

MAINE STATE LEGISLATURE

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Legislative Record
House of Representatives
One Hundred and Twenty-First Legislature
State of Maine

Volume I

First Regular Session

December 4, 2002 – May 23, 2003

Pages 1-776

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
FIRST REGULAR SESSION
42nd Legislative Day
Wednesday, April 30, 2003

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

Prayer by Reverend C. Russell Thayer, Damariscotta Baptist Church.

National Anthem by Freeport Middle School Chamber Singers.

Pledge of Allegiance.

Doctor of the day, Katherine Pope, M.D., Cumberland Foreside.

The Journal of yesterday was read and approved.

COMMUNICATIONS

The Following Communication: (H.C. 177)

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON JUDICIARY**

April 24, 2003

Honorable Beverly C. Daggett, President of the Senate

Honorable Patrick Colwell, Speaker of the House

121st Maine Legislature

State House

Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

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

L.D. 1218 An Act To Enact the Revised Uniform Arbitration Act

L.D. 1376 An Act Regarding Limited Liability Companies

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

Sincerely,

S/Sen. Peggy A. Pendleton

Senate Chair

S/Rep. William S. Norbert

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 178)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON INSURANCE AND FINANCIAL SERVICES**

April 17, 2003

Honorable Beverly C. Daggett, President of the Senate

Honorable Patrick Colwell, Speaker of the House

121st Maine Legislature

State House

Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

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

L.D. 366 An Act To Prevent Discrimination Against Group Health Plans Sponsored by Agricultural Cooperatives

L.D. 1096 An Act To Create a Timetable for Insurers To Make Restitution to Consumers

L.D. 1119 An Act To Require Insurers To Offer a Discount for Operators of Commercial Vehicles Equipped with Safety Devices

L.D. 1200 An Act To Allow an Appeal for Cancellation of Commercial Insurance

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

Sincerely,

S/Sen. Lloyd P. LaFountain III

Senate Chair

S/Rep. Christopher P. O'Neil

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.P. 544)

**STATE OF MAINE
121ST MAINE LEGISLATURE**

April 28, 2003

Sen. Bruce S. Bryant

Senate Chair, Joint Standing Committee on

Agriculture, Conservation and Forestry

Rep. Linda Rogers McKee

House Chair, Joint Standing Committee on

Agriculture, Conservation and Forestry

121st Legislature

Augusta, ME 04333

Dear Senator Bryant and Representative McKee:

Please be advised that Governor John E. Baldacci has nominated Leon Gorman of Yarmouth for appointment to the Land for Maine's Future Board.

Pursuant to Title 5, M.R.S.A. §6204-A, this nomination will require review by the Joint Standing Committee on Agriculture, Conservation and Forestry and confirmation by the Senate.

Sincerely,

S/Beverly C. Daggett

President of the Senate

S/Patrick Colwell

Speaker of the House

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

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

**PETITIONS, BILLS AND RESOLVES REQUIRING
REFERENCE**

Bill "An Act To Amend the Department of Corrections' Laws Pertaining to Juvenile Offenders"

(H.P. 1165) (L.D. 1592)

Sponsored by Representative BUNKER of Kossuth Township.

Cosponsored by Senator HATCH of Somerset and

Representatives: BLANCHETTE of Bangor, CHURCHILL of

Washburn, GROSE of Woolwich, LESSARD of Topsham,

Senator: CARPENTER of York.

Submitted by the Department of Corrections pursuant to Joint Rule 204.

Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** suggested and ordered printed.

REFERRED to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed.

Sent for concurrence.

Bill "An Act To Amend Laws Relating to Development of Service Plans for Persons with Mental Retardation"

(H.P. 1166) (L.D. 1593)

Sponsored by Representative WALCOTT of Lewiston.

Cosponsored by Representatives: CAMPBELL of Newfield, CRAVEN of Lewiston, EARLE of Damariscotta, LAVERRIERE-BOUCHER of Biddeford, LEWIN of Eliot, Senator: WESTON of Waldo.

Submitted by the Department of Behavioral and Developmental Services pursuant to Joint Rule 204.

Committee on **HEALTH AND HUMAN SERVICES** suggested and ordered printed.

REFERRED to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.

Sent for concurrence.

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

ORDERS

On motion of Representative YOUNG of Limestone, the following Joint Resolution: (H.P. 1167) (Under suspension of the rules, cosponsored by Senator KNEELAND of Aroostook and Representatives: BENNETT of Caribou, CHURCHILL of Washburn, FISCHER of Presque Isle, JACKSON of Fort Kent, JOY of Crystal, LUNDEEN of Mars Hill, PARADIS of Frenchville, SHERMAN of Hodgdon, SMITH of Van Buren, WOTTON of Littleton, Senators: MARTIN of Aroostook, STANLEY of Penobscot)

JOINT RESOLUTION RECOGNIZING THE MONTH OF MAY 2003 AS BETTER SPEECH AND HEARING MONTH

WHEREAS, AMHC's speech-language pathologists in Aroostook County observe and celebrate Better Speech and Hearing Month annually during the month of May; and

WHEREAS, Aroostook County recognizes and values the efforts of all who work to eliminate or minimize the isolating effects of communication disorders, which affect one in 10 families; and

WHEREAS, those citizens of Aroostook County who have overcome their communication disorders through the services of dedicated AMHC speech-language pathologists should be recognized; and

WHEREAS, AMHC's speech-language pathology services throughout Aroostook County help to enable and empower individuals with communication disorders to lead independent, productive and fulfilling lives; and

WHEREAS, Aroostook County is proud and honored to have 5 AMHC speech-language pathologists offering high-quality education and health care services to citizens; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-first Legislature now assembled in the First Regular Session, on behalf of the people we represent, proclaim the month of May 2003 as Better Speech and Hearing Month, and we urge all citizens of Aroostook County to recognize the achievements of AMHC's speech-language pathologists in improving the quality of life for people with communication disorders; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to

AMHC's Speech and Language Services on behalf of the people of the State of Maine.

READ and ADOPTED.

Sent for concurrence.

On motion of Representative McNEIL of Rockland, the following Joint Resolution: (H.P. 1168) (Cosponsored by Senator HATCH of Somerset and Representatives: COLLINS of Wells, COWGER of Hallowell, JODREY of Bethel, MARLEY of Portland, McKENNEY of Cumberland, PINGREE of North Haven, USHER of Westbrook, Senators: DAMON of Hancock, SAVAGE of Knox) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214)

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES, THE UNITED STATES CONGRESS AND THE UNITED STATES DEPARTMENT OF TRANSPORTATION

TO NOT CUT ESSENTIAL AIR SERVICES FUNDING

WE, your Memorialists, the Members of the One Hundred and Twenty-first Legislature of the State of Maine now assembled in the First Regular Session, most respectfully present and petition the President of the United States, the United States Congress and the United States Department of Transportation, as follows:

WHEREAS, the State of Maine has recently become aware of the reductions in funding proposed for the Essential Air Services, EAS, program by the current administration for fiscal year 2003-04 to \$50,000,000 from the previous year's funding of \$113,000,000; and

WHEREAS, there is also a proposed community match in the budget to access federal funds that could effectively end scheduled air service for Maine towns that now receive EAS funds since this is a time when Maine communities, especially the rural ones, can least afford such a match and our business climate can least withstand a setback; and

WHEREAS, the timing of these reductions could not be worse, as air service to such cities and towns in Maine as Augusta, Waterville, Bar Harbor, Rockland and Presque Isle is critical to help maintain a transportation infrastructure that supports Maine's existing businesses; and

WHEREAS, established businesses in Maine and businesses that we are trying to attract need reliable access to national and international air service, so the Essential Air Service program is truly "essential" to Maine communities; now, therefore, be it

RESOLVED: That We, your Memorialists, on behalf of the people we represent, take this opportunity to urge the President of the United States, the United States Congress and the United States Department of Transportation to stop the downward spiral that loss of essential air service could trigger in Maine's communities and restore full funding of the Essential Air Services program; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable George W. Bush, President of the United States, the United States Secretary of Transportation, the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of the Maine Congressional Delegation.

READ and ADOPTED.

Sent for concurrence.

SPECIAL SENTIMENT CALENDAR

(H.P. 268) (L.D. 339)

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

Recognizing:

Naomi Schalit, of Damariscotta Mills, a dedicated journalist since 1985. She began her reporting career writing consumer-oriented stories for national publications, media criticism for American Journalism Review and feature stories for newspapers across the country. She wrote for the Maine Times for 3 years before joining Maine Public Radio as a commentator. Currently a reporter, producer, Naomi has provided exceptional coverage of the state's legislative issues for the past 12 years. We recognize and appreciate the reporting service she has provided to the citizens of Maine and we extend our best wishes to her;
(HLS 480)

Presented by Representative McKEE of Wayne.
Cosponsored by Representative EARLE of Damariscotta, Senator HALL of Lincoln.

On **OBJECTION** of Representative McKEE of Wayne, was **REMOVED** from the Special Sentiment Calendar.

READ. On motion by Same Representative, Tabled until Later in Today's Session.

**REPORTS OF COMMITTEE
Divided Report**

Majority Report of the Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought Not to Pass** on Bill "An Act To Amend the Laws Governing Privacy of Consumer Financial Information"

(H.P. 491) (L.D. 661)

Signed:

Senators:

LaFOUNTAIN of York
MAYO of Sagadahoc

Representatives:

VAUGHAN of Durham
PERRY of Calais
BREAULT of Buxton
O'NEIL of Saco
GLYNN of South Portland
SNOWE-MELLO of Poland
YOUNG of Limestone
PERRY of Bangor

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-199)** on same Bill.

Signed:

Senator:

DOUGLASS of Androscoggin

Representatives:

CANAVAN of Waterville
WOODBURY of Yarmouth

READ.

Representative O'NEIL of Saco moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned.

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-191)** on Bill "An Act To Require the Workers' Compensation Board To Adopt Rules To Require Electronic Filing"

Signed:

Senators:

EDMONDS of Cumberland
STANLEY of Penobscot

Representatives:

SMITH of Van Buren
HUTTON of Bowdoinham
HATCH of Skowhegan
PATRICK of Rumford
JACKSON of Fort Kent
WATSON of Bath

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-192)** on same Bill.

Signed:

Senator:

BLAIS of Kennebec

Representatives:

TREADWELL of Carmel
CRESSEY of Baldwin
HEIDRICH of Oxford
NUTTING of Oakland

READ.

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

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

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-193)** on Bill "An Act to Require that Certain Employees Be Paid on a Weekly Basis"

(H.P. 834) (L.D. 1131)

Signed:

Senators:

EDMONDS of Cumberland
STANLEY of Penobscot

Representatives:

SMITH of Van Buren
HUTTON of Bowdoinham
HATCH of Skowhegan
PATRICK of Rumford
JACKSON of Fort Kent
WATSON of Bath

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

Signed:

Senator:

BLAIS of Kennebec

Representatives:

CRESSEY of Baldwin
HEIDRICH of Oxford
NUTTING of Oakland
TREADWELL of Carmel

READ.

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

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

Majority Report of the Committee on **LABOR** reporting **Ought Not to Pass** on Bill "An Act To Amend the Benefit for Accidental Death in the Line of Duty for Law Enforcement Officers" (H.P. 994) (L.D. 1352)

Signed:
Senators:
EDMONDS of Cumberland
STANLEY of Penobscot
BLAIS of Kennebec
Representatives:
SMITH of Van Buren
CRESSEY of Baldwin
HEIDRICH of Oxford
NUTTING of Oakland
TREADWELL of Carmel
HATCH of Skowhegan
PATRICK of Rumford

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-202)** on same Bill.

Signed:
Representatives:
HUTTON of Bowdoinham
JACKSON of Fort Kent
WATSON of Bath

READ.

On motion of Representative HATCH of Skowhegan, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

Majority Report of the Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought Not to Pass** on Bill "An Act To Prohibit Arbitrary Interest Rate Hikes" (H.P. 687) (L.D. 930)

Signed:
Senators:
LaFOUNTAIN of York
MAYO of Sagadahoc
Representatives:
VAUGHAN of Durham
PERRY of Calais
BREAUULT of Buxton
WOODBURY of Yarmouth
O'NEIL of Saco
GLYNN of South Portland
SNOWE-MELLO of Poland
YOUNG of Limestone

Minority Report of the same Committee reporting **Ought to Pass** on same Bill.

Signed:
Senator:
DOUGLASS of Androscoggin
Representatives:
CANAVAN of Waterville
PERRY of Bangor

READ.

Representative O'NEIL of Saco moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned.

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act To Restore an Annual Adjustment for Costs to the School Funding Formula" (H.P. 815) (L.D. 1112)

Signed:
Senators:
DOUGLASS of Androscoggin
BRENNAN of Cumberland
MITCHELL of Penobscot
Representatives:
CUMMINGS of Portland
GAGNE-FRIEL of Buckfield
DAVIS of Falmouth
FINCH of Fairfield
LEDWIN of Holden
NORTON of Bangor
MURPHY of Kennebunk
THOMAS of Orono
FISCHER of Presque Isle

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-201)** on same Bill.

Signed:
Representative:
ANDREWS of York

READ.

Representative CUMMINGS of Portland moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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

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

ROLL CALL NO. 43

YEA - Adams, Annis, Ash, Barstow, Bennett, Berry, Bierman, Blanchette, Bliss, Bowles, Brannigan, Breault, Browne W, Bruno, Bryant-Deschenes, Bull, Bunker, Campbell, Canavan, Carr, Churchill J, Clark, Courtney, Cowger, Craven, Cummings, Daigle, Davis, Dudley, Dunlap, Duplessie, Duprey B, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Greeley, Grose, Hatch, Hotham, Hutton, Jackson, Jennings, Jodrey, Kane, Ketterer, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, McCormick, McGowan, McKee, McLaughlin, McNeil, Millett, Mills S, Moody, Murphy, Muse, Norbert, Norton, Nutting, O'Brien J, O'Brien L, O'Neil, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Sampson, Saviello, Sherman, Shields, Simpson, Smith N, Sullivan, Suslovic, Sykes, Thomas, Tobin D, Tobin J, Treadwell, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Andrews, Austin, Berube, Bowen, Brown R, Churchill E, Clough, Collins, Cressey, Crosthwaite, Curley, Glynn, Heidrich, Honey, Jacobsen, Joy, Kaelin, Maietta, Marley, McKenney, Paradis, Peavey-Haskell, Snowe-Mello, Stone, Sukeforth, Trahan, Vaughan.

ABSENT - Dugay, Goodwin, Koffman, Lewin, Marraché, McGlocklin, Mills J, Moore, Smith W, Tardy, Thompson.
Yes, 113; No, 27; Absent, 11; Excused, 0.

113 having voted in the affirmative and 27 voted in the negative, with 11 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

**CONSENT CALENDAR
First Day**

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

(S.P. 70) (L.D. 147) Bill "An Act to Allow Members of the Maine Public Drinking Water Commission to Serve More than 2 Consecutive Terms" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass**

(S.P. 249) (L.D. 711) Resolve, To Lower the Costs of Prescription Drugs through the Use of the Federal Public Health Service Act Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass**

(S.P. 289) (L.D. 894) Bill "An Act Relating to Motorcycles and Driver Education" Committee on **TRANSPORTATION** reporting **Ought to Pass**

(S.P. 302) (L.D. 906) Bill "An Act Pertaining to Trustee Services for the Maine Turnpike Authority" Committee on **TRANSPORTATION** reporting **Ought to Pass**

(S.P. 486) (L.D. 1458) Bill "An Act To Amend the Debt Management Services Laws" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass**

(S.P. 496) (L.D. 1490) Bill "An Act To Update and Clarify the Law Regarding the Conversion of a Nonprofit Hospital and Medical Service Organization to a Domestic Stock Insurer" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass**

(S.P. 510) (L.D. 1522) Bill "An Act To Establish Fee Caps under the Maine Insurance Code" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass**

(S.P. 83) (L.D. 160) Bill "An Act To Amend the Laws Governing Home Instruction" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-79)**

(S.P. 108) (L.D. 326) Bill "An Act To Increase Access to Higher Education" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-71)**

(S.P. 117) (L.D. 335) Bill "An Act To Stimulate Economic Growth in Northern Penobscot County" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-65)**

(S.P. 119) (L.D. 337) Bill "An Act to Strengthen State Investment in the University of Maine System for Applied Research and Development" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-66)**

(S.P. 205) (L.D. 596) Bill "An Act To Improve the Effectiveness of the Maine Coastal and Inland Surface Oil Clean-up Fund" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-72)**

(S.P. 223) (L.D. 614) Bill "An Act To Provide Parity in Lending by State-chartered Financial Institutions" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-82)**

(S.P. 245) (L.D. 707) Bill "An Act To Require the Department of Environmental Protection To Develop and Implement an Eradication Plan for Invasive Aquatic Plants" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-75)**

(S.P. 311) (L.D. 970) Bill "An Act To Allow a Judge To Assess a Fee on a Defendant To Reimburse a Municipality for a Drug Test" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-76)**

(S.P. 350) (L.D. 1021) Resolve, To Renew the Veterans' Emergency Assistance Program Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-74)**

(S.P. 397) (L.D. 1192) Bill "An Act To Enhance Juvenile Rehabilitation" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-77)**

(S.P. 428) (L.D. 1326) Bill "An Act To Provide for the 2003 and 2004 Allocations of the State Ceiling on Private Activity Bonds" (EMERGENCY) Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-73)**

(S.P. 431) (L.D. 1329) Resolve, To Rename the Patty Hill Road in Medford the Clyde Hichborn Road Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-78)**

(S.P. 457) (L.D. 1387) Bill "An Act Concerning the Renewal of Commercial Harvester and Dealer Licenses" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-70)**

(S.P. 459) (L.D. 1389) Bill "An Act To Create a Marine Harvesting Demonstration License" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-69)**

(S.P. 485) (L.D. 1453) Bill "An Act To Allow for Immediate Unemployment Fact-finding Interviews for Able and Availability Issues" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-81)**

(H.P. 1117) (L.D. 1526) Resolve, Regarding Legislative Review of Chapter 15: Batterer Intervention Program Certification, a Major Substantive Rule of the Department of Corrections (EMERGENCY) Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass**

(H.P. 1120) (L.D. 1528) Bill "An Act To Permit Electronic Notification of Rulemaking for Interested Parties" (EMERGENCY) Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass**

(H.P. 254) (L.D. 311) Bill "An Act to Adopt a New Interstate Compact Regarding Adults Who are on Probation and Parole" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-210)**

(H.P. 794) (L.D. 1076) Resolve, Authorizing the Commissioner of Administrative and Financial Services To Convey Land to Baron and Janet Wormser Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-204)**

(H.P. 943) (L.D. 1271) Resolve, To Prohibit the Discharge of Certain Wastewater into Casco Bay Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-207)**

(H.P. 977) (L.D. 1323) Bill "An Act To Adopt an Interstate Compact for Juveniles on Probation and Parole" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-209)**

(H.P. 1023) (L.D. 1396) Resolve, Regarding Legislative Review of Portions of Chapter 2: Aquaculture Lease Regulations, a Major Substantive Rule of the Department of Marine Resources (EMERGENCY) Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-206)**

(H.P. 1050) (L.D. 1431) Bill "An Act To Update the Requirements of Counties' and Municipalities' Audit Reports" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-211)**

(H.P. 1060) (L.D. 1448) Bill "An Act To Clarify the Administration of State-municipal Revenue Sharing" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-205)**

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

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

CONSENT CALENDAR
Second Day

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

(S.P. 354) (L.D. 1023) Bill "An Act To Criminalize Noncompliance with an Interstate Compact for Adult Offender Supervision"

(S.P. 86) (L.D. 163) Bill "An Act To Provide Energy Opportunities to Northern Maine" (EMERGENCY) (C. "A" S-48)

(S.P. 130) (L.D. 354) Bill "An Act To Impose Restrictions on the Operation of ATVs and Snowmobiles" (C. "A" S-50)

(S.P. 148) (L.D. 430) Bill "An Act To Clarify Ownership Rights to Repossessed Vehicles" (C. "A" S-60)

(S.P. 242) (L.D. 678) Bill "An Act To Amend the Charter of the Lubec Water and Electric District" (EMERGENCY) (C. "A" S-46)

(S.P. 247) (L.D. 709) Bill "An Act To Require Public Hearings prior to State Agreements for Dam Removal" (EMERGENCY) (C. "A" S-64)

(S.P. 275) (L.D. 796) Bill "An Act Relating to Existing Life-care Communities Licensed by the Superintendent of Insurance" (C. "A" S-55)

(S.P. 298) (L.D. 902) Bill "An Act To Create Equality in Medicare Supplement Insurance Policies" (C. "A" S-56)

(S.P. 301) (L.D. 905) Bill "An Act To Protect Employees if Their Employer Fails To Pay Premiums for Employer-sponsored Health Insurance" (C. "A" S-57)

(S.P. 308) (L.D. 967) Bill "An Act To Amend the Charter of the Madawaska Water District" (C. "A" S-45)

(S.P. 312) (L.D. 971) Bill "An Act To Amend the Constitution of the Maine Episcopal Missionary Society" (C. "A" S-49)

(S.P. 445) (L.D. 1357) Bill "An Act To Encourage Economic Development in Piscataquis County" (EMERGENCY) (C. "A" S-59)

(H.P. 1095) (L.D. 1502) Bill "An Act To Clarify the Exclusion of Assumed Reinsurance from Policy Claims Priority"

(H.P. 204) (L.D. 249) Bill "An Act to Aid Law Enforcement in Complying with Maine's Freedom of Access Laws" (C. "A" H-186)

(H.P. 252) (L.D. 309) Bill "An Act To Require Church Officials To Report Suspected Abuse" (C. "A" H-197)

(H.P. 459) (L.D. 629) Bill "An Act To Increase the Collection of Child Support" (C. "A" H-194)

(H.P. 549) (L.D. 743) Bill "An Act To Protect Public Health and the Environment through the Collection and Recycling of Electronic Waste" (C. "A" H-185)

(H.P. 646) (L.D. 869) Bill "An Act Concerning the Financial Obligations of a Parent Involved in a Crime against a Child of That Parent" (C. "A" H-195)

(H.P. 749) (L.D. 1032) Bill "An Act To Reduce the Processing Time for Substitute Teacher Fingerprinting" (C. "A" H-200)

(H.P. 898) (L.D. 1224) Bill "An Act To Increase Requirements for Notification of Release to Victims of Stalkers" (C. "A" H-188)

(H.P. 988) (L.D. 1342) Bill "An Act To Establish a Right of Entry for Surveyors Performing Surveying Services" (C. "A" H-196)

(H.P. 989) (L.D. 1343) Resolve, To Create the Task Force To Study Parity and Portability of Retirement Benefits for State Law Enforcement Officers, Municipal Law Enforcement Officers and Firefighters (EMERGENCY) (C. "A" H-190)

(H.P. 1093) (L.D. 1496) Bill "An Act To Amend the Maine Juvenile Code" (C. "A" H-189)

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

BILLS IN THE SECOND READING
Senate as Amended

Bill "An Act To Amend the Standard Water District Enabling Act"

(S.P. 283) (L.D. 804)
(C. "A" S-51)

House as Amended

Bill "An Act To Clarify the Use of Municipal Rate of Growth Ordinances"

(H.P. 416) (L.D. 531)
(C. "A" H-159)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the Senate Paper was **PASSED TO BE ENGROSSED AS AMENDED** in concurrence and the House Paper was **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence. **ORDERED SENT FORTHWITH**.

ENACTORS
Emergency Measure

An Act to Address Funding of the North Jay Water District
(H.P. 14) (L.D. 7)
(C. "A" H-111)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 136 voted in favor of the same and 3 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

Emergency Measure

An Act To Update the Process for the Allocation of the State Ceiling on Tax-exempt Bonds

(S.P. 465) (L.D. 1409)
(C. "A" S-41)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 132 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

Emergency Measure

Resolve, To Create the Study Group To Examine an Emergency Alert Notification System for Deaf and Hard-of-hearing Individuals

(S.P. 134) (L.D. 397)
(C. "A" S-40)

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

On motion of Representative RICHARDSON of Brunswick, **TABLED** pending **FINAL PASSAGE** and later today assigned.

Acts

An Act to Enhance School Zone Safety

(H.P. 19) (L.D. 12)
(C. "A" H-119)

An Act to Amend the Liquor Law as it Pertains to Special Taste-testing Festival Licenses

(H.P. 62) (L.D. 54)
(C. "A" H-98)

An Act To Clarify the Intent of School Budget Referendum Language

(H.P. 77) (L.D. 69)
(C. "A" H-115)

An Act To Prohibit Absolute Discretion Clauses in Health Carrier Contracts

(H.P. 259) (L.D. 316)
(C. "A" H-118)

An Act To Establish a Transportation Assistance Pilot Program

(S.P. 116) (L.D. 334)
(C. "A" S-43)

An Act To Allow a Court To Order the Cancellation of a Life Insurance Policy as Part of a Protection from Abuse Proceeding

(H.P. 317) (L.D. 409)
(C. "A" H-112)

An Act To Improve the Process of Credentialing Health Care Providers

(H.P. 331) (L.D. 423)
(C. "A" H-116)

An Act To Establish New Standards for Credit Reporting

(H.P. 419) (L.D. 556)
(C. "A" H-117)

An Act Regarding Mortuary Trusts

(S.P. 240) (L.D. 676)
(C. "A" S-39)

An Act To Educate Consumers Regarding Voluntary Repossession

(S.P. 300) (L.D. 904)
(C. "A" S-42)

An Act To Create the Bayside Utilities District

(H.P. 886) (L.D. 1212)

An Act To Clarify the Duties Relating to County Taxes and Remove Obsolete References to the Secretary of State

(H.P. 1055) (L.D. 1443)

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

Resolves

Resolve, To Allow Certain State Employees To Be Voting Board Members of Project SHARE

(H.P. 603) (L.D. 826)
(C. "A" H-114)

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

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

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

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (10) Ought to Pass as Amended by Committee Amendment "A" (H-113) - Minority (3) Ought Not to Pass - Committee on INSURANCE AND FINANCIAL SERVICES on Bill "An Act to Extend the Authority of the Health Care System and Health Security Board" (EMERGENCY)

(H.P. 27) (L.D. 20)

TABLED - April 15, 2003 (Till Later Today) by Representative O'NEIL of Saco.

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

Subsequently, the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-113) was READ** by the Clerk and **ADOPTED.**

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

Representative O'NEIL of Saco **PRESENTED House Amendment "A" (H-143)**, which was **READ** by the Clerk.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. The bill that we had before it and this amendment seeks to consider extending the Health Securities Board by a period of time. I rise in opposition to this bill and to this amendment for several reasons. First of all, it should be stated to this body, this board was created to come up with model legislation to be considered by the committee that I serve on, the Insurance and Financial Services Committee, and then by the House and Senate to enact a single-payor health care system in the State of Maine. This committee was made up of several members. They had a reporting deadline of March 1, 2002 to complete their work. They were supposed to report that back to

the Second Regular Session of the 120th Legislature. They missed their deadline. They failed. They came in and asked for an extension. They were granted their extension and they have completed their work. The model legislation is done. It is completed.

This board began meeting in October of 2001. It has submitted its preliminary report, which includes a feasibility study of a single-payor health care plan conducted by Mathematica Policy Research Committee. They did this on January 15, 2003. What we have before us is not a bill dealing with single-payor health care systems, it is dealing with the actions of this committee and whether or not to continue extending them. The policy question that we have before us is, does it make any sense to have this committee continue to meet with the sanction by the state, to continue to hold public hearings when their work is done? They were charged with creating a bill. They did that. They were charged with providing a feasibility study. They did that. Their work is complete. They need to report back to the Legislature. If, in fact, those proponents that feel a single-payor health care system should be implemented are correct, then I would wonder why they don't want this solution to come forward and be considered by the 121st Legislature in this session.

This report should be reported out. There is no reason to extend this board. There is no reason to remove the emergency preamble from the bill. Mr. Speaker, when the vote is taken, I request the yeas and nays.

Representative GLYNN of South Portland **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-143)**.

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

The SPEAKER: A roll call has been ordered. The pending question before the House is Adoption of House Amendment "A" (H-143). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 44

YEA - Adams, Ash, Barstow, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Jackson, Jennings, Kane, Ketterer, Laverriere-Boucher, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McGowan, McKee, McLaughlin, Mills J, Mills S, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Sullivan, Suslovic, Thomas, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Andrews, Annis, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Duprey B, Fletcher, Glynn, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Landry, Ledwin, Maietta, McCormick, McKenney, McNeil, Millett, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tobin D, Tobin J, Trahan, Treadwell, Vaughan.

ABSENT - Dugay, Duprey G, Goodwin, Koffman, Lewin, Marraché, McGlocklin, Moore, Smith W, Tardy, Thompson.

Yes, 77; No, 63; Absent, 11; Excused, 0.

77 having voted in the affirmative and 63 voted in the negative, with 11 being absent, and accordingly **House Amendment "A" (H-143) was ADOPTED.**

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

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

The SPEAKER: The Representative may pose his question.

Representative GLYNN: Thank you Mr. Speaker, would the status of the committee at this point, having been dissolved, having gone by their reporting deadline and with this bill in this posture, what is going to be the status of this committee and their meetings? When will they resume their work? They are prohibited from working now. When can we expect to be voting on this legislation?

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

Representative O'NEIL: Mr. Speaker, Men and Women of the House. In answer to that question, I think both caucuses already discussed this, but with the amendment we just stripped off the emergency enactor so it becomes effective 90 days after the signature of the Executive.

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

Representative GLYNN: Mr. Speaker, Men and Women of the House. In light of the fact that this committee will not be allowed to meet until 90 days after we adjourn, the fact that they will only then have another couple months to meet and the fact that their work is already done, this seems to be meaningless and pointless legislation to me. The fact of the matter is we had a committee with a charge. That charge was to develop a piece of legislation. They have completed that charge. It is done. They have been charged with coming up with a study. That study has been done. Their work is complete. I see no reason to set yet another committee loose on the public, holding public hearings for no purpose. For those reasons, I will be opposing the pending motion. I would ask that when the vote be taken, it be taken by the yeas and nays.

Representative GLYNN of South Portland **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended.**

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

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

Representative O'NEIL: Mr. Speaker, Men and Women of the House. I am sorry to get anybody wound up about this. Indeed the Health Security Board did report back to us and they were a little late. It is quite cumbersome work and laborious at best. Unfortunately within the report they had a series of questions that are yet unanswered. It was the will of 10 members of our committee to get answers to those questions. Several of the people, I think, who are on that Majority Report, including myself are not necessarily in favor of enacting single-payor legislation, either now or later. I am not yet convinced that it should be the right thing to do or will be the right thing to do. As a matter of fact, I have other ideas. Given the context of our overall discussions in health care reform and the likelihood that it may not happen, comprehensively, immediately, the 10 member of the Majority Report decided that it would be a heck of good idea to continue the work of the Health Security Board at no cost to the state, by the way, to get answers to those questions by November 2004. A little bit of information can't hurt.

With reference to whether they are rendered meaningless by the 90-day shoulder period between now and the time they begin, about a month ago my lawn looked pretty terrible, but laid fallow for about 90 days, but it is coming back. The Health Security Board will be able to pick up where they left off when they are able.

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

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. The question is, where are they going to get \$6.8 billion? The answer, ladies and gentlemen, is from the taxpayers. That is why I oppose the continuance of this study committee. At this time we are in the middle of addressing the health care crisis in this state. We are in the middle of trying to get solutions to the problems, but we need to do it now and we need to do it this first half of the session. There answers are to come well after the time when we need those answers. I ask you please to vote against this report to extend the Authority of the Health Care System and the Health Security Board. Thank you.

The SPEAKER: The Chair recognizes the Representative from Limestone, Representative Young.

Representative **YOUNG**: Mr. Speaker, Men and Women of the House. I am on that committee and voted to extend their work. I did this because the report is not complete. There are statistics there that they still need. I am not for a single-payor at all, but I feel that these statistics, when their report is finished, everything is accumulated, other people may be able to use this. That is why I am voting for it.

The SPEAKER: The Chair recognizes the Representative from Cornville, Representative Mills.

Representative **MILLS**: Mr. Speaker, Men and Women of the House. I have followed with great interest the work of this commission and have read the reports that I have seen emanating from their consultants, followed the great amount of time that they have devoted to this issue. My reason for opposing, and I intend to oppose the extension of their work, is that it seems to me almost fruitless. The entire work of the commission, as I understand it, is based on the assumption that those of us in the State Legislature would have the power to amend the Medicaid laws as they apply to our state and to capture that source of revenue into our single-payor health care system. The work is also based on the assumption that we can compel the federal government to amend the Medicaid laws to capture that source of revenue and to allocate it in a way that we might choose within the single-payor system that would no longer be part of the standard Medicaid system. I also understand that the work of the commission is based on the assumption that we would have power to repeal or amend the federal law known as ARISA, a law that passed in 1974, which gave large corporations, large employers, the right to develop their own self-insured systems throughout the United States without being impacted by state regulation in any form, certainly not insurance regulation.

The idea that they would spend a year or two and a couple hundred thousand dollars of consultant's money analyzing the cost and the benefits of creating a single-payor system that could be nothing but purely hypothetical is highly disturbing to me. It may well be a worthy goal; perhaps the United States of America should embark on such a project. I don't know, but to pretend that the State of Maine has the legal authority and the power to embark on such an enterprise is a waste of time, a waste of money and it diverts us from paying attention to the real issues that we can have impact on in regard to health care and health insurance.

A former member of this body, a State Representative, Neil Rolde, has made an intensive study of this issue and found that he could not have impacted the issue the way he wanted to from this chamber and ran for the US Senate some years ago as a Democrat. He ran on the single platform issue that he would like to see a national system for single-payor and universal coverage. He made it a campaign issue and he took it to the forum, the

place where he could possibly have an impact on that issue, the US Senate. He lost. He recognized and he has recognized since in very fine writings and was appointed to be the head of a commission that studied this exact issue seven or eight years ago and produced a lengthy report on this very issue. In the first paragraph it said, we cannot, as a state, create a single-payor system. We do not have power over the federal preemptive laws dealing with ARISA, Medicare and Medicaid. The two biggest insurance companies in this state are Medicare and Medicaid. Anthem is right up there with them. We have power over Anthem and we have power over the uninsured and to some extent some power over Medicaid, but we don't have the capacity legally to carry out the hypothetical work of this commission. It is a fool's errand at this juncture. It is not producing work that is in any respect meaningful to the discussions that we will have later about health care reform in this state. For that reason, I urge that you vote no on the pending question.

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

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

The SPEAKER: The Representative may pose his question.

Representative **MCKENNEY**: Thank you Mr. Speaker, if I understood the Representative from Saco correctly, this would be no cost to the state. Would somebody please explain how this committee is to be funded?

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

Representative **O'NEIL**: Mr. Speaker, Men and Women of the House. In answer to the question, I remind the body that this is an extension of study committee. The funding mechanism is entirely up to the board. They were able to procure a couple hundred thousand dollars previously when we created the board. One of the caveats in this particular document is that they get no money from us at all. You will see a fiscal note on there for staffing, but the arrangement was that we strip that out of there to ensure that they will get nothing from us.

I would suggest to anybody who doesn't want to see the study that when they come asking for money, you tell them to go away. Whether the information is meaningless or whether the action that they are about to embark upon is a fool's errand is debatable. I think in many respects the federal exemptions are formidable and perhaps insurmountable. However, I would not call it meaningless nor would I call it a fool's errand because the information that they can get for us is helpful.

When I sponsored the original legislation to create a board that would go out and examine what a single-payor plan would look like, how it would happen, that was three or four years ago. I did so because I was tired of all the holy wars. You had people on one side say I am all for single-payor. You had people on the other side saying I am not. Instead of having an ideological argument, I said let's examine it actuarially. Within the committee I think we had an 11 to 2 or 12 to 1 report. I remember the Senator from Cumberland, Senator Abromson, said to me, "You know Chris, this is a good idea because this will give me all the ammo I need to argue against single-payor." I said, "There let's all get on board. Let's get out of the holy wars and let's get down to brass tacks." I think this will help us. It won't hurt anybody to have them do a little more studying and give us some more information that we can use.

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

Representative MCKENNEY: Mr. Speaker, Ladies and Gentlemen of the House. I know I am getting older and my hearing is starting to suffer, but I don't believe I heard an answer to my question. I will refer you to the fiscal note, that says that this committee will be funded by state funds if they can't find outside funding. There is then a question of staff funding. The state will pay for this study committee. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Passage to be Engrossed as Amended. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 45

YEA - Adams, Ash, Barstow, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Finch, Gagne-Friel, Gerzofsky, Grose, Hatch, Hotham, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Laverriere-Boucher, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McKee, McLaughlin, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Sullivan, Suslovic, Thomas, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Andrews, Annis, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Duprey B, Fletcher, Glynn, Greeley, Heidrich, Honey, Jacobsen, Jodrey, Joy, Kaelin, Landry, Ledwin, Maietta, McCormick, McKenney, McNeil, Millett, Mills S, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan.

ABSENT - Dugay, Faircloth, Fischer, Goodwin, Lewin, Marraché, McGlocklin, McGowan, Mills J, Moore, Smith W, Thompson.

Yes, 75; No, 64; Absent, 12; Excused, 0.

75 having voted in the affirmative and 64 voted in the negative, with 12 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-113) and House Amendment "A" (H-143)** and sent for concurrence.

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

MATTERS PENDING RULING

Resolve, To Declare Maine Aviation Education Week (EMERGENCY)

(S.P. 274) (L.D. 795)

TABLED - April 15, 2003 by Speaker COLWELL of Gardiner.

PENDING - **RULING OF THE CHAIR**.

The SPEAKER: The Chair has looked at this matter, which we tabled on the 15th. The Representative from Old Town at that time inquired if Committee Amendment "A" (S-31) was properly before the body? When determining germaneness of amendments the Chair utilizes a checklist. Among those questions that the Chair considers are, would the amendment change the purpose, scope or object of the original bill? Would

the amendment change a private or local bill into a general bill? Would the amendment require a change in the bill title? The original measure declared the week of April 14, 2003, as Maine Aviation Education Week. Committee Amendment "A" (S-31) proposes to declare the first week of April of each and every year as Maine Aviation Education Week, thereby broadening the effect of the bill from a one-year observation to an annual event. Committee Amendment "A" also changes a private bill into a general bill and requires that the title be amended from a Resolve to a bill. As a matter of custom usage and the precedent of this fine body, the Maine House has a long history of not allowing a Resolve to be amended into a general bill. Therefore, for these stated reasons, I know rule that Committee Amendment "A" (S-31) is not properly before the body.

The Chair **RULED** that **Committee Amendment "A" (S-31)** was not properly before the body.

Subsequently, **Committee Amendment "A" (S-31)** was **INDEFINITELY POSTPONED**.

On motion of Representative USHER of Westbrook, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** in **NON-CONCURRENCE** and sent for concurrence.

Representative LEMOINE of Old Orchard Beach assumed the Chair.

The House was called to order by the Speaker Pro Tem.

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

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (H-142)** - Minority (5) **Ought Not to Pass** - Committee on **JUDICIARY** on Bill "An Act To Increase the Compensation of Jurors" (H.P. 344) (L.D. 452)

TABLED - April 28, 2003 (Till Later Today) by Representative RICHARDSON of Brunswick.

PENDING - **ACCEPTANCE** of the Majority **OUGHT TO PASS AS AMENDED** Report. (Roll Call Ordered)

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

Representative BRUNO: Mr. Speaker, Men and Women of the House. I stood up the other day and posed a real question to you on whether or not you think it is right for this Legislature to take \$2.9 million and move it to the next biennium and strap the next Legislature with \$2.9 million. This bill doesn't even become effective until July 2005. It is not about arguing whether or not jurors need an increase in pay and in mileage. We all agree that that is probably what needs to get done.

In the budget we previously passed, we have already saddled the next Legislature with a structural deficit of between \$300 million and \$1 billion. You are now going take \$2.9 million and add it on top of that. I just don't think it is fair. I think we ought to take the responsibility if we want to and say that we will fund this if we think it is a good idea. Why are we pushing it off? That makes no sense to me at all. Let's take the responsibility upon ourselves to say, yes, we agree that we need to fund this. Let's fund it this legislative session. Let's make it affective July 1st of

this year if it is such a good idea. Mr. Speaker, I understand there is a roll call already requested.

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

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

The SPEAKER PRO TEM: The Representative may pose his question.

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. To anyone who may care to answer, I believe the concerns that I have heard through the course of this debate have revolved around pushing off an expense to a future Legislature. I guess my question is, if you were to fund this in this biennium, is that not a cost that a future Legislature would have to bear anyway?

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

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. In response to the question from the good Representative from Old Town, yes, we would have to fund it, but we would also have to fund it in this session and we would also have to find the money to do it this session. Let's be responsible and say, we will fund it this session and we will fund it moving forward. Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Norbert.

Representative **NORBERT**: Mr. Speaker, Ladies and Gentlemen of the House. The Majority Report felt that it was doing the responsible thing at a time when we are facing a very difficult budget session. We did not want to simply add this to the table. We wanted to give the Judicial Branch time to prepare for this change, which is badly needed. We wanted to give the Administration time and us time to prepare for the change. Most importantly, we wanted to send this out to as a priority. Like all priorities in this body, they will compete and when the time comes, if the resources aren't dedicated, then this won't fly. Just as the good Representative from Old Town pointed out in his question, this entire process is about priorities and finding money. At the time that this is going into effect, if it is not a priority then we simply do not have to fund it. I think it should be a priority. I think it is long overdue. I know this body has heard from constituents and you all may have had personal experiences with the jury system. Paying folks \$10 a day and paying them 15 cents for mileage does not cut it anymore in this day and age. We ask people to do something. It is a public service, but it is really one that you are basically compelled to do without a very good excuse. Our committee feels strongly that that it is time that we send this priority out to increase juror reimbursement.

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

Representative **SHERMAN**: Mr. Speaker, Ladies and Gentlemen of the House. I spoke on this the other day. I think it has been eloquently covered. This issue of sending out notices of what we want to prioritize in the next 122nd. There are any number of things that we can prioritize if we want to go down that route. The Attorney General's Office has six assistant district attorneys. Perhaps we can amend this bill to add in six district attorneys in the 122nd. There are child care issues. Perhaps we can put in a bill to add child care issues. I just think it is poor public policy to pass a bill onto the 122nd Legislature that says, here are our priorities. I think we have to get a little bit real in this Legislature. We know that there are unfunded liabilities coming

down. To me this is simply a game that we are playing, with all due respect to the people supporting this. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Farmington, Representative Mills.

Representative **MILLS**: Mr. Speaker, Men and Women of the House. The previous speakers were absolutely correct, each and every one of them. This is a priority. It should be set as a priority and we should fund it. Jurors in this state don't have a lobbyist out in the hallway as many other interests do. They don't have a lobbyist in the Appropriations Committee to say that this should be a priority. We are the ones who have to set the priority. We are the ones that have to stand up and say it has been 22 years since jurors got an increase in their mileage rate. Fifteen cents a mile can't cover the cost of transportation when the price of fuel is \$1.75 or \$1.65 depending on what week you gauge. Ten dollars a day can't cover the cost of child care for one child, never mind three or four children when somebody is called and compelled to be in a courtroom all day and perhaps as much as two weeks at a time. Ten dollars a day can't cover parking fees. It is high time that we set this as a priority. The ten-dollar a day fee, by the way, was set 12 years ago. It was reset. It had been \$20 a day. During the last budget crisis there was nobody here to lobby for jurors so jurors fees got cut in half 12 years ago and they have remained at \$10 a day for 12 years with no impetus to change that. We want to provide that impetus to change that. We want to provide that impetus. In the next biennium we are trying to be responsible. We did try to compromise. I think everybody in the committee, including the previous speaker, agrees that juror's fees and mileage should be increased. The original bill would have gone a great deal further, increased it to \$55 a day and 32 cents a mile within a very short time over a couple of years. We are trying to reduce the total amount. I think the fiscal note on this bill is \$1.4 million for the biennium beginning July 1, 2005. We want this to be a priority for the next Legislature and for the next biennium. I think the only way to do that is to pass this bill as amended. Thank you.

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

ROLL CALL NO. 46

YEA - Adams, Barstow, Bennett, Blanchette, Bliss, Bunker, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey B, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Goodwin, Grose, Hatch, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Lemoine, Lerman, Lessard, Lundeen, Makas, Marley, McKee, McLaughlin, Mills J, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Sukeforth, Suslovic, Thomas, Trahan, Twomey, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Ash, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brannigan, Breault, Brown R, Browne W, Bruno, Bryant-Deschenes, Bull, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Duprey G, Fletcher, Glynn, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Ledwin, Maietta, Mailhot, McCormick, McGowan, McKenney, McNeil, Millett, Mills S, Moody, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sullivan, Sykes, Tardy, Tobin D, Tobin J, Treadwell, Vaughan, Young.

ABSENT - Lewin, Marraché, McGlocklin, Moore, Smith W, Thompson, Usher.

Yes, 73; No, 71; Absent, 7; Excused, 0.

73 having voted in the affirmative and 71 voted in the negative, with 7 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-142)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, May 1, 2003.

HOUSE REPORT - Ought to Pass as Amended by Committee Amendment "A" (H-187) - Committee on CRIMINAL JUSTICE AND PUBLIC SAFETY on Resolve, Directing the Commissioner of Public Safety To Study the Emergency Medical Services System

(H.P. 783) (L.D. 1065)

TABLED - April 29, 2003 (Till Later Today) by Representative BUNKER of Kossuth Township.

PENDING - ACCEPTANCE OF COMMITTEE REPORT.

Subsequently, the Committee Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-187)** was **READ** by the Clerk.

Representative BULL of Freeport **PRESENTED House Amendment "A" (H-208) to Committee Amendment "A" (H-187)**, which was **READ** by the Clerk.

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

Representative **BULL**: This is a technical amendment to correct the fiscal note. I have already spoken to members of the committee, the Chair, Representative Bunker and the ranking member, Representative Snowe-Mello. This is just a technical amendment to fix the fiscal note. Thank you Mr. Speaker.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Bucksport, Representative Rosen.

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

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

Representative **ROSEN**: Mr. Speaker, Men and Women of the House. The technical change in the amendment apparently moves the funding source, the \$50,000 funding source, from general funding to other special revenue. My inquiry what is the source of that other special revenue funding?

The **SPEAKER PRO TEM**: The Representative from Bucksport, Representative Rosen has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Freeport, Representative Bull.

Representative **BULL**: Mr. Speaker, Men and Women of the House. In response to the good Representative from Bucksport, Representative Rosen, this study is going to be funded with grants, outside sources. We have already collected some monies to do this and we are actively engaged in collecting monies. We will have plenty of money through outside grants and other outside grants to pay for this funding.

Subsequently, **House Amendment "A" (H-208) to Committee Amendment "A" (H-187)** was **ADOPTED**.

Committee Amendment "A" (H-187) as Amended by House Amendment "A" (H-208) thereto was **ADOPTED**.

The Bill was assigned for **SECOND READING** Thursday, May 1, 2003.

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

ORDERS

On motion of Representative USHER of Westbrook, the following Joint Order: (H.P. 1159)

ORDERED, the Senate concurring, that the Joint Standing Committee on Transportation report out a bill to declare Maine Aviation and Aerospace Education Week to the House.

READ and PASSED.

Sent for concurrence. **ORDERED SENT FORTHWITH.**

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **MARINE RESOURCES** reporting **Ought Not to Pass** on Bill "An Act to Limit Lobster Management Zones to State Coastal Waters"

(H.P. 166) (L.D. 207)

Signed:

Senators:

DAMON of Hancock

PENDLETON of Cumberland

BENNETT of Oxford

Representatives:

BULL of Freeport

SULLIVAN of Biddeford

ASH of Belfast

MUSE of Fryeburg

McNEIL of Rockland

KAELIN of Winterport

BIERMAN of Sorrento

BOWEN of Rockport

Minority Report of the same Committee reporting **Ought to Pass** on same Bill.

Signed:

Representatives:

DUGAY of Cherryfield

PERCY of Phippsburg

READ.

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

Divided Report

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on Bill "An Act to Require that Agency Rules be Reviewed by the Legislature"

(H.P. 207) (L.D. 252)

Signed:

Senators:

ROTUNDO of Androscoggin

LaFOUNTAIN of York

Representatives:

McLAUGHLIN of Cape Elizabeth

STONE of Berwick

KETTERER of Madison

BARSTOW of Gorham

BOWEN of Rockport

SUSLOVIC of Portland

SUKEFORTH of Union

BUNKER of Kossuth Township

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-216)** on same Bill.

Signed:

Senator:

GILMAN of Cumberland

Representatives:

PEAVEY-HASKELL of Greenbush

CROSTHWAITE of Ellsworth

READ.

Representative McLAUGHLIN of Cape Elizabeth moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **CLOUGH**: Mr. Speaker, Ladies and Gentlemen of the House. This bill requires that all new rules authorized and adopted after January 1, 2004 be major substantive rules. Any rules authorized prior to that date will retain their status established in statute as either routine technical or major substantive rules. All too often we pass incomplete legislation out of committee and depend on a department or agency to fill in the details through the process of routine technical rulemaking with no idea of how these rules will affect the original intent of the law when enacted. In effect, we are permitting the department or agency to write the law.

My purpose in submitting this legislation is to ensure that we, as elected members of the Senate and House of Representatives, fulfill our duties and to oversee the actions of state agencies over which we have jurisdiction. We are not elected as advocates or cheerleaders for state agencies, but as watchdogs over state government. When a state agency is asked, or permitted to put the final touch on a piece of legislation by developing routine technical rules, we have abdicated our responsibility to the people who cast their votes for us in the election. I do believe, however, that there are times when it is appropriate and even necessary to involve a state agency in the final development of rules for proper implementation of a change in law and that this should be done through the process that exists for the development and approval of major substantive rules. This process requires that the agency draft the rules for approval by the committee of jurisdiction and finally by a vote of the full Legislature.

Almost anyone that I talk with can cite examples of routine technical rules having been implemented that were at odds with the intent of the governing legislation. One example that I can think of is legislation to prevent burning of PVC pipe. When the rule was written it made it illegal to burn anything, even newspapers and cardboard in an incinerator barrel. Another good example of the power vested in an agency through the practice of permitting regulations to be defined through the routine technical rulemaking procedure would be the 24 pages of dig safe rules written by the Public Utilities Commission in Chapter 895, Underground Facility Damage Prevention Requirements. These rules describe the responsibility of excavators, underground facility operators, the damage prevention system, Dig Safe Systems Inc. and the Public Utilities Commission in implementing Maine's underground facility damage prevention statute.

I am just going to read from a pamphlet that was put out by the commission dealing with Dig Safe in Maine. In the center part it says as a description of what is required. "You must call for any project, large or small, where you will be disturbing the earth in any way using mechanical methods. In this brochure we simply call these activities excavating. They really include all kinds of ground penetrating activities such as installing mailboxes or clotheslines, planting trees or shrubs, rebuilding walls or driveways, major landscaping projects or building additions, installing sewer lines, septic systems or drains, road construction

or reconstruction." This is not quoted, but if a farmer wants to put a fence on his property using a power posthole digger, he has to call Dig Safe. I am not singling out this particular agency for criticism, but to demonstrate how far reaching the rulemaking process can be.

In this example how reasonable is it to have to call for approval to erect a clothesline in your backyard or for a farmer to need approval to put up a fence in his pasture on a piece of property in which he has lived and worked the soil all of his life? As legislators we should have the opportunity to review these rules, not automatically let them become law as written. We should be anxious to accept the responsibility for all aspects of the legislation that we pass. It may be necessary from time to time to request agency assistance in determining just what should be covered in the rules and the level of detail necessary for a smooth implementation. However, I submit that that could best be accomplished through major substantive rulemaking with the opportunity for full legislative oversight review and approval.

I would ask that you would defeat the pending motion and go on to pass this bill.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative McLaughlin.

Representative **MCLAUGHLIN**: Mr. Speaker, Men and Women of the House. The good Representative of Scarborough is making fine comments similar or probably identical to the ones that were made before our committee. Committee discussions centered on the fact that we expect our Joint Standing Committees to do their work up front, and require the detail that the committee wants to see at that point before it releases its recommendation on a bill before it. We encourage all joint standing committees not to advocate their responsibility to the departments, but to do their work as they are so charged. If any legislator has a concern with a particular committee and the agencies over which it has oversight, we would encourage you to have your discussion with the chairs of that committee.

Men and women of the House, I urge you to follow my light and accept and support the Majority Ought Not to Pass Report. Thank you.

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

Representative **TRAHAN**: Mr. Speaker, Men and Women of the House. I rise in support of some of the comments from the Representative from Scarborough and perhaps some advice for the committee chair on this issue. Back about two years ago the Department of Environmental Protection completely overhauled a section of our rules. The Legislature wasn't aware of that complete overhaul of that section of rules. What that did was it created an incredible crisis within the forest products industry. There is a loophole in our Maine Administrative Procedures Act. It allows the Executive Branch departments to completely overhaul a section of rules without notifying the Legislature. The reason why I know that is because I asked the Attorney General's Office for a decision in that case. It was ruled that under our current statutes and under the Maine Administrative Procedures Act that would be allowed. That shut down an industry. It would have created havoc and chaos within this state. It should have been reviewed by the Legislature.

So, whether we support this bill today or not it is important that the Legislature keeps a good handle on the Maine

Administrative Procedures Act. It can be used in ways that the Legislature would see inappropriate. To the committee chair, there is some merit behind getting a better handle on our Maine Administrative Procedures Act. Thank you.

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

Representative **CLOUGH**: Mr. Speaker, Ladies and Gentlemen of the House. I have another example that I would like to cite. I am going to read from a letter that I received from the Scarborough Town Manager. I won't read it all, but I will read some of it. "I would like to provide at least one example that we are currently facing and even though it is relatively minor in the scheme of state and local government, it does in my opinion demonstrate the insidious nature of agency rules. When the annual boiler inspection was recently conducted by the inspector and gauged by the Maine Municipal Insurance Trust, we were informed that we must now comply with Section 02.174.10.4.3 of the Border Boilers and Pressure Vessels laws and rules published in January 2001. The rules state 'A licensed boiler operator or engineer shall be available, although not required on the premises who shall observe the monitoring equipment or devices at least once every eight hours for a low-pressure heating boiler located in a school or municipal owned building when in automatic operation and the school or building is open for public use.' The state wants a licensed operator to visit all municipal heating boilers once every eight hours while that building is in use. An example of the extreme application of this rule is that if a ball field concession stands open a Thursday evening for a hockey match, a licensed operator would have to observe the boiler sometime during the period the stand is open. I can understand the need to have a regulation and the safety concerns involved in the operation of a boiler, but do all boilers need to be checked every day. The impact of this legislation is to place an additional burden on the municipality to either schedule an existing employee away from the normal duties to now visit every building with a boiler at least once a day or maybe in the evening or hire an additional employee or service to make boiler inspections. This assumes that every committee that has boilers in its municipal and school buildings also has a certified boiler operator on staff."

I won't read the rest of the letter, but it goes on to make the case pretty well that the things that are happening with rulemaking are not what we intend when we passed this legislation out. Mr. Speaker, I would request a roll call when the vote is taken.

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

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

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

ROLL CALL NO. 47

YEA - Adams, Barstow, Blanchette, Bliss, Bowen, Brannigan, Breault, Browne W, Bull, Bunker, Canavan, Cowger, Craven, Cummings, Daigle, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Fischer, Gagne-Friel, Gerzofsky, Goodwin, Grose, Hatch, Hutton, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McGowan, McKee, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson E,

Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Sukeforth, Sullivan, Suslovic, Thomas, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Ash, Austin, Berry, Bierman, Bowles, Brown R, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Davis, Duprey B, Finch, Fletcher, Glynn, Greeley, Heidrich, Honey, Hotham, Jackson, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Maietta, McCormick, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Young.

ABSENT - Bennett, Berube, Clark, Dugay, Ledwin, Lewin, Marraché, McGlocklin, Moore, Smith W, Thompson.

Yes, 82; No, 58; Absent, 11; Excused, 0.

82 having voted in the affirmative and 58 voted in the negative, with 11 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

Divided Report

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on Bill "An Act To Prohibit Expenditures To Implement Treaties Not Ratified by the United States Senate"

(H.P. 260) (L.D. 317)

Signed:

Senators:

LaFOUNTAIN of York

ROTUNDO of Androscoggin

Representatives:

McLAUGHLIN of Cape Elizabeth

STONE of Berwick

KETTERER of Madison

BARSTOW of Gorham

BOWEN of Rockport

SUSLOVIC of Portland

SUKEFORTH of Union

BUNKER of Kossuth Township

Minority Report of the same Committee reporting **Ought to Pass** on same Bill.

Signed:

Senator:

GILMAN of Cumberland

Representatives:

PEAVEY-HASKELL of Greenbush

CROSTHWAITE of Ellsworth

READ.

Representative McLAUGHLIN of Cape Elizabeth moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The SPEAKER: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative **JOY**: Mr. Speaker, Ladies and Gentlemen of the House. This bill was put in as "An Act to Prohibit Expenditures, to Implement Treaties not Ratified by the United States Senate." When our country was set up many years ago, our founding fathers developed a proposal for ratifying treaties that this country would participate in. Those treaties had to be ratified by the Senate in Washington. The issues before us today are a couple treaties that were not ratified by the Senate and are being sent out and trying to implement through the back doors of states all over the country. This bill that I put in has been adopted as a model for all legislators throughout the country to try to prevent this back-door implementation of these treaties.

A couple treaties in particular, is the so-called Biodiversity Treaty that was not ratified by the Senate. In fact, it was probably one of the greatest acts that our esteemed Senator Mitchell performed as leader of the Senate. The people who were involved in this have been trying to tell them it was a bad treaty finally managed to get the information to him just before it was going to be on the docket. He removed that from the docket and it hasn't come up since. Different aspects of that are attempting to be implemented throughout the country in state legislatures. The biggest part of the Biodiversity Treaty is the Agenda 21, which would turn us back to the way the country was when Columbus came to America. I don't think there is any room in this country for that much of a roll back.

We have already spent millions and millions of dollars in this, because part of it is to have the land controlled by the government. You are all aware of those programs that are in place in Maine. I don't need to elaborate on those.

The treaty that got the most discussion when this bill was presented was the so-called Kyoto Protocol. Right now we have a bill in front of the Natural Resources Committee, which seeks to speed up the implementation of that particular treaty. In other words, they are insisting that we spend state dollars to implement a treaty that has never been ratified by our own US Senate.

Are there costs related to those issues? Yes there are. For the State of Maine to implement a climate change action plan, it is going to cost us \$402 million a year to implement that plan. We are looking at a basic minimum of \$500 per person increase in energy costs if the Kyoto proposal is implemented. Why should we as Mainers be spending any money on implementing a treaty that was not considered worthy of ratification by our own Senate?

Nineteen thousand scientists positioned Congress not to implement that treaty, because it is a fraud. It is all based upon speculation. There is no sound science behind it. It is going to cost every household in Maine over \$6,000 a year if Maine goes ahead and implements this particular program.

I ask you to defeat the pending motion and let us move ahead and pass this bill. Mr. Speaker, when the vote is taken, it be taken by the yeas and nays. Thank you.

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

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

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

ROLL CALL NO. 48

YEA - Adams, Ash, Barstow, Bennett, Blanchette, Bliss, Bowen, Brannigan, Breault, Bruno, Bull, Bunker, Canavan, Clark, Cowger, Craven, Cummings, Curley, Daigle, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Jennings, Kane, Ketterer, Koffman, Laverriere-Boucher, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McGowan, McKee, McLaughlin, Mills J, Mills S, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Sukeforth, Sullivan, Suslovic, Tardy, Thomas, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Andrews, Annis, Austin, Berry, Bierman, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Davis, Duprey B, Fletcher, Glynn, Greeley, Heidrich,

Honey, Hotham, Jackson, Jacobsen, Jodrey, Joy, Kaelin, Landry, Ledwin, Maietta, McCormick, McKenney, McNeil, Millett, Moody, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sykes, Tobin D, Tobin J, Trahan, Treadwell, Vaughan.

ABSENT - Berube, Goodwin, Lewin, Marraché, McGlocklin, Moore, Perry J, Smith W, Thompson.

Yes, 85; No, 57; Absent, 9; Excused, 0.

85 having voted in the affirmative and 57 voted in the negative, with 9 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

Divided Report

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought Not to Pass** on Bill "An Act To Amend the Laws Governing Penalties for Writing Bad Checks"

(H.P. 321) (L.D. 413)

Signed:

Senators:

STRIMLING of Cumberland

HATCH of Somerset

CARPENTER of York

Representatives:

BUNKER of Kossuth Township

MAIETTA of South Portland

SYKES of Harrison

GROSE of Woolwich

GERZOFKY of Brunswick

CHURCHILL of Washburn

LESSARD of Topsham

Minority Report of the same Committee reporting **Ought to Pass** on same Bill.

Signed:

Representatives:

GREELEY of Levant

BLANCHETTE of Bangor

SNOWE-MELLO of Poland

READ.

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

The **SPEAKER**: The Chair recognizes the Representative from Bangor, Representative Blanchette.

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. Having been on the Minority Report on this bill, I just feel it is important that I bring out a few points so before the body votes on this bill they will clearly understand what they are doing and how this is going to affect the small business people that are back in their community. Bad check writing is a big business anywhere in the country. It is very prevalent in Maine. Having worked for Hannaford Brothers for 24 years and collected a good many of their checks out of the Bangor store, I can tell you first hand that there are many professional people out there that know the law, know who will prosecute, who will not prosecute and take full advantage of it. I happened to work for a very, very profitable company. I am not worried about their survival for eating bad checks. They will survive. It is the mom-and-pop store that gets stuck with \$50, \$75 or \$22.50. That is a lot of their profit margin in a week's time when they are having to compete against the big shops out there that have a tendency to attract more business than mom and pop does. The Minority Report is that this bill Ought to Pass because we need to send a message to the people out there that are taking advantage of the

lenient bad check laws in the state and the District Attorneys and the police stations around this state that will not pursue, will not arrest or apprehend or the DA's Office prosecute for less than \$1,000, because it is not cost efficient for their departments to do so.

With the budget cuts we have lost assistant district attorneys all over the state, which means priorities are going to have to be made for prosecuting laws. This is not high on anybody's radar screen, but I will tell you what, to mom and pop that are trying to live on this little store that they are operating, this is a big deal. I would urge you to think of your people back in your district. Think of how you can help them fight the crooks out there that are there in big numbers and vote against the motion on the floor, the Majority Ought Not to Pass Report and then move on to pass this bill and help your people. Thank you Mr. Speaker.

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

Representative **SNOWE-MELLO**: Mr. Speaker, Men and Women of the House. I stand here also on the Minority Report. For years I have been trying to help Maine merchants out in trying to tackle the problem of writing a bad check. For years it was never taken serious enough. We all make a mistake writing a bad check. I have never done it. We have people out there who are chronic bad check writers. They go from merchant to merchant writing bad checks. That is one of the reasons why we really want to get tougher. I would like to read to you a part of a letter from Reny's, who is a Maine merchant in Maine. In this letter the person writes, "We need to truly get tougher on people who write bad checks. This is not just a little old lady who forgot to balance her checkbook or a good customer just made a mistake. Plenty of time is given to these people to pay their checks. This new bill, 'An Act to Amend the Laws Governing Penalties for Writing Bad Checks' would go after the people who know what they are doing and what they have been able to get away with in the past. There are a lot of these people out there. Believe me, there are a lot. The letter says, "I cannot stress to you enough how important this bad check bill is."

Mr. Speaker, can I ask that the House come to order please?

The SPEAKER: The House will be in order, is in order. Out of respect for members, it is important that we honor each other's ability to debate. I certainly appreciate the question of the Representative. The Representative may continue.

Representative **SNOWE-MELLO**: Thank you Mr. Speaker. This is costing the industry a huge amount of money. It is costing you, each and every one of us, more for the merchandise you purchase. You have to understand that every bad check that is written is passed along to you and me and the higher costs. I hope that you will take the time and vote against the Majority Ought Not to Pass Report and go on to passing LD 413. Thank you.

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

Representative **KAELIN**: Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to this Ought Not to Pass motion. I want to relate a story to you about something that happened to my wife and I, actually just this year. An acquaintance of my son who is 18 years old came into our home one day when we weren't around and stole two checks of ours and proceeded to go to Irving and wrote one of them for \$50 and forged my name on it. In fact, I have no ability, even though we filed charges with the County Sheriff, we had affidavits written by my son, that boy is off scott free. He stole our checks, forged my name and there is absolutely nothing we can do about it. The original bill would have established penalties for people that write bad checks for under \$500. I think that is appropriate state policy

and I urge you to defeat this motion so that we can vote on the original bill. Thank you very much.

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

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. The bad check situation has been a perennial problem, as many returning members of this body know. As a former deputy out there on the road and having the requirement of having to collect these, I know how difficult they are. As a former business owner of a mom-and-pop grocery store and my family has been in the business of the three different stores over the years, I am very aware of the small checks that a merchant would take. Sometimes we get stuck and sometimes we don't. What is sad about that is that the people that pass a bad check unintentionally is in the system and there is a process of having to try to chase those people around. It is a very difficult and cumbersome process.

Reny's was brought up here a few minutes ago. I had a private talk with the lady that does all the collections for Reny's. It is a full-time job for that lady. We related very well to one another about the issue surrounding bad checks. Reny's refuses to take any of the proactive steps. They are an older modeled department store that is like the mom-and-pops that just don't want to move into the year 2000 and take any of the check verification systems that are readily available out there or the free services where if you as a business person get a bounced check, you automatically provide it to this company, Augusta has one here that handles bad checks nationally. Once you get a bounced check, you just forward that check to this company. There is a little sign above your register if you get a bad check there is a \$20 fee or whatever. They actually sit on the end of a computer and watch and when there's enough money in that person's bank account, they push a button and they take that money plus the \$20. They put the \$20 in their pocket and they give the full amount of money back to the merchant. That is just one of the examples of the many systems that are available in Maine and are working very well to enhance the ability of these people.

When you get to the true criminals, the ones that the DAs are going to be taking to court and to find someone guilty of a crime beyond a reasonable doubt, 99 percent, you have to meet a lot of different elements of the crime of theft. That is what bad check writing is, it is theft. It is just like you put that watch in your back pocket and walked out of the store or you bought the watch with this bad check and walked out of the store. Both things are thefts.

The existing law allows for up to six months in jail and a substantial fine and the ability for restitution if you can, indeed, prove in court that the theft occurred and whole bunch of other things. There is a process. There is what they call a five-day notice that we as deputies or the police departments that have developed in all the counties. They give it to the merchants. The merchants normally have these blanks on hand, who took the check, when it was cashed, how much it was. They document sending a letter of recovery to the person who passed the bad check on two or three occasions or whatever the requirement is. Once this person, unless it has been passed on a closed account, after three attempts of collecting this money from somebody who has refused to come in to pay, then the DAs will come in and take those cases and will go into court. I am going to tell you that in many different counties DAs handle this differently. Some DAs feel on a scale of one to 10 that this is so low that they are not going to take this work. In all due respect to the bill, the bill only increases the crime to something where you can do up to a year and a higher fine. If they are not taking the

cases now, ladies and gentlemen, I respectfully submit that just by increasing the class of crime, that same DA that you are having trouble with them, aren't going to take the crime tomorrow. You know these people are not going to jail for six months or a year for passing a couple of bad checks. There are other options. The other option is civil court by going into small claims court and collecting it. That is what that lady from Reny's full-time job is on certain court days is bringing these people into small claims court and getting judgments.

It is a very difficult subject. It is an emotional subject for me as a business person and anybody else that I know that it is, but the existing law is more than adequate if all of the elements of the crime can be proven and if you can get your DA to take them in. We cannot legislate DAs making decisions to prosecute. We can give them the tools that when you prosecute them that they get an appropriate sentence. Those tools are currently in law.

The SPEAKER: The Chair recognizes the Representative from Greenbush, Representative Peavey-Haskell.

Representative **PEAVEY-HASKELL**: Mr. Speaker, Ladies and Gentlemen of the House. My constituents who asked me to put this bill in for them recognize what the good Representative Bunker just said. There are ways of pursuing bad checks. They have also found that these ways, most of the time, do not work. They asked me seriously, if there is anything you can do to help us. These bad checks are killing the small business people. One man told me it takes almost 20 percent of this income some weeks for bad checks. These are not mistakes that people make. These are people who deliberately pass bad checks. They know the ropes. They know what they can write. They know how much. They know how to get away with it. I have been asked to present this as an effort to help these small business people. If we vote to try to help them, then at least we can try. If we sit here and say that let it go on the way it was, and it hasn't worked, but it might sometime, we are not going to help them one bit. Let's at least give them the benefit of the doubt. They are trying very hard to make a living. Let's not make it harder for them. Thank you.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Mills.

Representative **MILLS**: Mr. Speaker, Men and Women of the House. I respect the work of the committee on this bill and I respect that this bill has been properly processed and vetted through the committee process and I support the work of the committee and I would urge the members to join the majority of the committee in voting Ought Not to Pass. I would point out that, of course, the bill is well intended and we all want to help small business. There are unintended consequences to this bill though. If it were passed, it would impose additional financial costs to businesses and to the system. A Class D crime carries a greater possibility of a court appointed council being appointed on the case. It carries a much higher probability of a jury trial being had on a case. The consequences to the business person having to appear in court would be much greater, much more frequent. I am not trying to diminish the importance of this crime or the importance of going after bad check writers. Perhaps as an attorney I should be supportive of the bill because it will get people appointed to more cases, but I am not. I think that this can be handled as a Class E crime and continue to be handled as a Class E crime. The prospects of getting restitution for the business and for the victim are the same if it is a Class E crime as they are if it is a Class D crime. Restitution can be gotten now.

If a person is a repeat offender the cases can be aggregated and the person can be charged with theft as it has been pointed out by the previous speaker and effectively prosecuted as a

higher class crime under current law. If the problem is disparity among the District Attorneys' Offices, I suggest that that can be addressed in a less formal manner than changing the law to increase the level of crime. I would urge the members of the body to support the committee and vote Ought Not to Pass.

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

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

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

ROLL CALL NO. 49

YEA - Adams, Barstow, Bliss, Brannigan, Bull, Bunker, Canavan, Churchill J, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Kane, Ketterer, Koffman, Laverriere-Boucher, Lemoine, Lerman, Lessard, Lundeen, Maietta, Mailhot, Marley, McKee, McLaughlin, Mills J, Norbert, Norton, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Simpson, Smith N, Suslovic, Sykes, Thomas, Twomey, Usher, Walcott, Wheeler, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Ash, Austin, Bennett, Berry, Bierman, Blanchette, Bowen, Bowles, Breault, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Clark, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Dugay, Duprey B, Fletcher, Glynn, Goodwin, Greeley, Heidrich, Honey, Hotham, Jackson, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Landry, Ledwin, Makas, McCormick, McGowan, McKenney, McNeil, Millett, Mills S, Moody, Murphy, Muse, Nutting, O'Brien J, O'Brien L, Peavey-Haskell, Rector, Richardson E, Richardson J, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sullivan, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Watson, Woodbury, Young.

ABSENT - Berube, Lewin, Marraché, McGlocklin, Moore, Perry J, Smith W, Thompson.

Yes, 64; No, 79; Absent, 8; Excused, 0.

64 having voted in the affirmative and 79 voted in the negative, with 8 being absent, and accordingly the Majority **Ought Not to Pass** Report was **NOT ACCEPTED**.

On motion of Representative RICHARDSON of Brunswick, the House **RECONSIDERED** its action whereby the Majority **Ought Not to Pass** Report was **NOT ACCEPTED**.

On further motion of the same Representative, **TABLED** pending the motion to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought Not to Pass** on Bill "An Act Requiring Lifetime Probation for Dangerous Sexual Offenders"

(H.P. 370) (L.D. 478)

Signed:

Senators:

STRIMLING of Cumberland

HATCH of Somerset

CARPENTER of York

Representatives:

BUNKER of Kossuth Township
 MAIETTA of South Portland
 SYKES of Harrison
 GROSE of Woolwich
 BLANCHETTE of Bangor
 GERZOFKY of Brunswick
 CHURCHILL of Washburn
 LESSARD of Topsham

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-215)** on same Bill.

Signed:

Representatives:

GREELEY of Levant
 SNOWE-MELLO of Poland

READ.

On motion of Representative BUNKER of Kossuth Township, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

Divided Report

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on Bill "An Act To Provide Equity in Residential Requirements for Public Employees"

(H.P. 589) (L.D. 812)

Signed:

Senators:

ROTUNDO of Androscoggin
 LaFOUNTAIN of York
 GILMAN of Cumberland

Representatives:

PEAVEY-HASKELL of Greenbush
 STONE of Berwick
 KETTERER of Madison
 CROSTHWAITE of Ellsworth
 BARSTOW of Gorham
 BOWEN of Rockport
 SUKEFORTH of Union

Minority Report of the same Committee reporting **Ought to Pass** on same Bill.

Signed:

Representatives:

McLAUGHLIN of Cape Elizabeth
 SUSLOVIC of Portland
 BUNKER of Kossuth Township

READ.

On motion of Representative SUKEFORTH of Union, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought Not to Pass** on Bill "An Act Regarding Passing Bad Checks"

(H.P. 812) (L.D. 1109)

Signed:

Senators:

STRIMLING of Cumberland
 HATCH of Somerset
 CARPENTER of York

Representatives:

BUNKER of Kossuth Township
 BLANCHETTE of Bangor
 LESSARD of Topsham
 GROSE of Woolwich
 GREELEY of Levant
 MAIETTA of South Portland
 CHURCHILL of Washburn

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-213)** on same Bill.

Signed:

Representatives:

SNOWE-MELLO of Poland
 SYKES of Harrison

READ.

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

The SPEAKER: The Chair recognizes the Representative from Durham, Representative Vaughan.

Representative **VAUGHAN**: Mr. Speaker, Ladies and Gentlemen of the House. This bill was originally intended to cover several areas of bad check writing and not at all to affect those accidental bad checks written inadvertently by people using the same checking account or elderly people who make mistakes, but indeed to address the criminal aspect of this situation, which is affecting anybody's business in any part of this state, no matter what party they belong to.

What has resulted was an amendment, the original intent, of course, to also address the crime of theft of merchandise in addition to the results of having to deal with a bad check and having to try to collect on a bad check. This also was to cover the loss of merchandise, which is another crime. What has resulted is the Secretary of State having been interested enough in this bill and the State Police being interested enough in the intent of this bill to propose an amendment, which is the amendment we are talking about. Seeing that there is a state document being used that may be forged for the purpose of writing a bad check, which is a driver's license, the Secretary of State offered up an amendment at having given me the information that you cannot reproduce in a credible manner a driver's license on a photocopier. The amendment allows since the information on the check and the driver's license should match and are of not any particular secret nature, the photograph of the driver's license being present to allow the merchant to photocopy the check and the driver's license simultaneously in black and white in order to document the matching addresses, signatures and additionally to get the photograph. Should that driver's license be a forged document, a false driver's license, it would allow the Secretary of State to prosecute for forging a state document. That would be another crime yet present in many of those bad check situations that are being not prosecuted at this time.

I think that would be the main interest that the Secretary of State had in proposing this amendment. I urge the body to consider the Ought to Pass as Amended version of this. Thank you.

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

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

The SPEAKER: The Chair recognizes the Representative from Harrison, Representative Sykes.

Representative SYKES: Mr. Speaker, Ladies and Gentlemen of the House. The amendment simply allows a merchant to make a photocopy of a license. The issue of the actual bill itself, which is on the floor, treats the passing of a bad check as a theft. I opposed that concept. The issue of the original motion also allows the merchant to make a black and white photocopy of a person's driver's license and that part of the original motion is what I supported. It is interesting to note that the issue of making a photocopy of your license, which is part of the original motion, is against the law. It is a Class D crime. If anyone in this body made a request for unclaimed property to the Treasurer and were required to submit a photocopy of your license, you violated the law. If you submit a request to the Clerk of the House to get an additional parking sticker for your other vehicle, you have to submit a copy of your registration and that is also against the law. That part of the original motion I support. I do not support the issue of treating the passing of a bad check as a theft. That is why I voted against the original motion and supported the amendment. Thank you Mr. Speaker.

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

Representative BUNKER: Mr. Speaker, Men and Women of the House. Again, it is difficult to stand. We are trying to do the best thing we can for our small business folks with the bad check issue. The good Representative Vaughn brought forward a concept draft and that is probably why there is some confusion over protocol here on what we are talking about. The concept draft was declined by the committee of jurisdiction on an Ought Not to Pass fashion. It makes all bad checks criminal and it was asking for three failed attempts by phone or by different means to collect the check and we rejected all of the issues within the concept draft as either difficult to do or we would just bring in other folks that we weren't intending to make criminals out of. That is the reason why we ended up refusing the concept draft.

The last portion of the concept draft was a request by Representative Vaughn to have merchants when you present your check and you have to show your ID, that they go in the back room and make copies of your driver's license and your check and be able to hold a file on you and your check. If the check failed to pass or whatever, then they would have some kind of ID and some kind of device if you were a bad person and the check bounced. I think just from a privacy thing and from a holistic thing, how many mom-and-pop stores do you know in your back yard that has a photocopier right behind the cash register? Later in this issue is once the check is cleared and passed there is a requirement that you have to destroy, I believe, that document. We then ran into the problem where you couldn't do it by the Secretary of State's statute that you couldn't make copies, then we learned that some copies were being made, most likely illegal, as the good Representative Sykes mentioned. Things got very, very confusing and very difficult to understand as you could tell from the prior testimony. The bottom line is, is this a practical solution to doing anything at all in the bad check area from a mom-and-pop point of view. When those other devices that most people are running through those reading machines and are taking all that data immediately and storing it, it just didn't seem that any part of this bill was going to do anything to further the great troubles that our business folks had with bad checks. The committee felt it was bad policy to support somebody making copies of your physical driver's license. Thank you.

On motion of Representative DUPLESSIE of Westbrook, **TABLED** pending the motion of Representative BUNKER of Kossuth Township to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned. (Roll Call Ordered)

Divided Report

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought Not to Pass** on Bill "An Act To Increase the Penalties for a Person Who Vandalizes Cemetery Property"

(H.P. 918) (L.D. 1244)

Signed:

Senators:

STRIMLING of Cumberland
HATCH of Somerset
CARPENTER of York

Representatives:

BUNKER of Kossuth Township
BLANCHETTE of Bangor
LESSARD of Topsham
GROSE of Woolwich
GREELEY of Levant
MAIETTA of South Portland
SYKES of Harrison
CHURCHILL of Washburn

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-214) on same Bill.

Signed:

Representative:

SNOWE-MELLO of Poland

READ.

On motion of Representative BUNKER of Kossuth Township, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

SENATE PAPERS

Bill "An Act To Authorize a General Fund Bond Issue in the Amount of \$13,300,000 To Address Health, Safety and Compliance Deficiencies in the University of Maine System; To Expedite the Creation of a Community College System; To Make Improvements to State Parks; To Make Cultural Improvements; and To Modernize the State Court System"

(S.P. 546) (L.D. 1591)

Came from the Senate, **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed.

REFERRED to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** in concurrence.

Bill "An Act To Amend the Motor Vehicle Laws"

(S.P. 545) (L.D. 1590)

Came from the Senate, **REFERRED** to the Committee on **TRANSPORTATION** and ordered printed.

REFERRED to the Committee on **TRANSPORTATION** in concurrence.

On motion of Representative CARR of Lincoln, the House adjourned at 12:29 p.m., until 9:00 a.m., Thursday, May 1, 2003.