate considered the following:

**ENACTORS**

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

**Resolve**

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

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

**FINALLY PASSED** and having been signed by the President was presented by the Secretary to the Governor for his approval.

---

Out of order and under suspension of the Rules, the Senate considered the following:

**ENACTORS**

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

**Act**

An Act to Improve End-of-life Care in the State

H.P. 617 L.D. 802  
(C "A" H-586)

Comes from the House, Bill and accompanying papers **INDEFINITELY POSTPONED.**

On motion by Senator **LAFOUNTAIN** of York, Bill and accompanying papers **INDEFINITELY POSTPONED**, in concurrence.

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**Resolve**

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

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

Comes from the House, Resolve and accompanying papers **INDEFINITELY POSTPONED.**

On motion by Senator **LAFOUNTAIN** of York, Bill and accompanying papers **INDEFINITELY POSTPONED**, in concurrence.

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**ORDERS OF THE DAY**

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

**Emergency Measure**

An Act to Allow County Corrections Personnel to Participate in the Same Retirement Plan as Other Corrections Personnel

H.P. 963 L.D. 1276  
(C "A" H-568)

Tabled - May 30, 2001, by President Pro Tem **BENNETT** of Oxford

Pending - **ENACTMENT**, in concurrence

(In Senate, May 24, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-568)**, in concurrence.)

(In House, May 29, 2001, **PASSED TO BE ENACTED.**)

On motion by Senator **MARTIN** of Aroostook, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Clarify Rights of Retainage in Public Construction Contracts"

S.P. 514 L.D. 1633  
(S "A" S-267 to C "A" S-245)

Majority - **Ought Not to Pass** (10 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-245)** (3 members)

In Senate, May 25, 2001, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED**. **READ ONCE**. **COMMITTEE AMENDMENT "A" (S-245) READ**. **SENATE AMENDMENT "A" (S-267) TO COMMITTEE AMENDMENT "A" (S-245) READ** and **ADOPTED**. **COMMITTEE AMENDMENT "A" (S-245) AS AMENDED BY SENATE AMENDMENT "A" (S-267)** thereto, **ADOPTED**. **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-245) AS AMENDED BY SENATE AMENDMENT "A" (S-267)**, thereto.

Comes from the House, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

Senator **ROTUNDO** of Androscoggin moved the Senate **RECEDE** and **CONCUR**.

On motion by Senator **NUTTING** of Androscoggin, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#88)**

**YEAS:** Senators: **BROMLEY, CATHCART, DOUGLASS, EDMONDS, FERGUSON, GAGNON, KNEELAND, LAFOUNTAIN, LEMONT, LONGLEY, MCALEVEY, O'GARA, PENDLETON, RAND, ROTUNDO, SAVAGE, SAWYER, SMALL, TREAT, YOUNGBLOOD, THE PRESIDENT - MICHAEL H. MICHAUD**

**NAYS:** Senators: **BENNETT, CARPENTER, DAGGETT, DAVIS, GOLDTHWAIT, KILKELLY, MARTIN, MILLS, NUTTING, SHOREY, TURNER, WOODCOCK**

**ABSENT:** Senators: **ABROMSON, MITCHELL**

21 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **ROTUNDO** of Androscoggin to **RECEDE** and **CONCUR**, **PREVAILED**.

**Off Record Remarks**

Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

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

H.P. 1069 L.D. 1432  
(S "A" S-282 to C "A" H-569)

In House, May 25, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-569)**.

In Senate, May 29, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-569) AS AMENDED BY SENATE AMENDMENT "A" (S-282)** thereto, in **NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED**.

On motion by Senator **MARTIN** of Aroostook, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-569) AS AMENDED BY SENATE AMENDMENT "A" (S-282)** thereto.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED COMMITTEE AMENDMENT "A" (H-569) AS AMENDED BY SENATE AMENDMENT "A" (S-282)** thereto.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED SENATE AMENDMENT "A" (S-282) TO COMMITTEE AMENDMENT "A" (H-569)**.

On further motion by same Senator, Senate Amendment "A" (S-282) to Committee Amendment "A" (H-569) **INDEFINITELY POSTPONED**.

On further motion by same Senator, Senate Amendment "B" (S-294) to Committee Amendment "A" (H-569) **READ** and **ADOPTED**.

Committee Amendment "A" (H-569) as Amended by Senate Amendment "B" (S-294) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

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

Sent down for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass As Amended**

Senator TURNER for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Amend the Maine Health Data Organization Laws"

S.P. 395 L.D. 1310

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-290).**

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

**READ ONCE.**

Committee Amendment "A" (S-290) **READ** and **ADOPTED.**

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-290).**

Sent down for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**Joint Resolution**

The following Joint Resolution: H.P. 1360

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

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

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

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

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

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

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

WHEREAS, the Town of Millinocket offers a 4-season experience where recreational opportunities abound, from the thrill of hunting bear, deer and a myriad of game to the tranquility of hiking along the Appalachian Trail with its beautiful views of ponds, waterfalls, wildlife and plants, and the residents of the Town of Millinocket welcome visitors to the treasures of their community; and

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

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

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

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

Comes from the House, **READ** and **ADOPTED.**

**READ** and **ADOPTED,** in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Implement Changes in Cost-sharing Agreements in School Districts"

H.P. 977 L.D. 1301

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-628)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-628)**.

Report **READ** and **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-628) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-628)**, in concurrence.

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Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Bill "An Act Regarding Contracts for Energy Conservation and Air Quality Improvements in School Buildings" (EMERGENCY)  
S.P. 448 L.D. 1502  
(C "A" S-225)

In Senate, May 21, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-225)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-225) AS AMENDED BY HOUSE AMENDMENT "A" (H-618)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **NUTTING** of Androscoggin, the Senate **RECEDED** and **CONCURRED**.

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Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

**ORDERS OF THE DAY**

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Ensure That State Employees Receiving Workers' Compensation and Filling a Limited Period Position Remain in Their Respective Bargaining Units"

H.P. 592 L.D. 747

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-547)** (9 members)

Minority - **Ought Not to Pass** (4 members)

Tabled - May 30, 2001, by Senator **EDMONDS** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence

(In House, May 29, 2001, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-547)**.)

(In Senate, May 30, 2001, Reports **READ**.)

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Edmonds.

Senator **EDMONDS:** Thank you, Mr. President, men and women of the Senate. We have before us a number of bills that are complicated. The first one has to do with the fact that in 1997 a budget bill passed that created limited period positions for employees of the state who are receiving Workers' Compensation payments when those positions can be used to return the employee to some type of work. This bill provides that a person filling one of these limited period positions will remain as a member of the same bargaining unit that he or she was a member of before his or her Workers' Comp injury. All this bill does is allow an individual who has been injured who is collecting Workers' Compensation benefits to stay in their bargaining unit. If we can't pass this bill, it leaves a person who has been presently and heretofore represented adrift. From my perspective, it's a matter of fairness. A person feels as if they have been part of a bargaining unit, nothing has changed in their life except that they got injured, and they have taken a limited period position in an effort to get back to work. I hope you will join me in voting for the Majority Ought to Pass as Amended Report. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you, Mr. President. I'd like to ask a question through the Chair for anybody who might be able to answer.

**THE PRESIDENT:** The Senator may pose his question.

Senator **MILLS:** Mr. President, if I understand the backdrop behind this bill, it arises from the situation where you have people injured who develop some partial work capacity and find that there is no work available within their talents or within their physical capacity at the place where they used to work. The state, being a very large employer, having many, many

opportunities in a wide variety of settings, has the capacity, by virtue of the budget bill amendment that the good Senator referred to, to invite or require the injured employee to return to work outside the department where he was injured and to be employed in some other capacity, either on a temporary basis or perhaps even on a fairly long term basis, for as long as the disability remains. My question is this, is it reasonably clear that by allowing that person to retain membership in his or her former bargaining unit that, we are not in any way interfering with the power of the state under the Workers' Compensation laws to require that that person work outside of the department where his bargaining unit represents him? That's my concern. If I can be assured that the state will have the same capacity as it apparently does now to require that person to go to work outside his or her field in a totally different department for the sake of returning that person to gainful employment, partial or otherwise. If the state retains that power, than I think I would be comfortable with this bill. Otherwise, I would be a little concerned about it. Thank you.

**THE PRESIDENT:** The Senator from Somerset, Senator Mills poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Edmonds.

Senator **EDMONDS:** Thank you, Mr. President. It's my understanding that, in fact, the state does retain its rights through the Workers' Comp system. This merely allows a person to remain with their bargaining unit, as I understand it.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Mr. President, ladies and gentlemen of the Senate. I think that there are a number of problems with L.D. 747. Let me see if I can address them. It may, in turn, also address or speak to a concern spoken by the Senator from Somerset, Senator Mills. It appears to me that this bill would seriously hinder the state's good faith effort to return injured former workers to meaningful employment by effectively restricting their flexibility to return to work. As Senator Mills has pointed out, the state is a large employer. You want to be able to use that employing capacity to try to take an injured worker and make them as productive as possible for the good of the state, and frankly, for the good of the worker. This bill, if enacted, would, in my judgment, seriously restrict that. It could force the state, in fact, to be required to arbitrate issues regarding the employee's work capacity, thus displacing the Workers' Comp Board process. Issues that are currently resolved before the Workers' Comp Board would then be appropriately provided for a decision by an arbitrator. Resolving such issues before an arbitrator could lead to greater expense for the state and for the unions that represent them. There is a retroactive provision here that goes back to June of 1997, that would place effected former employees in bargaining units retroactive back 4 years. I think that could lead to a significant cost for retroactive benefits, including monetary benefits, and a significant cost in time and money to determine those benefits and defend against grievances. So for these reasons, I would urge you to not support the motion on the floor and vote against L.D. 747. Thank you very much.

On motion by President Pro Tem **BENNETT** of Oxford, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#89)**

**YEAS:** Senators: **BROMLEY, CATHCART, DAGGETT, DOUGLASS, EDMONDS, GAGNON, KILKELLY, LAFOUNTAIN, LONGLEY, MARTIN, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD**

**NAYS:** Senators: **BENNETT, CARPENTER, DAVIS, FERGUSON, GOLDTHWAIT, KNEELAND, LEMONT, MCALEVEY, MILLS, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD**

**ABSENT:** Senators: **ABROMSON, MITCHELL**

17 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (H-547) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-547)**, in concurrence.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Speed Up the Decision Process on Workers' Compensation Claims"

H.P. 921 L.D. 1235

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-488)** (7 members)

Minority - **Ought Not to Pass** (6 members)

Tabled - May 30, 2001, by Senator **EDMONDS** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence

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

(In Senate, May 30, 2001, Reports **READ**.)

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Edmonds.

Senator **EDMONDS:** Thank you, Mr. President, women and men of the Senate. The amendment to this bill replaces the bill itself. It provides that an employer may not require an injured employee to undergo more than one second opinion examination unless the additional examination is approved by the employee or a hearing officer. It also provides that that hearing officer may approve an additional examination only if it is needed to provide information on an issue that was not addressed in the first examination and that could not have been addressed in that examination. For instance, if time has passed and the hearing officer is going to take another look at this case and new information has come forward, they could, in that situation, indicate that a second second opinion was necessary and appropriate. Presently, an employee who is injured selects their own physician. The employer gives the person a first second opinion, it's call the 207. At this point, we'd like, I'd like, in this bill that that be the only second opinion examination allowed. Currently the employer is allowed to have two second opinions. This seems unnecessary. It seems that we've done a good job of discouraging the practice of looking for another doctor in Workers' Compensation cases from both the employee and the employer side. This, in fact, would be another way of just saying you get one second opinion and you can't go looking for another second opinion to make a more favorable conclusion on your part. Yet, if time has passed or a new situation arises and a hearing officer decides that a second opinion is necessary because information has come in that is new, that would be allowed. We are all trying to figure out how to make the Workers' Compensation system work more efficiently and go more smoothly. I think this would head in the right direction. I hope you will join me in accepting the Majority Ought to Pass as Amended Report. Thank you.

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Off Record Remarks

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**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Sawyer.

Senator **SAWYER:** Thank you, Mr. President, ladies and gentlemen of the Senate. While it's true that all members of the committee would like to make a fairer and more efficient system, you'll note by the split in the committee that we did not all agree. I propose to you that passage of this bill will ultimately have the opposite effect of what the bill is intended to do. In fact, employers will increase the request for mediation in controverting claims, which will actually slow the process down. I would urge you to vote against the motion before you. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you, Mr. President. I also rise to ask you to oppose the motion pending before us. This amendment, I've read it. I've had a bill in this session already concerning the qualifications of doctors that are giving second opinions. That bill has passed. I think we'll take a big step ahead in making the whole Workers' Comp system and the whole area of second opinions much much fairer than it is. As I read this amendment, if you get one second opinion and the doctor then might suggest that you need to go to a specialist, if the injured worker didn't agree with that, that wouldn't happen. To me that's just a little bit too far. So I think we have dealt with this issue already with an earlier bill. I think that bill is going to make things much fairer. So I just can't support this bill today and urge you to do the same. Thank you.

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Off Record Remarks

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**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Mr. President, members of the Senate. Even though I voted and supported the bill that was presented by the Senator from Androscoggin, that really is not the issue here. I think it's a question of fairness. I must admit that when we did the reform, it was obviously an attempt to try to limit the number of shopping that people would do. We did that in that legislation. I do find it ironic that it's okay to limit the employee, but not to limit the employer. It seems to me that if it's fair to limit one, it ought to limit the other. If the opposition is saying that we ought to allow that, than I think we ought to amend the law to allow the employee the same rights. We talk about an equal playing field. Frankly, some of it isn't so level playing. In reference to the Senator from Penobscot's comments about creating more in terms of some of the insurance carriers wanting, in effect, to basically say that they want to settle cases, I would suggest that you members of the Senate contact the workers involved and especially some of the insurance carriers that we have in this state who make it a practice, even when the employer is saying it's a valid injury, to challenge it. I've almost reached the point in my career to start listing the insurance carriers that do that and the attorneys for those insurance carriers that basically challenge ever single one, even when I, as an employer, say it was a valid injury and it should be paid. That's what really bothers me. In the meantime, the employee suffers. If someone could explain to me why an employee should be treated any different than the employer in terms of shopping or not shopping for attorneys, I'd ask any member of the Senate to explain why we should not be fair.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Mr. President, ladies and gentlemen of the Senate. I think all of us, regardless of our party affiliation, want the same thing. We want the system to be working effectively. We want to minimize the controversy in the

system. I think, unfortunately, if you're in favor of this bill, you add some more opportunities for problems. Existing legislation L.D. 207 allows for two examinations. This would reduce the number of examinations to one when there is a dispute. It's only when there is a dispute that there is an issue. So what will happen is that I think you will force delay and force an employer to go to a different section of the Workers' Comp code in order to get the redress that they are seeking. I think we have a system that's working quite well now. I would encourage you not to vote in favor of the motion and help us continue to make the progress of minimizing the controversy and delay. I think this bill, if approved, will take us a step backwards. Thank you very much.

On motion by President Pro Tem **BENNETT** of Oxford, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#90)**

**YEAS:** Senators: **BROMLEY, CATHCART, DAGGETT, DOUGLASS, EDMONDS, GAGNON, LAFOUNTAIN, LONGLEY, MARTIN, PENDLETON, RAND, ROTUNDO, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD**

**NAYS:** Senators: **BENNETT, CARPENTER, DAVIS, FERGUSON, GOLDTHWAIT, KILKELLY, KNEELAND, LEMONT, MCALEVEY, MILLS, NUTTING, O'GARA, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD**

**ABSENT:** Senators: **ABROMSON, MITCHELL**

14 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

**HOUSE REPORTS - from the Committee on LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Repeal the Presidential Preference Primary Elections"

H.P. 960 L.D. 1273

Majority - **Ought to Pass** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-556)** (2 members)

Tabled - May 30, 2001, by Senator **BROMLEY** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**

(In House, May 29, 2001, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, May 30, 2001, Reports **READ**.)

On motion by Senator **DAGGETT** of Kennebec, **TABLED** until Later in Today's Session, pending motion by Senator **BROMLEY** of Cumberland to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**.

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The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

**HOUSE REPORTS - from the Committee on JUDICIARY** on Bill "An Act to Exclude Credit Balances Between Business Associations from Unclaimed Property"

H.P. 1088 L.D. 1457

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-605)** (9 members)

Minority - **Ought Not to Pass** (4 members)

Tabled - May 30, 2001, by Senator **RAND** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**

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

(In Senate, May 30, 2001, Reports **READ**.)

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Ferguson.

Senator **FERGUSON:** Thank you very much, Mr. President. I would hope that the Senate would vote against the motion that's on the floor. Actually all this does is exclude credit balances from the State of Maine Treasurer's unclaimed property. This would be just between commercial enterprises and businesses. It wouldn't impact bank balances or anything of that nature. They would still, after a 5 year period, go to the unclaimed account. It's quite common for businesses that have transactions going on, credit balances are quite frequent and they may last for a number of years. Just as a matter of good business practice, I would

urge you to vote against the pending motion so that we can go on to accept the Ought to Pass Report. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Mr. President, men and women of the Senate. I was wondering if I could pose a question through the chair?

**THE PRESIDENT:** The Senator may pose his question.

Senator **GAGNON:** If this bill were to become law, it is my understanding that a business, such as a bank, may receive funds from another small business, like a mom and pop grocery store on the corner, that may have become lost. Over a period of time, once the time expired, I'm not sure what the time frame is, rather than the bank turning those funds over to the State of Maine to try to find the rightful owner, they would not have to do that. They would, in fact, be able to keep that balance that never did belong to them. Is that correct?

**THE PRESIDENT:** The Senator from Kennebec, Senator Gagnon poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Rand.

Senator **RAND:** Thank you, Mr. President, men and women of the Senate. That is precisely what this bill proposes to do. As many of us know, Maine, like virtually every other state in the Union, has a system by which unclaimed property eventually is taken care of by the Treasurer of the State of Maine, or whatever state it's from. They make many attempts and hold these assets until the rightful owner can be found. After a particular period of time, and it depends on the type of asset that we're taking about, through this process, there comes a time when the State Treasurer turns over certain amounts to the General Fund, the theory being that when assets are unclaimed, when they do not belong to the holder, they belong to the people of the state. This is virtually what is done in every state of the Union. In fact, the State of Maine has reciprocal agreements with any number of other states dealing with this very issue. In response to the good Senator from Kennebec, Senator Gagnon's, question, that's exactly what would happen. I have here a couple of examples. The Acme Rebecca Lodge 75 and Key Bank, \$6,265.25. That's the amount that was returned to the Rebecca Lodge after this whole process that we have in place right now when that came to fruition. With this law, the \$6,265.25 would be kept by Key Bank National. Another example, Advantage Appraisal Company. This was payment for goods and services. \$900. If this law is passed, that \$900 becomes the property of this mortgage corporation instead of being returned to the Advantage Appraisal Company. A.D. and R. Painting and Home Improvements, a very small business, and Fleet Bank of Maine is the holder. If this law passes, Fleet Bank of Maine gets to keep the \$491.76 that really belongs to A.D. and R. Painting and Home Improvements. I guess probably the best way to sum this up is that this bill also has a fairly substantial initial fiscal note. The Office of Fiscal and Program Review has told us that they are guessing that about 25% of the money that normally would go into the General Fund would be kept by these holders of assets. That would amount to approximately \$150,000 a year that would not be going into the General Fund. There is absolutely no need for this bill. All of the

accounting procedures that we require companies to do now would still be in place. I'm just asking you to please accept the Minority Ought Not to Pass and let the real owners of property receive that and if all else fails, if all attempts fail, don't let the holders of those assets claim that property. Let those assets go to the people of the State of Maine like virtually every other state does with their unclaimed property. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Youngblood.

Senator **YOUNGBLOOD:** Thank you, Mr. President, ladies and gentlemen of the Senate. I've not read this bill in detail. I asked those very specific questions having some interest in the banking environment. The law in this state has changed multiple times over the last 15 years. It was not all that long ago that the law was 20 years, it was reduced to 10 years, today it stands at 5 years. It is my understanding that financial institutions are specifically excluded from this bill. This relates strictly to inter-company debits and credits between organizations, not dollars that are on deposit at any financial institution. Those credits can be generated for all sorts of reasons, merchandise returned, merchandise paid for but not delivered and put on hold for whatever the reason may be. I see nothing in this, because my antenna went up immediately when I read the title of this because, obviously, every financial institution has lots of businesses that have dollars on deposit with them and they leave those dollars in many many cases for a period longer than the 5 years without customer contact. That's the way the present law works. If you go 5 years with no customer contact, it goes to the Treasurer of the State of Maine as it should. It always belongs to the individual. The individual, obviously, can always come back to the state to get it. The specific questions that I asked, I was satisfied that this was not involving any financial institution dollars whatsoever, if there is a question as to whether it does or it does not and we can't come to a definite conclusion, then maybe we ought to consider tabling this. But at this point, I would recommend the ought to pass recommendation of the majority of the committee.

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Ferguson.

Senator **FERGUSON:** Thank you very much, Mr. President, ladies and gentlemen of the Senate. I beg to differ with the good Senator from Cumberland, Senator Rand, in regards to the Rebecca's. They wouldn't be impacted by this. I do have the amendment here and I will read it to the members so they will know what they are talking about. 'Property does not include a credit balance issued to a commercial customer account by a business associate..' so this is really between commercial ventures in the ordinary course of business...'unless the credit balance is property described in Section 1953, subsection 1, paragraph E.' What that is, property as described by that section that I just referred to, is demand savings or deposits that are in financial institutions that haven't been active within a 5 year period. As the good Senator from Penobscot, Senator Youngblood, indicated, we should go on and accept the Majority Report on this and I would urge the members to do that. I might add that 10 states have recently adopted something similar to this, including our parent state of Massachusetts which is known for consumer protection as good as any other state in the union. Thank you, Mr. President.



**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Rand.

Senator **RAND:** Thank you, Mr. President, men and women of the Senate. While an attempt was made to amend the bill as it was presented, which did include credit card companies, banks, what have you, the language is definitely in doubt in the amendment. The term 'financial organization' is apparently not clearly outlined in the laws, as far as the State of Maine laws go. There is question as to what the amendment means when they use the term 'financial organization' and if indeed it were that banks and credit card companies were exempt, if that's how that did work out, we still have a large number of people, of businesses, that would be unable to claim property or assets that are theirs. The holders would be allowed to keep something that does not belong to them. For an example, Allen Drug Company and American Home Products. Why should American Home Products keep the \$280.08 that the Allen Drug Company owns? If somebody could explain that to me, I would be more than happy to change my vote. Here's another one. An insurance company and the Penobscot Valley Hospital. We don't think of them as financial institutions. \$1,014.80. Now my personal view is that I'd just as soon the hospital get to keep that money as opposed to the insurance company. But the fact is it's not theirs. It belongs to the life insurance company. Why should the Penobscot Valley Hospital be allowed to keep that money? As I said, if somebody can explain why a holder of property that is not theirs should be allowed to keep it, I will gladly change my vote. But the fact remains that when we go through this whole process, these assets are turned over to the Treasurer of the State who then makes a great effort to contact the real owners of the assets. We've all received pages and pages of people and businesses within our districts. Why should the businesses be excluded from that process? I would ask you to please accept the Minority Ought Not to Pass Report.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Mr. President, ladies and gentlemen of the Senate. I read the bill and I'm now reading the amendment, which replaces the bill. While the Senator from Cumberland, Senator Rand, talked initially about banks in her first presentation to us, this goes on to say that credit balances that fall under the description of demand savings or time deposits would still be subject to the application of the unclaimed property law. So I think the amendment is pretty clear with regards to the banking industry. I do not understand to the Senator's point with respect to insurance companies. But I think it's clear that banks are subject to the law as described by the Senator from Penobscot, Senator Youngblood.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Mr. President, men and women of the Senate. I think we can get tangled up in insurance institutions and banking institutions, but the bottom line, I think, that the good Senator from Cumberland was talking about is that this bill would allow generally a larger company to keep something that does not belong to them. I think that generally the way this is focused, it will be larger companies keeping funds

that belong to smaller companies. I think a vote for this bill, in my opinion, is anti-small business. I think that's primarily what we're interested in here in the Senate as many of the larger companies are based out-of-state. So I'll be supporting the pending motion. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Edmonds.

Senator **EDMONDS:** Thank you, Mr. President, men and women of the Senate. I would concur with the good Senator from Kennebec, Senator Gagnon, regarding the importance of paying attention to small business interests here. Also I would just like to remind the members that this will have a fiscal note. Less money will be coming into the General Fund. That's something we need to bring attention to. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. First, Mr. President, I'd like to express my eternal gratitude for you not assigning me to the Judiciary Committee. Second, may I pose a question through the chair?

**THE PRESIDENT:** The Senator may pose her question.

Senator **GOLDTHWAIT:** Thank you very much. Anyone who could answer, I've just received a letter from the Maine State Treasury suggesting that this bill may be a violation of the United States Constitution Protection regarding due process. I wonder if anyone is aware that this matter of constitutionality was considered in the debate on this bill?

**THE PRESIDENT:** The Senator from Hancock, Senator Goldthwait, poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Rand.

Senator **RAND:** Thank you, Mr. President, men and women of the Senate. That was one of the objections to this bill that arose. We came to know a definite understanding, it is my belief and the belief of one side, that due process is certainly violated in this instance with this bill. But there were worthy opponents who argued the other. Since we don't have a court case on it, at least not yet, we will have to wait to see how that is determined. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Douglass.

Senator **DOUGLASS:** Women and men of the Senate, I found myself thinking about an early law school case that I remember feeling quite perplexed about. It was about a whale that washed up on the beaches in Cape Cod back in the early whaling days. It was a discussion of property rights and whose property was it. Well, in that case, the determination was finders keepers. But I do think we've come a long way since those days and that we're all in a better position if we have unclaimed property going to a central source where people who might think they've lost something can go to look for it and where, if it is not claimed, it will benefit all of us as opposed to just some of us.

**THE PRESIDENT:** The Chair recognizes the Senator from Washington, Senator Shorey.

Senator **SHOREY:** Thank you, Mr. President, men and women of the Senate. I don't see this as an anti-business bill. What I see is the government interfering with businesses by going in and saying here's how you run your business. We're going to take the money that you owe on credit, that you probably send out a credit memo to every month anyway on statements which most companies do, and we're going to take that money and we're going to hold it for a little while. Then we're going to pad our coffers. I don't think that's right. I think that businesses in the state want the government to back off a little bit. They don't want the government coming in and saying we're going to look at your credit memos, we're going to take money from you because you're holding it for too long for a customer who may have returned a product, maybe a very large product that they do not have use for in another 5 years. That's why the money is in there. There are reasons why the money is in there and there are credit memos that are sent out. I guarantee you, any small business that has money owed to them is going to find it. They don't need the governments' help. If anything else, they look for less help. So I would urge you to defeat the pending motion and go with the Ought to Pass. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Mr. President, members of the Senate. I'm just reading, as others probably are, the letter from the Treasury Department. If that's accurate, it appears that some of the individuals who have spoken are really against small business. The Bluenose Inn who over paid the American Hotel Register for \$519. The A & P Realty Trust of Kittery, Central Maine Power. Those figures would stay in the hands of those corporations. For those of you who have been members of either body, we get this printout from the Treasury Department and it has a breakout by districts as to all the potential money. I know some of the people of this body, both parties, have sent out these letters and driven staff crazy with all those letters to everyone saying you may be owed this amount from the State Treasury. Here's the number, call and get the money. I've seen some legislators run around with a score card as to how much money they've gotten for their constituents. If this is correct, I can't believe that that is what we want to do. But for the record, Mr. President, I would request the yeas and nays so the people of Maine will know how we all voted.

Senator **MARTIN** of Aroostook requested a Roll Call.

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Ferguson.

Senator **FERGUSON:** Thank you very much, Mr. President, ladies and gentlemen of the Senate. I hope I don't have to get up on this any more today. In any event, the good Senator from Cumberland, Senator Rand, used the hospital again, which is probably a non-profit hospital. This wouldn't impact that in any manner. I do have a little experience in this. In one of my former jobs I was the accounts payable supervisor for a large paper company. We had statements come over our desks and lots of times companies big and small would owe us money. We'd have

a credit on their books and I'd call them up and say look please cut a check for X number of dollars. They would do that. On the same token, we might have a credit on our books and we would review those credits. Lots of times, if we weren't doing much business with a company, we would cut a check to them to clear the books. Like the good Senator from Penobscot, Senator Youngblood, said, if you're a small business and someone owes you some money, you certainly are going to be looking out for it. This is just between commercial ventures. It is a 9 to 4 committee report, Ought to Pass. We did review it in committee quite thoroughly and it seems to me that we're moving ahead. Ten other states have recently enacted legislation similar to this. I can't see where it would be in any violation of any federal statutes or commercial codes or anything of that nature. I would hope that the body would defeat the pending motion and go on so we can accept the Majority Report. Thank you, Mr. President.

On motion by Senator **MARTIN** of Aroostook, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#91)

**YEAS:** Senators: BROMLEY, CATHCART, DAGGETT, DOUGLASS, EDMONDS, GAGNON, GOLDTHWAIT, LAFOUNTAIN, LONGLEY, MARTIN, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD

**NAYS:** Senators: BENNETT, CARPENTER, DAVIS, FERGUSON, KILKELLY, KNEELAND, LEMONT, MCALEVEY, MILLS, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD

**ABSENT:** Senators: ABROMSON, MITCHELL

17 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **RAND** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**, **PREVAILED**.

Sent down for concurrence.

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Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

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The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

SENATE REPORTS - from the Committee on **CRIMINAL JUSTICE** on Bill "An Act Concerning the Sentencing of Persons to County Jails"

S.P. 354 L.D. 1168

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-277)** (5 members)

Tabled - May 30, 2001, by Senator **MCALLEVEY** of York

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, May 30, 2001, Reports **READ**.)

Senator **MCALLEVEY** of York moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator O'Gara.

Senator **O'GARA:** Thank you, Mr. President, ladies and gentlemen of the Senate. Again I refer to the fact that many of us don't always have a chance to attend all public hearings and I just would like to stress to you that this bill seemed to the majority of the committee, a bill that was going to put more burden on the Department of Corrections than necessary. The Department of Corrections spoke very strongly against the bill. We had quite a bit of debate on it. I personally would urge you on behalf of the majority of the members of the committee who heard the testimony and who were convinced that this bill ought not to pass. For instance, one of the examples would be, one of the parts of the bill is that if a person commits a crime in a certain county, that person be incarcerated in that county. It may very well be out of the county that he or she lives in. One of the moves that the Department of Corrections is trying to make is to forward people who are sentenced to a crime in a county to be housed in the jail in their county, trying to keep them as close to their families as possible and that kind of thing for a variety of reasons. It also requires the Department of Corrections to construct housing for these types of criminals and to maintain them. We felt that was unnecessary. The Department of Corrections, as I said, made a very strong case in opposition to the bill. I would urge you to defeat this motion so that we may accept the Majority Ought Not to Pass Report. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator McAlevey.

Senator **MCALLEVEY:** Thank you, Mr. President, men and women of the Senate. The bill does two things. The good Senator from Cumberland, Senator O'Gara, was correct in that the Department was very opposed to this bill. I support the Minority Report for two reasons. The first part of the bill says that if you are convicted in a county where you commit a crime, you do the time in the county, not someplace else where it may be more convenient for you. The reality is, except for following state standards and federal standards, where a person is sent to serve their time in a county jail is none of the Department of Correction's business. It's a county issue. A matter of economics. What is more important to me is the second part of

the bill. People who are sentenced to the Department of Corrections, who serve their term, and go out on probation, when their probation is revoked, they are sent to a county jail pending a revocation hearing. They are state prisoners, they are our prisoners, yet county taxpayers pay the bill. Now it would be one thing if they were there for 2 or 3 days. But the system is clogged and backed up so that some prisoners sit in county jails 30, 60, or 90 days. At \$70 or \$80 a day at the county expense, waiting for the state to get their act together at county expense. My feeling, and I think the feeling of a number of other people, is if they were sitting there at the states' expense, guess what, those hearing would be happening in a very timely manner. County taxpayers, our constituents, are being asked to pay the cost of boarding state sentenced prisoners who were sentenced to the State of Maine's Department of Corrections. So this, although it is on our nickel and we're asking that it be funded with tax dollars from the state, they are our prisoners in the first place when they are being held in the county jail. These people, many people, literally sit in a county jail and rot for months on end waiting for a revocation hearing. When the revocation hearing usually occurs, the judge says sentence time served. But who paid the bill? The county taxpayers. Now we're not talking 3 or 4 prisoners a week. We're talking scores and scores of prisoners in our jails. First of all, I believe they should be housed in the state facility. They committed the crime, they were sentenced by a judiciary to the State Department of Corrections. That would have a win win situation for our county taxpayers because not only would it get them out of the county jail, but it would also open up more space to them. But I believe it's our obligation and we're passing it on through our left hand to our counties. We shouldn't be doing that. So that is why I would urge you to accept the pending motion which is the Minority Report of the committee. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Washington, Senator Shorey.

Senator **SHOREY:** Thank you, Mr. President. May I pose a question through the chair?

**THE PRESIDENT:** The Senator may pose his question.

Senator **SHOREY:** Thank you. To anyone who may be able to answer this question, while these prisoners are in the county jail, who is paying their medical needs? Is it the state or the county?

**THE PRESIDENT:** The Senator from Washington, Senator Shorey poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from York, Senator McAlevey.

Senator **MCALLEVEY:** Thank you, Mr. President. With your permission, I'd be glad to answer that question. The county taxpayers are paying the medical expenses for any prisoner that is in their facility with the exception of, I believe, one county and that's the County of Cumberland who has a contract for federal prisoners where they are reimbursed. But they are sentenced or housed in a county jail, the county pays everything. Room and board, lodging, as well as medical.

On motion by President Pro Tem **BENNETT** of Oxford, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator McAlevey.

Senator **MCALVEY:** Thank you, Mr. President, men and women of the Senate. I tried awfully hard not to speak twice but I left one thing out. Later on this year we will be opening up the new prison with many, many new beds. Although there will be a slight cost, it will be the case of throwing an extra plate on the table and finding a couple of more uniforms for them to wear. So I believe the cost to us in regards to this transferring these prisoners to the Department of Corrections will not be staggering. It will be minimal. We will have the space to accommodate these people. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from York, Senator McAlevey to Accept the Minority Ought to Pass as Amended Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#92)**

**YEAS:** Senators: BENNETT, CARPENTER, DAVIS, FERGUSON, GOLDTHWAIT, KILKELLY, KNEELAND, LAFOUNTAIN, LEMONT, LONGLEY, MCALVEY, NUTTING, PENDLETON, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - MICHAEL H. MICHAUD

**NAYS:** Senators: BROMLEY, CATHCART, DAGGETT, DOUGLASS, EDMONDS, GAGNON, MARTIN, MILLS, O'GARA, RAND, ROTUNDO, TREAT

**ABSENT:** Senators: ABROMSON, MITCHELL

21 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **MCALVEY** of York to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (S-277) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-277)**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

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The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

**Emergency Measure**

An Act to Amend the Motor Vehicle Laws

H.P. 512 L.D. 652  
(C "A" H-555)

Tabled - May 30, 2001, by President Pro Tem **BENNETT** of Oxford

Pending - **ENACTMENT**, in concurrence

(In Senate, May 23, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-555)**, in concurrence.)

(In House, May 29, 2001, **PASSED TO BE ENACTED**.)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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Off Record Remarks

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The Chair laid before the Senate the following Tabled and Later (5/14/01) Assigned matter:

**SENATE REPORTS** - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Expand the Maine Mathematics, Science and Engineering Talent Search Venture" S.P. 280 L.D. 991 (C "A" S-94)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-94)** (9 members)

Minority - **Ought Not to Pass** (4 members)

Tabled - May 14, 2001, by Senator **CATHCART** of Penobscot

Pending - **FURTHER CONSIDERATION**

(In Senate, April 30, 2001, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-94)**.)

(In House, May 9, 2001, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

On motion by Senator **CATHCART** of Penobscot, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-94)**.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED COMMITTEE AMENDMENT "A" (S-94)**.

On further motion by same Senator, Senate Amendment "A" (S-288) to Committee Amendment "A" (S-94) **READ** and **ADOPTED**.

Committee Amendment "A" (S-94) as Amended by Senate Amendment "A" (S-288) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-94) AS AMENDED BY SENATE AMENDMENT "A" (S-288) thereto, in NON-CONCURRENCE.**

Under suspension of the Rules, ordered sent down forthwith for concurrence.

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Off Record Remarks

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The Chair laid before the Senate the following Tabled and Later (5/16/01) Assigned matter:

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Discourage Environmental Terrorism" H.P. 623 L.D. 823

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-273)** (6 members)

Tabled - May 16, 2001, by President Pro Tem **BENNETT** of Oxford

Pending - motion by Senator **O'GARA** of Cumberland to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE** (Roll Call Requested)

(In House, May 15, 2001, the Reports **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED**.)

(In Senate, May 16, 2001, Reports **READ**.)

On motion by Senator **DAVIS** of Piscataquis, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#93)**

YEAS: Senators: **DAVIS, FERGUSON, KILKELLY, NUTTING, O'GARA, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD**

NAYS: Senators: **BENNETT, BROMLEY, CARPENTER, CATHCART, DAGGETT, DOUGLASS, EDMONDS, GAGNON, GOLDTHWAIT, KNEELAND, LAFOUNTAIN, LEMONT, LONGLEY, MARTIN, MCALEVEY, MILLS, PENDLETON, RAND, ROTUNDO, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD**

ABSENT: Senators: **ABROMSON, MITCHELL**

12 Senators having voted in the affirmative and 21 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **O'GARA** of Cumberland to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE, FAILED**.

The Majority **OUGHT NOT TO PASS** Report **ACCEPTED**.

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Off Record Remarks

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The Chair laid before the Senate the following Tabled and Specially (5/21/01) Assigned matter:

An Act to Facilitate the Implementation of the Enhanced 9-1-1 Emergency System

H.P. 1098 L.D. 1467  
(C "A" H-442)

Tabled - May 18, 2001, by Senator **MARTIN** of Aroostook

Pending - **ENACTMENT**, in concurrence

(In Senate, May 15, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-442)**, in concurrence.)

(In House, May 17, 2001, **PASSED TO BE ENACTED**.)

On motion by Senator **MARTIN** of Aroostook, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-442)**, in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-252) **READ**.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Mr. President, members of the Senate. I just want to indicate that this merely clarifies the intent, and what everyone in the committee also agrees, to what was agreed to in the committee and does not change the intent of the Utilities Committee at all. It just makes it somewhat clearer so there is no misunderstanding by the Maine State Police.

On motion by Senator **MARTIN** of Aroostook, Senate Amendment "A" (S-252) **ADOPTED**.

On further motion by same Senator, Senate Amendment "B" (S-292) **READ**.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Mr. President. The discussion, as I understand, that took place in the Utilities Committee was that there should not be any state monies used for either Aroostook or Hancock in the 911 since there have been some problems in implementation. What the amendment basically does is says that, obviously, those monies that have been thus far expended for E-911 in those two counties, of course, would not be returned to them but from now on any monies that accrue as a result of the assessment that is imposed upon all of the subscribers of telephone lines in Aroostook, that money would go to the treasurers of Aroostook and Hancock in order to develop the system that they will so desire to have in the future.

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Ferguson.

Senator **FERGUSON:** Thank you very much, Mr. President, ladies and gentlemen of the Senate. This amendment would allow Aroostook and Hancock Counties to receive the surcharge that they have paid into the E-911 system. Every citizen in the state that is a subscriber to a telephone pays a 32¢ surcharge and the bill that we have before us, L.D. 1467, would increase that to 50¢. We have a situation where 14 other counties and the municipalities currently run PSAPS. These are answering systems that have sophisticated equipment so that when you call in there is a console that will be able to identify your street address and dispatch emergency personnel to your home. All other counties and municipalities pay for the personnel and the facilities to support these PSAPS. Aroostook County and Hancock County haven't stepped up to the plate and provided personnel and facilities to provide these facilities. Now what they want to is to use your surcharge, to use this money, to take care of their personnel. In Aroostook County the State Police have the facility in Houlton that, it is my understanding, could serve as a PSAP for Aroostook County. In regards to Hancock County, it is my understanding that they are working on the problem and they may not even want this money. They want to be treated in the same manner as all the rest of us. So if you approve this amendment, what you're doing is taking money from your citizens and in essence giving it to Aroostook County and Hancock County. Therefore, I would urge you to defeat this amendment so we can go on and adopt the bill. Thank you, Mr. President.

**THE PRESIDENT:** The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. My understanding of the amendment is that it would only return to those two counties that money which they have paid in on the surcharge. If that's incorrect, I hope someone will correct me. In addition, although I may not agree with my county's decision not to establish a PSAP, E-911 was established from the beginning as a voluntary program which

counties could participate in or not. It's not very voluntary if we're going to be charged for it even if we decided not to participate. So for that reason, I hope that you will support the pending amendment.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Mr. President, members of the Senate. Aroostook County made a decision to basically have one PSAP. Some counties have 4. As a matter of fact, I believe there is a total of 48 in the state. I don't have any problem with that, but I think if they chose to have that, that's up to them. This amendment does nothing to take money away from any county. Any money that's been expended for Aroostook County and Hancock County will not be returned. But why should the citizens of Aroostook County and Hancock County pay 50¢ if they're not going to have it. So I guess what I'd like to hear from someone is how they can interpret this amendment to mean, and I would pose a question through the chair to anybody who would choose to respond, how this amendment is going to take money away from any county and give it to Aroostook and Hancock?

**THE PRESIDENT:** The Senator from Aroostook, Senator Martin poses a question through the Chair to anyone who may wish to answer.

The Chair ordered a Division. 22 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion by Senator **MARTIN** of Aroostook to **ADOPT** Senate Amendment "B" (S-292), **PREVAILED**.

On motion by Senator **SHOREY** of Washington, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The Chair recognizes the Senator from Washington, Senator Shorey.

Senator **SHOREY:** Thank you, Mr. President, men and women of the Senate. In looking over this bill, I notice that it does increase the surcharge from 32¢ to 58¢. From my understanding of the bill, there is no sunset on this either. So this is a charge which is going to pay for equipment bought on a one-time basis, I believe, that's going to go on forever. I don't think that's right. I don't think it's right that we're going to be charging the people of the State of Maine forever in addition to a 30% increase for the 911. Thus, I'll be voting against this and I'll encourage you also to do the same.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Mr. President, members of the Senate. The only thing I can say is that I would suggest that the Senator from Washington, Senator Shorey, and others do the same thing that Aroostook and Hancock Counties because it is my opinion that we can run the systems and we don't need to have this in-state bureaucracy that we have in Augusta.

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Ferguson.

Senator **FERGUSON**: Thank you very much, Mr. President, ladies and gentlemen of the Senate. This system was designed to be as statewide system and it's been going on for several years now, long before I probably came to the Maine State Senate. There has been a lot of money expended in Aroostook County as well as Hancock County as well as all the counties for this street addressing and training of various personnel. In regards to how you're going to vote on the bill, that's up to you people. I'm certainly not going to inform you or to dictate how you should vote because it's a matter of conscious. But it seems to me that it's highly inappropriate to let two of the counties off and the rest of us pay at our expense, in my judgment. But in any event.

**THE PRESIDENT**: The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY**: Thank you, Mr. President, men and women of the Senate. I would be remiss if I didn't at least comment on some of the difficulties that my county has faced in terms of the system. For about the last year and a half, I have received a number of letters from the County Commissioners about the fact that Lincoln County was, in fact, the first county to put a system in place, and at this point, at least as of the last letter, is still not being reimbursed for its expenses. So folks in the county are continuing to use their property tax dollars to pay these costs. My concern is that we've created, in effect, a fairly significant black hole into which lots of dollars are going. I'm intrigued at the process of being able to separate out of the state system and be able to recapture the money that are citizens are paying. I would encourage, if it's at all possible, for this item to be tabled while some of us might be able to make some phone calls and determine if it might be appropriate for others of us to do the same. Thank you.

On motion by Senator **DAGGETT** of Kennebec, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-442) AND SENATE AMENDMENTS "A" (S-252) AND "B" (S-292)**, in **NON-CONCURRENCE**. (Roll Call Ordered)

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The Chair laid before the Senate the following Tabled and Later (5/22/01) Assigned matter:

**HOUSE REPORTS** - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Require Full Disclosure of Prescription Drug Marketing Costs "

H.P. 778 L.D. 1022

**Majority - Ought to Pass as Amended by Committee Amendment "A" (H-517)** (7 members)

**Minority - Ought Not to Pass** (6 members)

Tabled - May 22, 2001, by Senator **LONGLEY** of Waldo

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence

(In House, May 21, 2001, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-517)**.)

(In Senate, May 22, 2001, Reports **READ**.)

**THE PRESIDENT**: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER**: Thank you, Mr. President, ladies and gentlemen of the Senate. I would ask that you vote against the pending motion. If you look at the committee report, it is a divided one with Republicans and Democrats on both sides. I don't view it as a partisan matter. But I ask you to consider what the bill requires. If you'll allow me, I'll read portions of it to you. It would require that all costs associated with marketing, advertising, direct promotion of prescription drugs through radio, television, magazines, newspapers, direct mail, and telephone communications, all costs associated with educational programs, seminars, entertainment, trips, remuneration for promoting or participating in informational sessions regarding drugs and product samples of prescription drugs, all costs associated with product samples and promotional gifts in excess of \$10. It goes on to say that reports must be filed with the Department of Human Services and the last I knew the Human Services Department did not have jurisdiction over prescription drug companies, but none-the-less, they've been infused into the bill as it is currently amended. Then lastly it asks that a fee be paid by the prescription drug companies to support the work required by the Department with regard to collecting and putting this information together. I ask you to think about implementing this in your own business if you had a national enterprise and you were doing business in Maine as well as doing business around other parts of the country. Now someone in the other body decided that this bill was a home run for the people of Maine, passing this bill was a home run for the people of Maine. Well, if we're staying with baseball metaphors, I actually think it's a foul ball.

Why the bill? Clearly we have a number of us who have been upset with the cost of prescription drugs and we'd like to lower those costs. We feel that marketing costs are a key part of this, and if somehow they could be eliminated or reduced, it would lower the cost of prescription drugs. Well does this bill really accomplish that for us? I don't think it does. In my judgment it does accomplish something. I think it provides the potential for costs in Maine to increase because if I were judged with the responsibility for providing this to the state, those costs I would try to pass along in the cost of my product. There is an if here. Because if I'm a pharmaceutical company and I can figure out how to comply with this in order to do business in our very small market, all well and good. Maybe I'd just end up saying, 'I can't figure out how to do business in Maine.' Maybe there will be more and more people who will try to end up coming to that conclusion. Can't figure out how to do it.

Now, we did hear testimony neither for nor against the bill. The Department of Human Services was one of the groups that did testify and they were quick to point out that they support the intent of the bill. They are concerned, however, with the practical problems surrounding implementation and enforcement. They go on to claim that there are over 300 drug companies and more than 3,500 prescription drugs. A formidable monitoring task.

Then they go on to suggest that perhaps the committee should examine these issues before mandating disclosure.

Now I'm not an expert on the pharmaceutical industry, but I do have some knowledge of the capital risks involved in the industry. The capital risks, frankly, are formidable. I want to share with you a little bit about two organizations. One called Virxsys, which is yet not a public company. The other called Vaxgen, which is a publicly traded company. Both of these companies are working very hard to come up with a breakthrough treatment, if not a cure, for HIV/AIDS. The first one, the company that is not publicly traded, so far has expended \$16 million of investor money and they are up to the point where they can go through the first of three clinical trials. In talking with their chairman, who happens to be from Maine originally, he indicates that for another \$10 million they can probably get through the three trials. At this point, the investor has spent \$26 million, and if things are good, there is an opportunity then, in all likelihood, to take out the investor for \$10 to maybe \$15 times their investment. Wonderful investment if you can make it work. So think about 26 times 10 or 26 times 15. Who are the likely buyers of this company? The three big providers who are doing the most work are GlaxoWellcome, Merck, and Johnson and Johnson. The industry, overall, has spent about \$6 billion so far in this arena and we wonder. When somebody tells us that you could spend \$500 million in developing a drug, you begin to understand the details of the investment.

The other company, Vaxgen, this is off my website from last night, 'Vaxgen Up On New Finding Of HIV Vaccine.' It goes on to talk about the fact that their stock jumped 10% and closed at \$21.50. Then it goes to one of the investors in the stock, a fellow who bought Vaxgen in 1998 before it became public. 'It's a gamble,' says he, 'but it's less of a gamble than it used to be. I'd say it's gone from 1 in 100 when we bought it to maybe 1 chance in 5. I don't know the value of the stock,' he says, 'but if a vaccine works the stock could be worth \$100 a share. But if it doesn't work, the investors lose every nickel because the company has nothing else.'

So if we enact this legislation, this first in the nation legislation, we'll be requiring an entire industry to divulge its marketing detail and its non-technology trade secrets. Now I know our motto is *Dirigo*, but this is not the type of leading I think we should be doing. When the Senator from Penobscot, Senator Sawyer, talks about the anti-business attitude of Maine being used against us by various chambers of commerce around the country, frankly I think this would be a headliner for us. Is an unintended consequence of this bill an opportunity for our citizens to take a trip to Massachusetts or to New Hampshire to fill their prescription drugs because if I decide that I do not want to do business with you, I'm going to drop it some place. You know, there is no evidence that advertising is misleading or deceptive. In fact, as many of you do know, it's regulated by the FDA. It's very balanced and discloses all the risks. 'Use Flonase and breathe clearly again. Tired of buying tissue paper from evil forest product companies? Dry up that runny nose.' Then in another voice it says 'may cause bleeding of the toe nails of a pregnant woman, headaches in everyone, and may cause pepperoni pizza to taste like last weeks fish. Consult your doctor to see if Flonase is right for you.' That's a typical ad.

The really key things that we're talking about from a product standpoint, those things that deal with HIV or cancer are not what you're seeing on television but it's been suggested that proponents believe that somehow our patients are overwhelming their physicians with demands for the fix that they saw last night

on television and the doctor is powerless to stop them. Frankly, I don't believe it. I don't believe the doctors believe it. It's the doctor, not the patient, who determines what medicine a patient will be prescribed. Advertising for all of us at some level is actually, I think, an education mechanism for us. It enables doctors to learn quickly and accurately about new therapies, diagnostic tools, and medicines. Now let's get to the cost here of advertising. If you look at the industry overall, I think people will agree that advertising and marketing is approximately half the cost of research and development. More over, it appears that about half of that promotion advertising is dedicated to free sample prescription drugs that doctors give to their patients for nothing. The linkage here from an investment standpoint that I took you through earlier and the money that you spend on advertising and marketing, if you are investing a ton of money, you certainly want the opportunity to promote that. I recognize the bill doesn't prohibit it, but somehow proponents of the bill are telling us that this is really bad. Some in our midst need a business demon to blame for our society's expenses. Today many of us chose to hate the drug companies because they make too much money saving or extending our lives in a quality way. Two years ago it was HMOs. Last year it was drug company R and D, and we seem to have moved off that. But maybe it's us. Maybe we're the enemy, choosing to smoke, choosing not to exercise, choosing to succumb to poor eating habits, and then demanding to be fixed by a pill. You know this summer and maybe this coming winter I bet the blame game will move to the power generators and the other energy providers. Someday, hear me here clearly, your business interest may be at stake. Maybe you're the dairy farmer who makes too much money on a gallon of milk. We have a right to know why your cows are so contented and so happy and produce so much milk. Maybe you're the investment professional who is too successful. We have a right to know what your investment strategy is so that we can share that with everybody. Maybe you're the landlord who owns rental property and we decide you make too much money. What are your real costs? Are you not charging too much for that rental property? We need to know because housing is a basic right. Why is that printing company in Portland so successful? What are they doing that makes them so profitable? Let's require them to open their books. Why is that video store doing well? Instead of burning it down, let's make them disclose their cost structure so we can make sure that others in that business better understand their competition. Think about it please. We've got great power but it can and it has been abused. I think we need to use the power we have as legislators wisely. There are a whole host of bills that you and others in the other body have worked on that are helping us with prescription drugs. This bill is not one of them. I would urge you to vote ought not to pass. Thank you very much.

**THE PRESIDENT:** The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY:** Thank you, Mr. President, colleagues in the Senate. I'm not sure whether to pick to continue with the baseball analogies or move on to sacred cow analogies. I think I'll stick with the baseball analogies. No, this bill isn't a home run. Neither is it a foul ball. I think it's a base hit and we're moving some runners forward, maybe on a bunt. But anyway, we're making progress. All this bill does is say that we, as taxpayers, fund millions of dollars on an item that is becoming a basic need. I was at an event this Sunday and a mom was talking to me



about how uncomfortable she was with some new drug advertising happening during the basketball play offs. Basically, it was a depression drug and was saying you don't need to be sick anymore to need it. It took me a few minutes to understand what her complaint was. Basically, she was saying the advertising on television for drugs sometimes is basically an advertisement for drugs. You know, if you're having a bad moment, go for some way to alleviate your emotional pain. Arguable the drug advertising is over done. Whether it's over done or not, this is a truth in advertising bill. It basically says, given the fact we're spending a lot of tax payer money on what is arguably becoming more and more a basic need and is a major issue, especially among our elderly, just give us the information of what amount of money you are spending on advertising because we understand and want to support your research and development but we have some questions about how you allocate some funds on an issue where many of the funds you end up allocating, how you decide how you spend your money, is forcing us to spend more and more dollars too. So I say, mixing analogies, this is very much a public interest item, not a sacred cow that we can't get more information on. I encourage you to vote with the pending motion.

Senator **LONGLEY** of Waldo requested a Roll Call.

**THE PRESIDENT:** The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. This debate, to me, is not about resenting the fact that a private business is making a lot of money. It's about the impact that certain practices of that business has on our citizens. To me, that comes in the form of making medications so expensive that most of our citizenry in Maine can't afford to pay for those and the result of that is that someone else is asked to pick up that cost, in many cases our state government. Medicaid has been the most rapidly growing piece of our budget. It's growing at a rate of about 11% in a time when we're looking at COLA increases at something like 3%. It is killing us. It is going to continue to do so. One of the most expensive portions of that budget is covering medications. So what does this have to do with marketing and advertising? Quite a lot in my opinion. I dispute the statistics that I received at my desk that said that we spend less on advertising than we do on research and development. I believe there is data that shows that the advertising budgets are greater than that. But even that is not the major issue to me. The problem with advertising is that it is a big expense for the companies. It certainly contributes to the cost of the drugs and what does it do? I understand that we are the only country that allows direct to consumer advertising of prescription drugs. When you see a one page magazine ad, much of which is taken up with the big picture, and that is the way you are deciding what drug you're going to ask your physician for, that does not compare in my mind to a medical school degree. Although we are now trying to involve patients much more in their care, you don't do that by advertising in a popular magazine because you could read 8 different ads for a drug for the same illness and be no better equipped to judge the efficacy of one of those drugs versus the other and certainly which drug is best for you. If you think that physicians are unswayed by patient requests based on a lot of popular advertising, you are dead wrong for one reason in particular. Many of these drugs are very similar. You could probably use any one of them interchangeably

for a particular condition. But when a physician is in the 18<sup>th</sup> visit of his or her day, trying to explain to a patient that the generic form of the drug will work just as well as brand A or B, at some point the physician gives up that battle. It's easier to just write that script and go onto your next patient than to explain for the 19<sup>th</sup> time in the day what generic drugs are, how they've been tested, why they are the same, why they are okay, why they are going to work, when patient after patient is saying, 'but what I see on television says this.' I am in no way suggesting that a physician prescribes irresponsibly in terms of a medication that will cover a condition. But when a physician has a choice of several medications, including something generic, and the patients are arguing all day long based on direct to consumer advertising, that physician is only going to hold out so long and then time pressure is going to dictate, you're going to do the expedient thing, it's an appropriate medication for the situation, they're going to prescribe it. It has a huge impact to the extent that there used to be, I don't know if there still is, a column in a physician's journal that said 'here's what you're going to be hearing from your patients this month.' It would outline the articles and the advertising in the popular press and journals, warning physicians that this is what your patients will be asking for and this is what you need to know about those meds. So the concern for me is that we get at the relationship of drug marketing, not only to the expense side but to other issues of prescribing within physician's practices. This may not be a perfect instrument, but as always, there won't be one. It is such a huge cost. I don't care whether it's going into somebody's profit or not. The issue for me is what is it making the medicine cost so much for those patients? This is such a big cost that we have to do something about it. This bill makes an attempt to take a step in that direction and I hope you will support it. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Treat.

Senator **TREAT:** Thank you, Mr. President, men and women of the Senate. I too would urge you to vote in support of the pending motion. I wanted to just give you two statistics which I find quite compelling and reason to consider this issue more. Statistic one, the cost for prescriptions for the state's Companion Plan covering Medicare retirees rose 60% last year, which may explain why the chair of the Appropriations Committee was just standing before in support of this motion. The second statistic, the Wall Street Journal in an article published last week notes that pharmaceutical companies have increased their marketing expenditures by 64% in the last 5 years. Perhaps these are completely unrelated, serendipitous statistics. I think not. The purpose of this legislation is to get a handle on what is being spent and what it is being spent for. It is important for several reasons. I have passed out a blue sheet which gives you my 5 reasons why I think that this bill at this time is an appropriate thing to do with relation to this particular industry. I think one of the most potent arguments against it that I have heard, that perhaps resonates most with me, is the pharmaceutical industry saying why us? You know we don't ask this of every single company in the State of Maine. Why should we do it here and now? I think there are some very good reasons why we should do this now. Let me explain what the this is. This is a very narrow bill compared to legislation that was put in. This is not, in fact, my legislation that I put in asking for registration of agents that go around to the doctor's offices and the detail persons. It doesn't require a lot of things that was in the initial legislation I

put in. This is the legislation sponsored by Representative Tom Kane. It is a much narrower bill. It is, in fact, a bill now supported by the Department of Human Services. They were neutral on the first bill. It has been worked so it is now supported by that agency and it is supported because it gives them important information that I believe they will want to have as they go forward now that the courts have said the Maine RX program is indeed constitutional and can be implemented. They need to know the arguments that the drug companies use in saying that costs cannot be lowered to the consumer or that all of this money is going to research and development. In fact, from what we know, at least half of that research and development is funded by state taxpayer dollars. I think we have a right to know how much money is going into marketing and advertising, considering that the State of Maine, in some weeks, spends as much as \$4 million per week on all of the state paid prescription programs, whether it's state employee health plans, whether it's Medicaid, whether it's Medicare Companion Plan. We have perhaps more money spent on prescription drugs than on any other commodity that the State of Maine purchases. That, alone, is a reason for us to ask for more information about it. A second very potent reason, I believe, is one that was agreed to by the Lewiston Sun Journal in an editorial where they said this is not your run of the mill industry that puts out its product and there is a whole lot of competing products. In deed, this is an industry which has a patent, a monopoly which goes on for many years, and they go to unbelievable lengths to maintain that monopoly for the next drug that's been tweaked just a little bit. You have received numerous articles, both today and in previous days, explaining how the whole drug marketing and advertising system that is out there is there in part to encourage doctors to continue to use the most expensive versions of these drugs as opposed to equally effective but less expensive generic or other pharmaceuticals. That is another reason, I fully believe and I'll take credit for the statement on number 4 on the blue sheet, that this system is being used to bamboozle and scam people. We have an article that has been distributed to you. It was in the Boston Globe on Monday. Here is an example where a settlement will be reached by a company that was actually involved in kick backs. Those kick backs involved the free prescription medications that are handed out to doctor's offices. Yes, these are a great thing for people who cannot pay for the drugs but they are also being used by some doctors, including one apparently in the State of Maine if you read through the article, as a way for them to make extra money at the expense of their patients and the taxpayers of this country. I think it is illegitimate to ask the question of what money is being spent on. I would just say, finally, what is it that these companies don't want us to know? The information that they would be reporting on would be simply the newspaper advertising that they have paid for. How much money for a newspaper advertisement? It would be information about the free tickets to the hockey games and information about the gift certificates for lobsters at the Portland Public Market. These are both examples that were given to me by doctors. Maybe they don't want people to know about that. But that is what money is being spent on and to report on it would be fully consistent with the requirements of the medical ethics requirements that doctors already have right now where they aren't supposed to be accepting gifts and other things that aren't directly benefiting their patients. We have a lot of areas in this state where we do, in fact, ask that other entities, whether they be lobbyists or utilities, report on advertising or spending on various things. It certainly is not unprecedented. As for the State of Maine being out on its

own, as a matter of fact, there are at least 4 other states. They are Connecticut, Pennsylvania, New York, and Vermont. They all have this legislation pending right now. None of them have voted on it definitively but none of them have killed it yet either. It's all in about the same posture as this bill. I would say the reason that those 4 states are doing it is because Maine, as those 4 states are as well, is in an association where we jointly get together and talk about what we can do to continue to work to reduce prescription drug prices and to increase access to our citizens in our states. All of these states are working with us in a variety of ways, and this is one additional way that we and they are looking to make progress in this area. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Mr. President, ladies and gentlemen of the Senate. I must say I feel like the devil trying to address the choir in church on Sunday morning. That said, I wish I could be more articulate in convincing you that the returns that we get from this industry, and I have no reason to love it particularly or to hate it, but I think all of us have agreed that we'd like to see lower costs. Frankly, I'm in favor of lower costs. As I said to you earlier, I don't think this bill is going to do it. I'd ask you to reflect back on this industry and go into the previous decade. As a country, we were asking ourselves and this industry what can we do to unleash your creative talents to help solve some of the key ills that face our society? At the federal level we did a variety of things. We used the ability of patent rights to extend the period of time in which you get an inclusive return before a drug went to a generic condition. I believe that for some of these prescription drugs it can be as long as 17 years. We also said that to help bolster and drive your return, assuming you can thread your way through the morass of actually getting your drug to market. I hope none of you at this point in time believe that you can bring these drugs to market at a very low expense because I think it's been documented time and time again that there is a lot of expense. So you seek to try to enhance your return by promoting your product. Up until sometime in the early 1990's, I believe, the FDA prohibited you from promoting your drugs directly with the user. The industry said lift that off our backs and we'll be more productive, we'll do more research, we'll bring more things to the market. Now, at the risk of being accused of using a prop, I do have with me Time Magazine dated May 28, and many of you perhaps subscribe. The headline is 'There Is New Ammunition In The War Against Cancer And These Are The Bullets.' The article goes on to talk about the various products that are being worked on. It says eight years ago, and that's about when the industry was given the opportunity to begin to advertise, there were 124 medicines in the research pipeline being tested as potential anti-cancer agents. Today there are 402. Those drugs deal with problems of cancers in the neck, the head, the lymph system, the lungs, the pancreas, the colon, and so on. Some of these are very, very specific. They are able, on an experimental basis, to go into the body and rifle shot without taking half the person's non-cancerous body with it. We have at least one member in the body who is fighting cancer now. I don't know, there may be something in this pipeline because the returns are there that have stimulated some creative thinking that would bring something to the marketplace that could save his life. I've been cancer free all my life. I hope I can say that 30 years from now. I hope all of us can say that. But this is an industry that has done our country and the world a

tremendous amount of good. We don't like paying for it. We may say that it's a basic right. But I can tell you unequivocally, ladies and gentlemen of the Senate, that this money would not be invested, the risk would not be taken, the efforts to get the returns would not be made if the laws were not as they are today. So while we all want to have the drug prices lower than they are, and I'm fully in agreement with that, this is not the way to do it. We've passed at least two pieces of legislation to help Maine people get at drug costs in this session. We have others that are pending. Those are the things that we should be doing in a collaborative and positive way, not this particular L.D. I would hope that you would join me in voting against it. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Arostook, Senator Martin.

Senator **MARTIN:** Thank you very much, Mr. President, members of the Senate. I need to follow my fellow members in the Committee on Human Services to talk about, frankly, a piece of legislation that really got people interested in knowing why. I guess I would have voted against this legislation if the industry was willing to stop advertising. It was, at one time, illegal for them to spend money for advertising. To me, that is the question now. I don't think it takes too much for anyone to figure out, when you buy, in any one month, all the major magazines in the country full pages advertising a particular drug, that that costs money. That has nothing to do with the money going to research. Has nothing to do with the money that is being expended to give information to physicians or to anyone else. But it is an attempt to convince people that they need to buy a drug so that they can go to the doctor and say we want that drug and some of them will actually bring the magazine with them because that's the tendency that marketing has. That's the job of people who are in the business of providing marketing. So what we are doing is helping the marketing firms and the PR firms who make a profit from advertising purchases. Then, of course, we end up paying for it. It seems to me that you drive the cost up and that's what we're saying here. There has to be a reason why medication is so much less expensive in Canada than it is in the United States. It is not only the differential in the dollar between the Canadian dollar and the American dollar that does that. For those of us who live along the border, frankly it's become fairly easy for our constituents to go across the border to purchase their drugs because all they have to do is to make sure that their physician is licensed in Maine and gets their certification and license in New Brunswick or in Quebec. They simply take the prescription over the border and they get it filled for differences of \$400 or \$500 a prescription. There is a reason and the reason, for the most part, is the cost of advertising which is borne by the citizens of this country. I can understand how the industry feels, they feel as if Maine is beating up on them. They can stop it tomorrow. Stop advertising and we'll stop beating up on them. But in the meantime, in my opinion, they are at our mercy and at the mercy of the citizens of Maine. We need to remind them that they cannot make a profit off sick people. So I certainly hope that you'll support the report.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Mr. President, I request permission to speak a third time.

**THE PRESIDENT:** The Senator from Cumberland, Senator Turner, requests unanimous consent of the Senate to address the Senate a third time on this matter. Hearing no objection, the Senator may proceed.

Senator **TURNER:** I've been involved in business all my adult life and there are a couple of things with regard to advertising that I think are truisms. Typically, when one advertises and makes that a cost of doing business, it increases the unit volume of the product that you are selling. That's why Ford advertises. That's why Budweiser advertises. That's why countless companies, large and small, advertise. It drives volume. Now if I take you back to the investments that one makes on a life saving prescription drug and I drive down the volume because I don't advertise, for example, then it seems to me that in order to recoup my investment my unit cost, rather than go down, would go up and the prices, in fact, would have to go up to reflect the opportunity for me to recover that investment. So I would ask that you keep that in mind as you contemplate how you choose to vote on this. I think also that advertising, to me, if you're a large organization, and again I've never worked for a pharmaceutical company but I have worked for a very large manufacturer, from a budgeting standpoint may have been expensed to a particular product manager. But typically what organizations do is they seek to spread their risk and spread their opportunity for revenue across a wide variety of products. If you think about the life saving drugs, the ones that are really costing us large amounts of money, I don't think you're seeing those advertised on television or in People Magazine. You don't see somebody saying ask your doctor for this cancer reducing curative. That's not the type of advertising they are doing. You may, in fact, be seeing things that are prescription or even non-prescription. Bayer does a huge amount of advertising for aspirin. You take all of those costs and you spread them across your organization and you may, in fact, find that advertising, generally speaking, is subsidizing other products that you would not choose to advertise, could not advertise. It would not necessarily be unethical, but it would be imprudent. I think that the life risk products would fall into that category. So we have plenty of prescription drugs that are not life-threatening but have plenty of advertising associated with them. If I'm Bayer or GlaxoWellcome or Johnson and Johnson, I'm going to try to figure out how to use advertising to not only lift the profitability on an individual product that may be a household name for all of us so that I can deflect some of the costs and burdens on some of the more expensive meds that I'm trying to bring to the marketplace. So I think this view that advertising is somehow bad runs contrary to all of the business experience and the academic training that I've had before going into business. So again I would ask you to think about this carefully and I would ask you to vote not in favor of this bill. Thank you very much.

**THE PRESIDENT:** The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. To the comments from the good Senator from Cumberland, Senator Turner, I do appreciate his debate. He has a measured way of approaching an issue that I actually find quite helpful. But there is one aspect in which I think his analogy is flawed and that is the difference between drug advertising and drugs as a product with other products that need to advertise to increase their unit volume and nobody is writing

prescriptions for you to go get a Ford. They are writing prescriptions, they are directing you to go out and purchase a particular medication. That, in my mind, is the difference why most retailers need to advertise their product because they do not have the benefit of an intercessor acting between the producer and the consumer saying go and get this product. They must advertise in order to get their product out there. In the case of drugs, you have got someone, an educated someone, a professional and presumably reliable someone saying go and get the following six things, they will make you better. That is why advertising from the drug world is very different if you're talking about it in terms of necessity for causing that product to be purchased than in any other retail situation. Thank you.

On motion by Senator **LONGLEY** of Waldo, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#94)**

**YEAS:** Senators: **BROMLEY, CATHCART, DAGGETT, DOUGLASS, EDMONDS, GAGNON, GOLDTHWAIT, LONGLEY, MARTIN, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD**

**NAYS:** Senators: **BENNETT, CARPENTER, DAVIS, FERGUSON, KILKELLY, KNEELAND, LAFOUNTAIN, LEMONT, MCALEVEY, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD**

**ABSENT:** Senators: **ABROMSON, MILLS, MITCHELL**

16 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator **LONGLEY** of Waldo to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED**.

Senator **MARTIN** of Aroostook moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

Same Senator requested a Roll Call.

On motion by President Pro Tem **BENNETT** of Oxford, **TABLED** until Later in Today's Session, pending motion by Senator **MARTIN** of Aroostook to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**. (Roll Call Requested)

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The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Prohibit the Use of State Funds by Health Care Providers to Influence Union Organizing"

H.P. 1037 L.D. 1394

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-567)** (7 members)

Minority - **Ought Not to Pass** (6 members)

Tabled - May 30, 2001, by Senator **EDMONDS** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence

(In House, May 29, 2001, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-567)**.)

(In Senate, May 30, 2001, Reports **READ**.)

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Edmonds.

Senator **EDMONDS:** Thank you, Mr. President, men and women of the Senate. L.D. 1394 is amended and the amendment replaces the bill. The situation that is trying to be addressed in this legislation is a situation whereby a hospital or health care institution is going along its merry way and either someone decides they would like to organize a union or the hospital decides they definitely don't want to have a union. In either case, we want to make sure that none of the monies that come to that institution through state funds can be used to either encourage or discourage the forming of a union. Presently federal law exists which says you can't use Medicaid or Medicare funds to either discourage or encourage unionization. We want, this bill and this also will be true regarding state funds so that an employee, if they are asked either for or against the formation of a union, will have the assurance that no state funds are being used in meetings, etc. I hope you will join me in the Majority Ought to Pass as Amended Report.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Sawyer.

Senator **SAWYER:** Thank you, Mr. President, ladies and gentlemen of the Senate. I rise in opposition to the motion before you. I would like to read to you page 4 of the amendment which says it provides a presumption that disallowed expenditures were made if an institution requires attendance at a meeting regarding unionization during the work time of employees whose salaries are paid in all or in part by state funds. My understanding of this is that it would require huge record keeping problems for the employer it would, in effect, ban an employer from calling a meeting of their employees to discuss the employers position on a unionization issue. I would urge your opposition to the motion before you. Thank you.

Senator **TREAT** of Kennebec requested a Roll Call.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Edmonds.

Senator **EDMONDS:** Thank you, Mr. President, men and women of the Senate. I just want to clarify one point that the good Senator from Penobscot brought forward. I believe, since federal law requires that Medicaid and Medicare funds are not used in this way, it shouldn't be too egregious a task to also require that state funds are not spent in this way. Thank you very much.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Mr. President, ladies and gentlemen of the Senate. Wasn't sure I had anything left after doing L.D. 1022. But if you'll allow, the bill, as it's constructed, really imposes a new role for the Department of Labor. It becomes the arbiter of overseeing the reimbursements under Medicaid and Medicare. That's not a role for which they are equipped. I think it begins to cause great problems for our hospitals and our health care system here in Maine. Think about trying to administer this bill. I used this example in our caucus this morning. If you're Maine Medical Center, and for whatever reason by example, your revenues are \$100 million a year and 80% of your benefits, revenue-wise, flow from Medicaid, Medicare, or somehow from loosely defined state revenue sources, and you decided to have a meeting with your nurses, and there are 50 of them who happen to be earning \$10 an hour, that goes for an hour. That's \$500 that that meeting would cost. Based on this bill, if you're discussing anything around organization in your institution, you would then be responsible for reimbursing the state for 80% of the cost you incurred in that one hour meeting with your 50 nurses making \$10 an hour. You would then write a check for \$400 to the state and send it on to Augusta. I don't think this is what we want to be doing. We've seen a whole host of bills come before us in the Labor Committee where the proponents of the bill are trying to find something that they can't deal with in negotiations or in organization and they seek redress through us, the legislature. This is an inappropriate use of us, as a body, and I would ask that you vote not in favor of the pending motion. Thank you very much.

On motion by Senator **TREAT** of Kennebec, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#95)

**YEAS:** Senators: **BROMLEY, CATHCART, DAGGETT, DAVIS, DOUGLASS, EDMONDS, GAGNON, GOLDTHWAIT, KILKELLY, KNEELAND, LAFOUNTAIN, LEMONT, LONGLEY, MARTIN, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD**

**NAYS:** Senators: **BENNETT, CARPENTER, FERGUSON, MCALEVEY, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD**

**ABSENT:** Senators: **ABROMSON, MILLS, MITCHELL**

21 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

#### READ ONCE.

Committee Amendment "A" (H-567) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-567)**, in concurrence.

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The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

**SENATE REPORTS** - from the Committee on **HEALTH AND HUMAN SERVICES** on Resolve, to Allow Medicaid Reimbursement for Certain Drugs Without Requiring Prior Authorization

S.P. 471 L.D. 1535

Majority - **Ought Not to Pass** (12 members)

Minority - **Ought to Pass As Amended by Committee Amendment "A" (S-254)** (1 member)

Tabled - May 30, 2001, by President Pro Tem **BENNETT** of Oxford

Pending - motion by Senator **TURNER** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report

(In Senate, May 24, 2001, Reports **READ**.)

**THE PRESIDENT:** The Chair recognizes President Pro Tem Bennett of Oxford.

President Pro Tem **BENNETT:** Thank you, Mr. President, fellow members of the Senate. I rise today to ask you to vote against the pending motion of Ought Not to Pass so that we can go on and adopt the Minority Report. This bill, in its amended form, has a simple title, 'Resolve to Require Rule Making Pertaining to Prior Authorization for Prescription Drugs Under the Medicaid Program.' This bill, as amended, deserves your consideration. Voting against the Ought Not to Pass Report is the only way that we can take up this very important issue. Prior authorization allows non-physician bureaucrats to make decisions in a preemptory way about the drugs that might be available for our citizens under various state programs. If you vote against the pending motion and adopt the other committee report, the simple

requirement would be that DHS would have to go through rule making for its prior authorization program. The bill, as originally drafted in a much stronger form, was supported by a wide coalition of people and organizations, including the Maine Association of Interdependent Neighborhoods, the Maine Cancer Association, the Maine Medical Association, the Maine Alzheimer's Association, the Maine Lesbian and Gay Political Alliance, and now in its amended form, with the Maine Osteopathic Association.

Currently there are no rules, no rules defining the process or the medical criteria for which medications or dosages are added or removed and the process for notifying prescribing doctors and pharmacies of program changes. Given the recent HICFA waiver, the 1115 waiver, the Department of Human Services prior authorization program now will effect all Medicaid recipients, about 180,000 people; all low cost drugs for the elderly recipients, about 45,000 people; and all Healthy Maine prescriptions up to 200,000 for a total of 425,000 Mainers. The alternative report to the one pending would not result in any additional Medicaid costs and does not effect the current prior authorization program. It simply requires that DHS adopt rules for administering the program.

I want to complement the Senator from Aroostook, Senator Martin, for voting this bill out. I was present in the room when the Human Services Committee voted on this bill and I regret that they didn't take the stronger measure of a formal communication from this legislature to the Department that prior authorization has created real hardships, real problems, not only for the provider community, but more important, for the consumer community. I do appreciate the committee sending a letter, which I gather is going out to the Department, asking for a more inclusive process. But in my view, when 425,000 Maine people have their prescriptions at stake, we ought to be communicating more than in just a simple letter to the Department. We ought to tell them that we expect them to follow the ATA and use rule making so there is full public participation in this prior authorization program. Part of the reason, I believe, for the lopsided committee vote is that the Attorney General had testified that a related bill, L.D. 1744, which the Senate rejected last week, may have interfered with the Maine RX litigation. With the First Circuit Court of Appeals ruling upholding the Maine RX program, that argument is moot and does not apply to this amended version to the bill.

Let me share one story with you about the impact on real people of prior authorization and why rule making is important. At the public hearing on this bill, Tom Bartol, a family nurse practitioner with a Richmond area health center, testified on March 7<sup>th</sup> that the Department added a diabetes drug to its prior authorization list. No prescribers were notified of this addition. Mr. Bartol's patient only found out about the change when her prescription was rejected by her local pharmacy. When Mr. Bartol contacted DHS to get an updated list of prior authorized drugs, he was told that they could not send him one and that they would send out one to all prescribers within a few weeks. This is no way, in my view, to run a program that provides life saving medication to our most vulnerable Maine citizens. I ask you to reject the pending motion so that we can go on and accept the Minority Report.

President Pro Tem **BENNETT** of Oxford requested a Roll Call.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Mr. President, members of the Senate. I need to explain my vote. It was not that I was for the bill because I fully agreed with my counterparts on the committee. But I wanted to do something nice for the Senator from Oxford and give him an opportunity to present his amendment. I think what we've done in the committee, in terms of dealing with the letter, will deal with the issue and I know that some people believe it should have been stronger. But we took the position that we want to see what will happen with the letter and what the Department will do as a result of that. If that doesn't change anything, than obviously the committee would feel that it would be in a position to move beyond that.

On motion by President Pro Tem **BENNETT** of Oxford, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY:** Thank you, Mr. President, colleagues in the Senate. I'd just like to weigh in very quickly on this. We are doing everything we can on the price of prescription drugs to bring them down. The amount of money we've been saving every day for the past few months is already over \$2 million. In an area where our budget just keeps on increasing and we've tried to reverse that. The reason the committee voted the way we did is that we saw we were reversing it and said let's at least try a little bit longer to bring down that cost because it's taxpayer costs. So as you vote today on what is arguably a compelling issue, just remember that your vote on this compelling issue could raise taxpayer costs. Thank you.

**THE PRESIDENT:** The Chair recognizes President Pro Tem Bennett of Oxford.

President Pro Tem **BENNETT:** Thank you, Mr. President, fellow members of the Senate. I beg your indulgence for just another minute on this matter. I just want to clarify the issue because in it's amended form, again this bill, would simply require rule making of the Department. It would not effect prior authorization. It would just insure that proper communication and public participation is guaranteed in the administration of the prior authorization program. Indeed, it saved a lot of money. That, I hope, isn't the only reason for the prior authorization program. I know that the Department will say that they have picked up some uses of drugs that were not appropriate. That is all well and good. But the unfortunate reality is that people are being denied drugs that they need in a preemptory way because the Department of Human Services has not used rule making authority in a program that has just been described as a multi-million dollar, tens of millions of dollars, program. It is unconscionable that we would not require the Department to use rule making, a full public participation process, in a program of this magnitude, effecting \$10's of millions and hundreds of thousands of Maine citizens. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Mr. President, ladies and gentlemen of the Senate. I would ask that you support the

pending motion. Clearly the implementation of this program could have gone more smoothly. I think the Department and the Commissioner acknowledged that. I do not believe, in spite of the protestations from the good President Pro Tem Bennett of Oxford, that people are being denied drugs as a result of this program and that somehow rule making would solve this problem. I think all of us, at this juncture, on the committee believe strongly that a clear message has been sent to the Commissioner and we are going to formalize that communication if you vote to support the pending motion. That message, in writing, will very clearly state to the Commissioner and his colleagues that if the noise level were to continue and they are not reaching out appropriately to providers, that we will, in fact, do rule making. It has been suggested that perhaps we need some vehicle to carry along in order for that to be done. I happen to disagree with that. I think we can get where we need to get with the action that the committee is recommending to the entire body. Thank you very much.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator McAlevey.

Senator **MCALVEY:** Thank you, Mr. President, men and women of the Senate. I'd feel much more comfortable supporting the Majority Report if the committee had chosen to carry the bill over after sending a letter to the Department. Where's the vehicle for next session when the Department doesn't act? Can't bring the bill back. It's gone. So if the Department doesn't come around to the committee's suggestions, what do you do? Wait a year? I would like to pose a question through the chair to someone who could answer this.

**THE PRESIDENT:** The Senator may pose his question.

Senator **MCALVEY:** Thank you, Mr. President. This is not a satirical question or rhetorical. It is genuine. You talk about the program saving money. I hear one side saying, people are being denied benefits. How are they saving money and how are those cost savings acquired? Thank you, Mr. President.

**THE PRESIDENT:** The Senator from York, Senator McAlevey poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Mr. President, members of the Senate. I was rising really to answer the first part of the question that the Senator posed. Assuming leadership gives us the ability to carry over pieces of legislation, I believe we've made 8 or so requests, we'll have more places to put something on if we need to. In reference to the second question, how the saving occurs. The saving occurs basically by requiring that generic drugs be used wherever possible so that you are not paying for the high cost of drugs and when a physician feels that you cannot use the generic drug, the physician needs to call the Department and prior authorization is given. In fact, I've talked to a physician who basically told me that he's made two or three calls, has had absolutely no problems with the Department giving them approval.

**THE PRESIDENT:** The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY:** Mr. President, colleagues in the Senate, I would add to that answer that in that this is a whole new era, the prior authorization era, of trying to bring down the cost of drugs, the committee has seen this issue come up several times and I would safely presume that next year there will be plenty of opportunities for vehicles. It will not be a problem of not having a vehicle if, in fact, this letter does not produce anything. Secondly, in terms of echoing what the Senator from Aroostook, Senator Martin, said, the fax machines from the doctors' offices to DHS are humming daily with requests for special privileges to get a prior authorized drug in a special circumstance. In the tens of thousands. We have a system that's saving money and we have a check for those special circumstances. The key for me and for the members of the committee is that in a time of escalating costs, just adding zeros to our prescription drug costs, this has flattened that curve. It's saving taxpayer dollars and there are ways for doctors to get into the system, even on weekends, to get special exemptions. So far, so good. It's saving taxpayer dollars. I can't stress that enough. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Cumberland, Senator Turner to Accept the Majority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#96)**

**YEAS:** Senators: BROMLEY, CARPENTER, CATHCART, DAGGETT, DAVIS, DOUGLASS, EDMONDS, FERGUSON, GAGNON, GOLDTHWAIT, KILKELLY, KNEELAND, LAFOUNTAIN, LEMONT, LONGLEY, MARTIN, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, SAVAGE, SMALL, TREAT, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - MICHAEL H. MICHAUD

**NAYS:** Senators: BENNETT, MCALVEY, SAWYER, SHOREY

**ABSENT:** Senators: ABROMSON, MILLS, MITCHELL

28 Senators having voted in the affirmative and 4 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator **TURNER** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

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Off Record Remarks

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Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

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The Chair laid before the Senate the following Tabled and Later (5/29/01) Assigned matter:

An Act Relating to Discovery Procedures under the Maine Unfair Trade Practices Act

H.P. 733 L.D. 953  
(C "A" H-335)

Tabled - May 29, 2001, by Senator **FERGUSON** of Oxford

Pending - **ENACTMENT**, in concurrence

(In House, May 29, 2001, **PASSED TO BE ENACTED.**)

(In Senate, May 23, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-335)**, in concurrence.)

**PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

SENATE REPORTS - from the Committee on **BANKING AND INSURANCE** on Bill "An Act to Address Issues in the Maine Health Insurance Market"

S.P. 573 L.D. 1745

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-274)** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-275)** (4 members)

Tabled - May 30, 2001, by Senator **LAFOUNTAIN** of York

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-274)** Report

(In Senate, May 30, 2001, Reports **READ.**)

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Mr. President, ladies and gentlemen of the Senate. I think it's fair to say that we've had no bills this session that have come before us that have addressed rising health insurance costs. I think all of us, when we've gone door-to-door seeking the privilege of representing our districts, this has come up time and time again. Health insurance costs for many of our constituents is the number one issue. We have acted on some proposals for expanding public programs. These require funding and ongoing funding that we simply are unable to afford. Frankly, we need both a healthy private insurance market and we also need accountable public programs. L.D. 1745 takes some modest

steps to increase the insured pool, which in my judgment can in turn stem the rate of increase for premiums for the individual market as well as the small group market. There are really two amendments before you. There is an amendment "A" and an amendment "B". Amendment "A" does do some good in that it allows some lower costs, but frankly I don't think it goes far enough. There were 4 bills that came before the Banking and Insurance Committee. All very much related. At the time, the committee chair said they would take the administration's bill, L.D. 1745, and subsume at least 3 other bills into it in an effort to help reinvigorate the individual and small group market, and then I think effectively the committee then began to gut the bill that they had done work on. So one amendment and the amendment before you does do some good. I hope that you will not vote in favor of the Majority Ought to Pass "A" Report so that we can move on and discuss the Minority Report Ought to Pass and we can discuss that more fully. So I would ask you to give me an opportunity to discuss Committee Report "B". Thank you very much.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator LaFountain.

Senator **LAFOUNTAIN:** Thank you, Mr. President, men and women of the Senate. I rise today to encourage you to support the Majority Ought to Pass as Amended Report. L.D. 1745 was much anticipated by the Banking and Insurance Committee. It was a bill that had its genesis from the Blue Ribbon Commission that was created last session through the executive committee through executive branch of government. What L.D. 1745 does, as printed, it proposes to reverse Maine's firmly established laws relative to community rating that was implemented in the early 1990's. As you know, community rating prohibits insurers from charging higher rates to people with medical conditions and restricting rates charged to older persons for their non-group and small group insurance coverage. The Banking and Insurance Committee and all of the majority members on this report are certainly cognizant of the fact that health care and the health care industry is in crisis in the State of Maine. We all know that health care costs are rising at an alarming rate and frankly we were disappointed when presented with L.D. 1745. What the Majority Report does is it includes 7 provisions from the original bill. It extends continuity of coverage protection to seniors and disabled persons leaving the low cost drug program. It allows increased rates on the basis of smoking status and discounts to non-smokers. Those were two issues presented to the committee by two members of this chamber, the good Senator from Somerset, Senator Mills, and the good Senator from Androscoggin, Senator Nutting. It also requires insurers to disclose non-confidential aggregate medical loss information to the policy holders within 21 days of business. It sets a minimum standard for insurance benefits and limits pre-existing condition exclusions in certain situations. Most important is what the Majority Report does not do. It does not touch, for the most part, community rating. It preserves Maine's long standing law restricting charges to older persons in the non-group and small group markets. It rejects the plan that would allow insurers to charge older persons more under a risky scheme to attract younger people to the individual health insurance market at slightly reduced prices. It rejects, as well, what this body should do, the gamble presented by



altering the community rating plan. I encourage you to support the Majority Report.

**THE PRESIDENT:** The Chair recognizes the Senator from Washington, Senator Shorey.

Senator **SHOREY:** Thank you, Mr. President, men and women of the Senate. As the good Senator from Cumberland did earlier, he spoke about the Minority Report and us voting against this Majority Ought to Pass. I, too, would do that. There is a handout that came out under my name that was prepared by the Bureau of Insurance. This shows what will happen under current law with the cost of health insurance. When I was out there campaigning this past year, one of the most important things to small businesses, to the constituents of my district, was the high cost of health care and how we can bring it down. I would suggest to you that the Minority Report would solve that problem. What you can do, like any other pool, when you have a larger amount of people in that pool, obviously the risk has shifted and so this would give us an opportunity to bring the prices down. I would ask for you to vote against the Majority Ought to Pass and support the Minority. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Mr. President, ladies and gentlemen of the Senate. I know we've gone on for a good deal of time here on a number of issues. But I would ask you to think about this market, individual and small group policies, recognizing, as I'm sure you do, the those who are more healthy have been abandoning this market and those who are less healthy are staying in it. If the pool continues to diminish, and that's the pool of those covered by individual and small group policies, and they are more sick, those rates are going to continue to go in only one direction and that is spiraling ever upward. If we adopt the Minority Ought to Pass Report, it will allow flexibility with the community rating standards and so those who are younger and those who are more healthy will be able to purchase policies at the individual or group level and purchase at a discount to those who are less healthy. The effect of that, practically speaking, is that they will be subsidizing those who are less healthy and the spiraling that we see going on in this marketplace today will abate and we'll have some possibility, I think a decent possibility, of reducing the escalation that we've seen in this marketplace. So I would urge you to think about this very carefully. We're not increasing the ban rating so that you can charge somebody more. We're allowing people who are more healthy to come in and be charged less and by expanding that pool, reduce the cost overall to the person who is less healthy. If the healthy person is not in the pool, trust me, these prices are going to continue to go in a spiraling upwards effort and then go into a death spiral and the market will collapse in its entirety. So if you are interested in helping this market attempt to regain some of its robust nature, you need to defeat the committee report "A" and accept the Minority Report "B". I would urge you to do that. Thank you very much.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Douglass.

Senator **DOUGLASS:** Women and men of the Senate, the Majority Report does allow for rating of those who smoke and

those who don't. That will be an advantage to our system. But for the most part, the bill that was presented to the Banking and Insurance Committee, L.D. 1745, takes no more than half a step towards solving the health care crisis. The main problem we face today is the spiraling cost of health care and that has driven the cost of health care insurance up. I, too, would be voting in favor of the Minority Report if I thought it would actually help to solve this problem, but it simply doesn't. Enticing young healthy people with a \$100 less premium per month when the premiums are already in the hundreds of dollars will not bring any more people into the pool. The solution to our health care crisis is in a number of steps, but even the step taken by the Minority Report is in fact a step backwards, I would argue, because it will prevent some of the people who have insurance now from keeping it. For that reason, I urge you to support the Ought to Pass as Amended by Committee Amendment "A" report.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Rand.

Senator **RAND:** Thank you, Mr. President, men and women of the Senate. As a member of the Banking and Insurance Committee when community rating was passed here in the State of Maine, and it was a battle, I can tell you that, we looked at this issue over and over again from every angle. All the things that the good Senators have mentioned here today and about a thousand more. What it boils down to is that without community rating the insurers do what is called 'cherry picking'. They will insure only the healthy. Those with any type of health problems, due to anything, any reason, bad luck, fate, not necessarily because they smoke or don't exercise or their diets are not good, for any reason, find themselves unable to purchase insurance. That is why community rating was adopted in the state in the first place. The 'cherry picking' posed a huge problem, a huge, huge problem for the taxpayers of the State of Maine among one group because in Maine health care is not denied when someone presents in an emergency situation. So I would urge you to accept the Majority Ought to Pass Report so that we don't go back to those days where people who have health problems found it impossible to purchase health insurance. By the way, the young healthy people, usually males, were not buying insurance 10 years ago in any greater numbers than they are now. That was not our problem then, although it is a problem, but it was not our major problem then. Our major problem was that people who needed health insurance because they had health problems were unable to purchase it because the insurers did what is called 'cherry picking'. Please give that a lot of thought before you vote on this.

On motion by Senator **RAND** of Cumberland, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Mr. President, request permission to speak a third time on this matter.

**THE PRESIDENT:** The Senator from Cumberland, Senator Turner, requests unanimous consent of the Senate to address the Senate a third time on this matter. Hearing no objection, the Senator may proceed.

Senator **TURNER**: Ladies and gentlemen of the Senate, I listened carefully to what the good Senator from Cumberland, Senator Rand, had to say with regard to community ratings. I do believe that 'cherry picking,' per say, is behind us. This is not a return to 'cherry picking,' it is clearly not that. It is an effort to try to encourage, and I will emphasize it again, to try to encourage more healthy people into the system. I did not, when I went door-to-door, run into many single males who were asking for health insurance and were very concerned about its cost. I ran into lots of families and talked to lots of mothers with children. So I hope you will think carefully. This is not an insurance bill. The insurance companies have not come and asked for this bill. This is a look by people who are in the administration and without, and some of them are in this body, saying what can we do? We've been under the existing structure now for 10 years and our costs have gone through the roof. So what we've been doing has not worked appropriately and this is an attempt, and I think all be it a good attempt, to try to stop this spiral. I would urge you to consider very carefully your vote on this matter and would ask you to support Committee Report "B". Thank you very much.

**THE PRESIDENT**: The pending question before the Senate is the motion by the Senator from York, Senator LaFountain to Accept the Majority Ought to Pass as Amended by Committee Amendment "A" Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#97)**

**YEAS:** Senators: BROMLEY, CATHCART, DAGGETT, DOUGLASS, EDMONDS, GAGNON, KILKELLY, LAFOUNTAIN, LONGLEY, MARTIN, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD

**NAYS:** Senators: BENNETT, CARPENTER, DAVIS, FERGUSON, GOLDTHWAIT, KNEELAND, LEMONT, MCALEVEY, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD

**ABSENT:** Senators: ABROMSON, MILLS, MITCHELL

17 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator LAFOUNTAIN of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-274)** Report, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (S-274) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-274)**.

Sent down for concurrence.

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Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

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Out of order and under suspension of the Rules, the Senate considered the following:

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, to Clarify the Principles of Reimbursement for Nursing Facilities

H.P. 347 L.D. 437

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-633)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-633)**.

Report **READ** and **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-633) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-633)**, in concurrence.

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The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, to Provide Adequate Patient Care Staffing for Certain Home Care Programs

H.P. 479 L.D. 619

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-632)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-632)**.

Report **READ** and **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-632) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-632)**, in concurrence.

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Out of order and under suspension of the Rules, the Senate considered the following:

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Increase the Personnel and Air Quality Oversight of School Construction"

H.P. 725 L.D. 945

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-631)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-631)**.

Report **READ** and **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-631) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-631)**, in concurrence.

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The Committee on **LABOR** on Bill "An Act to Prioritize Access to Training Under the Workforce Investment Act of 1998"

H.P. 1042 L.D. 1399

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-634)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-634)**.

Report **READ** and **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-634) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-634)**, in concurrence.

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Out of order and under suspension of the Rules, the Senate considered the following:

**ENACTORS**

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

**Acts**

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

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

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

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

An Act to Amend Maine Credit Laws

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

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

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

**PASSED TO BE ENACTED** and having been signed by the President were presented by the Secretary to the Governor for his approval.

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**Resolve**

Resolve, to Implement Additional Recommendations of the MCJUSTIS Board

H.P. 1279 L.D. 1739

**FINALLY PASSED** and having been signed by the President was presented by the Secretary to the Governor for his approval.

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Out of order and under suspension of the Rules, the Senate considered the following:

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass**

The Committee on **BANKING AND INSURANCE** on Joint Resolution Memorializing the Congress of the United States to Allow Improved Medicare Supplement Insurance Policies Offering Prescription Drug Coverage

H.P. 1153

Reported that the same **Ought to Pass**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolution **ADOPTED**.

Report **READ** and **ACCEPTED**, in concurrence.

**ADOPTED**, in concurrence.

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Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

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

S.P. 418 L.D. 1362  
(S "A" S-272)

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

In Senate, May 29, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-272)**, in **NON-CONCURRENCE**.

Comes from the House, that Body **ADHERED**.

Senator **O'GARA** of Cumberland moved the Senate **RECEDE** and **CONCUR**.

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with no Senators having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, on motion by Senator **O'GARA** of Cumberland, the Senate **RECEDED** and **CONCURRED** and the Bill was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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Out of order and under suspension of the Rules, the Senate considered the following:

**ENACTORS**

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

**Act**

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

**PASSED TO BE ENACTED** and having been signed by the President was presented by the Secretary to the Governor for his approval.

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Off Record Remarks

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**RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

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

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

In Senate, May 24, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-582)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-582) AS AMENDED BY HOUSE AMENDMENT "A" (H-637)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **KNEELAND** of Aroostook, the Senate **RECEDED** and **CONCURRED**.

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Out of order and under suspension of the Rules, the Senate considered the following:

**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass As Amended**

Senator **TURNER** for the Committee on **LABOR** on Bill "An Act to Streamline the Administration and Enforcement of the Work Permit Provisions of Child Labor Laws"

S.P. 550 L.D. 1708

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-295)**.

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

**READ ONCE**.

Committee Amendment "A" (S-295) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-295)**.

Sent down for concurrence.

(In Senate, May 16, 2001, **PASSED TO BE ENGROSSED**, in concurrence.)

(In House, May 18, 2001, **FINALLY PASSED**.)

On motion by President Pro Tem **BENNETT** of Oxford, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Resolve was **PASSED TO BE ENGROSSED**, in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-299) **READ** and **ADOPTED**.

**PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-299)**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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#### ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

##### Emergency Measure

An Act to Allow County Corrections Personnel to Participate in the Same Retirement Plan as Other Corrections Personnel  
H.P. 963 L.D. 1276  
(C "A" H-568)

Tabled - May 30, 2001, by Senator **MARTIN** of Aroostook

Pending - **ENACTMENT**, in concurrence

(In Senate, May 24, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-568)**, in concurrence.)

(In House, May 29, 2001, **PASSED TO BE ENACTED**.)

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with no Senators having voted in the negative, and 28 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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The Chair laid before the Senate the following Tabled and Later (5/21/01) Assigned matter:

Resolve, Directing the State Auditor to Amend the Campaign Finance Reporting Form for Candidates to a Form Similar to the Form Used in 1994

H.P. 1350 L.D. 1807

Tabled - May 21, 2001, by President Pro Tem **BENNETT** of Oxford

Pending - **FINAL PASSAGE**, in concurrence

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The Chair laid before the Senate the following Tabled and Later (5/23/01) Assigned matter:

HOUSE REPORTS - from the Committee on **BANKING AND INSURANCE** on Bill "An Act to Establish a Single-payor Health Care System"

H.P. 964 L.D. 1277

Majority - **Ought to Pass As Amended by Committee Amendment "A" (H-514)** (7 members)

Minority - **Ought Not to Pass** (5 members)

Tabled - May 23, 2001, by Senator **ABROMSON** of Cumberland

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 22, 2001, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-514)**.)

(In Senate, May 23, 2001, Reports **READ**.)

Senator **LAFOUNTAIN** of York moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

Senator **RAND** of Cumberland requested a Division.

**THE PRESIDENT:** The Chair recognizes the Senator from Lincoln, Senator **Kilkelly**.

Senator **KILKELLY:** Thank you, Mr. President, men and women of the Senate. I would, I guess, both urge and request that you vote against the pending motion so that we could move forward to pass this bill and put it in position where I might offer an amendment. One of the things that we have heard repeatedly about the single payer health care system is that the cost would

be prohibitive, that we would have enormous costs that nobody can afford, that the state can't afford and the people can't afford. I would suggest to you that there is a somewhat outside-of-the-box way to approach those costs. It is to look at what money we are already spending on health care. All of us have heard from businesses that Workers' Comp is very expensive for them, that it is a very difficulty process for them to afford to pay for Workers' Comp. One of the things that Workers' Comp covers is health care. If we could remove from Workers' Comp that health care coverage, that would be a great benefit to small businesses. We've also heard from small businesses that to be able to provide health insurance for their employees is a great difficult for them. Again, if we would remove that burden from them, it would be a benefit. I had a constituent come to me last summer during the campaign and one of her comments to me was, 'if I ever get hurt and need health care, I hope I'm in my car when it happens because in my car I have health insurance because I have auto insurance.' That really started me thinking about the fact that all of us actually have health insurance depending on where we are, depending on what the circumstances. Someone who is injured in an auto accident gets their back fixed, gets the arm fixed through their auto insurance and not through their health insurance. Someone who falls down at your business uses your business liability to get their health care coverage, not their Blue Cross Anthem, not another program. There are lots of ways that we pay for health care. Other ways that we pay for health care is through our schools. We've heard so much, and I've been an advocate for the entire time I've been here, for adequate funding for special ed services. Well, some of those services are actually health care services. Speech therapy, occupational therapy, physical therapy. If we could remove those costs from our schools, think of the money that could, in fact, be freed up. Another issue that we heard about earlier today when we talked about a corrections bill was the cost of providing health care to prisoners. If everybody had 24 hour coverage we wouldn't be paying that through our property taxes through our correction facilities. I know the Lincoln County Jail spends a tremendous amount of money on health care and special services for the folks who are residing there temporarily. We pay for health care over and over and over again. What we ought to do is have a very serious look at how much money we are currently spending, all of us collectively, out of left pockets and right pockets and shirt pockets and pant pockets, for all the different insurances that we purchase, all the different services that are provided through the public institutions that we're supporting, and find a way to, in fact, save more money than we would be spending by providing coverage for everyone. So I would ask and implore you to please let us have an opportunity to present this amendment that I can't talk more fully about and get this bill to second reading. Thank you very much.

On motion by Senator **MILLS** of Somerset, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Treat.

Senator **TREAT:** Thank you, Mr. President, men and women of the Senate. I'm going to be voting against the pending motion so that we can on to accept the Majority Ought to Pass Report and so that if there are any problems with this bill that need to be fixed or changes to be made, we can do that. I just want to say a

few words about why I will be voting against this motion. Last summer, over a year ago, like you, I am quite sure, since you are sitting in this body, I was out going door-to-door in my district. I did that most of the summer and all fall. Like you, I suspect, there was one issue that was mentioned to me as I went door-to-door. There were many issues but there was one issue that rose to the top. It rose to the top because it was repeated to me over and over and over again. That was health care. Most particularly it was the lack of health insurance that so many people in my district have and the inadequate health insurance that so many others have and the too expensive health insurance that others or all of the above are dealing with. In particular, I just want to relate one experience I had. It happened to be in the village of North Monmouth, which is part of one of my towns, Monmouth. I went to one house and a woman answered the door and I gave my spiel and I said 'vote for me, I'm great, I'm going to do good things for you.' She was pretty negative towards me and kind of said well I'm not voting for anybody and closed the door and that was that. It was a little upsetting because I hoped she'd vote for somebody. I always get a little discouraged when I meet women, in particular, that just are turned off by the whole political process. About 2 days later I got a letter from this woman who said, and I'll just sort of paraphrase it, my husband and I were just laid off from Carlton Woolen Mills and he used to have great insurance but now he doesn't and we've been going everywhere to try to get insurance and just for one of us we're talking \$400 a month and we don't have any money to pay it. There's no where to go. I'm so depressed about things that I ended up in the hospital and they gave me a prescription for something and I couldn't pay for it, so I just put it on my credit card. But then I stopped taking it because I really don't have enough money to do this. It's something that I kept because you get these things during the campaign and you say you're going to keep them and do something with it and this is important. But frequently, I must say, I set them aside somewhere and I can't find them at the moment when I really need to. I told them, and I really meant it, that there was one issue I intended to work on harder than any other issue this year and that is health care and providing access to it and not by providing access by saying we're going to cut the benefits that people are now getting through our community rating system or something like that but to actually work towards whatever way I can towards extending health insurance to those that don't have it, whether it's through a single payer system or whether it's through an expansion of our Medicaid system, through which I know there is other legislation pending on that. I intend to vote for these bills. There are costs here. But these are costs that we are currently spending and the intent here is to take the money that we are currently spending and divide up the pie differently so that we can cover more people, so that we can cut the expenses that we are now incurring through the unbelievable billing system that we have. Any of you that have been going through any kind of health situation yourself or are dealing with your parents or other members of your family, know the incredible amounts of time and money that are spent, not only by we, the consumers, but also by the doctors' offices and the hospitals trying to keep all the paperwork straight. Part of this proposal is to reduce the cost of providing access to health care by cutting those administrative costs. I feel that I have no choice but to vote for this bill because it is something that is going to help my district dramatically. I think we need to remember that of the people who are out there that are not insured right now, most of them are people that actually are working and are not in the situation of just having been laid off from a job, but are working



understanding that one of the members of the commission was someone who was totally in support of single payer. The commission was mandated to offer a single payer universal coverage bill and also a multiple payer universal coverage bill. I'd like to read to you the executive summary or a portion of the executive summary that came from that commission. In their conclusion is the following statement: 'it is therefore with considerable reluctance that the commission concludes that universal coverage is unobtainable in Maine without assistance from the federal government. We believe that the incremental measures recommended here will improve access to health care in this state. However, we call upon the federal government to provide coverage to those who fall through the cracks. We hope that all Maine citizens will join in that call.' I am encouraged by one thing that is working its way through Congress this session. That is H.R. 1033. The short title is 'States Right to Innovate a Health Care Act of 2001.' It is sponsored by Representative Tierney and is co-sponsored by the Congressman from the second district, Congressman Baldacci. If passed, through a competitive grant process, the 'States Right to Innovate a Health Care Act of 2001' will offer selected states technical assistance and funding to assist with the cost of planning a new state program that will provide health care for everyone in the state and offer generous benefits and protections that are equal or superior to the level state residents currently receive. I encourage you to support the Minority Ought Not to Pass report and I encourage you to call your Congressman and other people you may know in Washington to support H.R. 1033. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Mr. President and men and women of the Senate, I certainly share the sentiments of the previous speaker that none of us need to be embarrassed or concerned about voting against the bill and for the pending motion for several very practical reasons. If we, as a single state, offered essentially free health insurance to every citizen of the state, think of how many thousands, tens of thousands, or maybe even hundreds of thousands of people from other states might seek to become citizens of Maine at the expense of our existing tax base. It is highly impractical for a single state to try to attempt something of this magnitude. It is not, however, out of the question. It's entirely feasible for this state to offer health insurance to those who cannot afford to buy it for themselves. I note with some approval that the Health and Human Services Committee has voted out recently a bill that would extend Medicaid insurance on a non-categorical basis to that segment of our population that earns 125% of the poverty level and below. It doesn't mandate that they have the coverage. It simply makes it available to them if they need it and choose to accept it. It's a very humanitarian gesture. It will be costly, but it will address the problem of having people go to the emergency room to find free care under emergency circumstances. It will enable those people who have need of blood pressure medication and control over a diabetic condition, those kinds of people to gain access to preventative care without relying on last minute emergency treatment which is very costly and is also paid for by our existing health care system through cost shifting onto those of us who pay premiums. I might suggest that if it is the desire of this chamber and the other chamber to experiment with a single payer system, we have the means readily at hand to open that experiment right away. As the good Senator from Aroostook, Senator Martin, has very

accurately pointed out, we have something like 14,000 to 15,000 state employees. We have their dependents who are covered. That adds another probably 20,000 to 25,000. There's about 35,000 covered lives, as they say in the trade, that we are paying for right now. We're paying for the retirees and some of their dependents, which is another 10,000 to 15,000. We're paying for all retired teachers, which is another large population. If you started adding in any of the municipal groups that might want to join in, I think that with public employees alone, you could get to a single entity insurance company that would probably have 100,000 people in it, making it the 3<sup>rd</sup>, 4<sup>th</sup>, or 5<sup>th</sup> largest insurance company in the state. Pretty good size. Nice population. Good population to experiment on to see if the state can do a better job providing health insurance than Anthem and the other carriers who are presently providing it. One of the impediments to that is that the unions aren't in favor of it. They are not willing to relinquish. The last I heard they are not at all willing to relinquish their participation in the private marketplace. But if we, as a legislature, overrode that concern and said no for a period of 2, 3, or 4 years, we're going to conduct an experiment to find out whether the state, on a self-insured basis, can do a better job than the private sector is doing right now. We could pass that bill. Wouldn't cost anything. It would cost something only if we fail to do a better job than the private sector. Of course, there is very little downside to such a proposal because if we fail at it, if we found that we were doing a lousy job of running an insurance company, we could revert to the private sector, let those contracts back out to bid, and we'd be back where we are today having learned something. On the other hand, if we were successful, if we found that there were all these savings from the administration costs, the marketing costs, and all of the other things that are costing us money from the private sector, if we found that the State of Maine could really run a truly efficient insurance company, self paying, and we could do a better job of it than the marketplace does, then great. We could start expanding it. It would build from there, one step at a time. But that's not the bill that we have before us. What we have before us is a starry eyed notion that if we create a commission, put a bunch of people together in a room and tell them to figure out what the taxes ought to be, and to come back with a program, not yet implemented by this bill, not even close, that somehow it will all happen by magic and there won't be any tragedies on the way. That's not the way to go about this. We formed a commission 7 years ago. It studied this thoroughly and they advised us, with a very carefully drafted document that was 150 pages long, as I recall. They said, look we can't do this all at once and all alone. You might be able to do pieces of it if you do it intelligently, if you proceed by stages. You sure can't just open the door up and announce to the world that every Maine citizen is now covered by a single payer system. The floodgates would open and we'd have people from New Hampshire wanting to live in Maine for a change. Wouldn't that be awful? Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Washington, Senator Shorey.

Senator **SHOREY:** Thank you, Mr. President, men and women of the Senate. A lot of things have been said here tonight that I totally agree with. As a matter of fact, I'd say pretty much 100% of it. I really appreciate this body's interest in small businesses and how we can help them. I hope that carries through in further legislation. One of the problems I have is that one of my neighbors, Canada, has a single payer system. For as many



people as we send over for prescriptions, they send over to us for our doctors. The reason being is not because the system is a poor system, it's not because the structure is a poor structure, it's because the cost has crippled the system. They have doctors over there, well they have a few doctors, a lot of the doctors are moving here because in their efforts to streamline the system what they did was they reduced that nasty word for doctors 'profits'. They said doctors can't make as much and that doctors won't get their raises. The last I heard, in Blacks Harbor they had a protest going on and the doctors weren't going to see anybody and make the emergency rooms fill up because the doctors weren't given their raises that they were promised 2 or 3 years ago. This is where my concern comes in. What we're being asked to do, somewhat, is approve a program in concept, perhaps, or in reality that I don't know how we're going pay for it. I don't know if we're going to ask for more monies. I've heard a lot of great ideas and suggestions in cost shifting. But in reality, can that really happen? Am I going to be asked to go out and buy a brand new car, go pick it up and love it, but not be able to pay for it because I don't know how much to pay for it? That's where my struggle is because I think we need to cover the people in the State of Maine. Everybody who has spoken before has said the same thing. They've heard the same thing when they were out campaigning. Health care, health care, prescription drugs. We need to solve this problem. I am not convinced that by doing this it will solve the problem. Maybe it's a step in the right direction but I need to have more information before I can support it. So I will be supporting the Minority Ought Not to Pass Report. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY:** Thank you, Mr. President, men and women of the Senate. Just to address a couple of issues that have been raised. One has to do with the fact that the State of Maine could be over-run by people if we start offering health insurance. I would just suggest to you that one of the states that have already had this experiment to a degree, and I'm not sure how well it's worked but they certainly have tried this, Hawaii. While I love the State of Maine and have no intention of leaving the State of Maine, I would say that to the average person if one were choosing between going to Maine and going to Hawaii, chances are they may, in fact, chose to go to a warmer climate. Hawaii did not, in fact, get over-run with folks coming there to get health insurance. One of the things that I saw in the paper a few days ago was the fact that people are having such a hard time filling summer positions that they are hiring a great number of folks particularly from central Europe. The issue of small businesses being able to compete with other businesses because many of them can't afford to provide health insurance and people are making choices that they will find employment where they can get health insurance or they're just finding other employment or other efforts is really causing a great problem. So I think small businesses are significantly disadvantaged by the fact that in order to attract and retain people that it's difficult for them unless they are providing insurance. One of the other things that I think is compelling about this state and the single payer system has to do with our natural resource based industries. The folks that dig clams for a living, the folks that lobster for a living, the folks that cut wood for a living, and the folks that dig worms for a living have a very difficult time providing health insurance for themselves and their families. Most of them, frankly, don't have it

at all. Now what's intriguing about that is that they are people who are working in the kinds of industries where the chance of them being injured is higher than it is for most of us. So you've got the folks who are the most at risk with the least capacity to be able to purchase the insurance that they need for themselves and their families. This would resolve that issue for them. Those are the people that most of our rural communities and our rural counties are really dependent on. I would urge you to think about them, and again, I do believe that there are ways that we can find the money to pay for this system and would love to discuss that if we can get this bill to second reader. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. The sentiment that I have heard more often than any other from my constituents over the past 8 years, but certainly as we headed into this session of the legislature, was the issue of the cost of health care. The message is that we can't afford it, that we have lots of uninsured individuals and they can't get health care. We have access, if you want to say by having a system there is access, but you can't buy into it. So to me, that's not access. It's devastating to individuals and to families and it's devastating to Maine's small businesses. Now, when we have a proposal which I remember in my freshman year, I think it had the world's biggest fiscal note on it then, it was over \$6 billion. I think it got about 3 votes in the House and not too many more than that in the Senate. Here it is back for the 4<sup>th</sup> time. Now it has actually passed one body and I hope that it will pass this one as well. We've heard that we don't know enough about it. We've heard that we don't know how we're going to fund it. We've heard that we don't know how we're going to implement it. We have had dozens of bills introduced that tinker around the edges of the health care system and all of them, although some of them have made some minor progress towards solving some of these problems, the overwhelming increases in the health care system have caught up with those and surpassed them by far. So overall we still have rather astronomical growth in the system. I'm not sure how this is going to work either. I don't know how we're going to pay for it. I don't know how we're going to implement it. But it seems to me that at this point it is worth taking a chance on this bill and I think this line has been used before but we have nothing to fear but fear itself. I hope you will vote against the pending motion.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Mr. President, members of the Senate. In response to the Senator from Somerset, Senator Mills, this bill is a commission. It's a mechanism to get to where we want to get. The 1994 study basically was made up, if you look at it, it's membership told you what the results were going to be before the report was written. For example, a possibility that if you take all the people out there and let Blue Cross Blue Shield be the company to administer, no one is saying here that you can't use that mechanism. The important thing is having a delivery system so the administrative costs is like Medicaid cost is, 2 ½% to 3% as opposed to 15%. Walk into the hospitals, and I sit on the board, and ask them how many forms they have, how many insurance carriers they have to deal with, how many different forms that they have to fill in. They'll tell you what the

problem is. You add all those things together, we've got nothing to lose and everything to gain. Just think what we've been able to do, and I was a part of that process, when we created MEMIC. Where were we then and where are we today? Our rates are better than most people around this country. Granted it's not all the best in terms of some of the benefits perhaps, and we still have some problems which we're trying to correct. But look where we've come from, because we, in effect, decided to try. If we hadn't created that company, a wholly owned subsidiary, in effect, in the State of Maine, and actually had employers to be owners for a while, we wouldn't be where we are today. Nothing says we can't do that. But it seems to me that we've got to do something. If we don't, maybe we all ought to go to the Legislative Director's Office and sign out of the state insurance, paid for by the citizens of Maine.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from York, Senator LaFountain to Accept the Minority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#98)**

**YEAS:** Senators: BENNETT, CARPENTER, DAGGETT, DAVIS, FERGUSON, KNEELAND, LAFOUNTAIN, LEMONT, MCALEVEY, MILLS, NUTTING, SAVAGE, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD

**NAYS:** Senators: BROMLEY, CATHCART, DOUGLASS, EDMONDS, GAGNON, GOLDTHWAIT, KILKELLY, LONGLEY, MARTIN, O'GARA, PENDLETON, RAND, ROTUNDO, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD

**ABSENT:** Senators: ABROMSON, MITCHELL, SAWYER

17 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator **LAFOUNTAIN** of York to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED.**

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Specially (5/25/01) Assigned matter:

**SENATE REPORT** - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Encourage Savings for Higher Education "

S.P. 579 L.D. 1757

**Report - Ought to Pass**

Tabled - May 24, 2001, by President Pro Tem **BENNETT** of Oxford

Pending - **ACCEPTANCE OF REPORT**

(In Senate, May 22, 2001, Report **READ.**)

Report **ACCEPTED.**

Under suspension of the Rules, **READ TWICE.**

On motion by Senator **SMALL** of Sagadahoc, Senate Amendment "A" (S-298) **READ.**

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Mr. President, I don't have the amendment in front of me. May I pose a question through the chair?

**THE PRESIDENT:** The Senator may pose his question.

Senator **MARTIN:** I would appreciate it if someone could explain the amendment that's being offered.

**THE PRESIDENT:** The Senator from Aroostook, Senator Martin poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Sagadahoc, Senator Small.

Senator **SMALL:** Thank you, Mr. President. I'd be happy to explain. Currently, we have a college savings program that's participated in by both residents of Maine and non-residents. There is legislation to allow them to do some things with some of the money that is earned. Most of this I agree with. I think it's to encourage some of the lower income people to invest in the plan. Right now I think it's mostly the higher income levels, particularly out-of-state, but even within state, that are investing in the program. Some of these things I certainly could support because they are based on needs. I agree with that. There is one part, though, that I have a little problem with. On the FAME handout that we got today, I think it probably says it about as clearly as anything I could come up with, it just talked about a bonus scholarship for up to \$1,000 for those families who use Next Gen accounts at Maine colleges and universities. I guess that was my problem. My amendment would simply say that it would be child centered and not college centered so that the child could take that wherever they choose to go to college. My concern was that they are going to be taking a little bit of the earnings from all the people that participate in that program. It might be a family who's lower income that's been saving for 10 or 15 years and their child might choose to go out-of-state to a university that offers a program that we don't have here or maybe the child would just like to see what Wyoming looks like. If they'd been participating in the program, and they are deemed a needy program, they would not be eligible for this simply because the child chose to attend a college out-of-state and not in state. My feeling is that this should be focused on the needs of the Maine student and not on the needs of the colleges. I think we have other programs that are available that will assist our universities and our colleges within Maine. Just like the Maine student incentive scholarship program, that I believe is now called the Maine Grant Program,

that's needs based and it follows the child. I felt that this should also do that so that everyone that is participating in the Next Gen program, and by nature of that paying into these scholarships, would also have equal access to these scholarship dollars based on need. So that's all my amendment would do.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Mr. President, may I pose an additional question through the chair to anyone who might choose to respond?

**THE PRESIDENT:** The Senator may pose his question.

Senator **MARTIN:** My impression was that FAME wanted this for in-state students and the handout reflects that, but the amendment does the reverse. I wonder if that is the case?

**THE PRESIDENT:** The Senator from Aroostook, Senator Martin poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Sagadahoc, Senator Small.

Senator **SMALL:** Thank you, Mr. President. You are correct. This is not FAME's amendment, this is mine. I guess I just took exception to the fact that, again, we are supporting this program through our tax dollars because there is a tax benefit to all the participants. But more importantly the people who have joined this Next Gen program have joined it because they want, at some future date, for their child to have money available to go to college. I don't think when people join that they think that they want money to be available if their child goes to college in Maine. I think it's based on families trying to set aside money and make college affordable. The nature of this discriminates. Some children would be eligible and some won't. Again, I think if we're looking to offer support for institutions, we should do that through bills, through the Appropriations Table, and support our own colleges and universities in that manner. But I don't think parents should have to pay a penalty and have them join this and then not be eligible because their child goes out-of-state. Not only is it for children, if I'm reading it correctly, of Maine residents who choose to go to college in state, it's for out-of-state residents because it says there is no residency requirement for students. So that means that Maine families who have participated in this program will be subsidizing out-of-state students who choose to go to school in Maine. I just think that's a policy decision that perhaps this legislature should make but not FAME. I certainly could not support any program that takes money from parents and students who maybe of the same lower income background and then only gives it to half those students. That is my reason for supporting this.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you, Mr. President, ladies and gentlemen of the Senate. This particular bill, L.D. 1757, was a bill that came before the Education Committee. It was brought to us by my seatmate, the good Senator from Cumberland, Senator Pendleton. The committee, in its deliberations, felt unanimously that this money should go to help students who are going to school in the State of Maine. If you look at the bill, the reason for

that is pretty much found on line 13. One of the other changes this bill makes is to clarify that FAME can use some of their interest earned to refund fees paid by participants in some classes. What they are trying to do, what they've already started doing, is to help the lowest income by rebating some of the fees they normally charge. That's done with state tax dollars. If we're going to use state tax dollars to do that, the committee felt unanimously it was reasonable to say that those students would go to any institution of higher learning in Maine. So I hope that you vote to oppose the pending amendment. Thank you.

The Chair ordered a Division. 19 Senators having voted in the affirmative and 8 Senators having voted in the negative, the motion by Senator **SMALL** of Sagadahoc to **ADOPT** Senate Amendment "A" (S-298), **PREVAILED**.

On motion by President Pro Tem **BENNETT** of Oxford, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-298)**.

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Off Record Remarks

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The Chair laid before the Senate the following Tabled and Later (5/18/01) Assigned matter:

An Act to Amend Certain Laws Pertaining to the Maine Land Use Regulation Commission

S.P. 365 L.D. 1203  
(C "A" S-181)

Tabled - May 18, 2001, by President Pro Tem **BENNETT** of Oxford

Pending - **ENACTMENT**, in concurrence

(In Senate, May 15, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-181)**.)

(In House, May 17, 2001, **PASSED TO BE ENACTED**.)

On motion by Senator **MARTIN** of Aroostook, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-181)**.

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-181).

On further motion by same Senator, Senate Amendment "A" (S-301) to Committee Amendment "A" (S-181) **READ**.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Mr. President, members of the Senate. This bill, as you may have noticed, has been around for at least two weeks, I think, if not longer while the Senator from Aroostook, Senator Kneeland, and I have been trying to figure out what to do with it and working with the industry in terms of how to best handle the situation of campsites in the unorganized territory. One of the problems was that when the amendment came out it provided for such things that you could have without any permit of any kind; a water pump at a tent platform and other such things in the unorganized, without any approval from anyone except the landowner. So basically what you could have created would have been a mini New York shanty town throughout the unorganized territory with no one having the ability to do anything about it. Working with the industry, basically what this amendment now does is say that if the company has a plan, a recreation plan, that's what you're going to follow and that's what they are going to use. If there, in fact, should ever be a problem and it violates the comprehensive plan that's been adopted for all the unorganized by the Land Use Regulation of Maine, then there would be some action taken. So I think it meets the needs of everyone and satisfies those of us who felt strongly that there had to be some overview and it is acceptable to the industry. So I would urge you to accept the Senate Amendment "A".

On motion by Senator **MARTIN** of Aroostook, Senate Amendment "A" (S-301) to Committee Amendment A" (S-181) **ADOPTED.**

Committee Amendment "A" (S-181) as Amended by Senate Amendment "A" (S-301) thereto, **ADOPTED.**

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-181) AS AMENDED BY SENATE AMENDMENT "A" (S-301) thereto, in NON-CONCURRENCE.**

Sent down for concurrence.

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Under suspension of the Rules, all matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

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On motion by President Pro Tem **BENNETT** of Oxford, **ADJOURNED** to Thursday, May 31, 2001, at 9:00 in the morning.