

MAINE STATE LEGISLATURE

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One Hundred and Twentieth Legislature
State of Maine

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Pages 912 - 1844

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

In Senate Chamber
Wednesday
June 6, 2001

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

Prayer by Senator Beverly C. Daggett of Kennebec County.

SENATOR DAGGETT: Would you join with me in prayer. Dear Lord, we ask that You be with us at a time of the year when things seem chaotic. Help us to remember the small things, the kindness to each other, a smile, someone who is left out, someone whose needs need to be met. Help us to remember the big things. Help us remember the needs of the entire State of Maine, the needs of the entire legislature, the needs of all of us. Help us to remember the important things. Help us to remember the seemingly unimportant things. Be with us now as we go to our work. Amen.

Doctor of the day, Phillip Whitney, M.D. of Scarborough.

Reading of the Journal of Tuesday, June 5, 2001.

Off Record Remarks

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

ORDERS

Joint Orders

Expressions of Legislative Sentiment recognizing:

Pamela Goucher, of Freeport, who is the recipient of the 2000-2001 Walter J. Taranko School Library Media Specialist of the Year Award for her significant contribution to the library media profession in Maine. We extend our congratulations to Ms. Goucher on receiving this honor;

SLS 316

Sponsored by Senator EDMONDS of Cumberland.
Cosponsored by Representative BULL of Freeport.

READ.

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

Senator **EDMONDS:** Thank you, Mr. President. I'm very pleased today, to have, not only a great professional from my home community, but a good friend, Pam Goucher. She's the Middle School librarian in Freeport and has always been of the highest caliber of librarian. I'm delighted that we get a chance to honor her today. Thank you.

PASSED.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the chamber Pamela Goucher as well as Sylvia Norton who is from the Maine State Library and is also past President of the Maine Association of School Libraries, and Edna Comstock from the Maine State Library. Would you all please rise to accept the greetings of the Senate chamber?

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act to Protect Nongroup and Small Group Insureds"
H.P. 765 L.D. 984
(C "A" H-617)

In Senate, May 29, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-617)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-617) AS AMENDED BY HOUSE AMENDMENT "B" (H-688)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **LAFOUNTAIN** of York, the Senate **RECEDED** and **CONCURRED**.

REPORTS OF COMMITTEES

House

**Ought to Pass
Pursuant to Joint Order**

The Committee on **BANKING AND INSURANCE** on Resolve, to Require Further Study of the Effect and Cost Impact of Mental Illness on the State and Private Health Insurance (**EMERGENCY**)
H.P. 1364 L.D. 1821

Reported that the same **Ought to Pass**, pursuant to Joint Order (H.P. 1358).

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED BY HOUSE AMENDMENT "A" (H-684)**.

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

READ ONCE.

House Amendment "A" (H-684) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-684)**, in concurrence.

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

COMMUNICATIONS

The Following Communication: H.C. 291

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
CLERK'S OFFICE**

June 5, 2001

Honorable Joy J. O'Brien
Secretary of the Senate
120th Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The House today voted to Insist and Join in a Committee of Conference on Bill "An Act to Exclude Credit Balances Between Business Associations from Unclaimed Property" (H.P. 1088) (L.D. 1457)

The Speaker appointed the following members of the House to the Committee:

- Representative LaVERDIERE of Wilton
- Representative MUSE of South Portland
- Representative MADORE of Augusta

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

READ and **ORDERED PLACED ON FILE.**

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 **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Hold Petition Circulators to the Same Standards as Political Candidates" H.P. 1000 L.D. 1337

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

Signed:

Senators:

- DOUGLASS of Androscoggin
- BROMLEY of Cumberland
- WOODCOCK of Franklin

Representatives:

- CHIZMAR of Lisbon
- COTE of Lewiston
- O'BRIEN of Lewiston
- PATRICK of Rumford

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-642).**

Signed:

Representatives:

- LABRECQUE of Gorham
- ESTES of Kittery
- TUTTLE of Sanford
- HEIDRICH of Oxford
- DUNCAN of Presque Isle
- MAYO of Bath

Comes from the House with the Reports **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED.**

Reports **READ.**

Senator **WOODCOCK** of Franklin moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

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 **HEALTH AND HUMAN SERVICES** on Resolve, to Provide Adequate Reimbursement for Durable Medical Equipment

H.P. 872 L.D. 1151

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-683)**.

Signed:

Senators:

LONGLEY of Waldo
MARTIN of Aroostook
TURNER of Cumberland

Representatives:

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

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

Signed:

Representative:

SHIELDS of Auburn

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-683)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-683) **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-683)**, in concurrence.

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

REPORTS OF COMMITTEES

House

Divided Report

10 members of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Implement the Recommendations of the Task Force on the Maine Learning Technology Endowment"

H.P. 1261 L.D. 1712

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-671)**.

Signed:

Senators:

MITCHELL of Penobscot
NUTTING of Androscoggin
ROTUNDO of Androscoggin

Representatives:

RICHARD of Madison
DESMOND of Mapleton
SKOGLUND of St. George
ESTES of Kittery
CUMMINGS of Portland
WESTON of Montville
LEDWIN of Holden

2 members of the same Committee on the same subject reported in Report "B" that the same **Ought Not to Pass**.

Signed:

Representatives:

STEDMAN of Hartland
ANDREWS of York

1 member of the same Committee on the same subject reported in Report "C" that the same **Ought to Pass as Amended by Committee Amendment "B" (H-672)**.

Signed:

Representative:

WATSON of Farmingdale

Comes from the House with the Reports **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED**.

Reports **READ**.

Senator **MITCHELL** of Penobscot moved the Senate **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-671)**, in **NON-CONCURRENCE**.

On motion by Senator **SMALL** of Sagadahoc, **TABLED** until Later in Today's Session, pending motion by Senator **MITCHELL** of Penobscot to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-671)**, in **NON-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 Regarding the Use of Tokens or Tickets for Games of Chance at Agricultural Fairs

H.P. 1359 L.D. 1814

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 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.

Resolve

Resolve, to Ensure Comprehensive and Accurate Medical Eligibility Assessments

H.P. 161 L.D. 172
(C "A" H-660)

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

ORDERS OF THE DAY

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 Hold Petition Circulators to the Same Standards as Political Candidates"

H.P. 1000 L.D. 1337

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-642)** (6 members)

Tabled - June 6, 2001, by President Pro Tem **BENNETT** of Oxford

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

(In House, June 5, 2001, Reports **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED**.)

(In Senate, June 6, 2001, Reports **READ**.)

On motion by Senator **WOODCOCK** of Franklin, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**.

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 Require Reporting on Children's Crisis Services
H.P. 493 L.D. 633
(H "A" H-655 to C "A" H-646)

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

Emergency Measure

An Act to Implement the Recommendations of the Department of Environmental Protection on Ambient Water Quality Criteria for Mercury

S.P. 393 L.D. 1308
(H "A" H-638 to C "A" S-276)

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

Senate at Ease.

Senate called to order by the President.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for 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 Offer Greater Financial Incentives Promoting Quality Child Care

S.P. 48 L.D. 216
(C "A" S-291)

An Act to Address Issues in the Maine Health Insurance Market

S.P. 573 L.D. 1745
(C "A" S-274)

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

An Act to Ensure Appropriate Audit Procedures

H.P. 211 L.D. 246
(C "A" H-664)

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

An Act to Permit Foster Parents to Purchase Group Health Insurance

H.P. 275 L.D. 353
(H "A" H-644 to S "A" S-264)

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

An Act to Eliminate the Marriage Penalty under the Income Tax Laws

H.P. 475 L.D. 615
(C "A" H-657)

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

An Act to Address the Crisis in Personnel, Insurance and Heating Costs in the Provision of Community Mental Health Services

H.P. 956 L.D. 1270
(C "A" H-669)

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

An Act to Establish a Single-payor Health Care System

H.P. 964 L.D. 1277
(H "C" H-680 to C "A" H-514)

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

An Act to Implement the Recommendations of the Task Force on Educational Programming at Juvenile Correctional Facilities

H.P. 982 L.D. 1306
(C "A" H-667)

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

ORDERS OF THE DAY

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

An Act to Amend the State's Overtime Law

S.P. 314 L.D. 1082
(S "A" S-137 to C "A" S-114)

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

Pending - **ENACTMENT**, in concurrence

(In House, May 14, 2001, **PASSED TO BE ENACTED**.)

(In Senate, May 15, 2001, **PASSED TO BE ENACTED**, in concurrence.)

(**RECALLED** from the Governor's Desk pursuant to Joint Order S.P. 632, in concurrence.)

(In Senate, May 25, 2001, on motion by Senator **PENDLETON** of Cumberland, **RULES SUSPENDED, RECONSIDERED PASSAGE TO BE ENACTED**, in concurrence.)

On motion by Senator **PENDLETON** of Cumberland, 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-114) AS AMENDED BY SENATE AMENDMENT "A" (S-137)** thereto, in concurrence.

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-114) as Amended by Senate Amendment "A" (S-137) thereto, in concurrence.

On further motion by same Senator, Committee Amendment "A" (S-114) as Amended by Senate Amendment "A" (S-137) thereto, **INDEFINITELY POSTPONED.**

On further motion by same Senator, Senate Amendment "A" (S-323) **READ.**

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Pendleton

Senator **PENDLETON:** Thank you, Mr. President, men and women of the Senate. This amendment replaces the bill, L.D. 1082, which was the nurse overtime legislation. I would just like to say that I would like to thank my colleagues who assisted me in coming up with a compromise that seems to be agreeable to all parties. I think that the nurses of the State of Maine also thank you. I hope that you will vote in favor of this amendment.

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

Senator **SAWYER:** Thank you, Mr. President, ladies and gentlemen of the Senate. I am very pleased to support this amendment. I was admonished during a breakfast of eggs and bacon that, in that relationship, the chicken is interested and the pig is committed. In this matter, let me suggest that I am the interested party. I believe the amendment does a nice job of attending to the concerns of employers that regularly schedule overtime as a matter of course. Out of my deepest respect for those Senators who are committed to this legislation, I'm pleased to support it. Thank you.

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

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

THE PRESIDENT: The Senator may pose his question.

Senator **TURNER:** Thank you, sir. I too would echo the sentiments of the good Senator from Penobscot, Senator Sawyer. My question, however, is on the language. It talks about 'unless an unforeseen emergence circumstance occurs.' I was not party to the negotiations, but it appears that the bill is mute on how that is determined and who determines it. I would pose the question to those who have worked on this, if they could enlighten me as to that aspect of this bill. Thank you.

THE PRESIDENT: The Senator from Cumberland, Senator Turner poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Pendleton.

Senator **PENDLETON:** Thank you, Mr. President. Yes, thank you for that question from the good Senator from Cumberland, Senator Turner. We put that language into the amendment because there was a question of emergency situations. In the nurses' code of ethics, a nurse cannot refuse in an emergency. Similar to when you talk about, perhaps, the Good Samaritan Law. It was felt that the language needed to be in the

amendment just to make it very clear that it would refer back to any emergency situation that the Governor would call an emergency situation. I hope that answers the question. Thank you, Mr. President.

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

Senator **EDMONDS:** Thank you, Mr. President. I just need to add that that was the language that was worked out and agreeable to all parties. I don't exactly know why they decided to do that, but I felt confident that they had thought about it long and hard and realized that it was the best solution possible.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. This language was an effort to compromise between language that did not allow for any emergency level of retention of nurses, even though normally we volunteer for those emergency situations, and language that said, essentially, if you can't find a nurse, we can make the current nurse stay. So this was sort of a mid point in the negotiations that indicates, as clearly as we could, that this must not be a situation where when you're starting out the month with 112 holes in the schedule, you can call that an unforeseen emergency. This means an emergency that arises, is of an urgent nature. It is unforeseen. It is unanticipated. In that situation, if necessary, a hospital may force a nurse to stay on beyond 12 hours of work.

On motion by Senator **PENDLETON** of Cumberland, Senate Amendment "A" (S-323) **ADOPTED.**

PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-323), in NON-CONCURRENCE.

Sent down for concurrence.

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

Senate at Ease.

Senate called to order by the President.

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

Senator **DAVIS** of Piscataquis 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.

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

PAPERS FROM THE HOUSE

House Paper

Resolve, to Create a Commission to Study Issues Concerning Changes to the Traditional Uses of Maine Forests and Lands, Including Camp Lot Lease Arrangements and Public Enjoyment (EMERGENCY)

H.P. 1366 L.D. 1823

Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** suggested and ordered printed.

Comes from the House, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee, 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 **TAXATION** on Bill "An Act Concerning Technical Changes to the Tax Laws" (EMERGENCY)
H.P. 1190 L.D. 1613

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-689)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-689)**.

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

READ ONCE.

Committee Amendment "A" (H-689) **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-689)**, in concurrence.

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

HOUSE REPORTS - from 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

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-623)** (3 members)

In House, May 29, 2001, 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)**.

In Senate, May 30, 2001, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

On motion by Senator **MITCHELL** of Penobscot, the Senate **ADHERED**.

(See action later today.)

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Resolve, to Increase Medicaid Reimbursement for Occupational and Physical Therapy and Speech and Language Pathologists and Audiologists

H.P. 172 L.D. 183
(C "A" H-659)

In Senate, June 4, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-659)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-659) AS AMENDED BY HOUSE AMENDMENT "A" (H-679)** thereto, in **NON-CONCURRENCE**.

On motion by President Pro Tem **BENNETT** of Oxford, the Senate **RECEDED** and **CONCURRED**.

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Implement the Recommendations of the Task Force on the Maine Learning Technology Endowment"

H.P. 1261 L.D. 1712

Report **"A"** - **Ought to Pass as Amended by Committee Amendment "A" (H-671)** (10 members)

Report **"B"** - **Ought Not to Pass** (2 members)

Report **"C"** - **Ought to Pass as Amended by Committee Amendment "B" (H-672)** (1 member)

Tabled - June 6, 2001, by Senator **SMALL** of Sagadahoc

Pending - motion by Senator **MITCHELL** of Penobscot to **ACCEPT** Report **"A"**, **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-671)**, in **NON-CONCURRENCE**

(In House, June 5, 2001, Reports **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED**.)

(In Senate, June 6, 2001, Reports **READ**.)

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

Senator **DAGGETT**: Thank you, Mr. President, members of the Senate. As many of you know, this has been a very long and involved path that the learning technology has gone from the moment it was first discussed to the task force and then through the committee process. A lot of hard work has been done by many people, particularly the Education Committee, on developing this. At this point, however, the endowment has been included in Part I of the budget and will be carried forward. The information and the amendment in that budget will go into effect. So there seems to be no further need for the bill and so I would move Indefinite Postponement of this bill.

Senator **DAGGETT** of Kennebec moved the Bill and accompanying papers be **INDEFINITELY POSTPONED**, in concurrence.

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

Senator **TURNER**: Thank you, Mr. President. I would just heartily concur with the good Senator from Kennebec, Senator Daggett's, comments and I think we should acknowledge the very hard work of the two Senators from Androscoggin, Senator Nutting and Senator Rotundo, as well as the chair of the committee of the Senate, the good Senator from Penobscot, Senator Mitchell. I got a chance, as I think all of you have, to read the language that is imbedded now in Part I and was part of the very excellent work that the committee has done. I think we have the foundation for this, assuming the money flows in from the private sector, to have a first rate program. I think our hats should go off to the Education Committee. Thank you.

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

The Chair laid before the Senate the following Tabled and Later (6/5/01) Assigned matter:

HOUSE REPORTS - from the Committee on **BANKING AND INSURANCE** on Bill "An Act to Implement the Recommendations of the Joint Select Committee to Study the Creation of a Public/Private Purchasing Alliance to Ensure Access to Health Care for All Maine Citizens"

H.P. 315 L.D. 392

Majority - **Ought to Pass As Amended by Committee Amendment "A" (H-670)** (11 members)

Minority - **Ought Not to Pass** (2 members)

Tabled - June 5, 2001, by President Pro Tem **BENNETT** of Oxford

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

(In House, June 4, 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-670)**.)

(In Senate, June 5, 2001, Reports **READ**.)

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

Senator **ABROMSON**: Thank you, Mr. President. This bill is very interesting in that it has required approximately five years of hard work by people from MDI, Mt. Desert Island, to try to put together a public/private purchasing alliance to ensure health care for all Maine citizens. I am in the minority, one of the two on the Minority Report on this bill, for one reason, basically. What this is purporting to provide is insurance and insurance is regulated in this state by the Bureau of Insurance. The Bureau of

Insurance, at the hearing for this bill, did not wish to regulate this. They felt it was too small a group and it would just take too much time and effort to handle it. So the proponents of this bill went to the Department of Human Services to see if, perhaps, it could be handled in this way. The Department of Human Services originally said no, that they couldn't do it. They didn't have the funds to regulate this particular section of the law. But then, on second thought, they came up with a way of funding it from the point of view of using third party actuaries and so forth. My problem with the bill is the whole question of safety and soundness. That's what insurance is all about. We can't sell insurance in this state without making sure we have safety and soundness. I've asked the proponents of this bill to assure me, in some fashion, that safety and soundness would be taken care of. I was told as recently as this morning that I would have a letter from the Department of Human Services by noon today, which I don't have. But I'm very concerned with such a small group. As you know, with insurance it takes a critical mass of people to spread the risk. With such a small group as the MDI group, if you have a liver transplant or a heart transplant or some very high cost procedure, the question is where is that money going to come from? Who's going to pay the hospital? Who's going to pay the doctors? Who's going to pay the surgeons and so forth? I have not been satisfied that the excess insurance that I was told they would probably be able to get, would, in fact, be gotten. So as much as I hate to do it, I am voting against the Ought to Pass because I just don't think that it is smart for the state to be involved in these kinds of risks. 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. I appreciate the reluctance expressed by the good Senator from Cumberland, Senator Abromson. It eases the pain of his opposition to this bill which I enthusiastically support. I think he has described the situation well. In fact, I don't differ at all in his description of both what this plan is intended to do and what the problems are that have arisen. This is primarily focused on an emerging attempt to create a community health plan on Mt. Desert Island. But it is equally relevant to efforts that have already been undertaken in other parts of the state, most notably in the Farmington area. In my area, the Blue Hill Peninsula is looking at a similar type of proposal. What the proposal is meant to do in the first place is to assist or enable local groups to develop health plans, heavily preventive in orientation, and based on the particular requirements of local populations, dynamics of communities, etc. It is proposed to be an effort to fill in the gaps in coverage for certain classes of people, if you will, most notably the businesses that have one to four employees or individuals who are virtually being priced out of the insurance market at this point. This is a collaborative effort that has been, as the Senator referred to, undertaken for about four or five years in my area, in conjunction with our local hospital and with many volunteers who have put a lot of time into trying to work this out. The original proposal was meant to have an insurer behind it. That was going to be Nile Care. Weeks from the signing of contract, Nile Care decided not to participate, and in fact, to leave the State of Maine. The next effort was to get waivers from the Bureau of Insurance so that this plan could get started with what truly was an inadequate amount of up-front capital. The Bureau, rightfully so, objected to that and also helped the proposal to understand waiving Bureau

of Insurance requirements, which are there for public protection, is not a good idea. This plan understood that. Took that message and went back, and working through a summer taskforce on purchasing alliances which was an effort to see if we could aggregate covered lives to the point where we could reduce the cost of insurance, have developed yet another proposal. The sticking point is that start up money. If you have a large claim against the plan early on or two of them, how do you survive that period of time? This plan has done significant fund raising. They have worked under two substantial grants, one for a half million dollars, to do the development piece of this work. That brings us to this bill and its Majority amendment.

As I said, it is designed to be focused almost entirely on preventive care, to offer a package of baseline, basic preventive services to our community. It is particularly focused on people who are not now covered. This provides a framework for setting up such a community based health plan. It is my opinion that, though we have talked a lot about preventive health care, we have not really done anything other than offer it a lot of lip service. One of the reasons why it doesn't work as a state directive, although there is certainly some value the state can add, is that piece of knowing your community. That is why this plan, the Farmington plan, the Blue Hill plan have distinguished themselves because they know their communities and their health care clients so well that they are able to develop preventive programs that are far more successful than the kind of scatter shot, broader based approaches that the state or federal government have taken. This is the enabling legislation that would structure this in a way that does build in those public protections. I am sure that the Bureau of Insurance will continue to be significantly involved. I appreciate the fact that they have taken their patient advocate role seriously and offered mid-course corrections when our plan was going astray and did not provide adequate protection. But this is the instrument that will set up the structure so that when a plan like this is brought forward from one of your areas, we will have a structure in place that has been thought through and a plan with the assistance of people that know a great deal about this so that those plans are responsible to issues of public protection, patient safety, and yet we are able to get some of those in place, because I think they are going to prove to be, as Farmington did, a far better model for basic community health care, particularly at the preventive level, than some of the plans that we are seeing offered now. So I would appreciate your support for the Majority Ought to Pass recommendation.

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

Senator MILLS: Mr. President and men and women of the Senate, it's useful, I think, sometimes, to observe those communities within the United States where there appears to be successful health care management systems in place. We do an awful lot of theorizing here about what might work and what might not work and what works in other nations. But there are places in the United States where health care is extraordinarily well managed. The communities that I have in mind are places like Deerborn, Michigan, and cities and towns like that that are completely dominated by a large, monolithic corporation that works very closely with labor. The large motor companies and the communities that they dominate actually own the hospitals, the clinics. They are so dominate that they sort of manage from the get go everything that goes on in the health care field within

the community and its surroundings. Why do they do that, why do they care? Because not only do they have all of the medical underwriting risk consolidated within the company, the company affords comprehensive coverage for all of its employees and all of the dependents of the employees, which accounts for a major portion of the population of these communities. They are so concerned about managing those costs and those risks that they enter into the situation with both feet. They are very strong on promoting preventive medicine. They have another reason that goes way beyond the reasons that support the incentives for HMOs and insurance programs generally. Those companies bear the risk of disability and loss of productivity for their workers who go out of the workforce because of injury, disease, or health risks. So they have a double financial incentive. They have all of the health care costs that they are bearing, corporately, but they also have all of the disability risks as well. So they have powerful economic incentives to make sure that nobody gets sick, that people stay well. Some of these communities, their health care risks are very well managed and not just for the people that happen to work at the local company, or whose dependents are related to those who work there, but practically to everybody in the community. They are fairly successful. We, in Maine, don't have such communities that come readily to mind. We do have some smaller towns that have large paper mills and ship yards and that sort of thing. But we don't really have the kind of dominance that they have in some of these communities in the mid-west. I might add that the original HMO out in California was a product of a corporate initiative and still bears the name of that corporation to this day. The substitute that has been promoted for smaller communities like those that we have in Maine is a community based organization centered around a local charitable hospital because there is the sense that a local, non-profit board would have perhaps the same kinds of concerns about both medical care and productivity losses that a large corporation would have when dominating the medical scene in another type of community. Local interests have a greater concern for preventive medicine than do the HMOs and the insurers because with insurers the population that is covered by any given insurance company is fluid, the economic incentives to manage preventively the medical risks of an insured population are just not there for most HMOs and insurance companies. They are motivated economically to try to find the best risks, to 'cherry pick' to the extent that it is allowed by law, and to try to filter out the risks at the beginning and not necessarily to work closely with their insured community to see that they adopt healthy lifestyles and the like.

There is one exception to that. That is the Medicaid system. The Medicaid system has a fairly stable population of people who are insured by it. Those who administer Medicaid here in the state have adopted some preventive systems which are quite interesting. I think they've done a pretty good job of thinking carefully about how to bring preventive medicine to this very vulnerable population. I understand what the people on Mt. Desert would like to do is that they would like to intercept locally some of the Medicaid dollars that are flowing into their community and perhaps some of the insurance dollars as well and try to focus on preventive medicine at the community level and do so wherever possible in corporation with the Department of Human Services. That's what this bill is set up to do. Yes, there is an underwriting risk associated with that activity. I share some of the concerns that are articulated by my seatmate. The bill addresses those underwriting concerns by saying that the corporation, the local non-profit health management corporation,

is required to enter into agreements with insurers who are licensed in this state to obtain excess insurance covering their group. For those portions of the health care benefits package that expose the corporation to financial risks beyond the resources of the corporation. So, yes, at some level someone, I think in this case the Department of Human Services, may have to make a judgment as to whether they had bought the amount of insurance that they truly need to cover those risks. But to the extent that they seek a partnership with the Medicaid system, that really isn't an issue because the underwriting risk resides with the state. It just isn't a factor. My perception of this bill is that it is primarily focused on trying to start a pilot program in which preventive medicine would be implemented under the Medicaid system, under the umbrella of the Medicaid system, but with initiatives to take place at the local level. I think to allow this community to try this experiment on a low key, modest basis is reasonable. I look forward to hearing about the results of their experiment. I wish them well. I urge you to vote for the bill. 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 too want to express and recognize the issues that the good Senator from Cumberland, Senator Abromson, raises regarding this program. I think they are valid issues and they are issue which he's right to raise and they are issues which we need to keep in mind as this and other forms of innovations in health care are attempted. But when I first talked some of the people in the Bar Harbor area who were so enthusiastic about this program and their work over the last five years, I was reminded of some memories of childhood. When I was growing up I used to visit my great-grandfather occasionally. He was a bedridden man at that time, although he had formerly been a large number of things in his life, all of them requiring a great deal of robust energy. But at the time he was suffering from kidney problems. He had lost one kidney. He always greeted me with a strong handshake. I was 7 or 8 years old. I have come to learn that my great-grandfather was one who was very passionate about his attachment to the land and it grieved him greatly that he had to sell about 200 acres of land which had been in the family for generations, which I've inherited a portion of, in order to pay for his health care costs. I was reminded of that because there is a real sense, that we used to have, of responsibility for our own health care, not only for looking after our health, such as we knew of it at that time, but also for looking after the financing of it. I couldn't help but think about how, as we look towards innovation, and we need to in health care and how to pay for health care, and as we look towards tackling the challenges of health care in the 21st century, we need, in my view, to embrace some of the old fashion values that we've inherited in this state and which still runs strong throughout our community. Principle I believe we need to embrace the value of neighbors helping neighbors, communities working together, taking mutual responsibility for the health and well-being and the welfare of our fellow citizens. Neighbor to neighbor. I think the people who are putting this forward, the people of Mt. Desert Island, are to be commended for embracing that spirit as they embrace innovation and helping to tackle, not at the global level, not at the national level, not even at the state level, but at the community level the challenge of health care in the 21st century, to embrace the responsibility that we all have for our own

communities. That's why I will be supporting this initiative today and I commend those who brought it forward and I will be watching this experiment with interest as it unfolds over ensuing years. I wish them God speed. Thank you.

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

Senator LAFOUNTAIN: Thank you, Mr. President, men and women of the Senate. First of all, I'd like to clear something up in reference to this bill. It did come to us as the result of individuals from Mt. Desert Island wanting to create such a system. But there is no guarantee that those residents will benefit from this. What will happen here, if passage takes place, is that the Department of Human Services has the ability to create two pilot projects. MDI would certainly be in the running, but certainly your communities may also take advantage of this if they make an application with the Department. I agree with the Senators who have spoken in favor of this bill. But I would like to bring to your attention one provision of the bill that has been overlooked, which I think is clearly important here today. Every year in the Banking and Insurance Committee we hear from legislators who believe that mandates are the root of the health insurance crisis here in the State of Maine. If you take a look at paragraph 12 of the Committee Amendment of the Majority Ought to Pass Report, you will see that this bill is not subject to Title 24 or 24A. Therefore, if we pass this bill and allow this project to move forward, these plans can operate without using mandates if they so choose. Then we can truly see if mandates are the cause of our health care crisis. Thank you.

The Chair ordered a Division. 29 Senators having voted in the affirmative and 3 Senators having voted in the negative, the motion by Senator LAFOUNTAIN of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-670) **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-670)**, in concurrence.

Under suspension of the Rules, all matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

On motion by Senator **SHOREY** of Washington, the Senate **RECONSIDERED** whereby it **ADHERED** on the following:

HOUSE REPORTS - from 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

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-623)** (3 members)

(In House, May 29, 2001, 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)**.)

(In Senate, May 30, 2001, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

(In House, June 5, 2001, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.)

(In Senate, June 6, 2001, on motion by Senator **MITCHELL** of Penobscot, **ADHERED**.)

Same Senator moved the Senate **RECEDE** and **CONCUR**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **RECEDE** and **CONCUR**.

Senate at Ease.

Senate called to order by the President.

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

ORDERS

Joint Order

On motion by Senator **MARTIN** of Aroostook, the following Joint Order:

S.P. 647

ORDERED, the House concurring, that the Joint Standing Committee on Education and Cultural Affairs report out to the House, or return to the House, Bill, "An Act to Repeal the Requirement that School Employees be Fingerprinted," S.P. 322, L.D. 1090.

READ and **PASSED**.

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

On motion by President Pro Tem **BENNETT** of Oxford, **ADJOURNED** to Thursday, June 7, 2001, at 10:00 in the morning.