

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
43rd Legislative Day
Thursday, May 1, 2003

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

Prayer by Reverend Erik W. Wikstrom, First Universalist Church, Yarmouth.

National Anthem by Lyseth Elementary School Chorus, Portland.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

COMMUNICATIONS

The Following Communication: (H.C. 181)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

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 State and Local Government has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 211 An Act To Modify the County Budget Procedures for Sagadahoc County
- L.D. 308 An Act to Streamline Maine's Planning Process
- L.D. 417 An Act To Provide Cumberland County Budget Advisory Committee with Final Budget Approval Authority
- L.D. 841 An Act To Increase the Number of County Commissioners in Cumberland County
- L.D. 898 An Act To Amend the Laws Governing Sagadahoc County Commissioner Elections and Budget Hearings
- L.D. 1328 An Act To Amend the Laws Regarding County Government

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

Sincerely,

S/Sen. Margaret Rotundo

Senate Chair

S/Rep. Janet L. McLaughlin

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 182)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

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 State and Local Government has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1012

RESOLUTION, Proposing Amendments to the Constitution of Maine To Require the Appointment of County Sheriffs, Judges and Registers of Probate

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

Sincerely,

S/Sen. Margaret Rotundo

Senate Chair

S/Rep. Janet L. McLaughlin

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 183)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON TRANSPORTATION**

April 29, 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 Transportation has voted unanimously to report the following bill out "Ought Not to Pass":

- L.D. 1222 An Act To Penalize Timberland Owners rather than Truckers for Hauling Weight Violations

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

Sincerely,

S/Sen. Pamela H. Hatch

Senate Chair

S/Rep. Ronald E. Usher

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 184)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY**

April 29, 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 Criminal Justice and Public Safety has voted unanimously to report the following bill out "Ought Not to Pass":

- L.D. 638 An Act To Discourage Driving While under the Influence of Methadone

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

Sincerely,

S/Sen. Ethan Strimling

Senate Chair
S/Rep. George H. Bunker, Jr.
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 185)

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

April 22, 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 Legal and Veterans Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 674 An Act To Require Winners of State and Congressional Elections to Receive a Simple Majority of the Total Vote
- L.D. 802 An Act To Clarify Maine Election Laws
- L.D. 910 An Act To Promote Candidate Accountability in Elections
- L.D. 1180 RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Judicial Advisory Opinion Mechanism in Disputed Election Results for Members of the Maine Senate and House of Representatives
- L.D. 1254 An Act To Change the Maine Clean Election Laws
- L.D. 1283 An Act To Allow County Candidates To Run as Clean Election Candidates
- L.D. 1300 An Act Regarding the Presence of a Candidate at a Polling Place on Election Day

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

Sincerely,

S/Sen. Kenneth T. Gagnon

Senate Chair

S/Rep. Joseph E. Clark

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 186)

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

April 29, 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. 760 An Act To Protect the Rights of Leaseholders and Ensure Their Continued Access to Land
- L.D. 779 An Act To Repeal the Anthem Blue Cross Court Agreement of Disbursement of \$88,000,000
- L.D. 934 An Act To Allow the Videotaping of the Testimony of Witnesses 13 Years of Age and under in Certain Cases
- L.D. 1183 An Act Regarding Abandoned Rights-of-way
- L.D. 1214 An Act Regarding Confidentiality and Mental Health
- L.D. 1265 An Act To Allow a Judge to Grant Visitation Rights to a Parent of a Child in Foster Care
- L.D. 1306 An Act Relating to the Use and Disposal of Personal Information by Certain Commercial, Governmental and Other Entities
- L.D. 1335 An Act To Protect Public School Departments, School Committees and Superintendents from Certain Suits and Claims
- L.D. 1397 An Act To Amend the Procedure for Maine Human Rights Commission Hearings
- L.D. 1517 An Act To Make Necessary Technical Changes Relating to the Maine Business Corporation Act and the Maine Professional Service Corporation Act

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.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Bill "An Act To Enhance Electric Utility Consumer Protections" (H.P. 1169) (L.D. 1595)

Sponsored by Speaker COLWELL of Gardiner.

Cosponsored by Senator HALL of Lincoln and Representatives: ADAMS of Portland, DUPLESSIE of Westbrook, GOODWIN of Pembroke, Senators: LEMONT of York, MAYO of Sagadahoc.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Committee on **UTILITIES AND ENERGY** suggested and ordered printed.

REFERRED to the Committee on **UTILITIES AND ENERGY** and ordered printed.

Sent for concurrence.

ORDERS

On motion of Representative WHEELER of Kittery, the following House Order: (H.O. 27)

ORDERED, that Representative Guy J. Duprey, Jr. of Medway be excused Monday, April 14th, Tuesday, April 15th, Wednesday, April 16th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Rosita Gagne-Friel of Buckfield be excused Tuesday, April 15th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Lawrence E. Jacobsen of Waterboro be excused Tuesday, April 29th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Thomas J. Kane of Saco be excused Monday, April 28th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Susanne P. Ketterer of Madison be excused Tuesday, April 29th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Mary Ellen Ledwin of Holden be excused Monday, April 28th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Lisa T. Marraché of Waterville be excused Monday, April 7th, Monday, April 14th, for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Linda Rogers McKee of Wayne be excused Monday, April 28th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Thomas F. Shields of Auburn be excused Tuesday, April 29th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Deborah L. Simpson of Auburn be excused Wednesday, April 2nd, Monday, April 7th, Tuesday, April 8th, Thursday, April 10th, Monday, April 14th, Tuesday, April 15th, Wednesday, April 16th for legislative business.

AND BE IT FURTHER ORDERED, that Representative Lois A. Snowe-Mello of Poland be excused Monday, April 28th for health reasons.

AND BE IT FURTHER ORDERED, that Representative Raymond Wotton of Littleton be excused Wednesday, April 16th for personal reasons.

READ and PASSED.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

David Chamberlain, of Wilton, who has been named to the United States Ski Team that will compete in the Nordic 2003 World Championships in Italy. We congratulate David on his accomplishment and send him our best wishes;

(HLS 486)

Presented by Representative SAVIELLO of Wilton.
Cosponsored by Senator WOODCOCK of Franklin.

On **OBJECTION** of Representative SAVIELLO of Wilton, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Wilton, Representative Saviello.

Representative **SAVIELLO**: Mr. Speaker, Ladies and Gentlemen of the House. It is my pleasure to talk about David Chamberlain. David is a 1994 graduate of Mt. Blue and a 1998 graduate of Bates. He is a two time NCA All American. He has a senior citation from Bates. He received the Lloyd Lux Award. He is inducted into the Lewiston Sports Hall of Fame. He is a four-year member of the Subaru Factory Team, 2001 World Championship Ski Team and the 2003 team. This past year he trained very hard splitting time between Bethel and the Maine Sports Center in Presque Isle and Fort Kent. He skied in New Zealand with the US team throughout August. This season started with a two-week training camp in Fairbanks, Alaska, where the Nordic Circuit opened with two races at the beginning of November. David finished third in the overall point standing with six podium finishes, including two wins. He placed fourth, fifth and second in the US Nationals in the 10 K Classic, 10 K

Skate and the sprint respectively. He qualified for the US Championship Team competing in Italy. He raced on the World Cup Circuit before and after the World Cup Championships. This season he was sponsored by LL Bean for his program. This summer he will be training very hard for the goal of becoming more competitive internationally. I am proud to say he is a citizen of Maine and from the Town of Wilton. Thank you.

Subsequently, **PASSED** and sent for concurrence.

Recognizing:

Ezra Garland Smith, of Winthrop, on the occasion of his 80th Birthday, May 1, 2003. Mr. Smith is a real Maine character who places a high value on his outdoor heritage; a sportsman who has spent his lifetime in the fields and forests where he still roams; a husband, father and grandfather who always puts his family first (but who wonders how his 3 children all became lobbyists); a retail businessman remembered far and wide for spending a career at Wilson's Dollar Stores putting his customers' needs first; a craftsman whose decoys and paintings are valued by many; a thrifty scrounger who goes to the dump empty and comes home with a full load; a trader in his retirement years, well known to anyone who has ever sponsored a lawn sale and famous for his annual summer barn sale; and a man who has always exhibited the values, skills and qualities of neighborliness that are the very best that Maine offers;

(HLS 492)

Presented by Representative MCKEE of Wayne.

Cosponsored by Senator TREAT of Kennebec.

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

READ.

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

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. It is a distinct pleasure this morning to recognize one of Winthrop's most well-known citizens, Ezra Smith, on the occasion of his 80th birthday. I never pass up an opportunity to have a conversation with this octogenarian who always has a twinkle in his eye and a story to tell or something about politics to tell me. Men, they say, are like wine. Some turn to vinegar, but the best improve with age. Certainly this has been the case with Ezra. I have known him 30 years and I have had the pleasure of reading both his biography and his wife's biography because they were written by students in my honors English class who were his grandchildren. I have also read his wife's 40 years of journals. I feel like I know this family and I feel like I have known Ezra all my life. I don't think there is anyone in our town who doesn't know Ezra because for many years he ran the famous Wilson's Dollar Store on Main Street where you could buy anything you needed for your home, you children or yourself. It could be plastic trays on a hot summer day, rain boots and pajamas for the kids or tools for the car.

Ezra was also active in town politics and went on to raise with his wife, Aida, three very successful children whom we all know who make their living from politics, Edie Smith, Gordon Smith and George Smith, all like their father, good Republicans. Ezra Smith has always been in my mind, quite frankly, the quintessential New England Republican, a thrifty, practical, conservative who believes in the old adage I heard from my parents, "Use it up, wear it out, make it do or do without."

His barn sales in Winthrop have become, as the sentiment says, one of the main events of our year. My barn houses many of those treasures and old desks from George's house, his first house, a canoe salvaged from the dump, birch bark picture

frames of Native peoples and a red wheelbarrow, which he knew that Representative McKee absolutely could not resist.

Finally, I have to give Ezra Smith credit for something he probably doesn't even know. I give him credit for being right here today in this seat in the Maine House of Representative. It went this way, when I first decided to run seven years ago, he wrote a particularly well written humorous outspoken letter to the *Kennebec Journal* in which he said that I was such a good teacher that folks shouldn't vote for me. Anybody he said could be a politician, but a good teacher was hard to find. I was pleased by that accolade, but I will tell you I feared what this quintessential Republican was trying to do. He was trying to flatter this democratic woman right of running. Ezra, you know it worked the other way. It made me want to win even more and I did.

To one of my favorite friends and a man that I enjoy any time I see him and one of our towns most honorable citizens of Winthrop, I say to you Ezra, just remember, birthdays are good for you. One man once said, the more you have, the longer you live. Ezra, may you grow older just as slowly as possible. We are proud of you.

Subsequently, **PASSED** and sent for concurrence.

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought Not to Pass** on Bill "An Act To Amend the Not Guilty by Reason of Insanity Verdict"

(S.P. 363) (L.D. 1091)

Signed:

Senators:

STRIMLING of Cumberland

HATCH of Somerset

Representatives:

BUNKER of Kossuth Township

BLANCHETTE of Bangor

LESSARD of Topsham

GROSE of Woolwich

SNOWE-MELLO of Poland

GREELEY of Levant

SYKES of Harrison

CHURCHILL of Washburn

MAIETTA of South Portland

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

Signed:

Senator:

CARPENTER of York

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

READ.

On motion of Representative BUNKER of Kossuth Township, the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on Bill "An Act To Provide a Preference for State Residents in the Awarding of Government Contracts"

Signed:

Senators:

ROTUNDO of Androscoggin

LaFOUNTAIN of York

GILMAN of Cumberland

Representatives:

McLAUGHLIN of Cape Elizabeth

PEAVEY-HASKELL of Greenbush

STONE of Berwick

KETTERER of Madison

CROSTHWAITE of Ellsworth

BARSTOW of Gorham

BOWEN of Rockport

SUSLOVIC of Portland

BUNKER of Kossuth Township

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

Signed:

Representative:

SUKEFORTH of Union

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

READ.

On motion of Representative McLAUGHLIN of Cape Elizabeth, the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

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

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-212)** on Bill "An Act To Strengthen the Criminal Laws by Expanding the Definition of Trafficking and Furnishing Prescription Narcotic Drugs To Include Illegal Possession of a Large Number of Pills"

(H.P. 698) (L.D. 941)

Signed:

Senators:

HATCH of Somerset

CARPENTER of York

Representatives:

BUNKER of Kossuth Township

MAIETTA of South Portland

SYKES of Harrison

GROSE of Woolwich

GREELEY of Levant

BLANCHETTE of Bangor

SNOWE-MELLO of Poland

LESSARD of Topsham

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

Signed:

Senator:

STRIMLING of Cumberland

Representatives:

GERZOFKY of Brunswick

CHURCHILL of Washburn

READ.

Representative BUNKER of Kossuth Township 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.

CONSENT CALENDAR

First Day

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

(S.P. 482) (L.D. 1450) Bill "An Act Regarding Railroad Police Training" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass**

(S.P. 141) (L.D. 404) Bill "An Act To Limit the Transfer of Handguns to Minors" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-86)**

(S.P. 370) (L.D. 1098) Bill "An Act Regarding Mandated Reporters and Child Abuse" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-84)**

(S.P. 487) (L.D. 1459) Bill "An Act To Bring the State into Conformity with the National Organic Program" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-83)**

(H.P. 1033) (L.D. 1406) Bill "An Act To Separate the Office of Tourism from the Office of Community Development" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass**

(H.P. 1057) (L.D. 1445) Resolve, Authorizing the Commissioner of Administrative and Financial Services To Enter into a Boundary Line Agreement between the State of Maine Parking Garage at the Corner of Sewall and Capitol Streets and the Parcel East of the Garage Bounded by Chamberlain Street Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass**

(H.P. 1063) (L.D. 1455) Bill "An Act To Amend the Forester Law" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass**

(H.P. 1098) (L.D. 1505) Bill "An Act To Amend the Licensing Requirements for Veterinarians" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass**

(H.P. 362) (L.D. 470) Bill "An Act To Ensure Fairness Regarding Use of Consumer Credit Reports in Insurance Underwriting" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-220)**

(H.P. 570) (L.D. 771) Bill "An Act To Provide Parity in Funding for Enhanced 9-1-1 Services" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-217)**

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

CONSENT CALENDAR

Second Day

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

(S.P. 249) (L.D. 711) Resolve, To Lower the Costs of Prescription Drugs through the Use of the Federal Public Health Service Act

(S.P. 289) (L.D. 894) Bill "An Act Relating to Motorcycles and Driver Education"

(S.P. 302) (L.D. 906) Bill "An Act Pertaining to Trustee Services for the Maine Turnpike Authority"

(S.P. 486) (L.D. 1458) Bill "An Act To Amend the Debt Management Services Laws"

(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"

(S.P. 510) (L.D. 1522) Bill "An Act To Establish Fee Caps under the Maine Insurance Code"

(S.P. 83) (L.D. 160) Bill "An Act To Amend the Laws Governing Home Instruction" (C. "A" S-79)

(S.P. 108) (L.D. 326) Bill "An Act To Increase Access to Higher Education" (C. "A" S-71)

(S.P. 117) (L.D. 335) Bill "An Act To Stimulate Economic Growth in Northern Penobscot County" (C. "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" (C. "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" (C. "A" S-72)

(S.P. 223) (L.D. 614) Bill "An Act To Provide Parity in Lending by State-chartered Financial Institutions" (C. "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" (C. "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" (C. "A" S-76)

(S.P. 350) (L.D. 1021) Resolve, To Renew the Veterans' Emergency Assistance Program (C. "A" S-74)

(S.P. 397) (L.D. 1192) Bill "An Act To Enhance Juvenile Rehabilitation" (C. "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) (C. "A" S-73)

(S.P. 431) (L.D. 1329) Resolve, To Rename the Patty Hill Road in Medford the Clyde Hichborn Road (C. "A" S-78)

(S.P. 457) (L.D. 1387) Bill "An Act Concerning the Renewal of Commercial Harvester and Dealer Licenses" (C. "A" S-70)

(S.P. 459) (L.D. 1389) Bill "An Act To Create a Marine Harvesting Demonstration License" (C. "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" (C. "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)

(H.P. 1120) (L.D. 1528) Bill "An Act To Permit Electronic Notification of Rulemaking for Interested Parties" (EMERGENCY)

(H.P. 254) (L.D. 311) Bill "An Act to Adopt a New Interstate Compact Regarding Adults Who are on Probation and Parole" (C. "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 (C. "A" H-204)

(H.P. 943) (L.D. 1271) Resolve, To Prohibit the Discharge of Certain Wastewater into Casco Bay (C. "A" H-207)

(H.P. 977) (L.D. 1323) Bill "An Act To Adopt an Interstate Compact for Juveniles on Probation and Parole" (C. "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) (C. "A" H-206)

(H.P. 1050) (L.D. 1431) Bill "An Act To Update the Requirements of Counties' and Municipalities' Audit Reports" (C. "A" H-211)

(H.P. 1060) (L.D. 1448) Bill "An Act To Clarify the Administration of State-municipal Revenue Sharing" (C. "A" H-205)

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.**

The House recessed until 11:00 a.m.

(After Recess)

The House was called to order by the Speaker.

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 (10) **Ought to Pass** - Minority (3) **Ought Not to Pass** - Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Ban Smoking in Beano and Bingo Halls"

(H.P. 186) (L.D. 227)

TABLED - April 29, 2003 (Till Later Today) by Representative KANE of Saco.

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

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

The Bill was **READ ONCE** and was assigned for **SECOND READING** later in today's session.

HOUSE DIVIDED REPORT - Majority (10) **Ought to Pass as Amended by Committee Amendment "A" (H-170)** - Minority (3) **Ought Not to Pass** - Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Keep Foster Children Safe and Healthy"

(H.P. 63) (L.D. 55)

TABLED - April 29, 2003 (Till Later Today) by Representative KANE of Saco.

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

The SPEAKER: The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative **CAMPBELL**: Mr. Speaker, Ladies and Gentlemen of the House. Mr. Speaker, this is just going to put another burden on foster parents. I don't know how it is going to be policed. As it stands now the foster parents came in front of the Health and Human Services Committee a few weeks ago wanting to unionize. They are being harassed enough as it is without putting another burden on them. If you take a foster child into your home, you can't go down in your workshop in the cellar in the evening and smoke a cigarette while the child is on the third floor sleeping. You can't use your car and smoke in it and three days later take and put the child in the car and take the child somewhere else. Thank you.

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. The essence of this bill essentially prohibits foster parents from smoking in the home when they have a foster child in their care. Secondly, the application to vehicles, foster parents cannot smoke in the vehicles when the child is present. They are prohibited from smoking in their homes at any time because of the long-term impact of second-hand smoke.

When children are removed from their own homes, it is usually to protect them from abuse and neglect. The children are generally referred to DHS for child protective services. Maine has a clear, legal and moral responsibility to protect the best interests of these children. We currently invest hundreds of millions of dollars in the child protective system, a system that includes both adoptive and foster care. The state contracts with these providers of foster care to act as agents of the state to care for and protect the state wards in an environment that they expect and needs to be physically, emotionally and morally healthy and nurturing. In their contract, which they voluntarily obligate themselves to a number of conditions, the state specifies a number of defined expectations and requirements. Requiring foster parents to protect children from the effects of second-hand smoke is merely an extension of their existing contract, which foster parents may choose to accept or not. They can choose to terminate their contract if they find protecting children from second-hand smoke as being unacceptable to them.

The bill does not constitute an unwarranted intrusion into the private lives of foster parents. It merely extends the state's responsibility. It is our responsibility to protect the health and well being of our children. I believe that the vast majority of foster parents recognize the importance of the need to protect children in their care and at our public hearing there was no opposition to this bill.

Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Laverriere-Boucher.

Representative **LAVERRIERE-BOUCHER**: Mr. Speaker, Men and Women of the House. I am a foster parent. I do want to point out, again, that there were no foster parents in opposition to this bill at our public hearing. Foster parents may still smoke. We are not telling foster parents they can no longer smoke. We are just telling them that they cannot smoke in their homes when they have a child in their care. They cannot smoke in their car when the child is present in the vehicle. However, they may smoke in their vehicle when the child is not there. Foster parents at a therapeutic level decide to do foster care and it is a living. They get paid a very good stipend to care for these children. They decide to do this because these children need a safe place to be.

If you notice on your yellow page that you were given today, a safe place is not a place where there is danger of health hazards. Second-hand smoke is very dangerous for children, especially for

children who have been abused. Their resistance is lower than most children and they get a lot of respiratory problems from that. When you vote for this, and I hope that you support Ought to Pass, I hope that you remember the children when you vote. These children have gone through a lot of harm. The last thing that we need is to continue to put them in harm's way. Thank you.

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

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. This bill is clear and straightforward. The state is responsible for the safety and welfare of the few thousand children that we have under state care. Second-hand smoke is unequivocally proven to be harmful. These children have no choice if they are placed in a home where there is smoking. Maine pays foster parents handsomely to care for these children. No one makes you be a foster parent. Protect the children when we have this responsibility. I echo everything my friends across the aisle have stated.

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

Representative **CRAVEN**: Mr. Speaker, Men and Women of the House. I don't know how many ways one can say that second-hand smoke is a health hazard. It costs the state millions of dollars a year when subjecting a child who has no choice to cigarette smoke while in the vehicle is unconscionable. People who provide foster care and provide services to our foster care children do this as a livelihood and it is their job for which the State of Maine pays them. Please vote to pass this bill. Thank you.

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

Representative **RICHARDSON**: Mr. Speaker, Ladies and Gentlemen of the House. I think that your intentions in this bill are wonderful. You ought to protect the health of the children who are in foster homes. I think your approach to it is wrong. If you are so concerned about the health of the children in foster homes, the next step is to be concerned about all the children in the State of Maine in homes that aren't foster homes whose parents smoke. Are you ready to tell people in the State of Maine that you cannot smoke in your home because the Department of Human Services thinks it is unhealthy for those children to be there? I submit to you that the better way of doing this is for the Department of Human Services to select foster homes who they know don't smoke. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **DAIGLE**: Mr. Speaker, Men and Women of the House. I admit to near total ignorance on the foster care situation, near total, not absolute. One of the concerns that I have about this is my assumption that we are drastically short of foster parents in this state. It is near a crisis and trying to get more parents who will step forward to assume this very difficult role. That affects my opinion on this bill. I would feel differently if I believed that we had a waiting list for parents standing forward to take children as foster parents. I was wondering if somebody could clarify to me what the actual case may be.

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

Representative **KANE**: Thank you Mr. Speaker. There was an issue that has been raised over the past several sessions with respect to a lot of the expansion of restrictions on foster parents, the increase in regulations and so on to provide better supervision, the whole question of supply and how not to be overly restrictive to cut off supplies. We have been assured by DHS right now that there is no waiting list of children for foster parents. It was discussed in our committee. We felt assured that that was not a huge risk. There is an active recruitment effort under way and as a previous speaker indicated, it likely will include attempting to recruit more foster parents who don't smoke so we don't get into this in the first place. In the meantime we are dealing with a situation where foster parents were recruited and foster parents are operating very well as foster parents. I guess the interesting thing for the committee is that we did not have any huge outcry from foster parents, from their associations or from anybody else who determined that this was a significant hardship for them. Thank you Mr. Speaker.

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

Representative **TRAHAN**: Mr. Speaker, Ladies and Gentlemen of the House. I want to give you a little background. I once was a foster parent. I thought and I believed in my heart that would be one of the most wonderful things that my wife and I could do during our lives is be a foster parent. We looked at that experience with great anticipation and excitement. Before we became a foster parent, DHS came to our home. What they did was they inspected our home for safety measures. Ladies and gentlemen, I am a hunter. I have seven or eight rifles. I have several handguns. I am also a logger. I have chemicals for my business. All of those things were inspected and many others in my home, my electrical system, my furnace and many of the safety issues that address children in every home in this state had to be addressed by DHS. We ended up building a very strong locked cabinet for my guns. We went through our home and we basically sanitized it for that foster child. I believe this is one of those issues that deserves that type of approach. That is a good policy within the Department of Human Services when they look into someone's home for safety measures to look in that home and to find a way that those endorsed legal activities that take place in our state fit in to that foster care situation. I believe there is a much better way of approaching this problem. Unfortunately the amendment that I had wanted to bring forward cannot be written because the Revisor's Office computers have crashed. I have to stand here today in hopes that we might table this briefly so that we might see an amendment to address this problem. Unfortunately, I can't speak to it. For that reason, Mr. Speaker, I move that we table this until later in today's session.

The SPEAKER: The Representative is out of order.

Representative **DUNLAP** of Old Town **REQUESTED** a division on the motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Fischer.

Representative **FISCHER**: Mr. Speaker, Ladies and Gentlemen of the House. I rise today to dispute something that the good Representative from Auburn said. He said that this was a clear and straightforward bill. I have to disagree. We are talking about second-hand smoke to children, yet we are going to ban smoking in a car when the child is present and we are going to ban smoking in one's home when the child is not present. I do not see the risk of having a foster parent smoke in their home when the child is not there, anymore than I see a risk in having the foster parent smoke in their own car when the child is not there. If we were able to change this bill in some way to make it

so that a foster parent could smoke in their house when a child was not present, I would be very accepting of this bill. As it is written presently, I cannot support it.

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

Representative **O'BRIEN**: Mr. Speaker, Ladies and Gentlemen of the House. Having served on the Health and Human Services Committee for the last term and having sat through the many months of exhaustive review of the child welfare, child protection and foster care systems, I really am bothered by this type of bill, with all due respect to the sponsors.

We don't have enough time. What we have heard is we don't have enough time for our caseworkers to go into homes of the foster homes that we have now and do their timely checks on the foster kids in the system. They don't have enough time to bring the foster kids in the system to visit their siblings who may be in another foster home. We don't have enough time for the caseworkers to let them visit extended relatives. The priorities are all mixed up in my view. They are damaged kids. What they need is a warm, loving, supportive, caring home, family, parents and if someone wants to go in their basement workshop in the evening and smoke a cigar, that does not preclude them from being a warm, supportive, loving foster parent.

I would ask you to defeat this motion of Ought to Pass so we can go on to defeat this bill and move onto more important items. Thank you.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Jacobsen.

Representative **JACOBSEN**: Mr. Speaker, Ladies and Gentlemen of the House. I have been a foster parent. One of those foster children is now my daughter. She has been a social worker in the City of Portland. It is my belief that if we have enough foster homes now, then why do I see advertisements on television for foster homes. Why should we limit the people who smoke and are responsible smokers, on their own, take away their privilege of being a foster parent? A choice can be made where a child is placed. A choice can be made now. I believe they could consider whether or not there is smoking in that home. What happens when these homes are filled? Where do we put the children? Do we take that privilege away from the parents, foster parents, that would be excellent and hold them back because they smoke? I don't believe so. Thank you.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Laverriere-Boucher.

Representative **LAVERRIERE-BOUCHER**: Mr. Speaker, Men and Women of the House. I just want to clarify one more time that we are not asking to not use people that are smokers as foster parents. There are some very good foster parents out there who smoke. If we would have no such law as we are proposing, then we would have to have a law that says you can't have a foster home that smokes. We don't want to do that, because there are a lot of people that do foster care that do a very good job and they are smokers. We are just saying that you cannot smoke in your home, like a place of work, because that is what it is, a place of work, while you have a child in your care. In this case we are not eliminating good foster homes. We are just giving them the same rules that you have when you are in a place of work. You are told you can smoke outside, but you can't smoke in the place of work. Thank you.

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

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

The SPEAKER: The Representative may pose her question.

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to know what is the length of time that these kids remain in foster care? How often are they with the foster parent? Could someone please answer me that question?

The SPEAKER: The Representative from Poland, Representative Snowe-Mello has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Biddeford, Representative Laverriere-Boucher.

Representative **LAVERRIERE-BOUCHER**: Mr. Speaker, Men and Women of the House. The answer to the two questions is, how long do children stay in the foster home? Some stay for a few months and some stay for several years and some stay for 10 years. As far as how many hours a child stays in the home, a newborn baby stays all day and all night. The toddlers that are not in school stay all day and all night. The kids who are in school are in the home if they are not in school. Sometimes they have other activities to go to, but they do spend at least 12 hours in the home. That is pretty much the answer.

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

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I think that is my point that I would like to bring out. I have many foster parents that live in my district and they have complete care of these kids seven days a week, all month long, all year round. They very seldom get a break. This would mean that they would have to give up their very right to smoke all the time. There would be virtually no time for them to smoke if they so choose. I am asking you to please vote against the Majority Ought to Pass Report. Thank you.

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

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

The SPEAKER: The Representative may pose her question.

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. I have yet to find out what the penalty would be if the social worker comes in and smells the smoke off the foster parent? I would really like an answer to that question.

The SPEAKER: The Representative from Biddeford, Representative Twomey has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Lewiston, Representative Walcott.

Representative **WALCOTT**: Mr. Speaker, Men and Women of the House. According to the bill as amended, these would be major substantive rules that would be coming back before the House. The actual penalties haven't been determined because DHS will be determining those in their rulemaking process.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Perry.

Representative **PERRY**: Mr. Speaker, Ladies and Gentlemen of the House. This is a public health issue that we are looking at. I am a nurse practitioner and I see parents and infants from day one on and families and children who live in a household of smoking parents and they have a much higher problem with ear infections, colds and asthma. What we are talking about is a ward of the state and a health issue that is very significant. I work with my parents to keep them from smoking in their house so that they can protect the health of their child. We are just asking, as the state our responsibility to protect the health of the children within our purview. I consider this to be a public health issue.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Faircloth.

Representative **FAIRCLOTH**: Mr. Speaker, Men and Women of the House. I have worked with children in a foster home, in a group home in Alaska, as a matter of fact, and handled cases numerous times as an attorney with foster children and was actually briefly in foster care myself. I have some familiarity with these issues. I rise to speak first and foremost about my mom who is a wonderful, intelligent, good person who smokes. When I was growing up she smoked around me and my brother all the time. It was not known anything about second-hand smoke in those days. The new century has shown up and the science is clear that second-hand smoke is dangerous to children. There is no question about this. When my mom shows up to see my two sons, you know what she does? She might throw on her windbreaker or if it is winter, she might throw on her coat, and she steps outside and she has her smoke. It is not a big burden to my mom who is in her 60s. She thinks because she is an intelligent, well read person and a good person who happens to smoke, that it is the right thing to do to step outside. She only visits occasionally.

I have another friend of mine we visit occasionally and he likes to smoke and occasionally he and I might enjoy a beverage. He says he wants to step outside and he will have his smoke. He lives with his own child seven days a week and years on end and he always steps outside for a smoke. He is an intelligent man. He is a smoker. He does the right thing. When these foster parents apply in 95 percent of the cases, the money they get on the state's dime to be foster parents, the state will say, you will have to step outside to have your smoke. You know what these people will do, because they are good decent people. They will say sure, 95 percent of the time.

I trust foster parents. I trust smokers to be good intelligent people. I know when we pass this law, as we should, it will be terrific for the kids and the smokers won't object because they know it is the right thing to do. Thank you.

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

Representative **WALCOTT**: Mr. Speaker, Men and Women of the House. I want to talk a little bit about what one of the prior speakers mentioned. This information is something everyone knows and I am going to mention anyway because it bears repeating. Children who breathe second-hand smoke are more likely to suffer from pneumonia, bronchitis and other lung diseases. Children who breathe second-hand smoke have more ear infections. Children who breathe second-hand smoke are more likely to develop asthma. Children who have asthma and who breathe second-hand smoke, have more asthma attacks. There are an estimated 300,000 cases every year of infections such as bronchitis and pneumonia in infants and children under 18 months of age who breathe second-hand smoke. These result in 7,500 and 15,000 hospitalizations. Also, from a report from the Bureau of Health, the Healthy Maine 2000, A Decade in Review, it states that children exposed to second-hand smoke are 75 percent more likely to become addicted to tobacco themselves.

Also, to add what I mentioned before about the rules, for current foster homes under this bill, these rules will not take affect, assuming the Legislature passes them next year, we will have the opportunity to review them, for current homes until October 1, 2005. That will give plenty of time for current foster parents to look at what they need to do in order to comply with these rules. Thank you Mr. Speaker.

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

Representative **MOODY**: Mr. Speaker, Men and Women of the House. I, also, am a foster parent. I will vote in support of this legislation. Thank you.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Jacobsen.

Representative **JACOBSEN**: Mr. Speaker, Men and Women of the House. The people in my community sent me here, not to make more laws and more regulations, but to try to get away from doing that. What will be next? If you get a speeding ticket, your foster children will be taken away? Are they going to tell us what kind of car to drive? Are they going to tell us you can't have a bottle of beer in the refrigerator? What will be next? How many laws can we pass? Let's go for it.

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

Representative **LANDRY**: Mr. Speaker, Ladies and Gentlemen of the House. I have been sitting here for God knows how long listening to the pros and cons and I spent the last 10 years trying to breathe through a tube the size of a number 2 pencil. However, be that as it may, I can tell you first hand the effects of second-hand smoke. While I am considering the merits of this bill that is before us, I can see the good points of it. All of the health facts are true. We have read about them. Scientists have proven them true. There is no question about the health ramifications. There are some questions, however, about the ramifications of not leveling this requirement on these foster parents. Should a child in their care grow up with a problem that was developed from exposure to second-hand smoke and chooses to sue the state because of this problem? I can see the merits to this bill. I can see the reasons why such a controversial issue would cause some question in our minds.

My wife of 36 years still smokes. She does it outside. She doesn't do it anywhere near me and certainly not in the car with me. I have managed to keep her. I think that we need to consider the upside of this bill. I feel it certainly outweighs the downside. We have placed some stringent requirements on these foster parents. If we look at what was just done in DHS to foster parents of children with special needs, they just restructured the entire pay system. This meant some incredible changes for these people. We are asking an awful lot of them. I think that by asking them to just step outside like the good Representative's mom does and like my wife does, I don't think that is asking too much of these people.

I don't believe it is infringing on their rights. We are not telling them they can never smoke ever again. We are telling them you can't do it around the children or in the car. That is why I think we ought to just move onto more important things and spend our time debating those issues that have some real, real effect.

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

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. I stand before you this morning to not support this pending motion before us. Here we are putting morals out the window. If you are going to be a foster parent, you should do it in bringing up that child. Are the people accepting of adding an amendment to this bill for acting like normal parents for their children? I cannot stand smoking myself. My mother smoked ever since I was a baby. My grandmother smokes, but they go outside now. We should not mandate these people to go outside or to light up inside the house or outside the house, in the car or outside the car.

There was comment today about enforcement. If a foster parent is in the car without the foster child and they smoke, that is

fine. What happens is they smoke on the way to an event and pick up the foster child and they smoked, that smoke is still going to linger inside that car until those people get to that destination. If a DHS social worker comes up after and they are in their home, they are going to ask a question, when did you smoke with this foster child in their presence? I didn't. I did it on the way over to pick up the foster child at a sporting event. When they got in the car I was not smoking and went home. The foster child smells like second-hand smoke. How are you going to enforce this, ladies and gentlemen? We have to go back to the morals that people are there to bring up the children. Mr. Speaker, may I pose a question to the chair? To anyone that may answer, is the State of Maine in the business of employing people to bring up kids?

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

Representative KANE: Mr. Speaker, Ladies and Gentlemen of the House. In response to question raised, the State of Maine is forced to be in the business of helping to bring up children who are victims of abuse and neglect and have been in that business for 100 years or more. We invest a great deal of money in assuring a quality child protective system that guarantees the security and growth and development, but physically and emotionally of these children. Yes, I am afraid, regrettably, we are in the business and will stay in that business as long as we are needed. Thank you.

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

Representative TWOMEY: Mr. Speaker, Men and Women of the House. I first want to say that I have ultimate respect for the sponsors of this bill. I have never smoked in my life. I have been progressive in all of the non-smoking legislation that we have passed, but I really had to search my conscience on the fact that if the bottom line is that this is truly a health issue, which I believe it is and if it is truly an issue that we want to protect all children, then we truly should do this for the whole State of Maine. That is the problem that I am having with this. Why are we singling out foster parents? I want to go back home and say that I care about the children in my community. The State of Maine says so and I know the argument is because we pay them. As I am trying to search this through and listening to this debate, I mean there is poverty issues, hunger issues, those are issues that we can all jump on the bandwagon for and support to try to protect children. I just can't, in my mind say, we are singling out foster parents if truly the bottom line is health issues. We know second-hand smoke is bad, then we should be doing this for the whole State of Maine. I don't know how we can start just chipping away. Let's be honest about it. What are we trying to do? Be honest about it. I think this is just singling out foster parents. I think the social workers have plenty to do. They are now going to have to come in and be smoke cops and have to call in if they smell smoke on the children's clothes. There was a great question raised in caucus about, what if that child smokes? What if that foster child smokes? I am not clear about where the fines would go. Those are my concerns. I am having a real problem dealing with this because I don't support smoking. I don't support second-hand smoke, but I am also opposed to singling out one segment of Maine's population. Thank you.

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

Representative SUSLOVIC: Mr. Speaker, Men and Women of the House. I stand in support of the Majority Ought to Pass as Amended Report. I would like to remind members of this body

that at one time smoking was allowed here in this chamber. We abolished that out of the care and consideration for each other's health. I respectfully ask that we extend that same care and consideration to the wards of this state. Thank you.

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

A vote of the House was taken. 71 voted in favor of the same and 75 against, and accordingly the Majority **Ought to Pass as Amended Report** was **NOT ACCEPTED**.

On motion of Representative DUPLESSIE of Westbrook, **TABLED** pending **FURTHER ACTION** and later today assigned.

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

BILLS IN THE SECOND READING

House

Bill "An Act to Ban Smoking in Beano and Bingo Halls"

(H.P. 186) (L.D. 227)

Was reported by the Committee on **Bills in the Second Reading** and **READ** the second time.

On motion of Representative CAMPBELL of Newfield, was **SET ASIDE**.

The SPEAKER: The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative CAMPBELL: Mr. Speaker, Men and Women of the House. I think this is just another bill that is going to hurt small businesses. If you run a bingo hall or a beano hall and you want to allow smoking or not smoking, I think it should be up to the person that runs the business. I don't think it should be up to us making laws. A lot of people seem to want to stop smoking and they are upset when some of their pet projects are taken out by the Governor in his budget and these projects are funded by cigarette money, tobacco money. I think maybe the State of Maine, like my colleague on the other side of the aisle said, we should just ban cigarettes in the State of Maine like we did alcohol years ago. No one can smoke in the State of Maine. No one can sell cigarettes in the State of Maine and then what would our budget look like when we don't get the tobacco money. Thank you.

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

Representative KANE: Mr. Speaker, Men and Women of the House. As most of us know, Maine lost a mission to reduce the adverse affects of smoking on the health of Maine citizens some 10 years ago. As a result of multiple approaches to protecting citizens from the adverse affects of second-hand smoke, we passed legislation to ban smoking in a variety of public places, most recently in restaurants. Several years of experimenting with designated smoking areas in restaurants demonstrated that very expensive equipment installed to deal with the problem did not work effectively in reducing exposure. In a recent public hearing our committee received unsolicited testimony from restaurant owners, which affirmed that the positive impact of the ban, not only on the health of customers and staff, but on the quality of the restaurant environment and significantly on the increase of businesses and profits.

The crucial aspect of the ban, they felt, was the creation of a level playing field, resulting in a total ban. The original concern was absent a total ban that people would, in fact, select among smoking and non-smoking restaurants. The smoking restaurants were afraid that they would lose business. The total ban, they welcomed it.

At this point, the fire alarm sounded and the House was evacuated.

(After the fire alarm)

The House was called to order by the Speaker.

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. I didn't realize I had the power to invoke the divine intervention to make my point. That is an example of the effect of smoke. Having said that, I won't start from the top again, but I do just want to recollect for a moment that we have had an extensive history for the past two years on the implementation of the smoking ban on restaurants. Many of the same issues and concerns, in terms of the economic affect of smoking in restaurants, of what would happen, the word back to us from the restaurant owners is that it is the best thing that ever happened. As concerned as they were, it is the best thing that ever happened.

The point I was about to make before the bell went on is a ban on smoking in beano halls and bingo halls would likely be very similar. By the way, I don't know of any legislator that I have talked with who has had a single call from a constituent that has asked them to oppose this bill. There was no opposition in the public hearing to the bill. In contrast, at the time that this committee held public hearings during the 118th and the 119th Legislatures, to ban smoking on restaurants, the hearing room was crowded with opponents who predicted dire consequences as an anti-business strategy that would drive customers away. However, results clearly demonstrate that protecting patrons from second-hand smoke not only is good public health, but it is also good for business and good for the people of Maine.

Our public hearing on this bill, as I indicated, had no public opposition. I believe that in itself is a reflection. We attempt to use our public hearings not only for the information that gets conveyed to us, but also by the sentiments expressed and by the opposition or support that gets conveyed.

The State of Maine currently expends hundreds of millions of dollars in the Medicaid Program, a significant portion of which goes to the treatment of pulmonary, respiratory and cardiovascular disabilities and diseases that are directly related to the harmful affects of smoking and second-hand smoke. One of the major objectives, major focus of our session now is looking at comprehensive health care, cost effective comprehensive health care and we learned that the most cost-effective way of dealing with the health care issue is to reduce the factors, whether it is obesity, alcohol or tobacco. You reduce the incidence of the disease in the first place.

I urge you to reinforce the currently established public health policy that we have been following over the past 10 years, a policy that is good for business, good for the health of Maine's people and good for Maine's taxpayers. Thank you Mr. Speaker.

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

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. I think a little bit of history on this issue might be in order in terms of the issue of smoking in beano and bingo halls. I distributed the other day a copy of the current statute on smoking areas in beano halls. That was a law that

was enacted in 1997. It happened to be the first bill that I ever introduced as a legislator. I did this at the request of several of the operations in Old Town, which conduct non-profit beano and bingo, including the Knights of Columbus, the Elks and the VFW. They are very concerned about talk of a potential prohibition on smoking in their halls. They wanted to do something to accommodate both smokers and non-smokers. This was something that they had approached my predecessor, the Honorable Bob Keene, to put in and he decided not to run for office again and he asked me if I would do it. I met with these people and I agreed. That was subsequent to previously failed legislation to do exactly what is in the chaptered law today, which was submitted by then, Senator John Baldacci. That legislation failed. We were able to get it passed. If you saved the distribution from the other day, you will see that it is in Title 17, Chapter 13A, Section 327. It says, non-smoking area, it says that the Chief of the State Police shall adopt rules and allow a licensee to establish a non-smoking area within the room or outdoor area where the operator calls the numbers.

The real issue why this was so hard to do was the State Police had a problem with the issue of two master boards for a smoking or a non-smoking area. We were able to address this in this legislation. Basically the current law would allow a separate non-smoking are with a separate master board and separate beano official to oversee it. This was a unanimous committee report out of the Committee on Health and Human Services. That report was accepted exactly six years ago today, May 1, 1997. Representative Kane, the Representative from Saco, is absolutely right. None of us have gotten complaints about this issue. I have never heard any negative feedback on the effects of the current law, which allows for separate non-smoking areas. Beano halls are allowed to do this. They were concerned about a one size all or nothing type of statute. That is why we enacted the law. It has been on the books now for almost six years. It seems to have been working well. I have actually checked back with these people. They said they were very pleased to have the ability to accommodate their non-smoking patrons to their greatest comfort.

The issue has been brought forward; also, about the sterling precedent of the restaurant smoking ban and how happy everyone is that we did that, especially the owners. If I recall, those of us who were here for the debate, the premise was to protect the health of workers. I worked in restaurants for many years. I sat in an emergency room one night after having worked an 18-hour shift and driven a knife through my hand behind another fella that had also worked a 20-hour shift and lost his watch in the Fryolator and absentmindedly reached in after it. We were behind a fella who got his sleeve caught in an automatic slicer and took three slices of his hand. None of us smoked. The issue of the health of restaurant workers or beano workers really is not about their health. It is really about whether or not we like smoking or not. If it is to be the policy of the State of Maine that we don't like smoking and we want to ban smoking, I would agree with the previous speech from my good friend from Biddeford, let's be honest about it and ban smoking. This is really a debate about values, whether or not our personal values are going to be projected on the people of the State of Maine in an outright ban or are we actually going to solve a problem. I would maintain before this body that we have already solved this problem. We solved this particular problem six years ago.

This is a different issue now. It is not a matter of solving a problem with smokers versus non-smokers in a beano hall. It is about whether or not we like smoking. Mr. Speaker, I would move Indefinite Postponement of this bill and accompanying papers and I would request a roll call when the vote is taken.

Representative DUNLAP of Old Town moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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 Kane.

Representative **KANE**: Mr. Speaker, Men and Women of the House. The Representative from Old Town in addressing the history demonstrates the exact reason why I made reference to our experience with restaurants. Restaurants went through the same process of attempting to accommodate the smoking and non-smoking patrons by having non-smoking areas and installing very expensive equipment.

The fact of the matter is that testing the outcome and the effectiveness of this equipment demonstrated that even the most expensive equipment does not provide sufficient protection to the effects of second-hand smoke. The experience in restaurants is, in fact, a predictor of what would likely happen in beano halls. You have a lot of people who are not going to beano halls because of second-hand smoke. We did hear testimony from people whose parents, particularly older people, stopped going to beano halls because of respiratory ailments. The prediction is beano halls would thrive even better if they had a smoke-free environment.

One point we cannot afford to ignore here, particularly in the face of the financial constraints that the state is facing, we have in our committee having to deal with huge Medicaid shortfalls. A most significant part of our contribution to the shortfall right now is the expanded Medicaid costs. These are folks who we are responsible for and whose illnesses, respiratory, cardiovascular and pulmonary are directly related to smoking. We, the taxpayers of Maine are paying the bill. It is not just a matter of values. It is a matter of economics as well. I submit that ignoring the problem is going to erode our financial resources.

I urge the membership, men and women of the House, to reject the motion for Indefinite Postponement. Thank you.

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

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I served on the Health and Human Services Committee when we passed this law. At the time I thought the law, and I still think the law that exists today is fair and balanced. I think that we have to be very careful where we are going here. I think the good Representative from Old Town, Representative Dunlap, was very eloquent on how he spoke about this issue.

I just want to give you an example, I have many friends who smoke. They enjoy beano. They go and they play beano. Their complaint is the people who are non-smokers come and sit in the smoking section and they harass the people who are smokers. In the non-smoking section you can barely detect the odor of the cigarettes. When we had the non-smoking and the smoking section, I always sat in the non-smoking section, because I don't smoke. I very rarely ever detected the smoke in the smoking section. I just think that we have to be extremely careful here. I really think this is intolerant to smokers. I think it is society saying that I just cannot stand smokers, so let's get rid of it.

We have tried that before in years past and it didn't work. I think this is another situation where we should leave the law alone. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Hallowell, Representative Cowger.

Representative **COWGER**: Mr. Speaker, Men and Women of the House. I was very proud to be the sponsor of this legislation. I was more proud because there were several mandatory cosponsors. In other words, this legislation had broad support and many people who wanted to introduce the same legislation from the beginning. Those mandatory cosponsors included the good Representative from Rumford, Representative Patrick and the good Representative from Cape Elizabeth, Representative McLaughlin. While I would agree that the Representative from Old Town was very eloquent, the law that he refers to regarding separate smoking and non-smoking areas in bingo halls is permissive only. It does not require a separate non-smoking area.

My constituents and other constituents who live either in either small towns or even in bigger cities like Augusta don't have a choice. All the beano halls in those areas are smoking only. There are no non-smoking areas. This bill is very different from dealing with foster homes. We are dealing with public places. We have a duty in this body to protect the public health of Maine citizens. That is to prohibit smoking in public places, including bingo and beano halls.

I would ask, Mr. Speaker, if the Clerk would read the committee report.

Representative **COWGER** of Hallowell **REQUESTED** that the Clerk **READ** the Committee Report.

The Clerk **READ** the Committee Report in its entirety.

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

Representative **LORING**: Mr. Speaker, Men and Women of the House. The Penobscot Nation is against this bill. Indian high stakes bingo is included in the bill the way that it is written. I would like to point out that Indian high stakes bingo does not fall into the same category as regular non-profit bingos. The Penobscot Nation pays the State of Maine a fee of \$50,000 a year so that we can operate at a high stakes level. Our customer base is located in Canada and throughout New England. We compete with other high stakes bingo locations, such as New Brunswick, Nova Scotia, New Hampshire and Connecticut where customers are allowed to smoke. We have made provisions for non-smokers at our facility. We have invested \$1 million in an air exchange smoke removal system and are currently upgrading that system. We have separate smoking and non-smoking areas. Eighty percent of our customers arrive by bus with an average of 50 or 60 bus tours on a weekend. This influx of people from Canada and throughout New England boost the local economies as well. We purchase 600 to 700 hotel rooms in the bingo area. This includes Old Town, Orono, Bangor and Brewer. Our customers not only play bingo, but shop at local malls and eat at local restaurants. We estimate that approximately 75 percent of them smoke. If these customers were not allowed to smoke, they would certainly choose to play high stakes bingo elsewhere and we would lose this cash infusion to our tribal economy as well as the local economies.

The Penobscot Nation depends on the income generated from the high-stakes bingo to help with the cost of tribal government services. At a time when the economy is in trouble throughout the state, it is crucial that we maintain whatever economic resources we have. I ask you not to take this resource away from our area. This should be a decision that the tribe makes on its own as well as organizations make on their own. I urge you to support the Indefinite Postponement of this bill. Thank you.

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

Representative **RICHARDSON**: Mr. Speaker, Ladies and Gentlemen of the House. Lest you think I am proponent of smoking, I gotta tell you that I quit smoking farther back in years than half of you were alive. I am in no way a proponent of smoking. I am a great proponent of freedom. Most of the legislation that was passed to create a non-smoking society only gave choices to the people who wanted to ban smoking. There is no where that I know that any restaurant, for instance, has been allowed to stay open as a smoking restaurant because people think that they have a right to go anywhere they want to and they do, but they have to make a choice if they are putting themselves in the conditions that they don't like, then they should stay out. I don't like smoking in a restaurant because it bothers me. It doesn't smell good. There is nothing good about it, but I certainly would like to entitle anybody who wants to start a restaurant and make it a smoking restaurant to rise and fall on that particular thing. If they can find customers enough out there who want to go to their restaurant and smoke up a storm, then more power to them. It applies exactly to this bill on bingo halls. If there are people who want to start a bingo hall and have it all non-smoking, wonderful. The people who want to have a smoking bingo hall should be allowed to do it. The people who are going to go to them should make the choice between the two. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Patrick.

Representative **PATRICK**: Mr. Speaker, Men and Women of the House. I am a little ill prepared. I thought this wasn't going to be taken up today. I am going to have to kind of wing it. I am rising in opposition to the Indefinite Postponement. First of all, I would like to start with I sponsored LD 191 in the 120th Legislature. The good thing about it is the good former Representative from Sanford Indefinitely Postponed that so we never had a chance to really debate the full merits of the bill. Not having as much experience with the rules of order, the bill went down to Indefinite Postponement and ended up failing.

I got involved in bingo in 1971 as a player and as a committee person at one or two of the local nonprofits. Over the years I have had many, many experiences with smoking bingos. Probably the only thing that was less smoky than that was the beer joints and off-track betting parlors where the smoke is probably down to your chest high and in bingo parlors a lot of times gets down to head high. I have heard from several of our colleagues that this is just about smoking. I am involved with it because several of the non-profits that I belong to became the first one in the State of Maine to ban smoking in their bingo hall. We had to face the same thing just like those that originally wanted to ban smoking in restaurants. We had to take a look at the consequences. Are we going to lose business? Are we going to lose customers? Why were they deciding to do it in Rumford? It was because of the health of the volunteers at the bingos and the health of the players that didn't smoke.

We have 10 to 12 volunteers at each of our bingos. We are very fortunate. Over the years that has dwindled because of smoking because a lot of them couldn't stand the smoking. I believe there was testimony at the committee that one non-profit was having problems getting volunteers because of the smokers.

The financial impact of being the first bingo in the State of Maine, in my belief, lasted for two weeks. We had a drop in about 10 players in bingo for about two weeks. After that, it picked up. The following week, on week three, it got back to normal. Week four and beyond, business improved. There was a short dip, but business improved. We now continue to have

more people to play our bingos because of the non-smoking. Many people thanked us and told us they stayed away for years because they couldn't take the smoke. After we finally went and showed that it was profitable, another club in Rumford went non-smoking, then another club and another club and now all the bingos in Rumford are non-smoking.

When you say, why do I have an axe to grind, well, I am actually here for the protection of all those bingos throughout the state for the benefit of their people. I have some statistics written down and basically it is through all of our medical studies we know that three-quarters of all deaths and one-third of all disabilities are due to four chronic and mostly preventable diseases and they are cardiovascular disease, heart disease, stroke, cancer, chronic lung disease and diabetes. These diseases are considered most preventable because they are linked with three behaviors, poor nutrition, physical inactivity and tobacco use.

Tobacco kills seven Maine people every day. In costs the State of Maine \$5 million per week in direct medical expenses. There are also many other types of health related conditions caused by smoking, like bladder cancer, kidney cancer, voice box cancer, brain cancer, mouth cancer, throat cancer, lung cancer, emphysema, bronchitis are but a few of the many adverse affects of smoking. I am going to give you the statistics because this was written two years ago. At that time in over my 28 years experience in bingo, seven people died every day, which meant that 49 people died for a week, 210 died per month, 2,555 died per year and 51,540 died as of 2000. That is just a few thousand less than all the people that died in the Vietnam War. They died because of all the adverse affects of cigarette smoking. Probably half of them didn't realize how adverse cigarette smoking is, but like the good Representative from Bangor said, this is a new century and we know the difference. We know that a gun can't kill you. We do know that if you smoke cigarettes, you stand a good chance of dying or developing some chronic disease.

One good Representative spoke that she was worried that this was going to affect her bingo. I empathize with her for that, but I know out of the seven bingos we have in the Rumford area, none of them have lost money. The only time you are going to lose money at a Bingo is if most of your players are probably on average of 60 years old, if they die off and are not replaced by younger players.

I am in hope that you will at least vote not to Indefinitely Postpone this and let us go through the whole cycle of the bill. Many bills we will debate for hour upon hour and stuff and this is one is one of them that I am urging you to not Indefinitely Postpone so we have a chance to let this bill go through. I would urge you to support the bill and ban smoking for the benefit of the health of the people of the State of Maine. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative **CAMPBELL**: Mr. Speaker, Ladies and Gentlemen of the House. This is nothing but an anti-business bill. Someone made a statement that if they stop the smoking, then business will pick up. I think we should let the owners of these businesses decide whether they are going to have smoking or non-smoking. We can't be the caretakers of the businesses of this state like we have been trying to forever. Thank you.

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

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. We have had testimony from many successful bingo and beano halls that have gone non-smoking. That seems to be a fact. We have had a minimalization of the

health affects of secondary smoke. Ask yourself, why do all the federal public buildings, airports, Maine restaurants and this State House have all non-smoking? Why is that? It is because of the ill effects of smoking. This bill only applies to bingo and beano halls where the public is invited. Private clubs are not included. There is a great respect for privacy of individuals and of organizations. I urge that you defeat the current motion and go on to pass the bill.

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

Representative **WALCOTT**: Mr. Speaker, Men and Women of the House. The previous speaker, the Representative from Rumford, Representative Patrick, made some very good points. The only thing I would add is that he mentioned that there were seven people in the State of Maine that died each day from the effects of cigarette smoking. One of those seven, each day that dies, never smoked. Their causes were from second-hand smoke. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of the Bill and all Accompanying Papers. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 50

YEA - Austin, Bennett, Berry, Blanchette, Bowen, Bowles, Bryant-Deschenes, Campbell, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cressey, Crosthwaite, Cummings, Daigle, Duprey B, Fletcher, Glynn, Heidrich, Honey, Hotham, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Ketterer, Landry, Ledwin, Lemoine, Maietta, McGlocklin, McKenney, Millett, Moore, Muse, Nutting, O'Brien J, O'Brien L, Rector, Richardson M, Rines, Rogers, Rosen, Sherman, Snowe-Mello, Sykes, Tardy, Thomas, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Watson, Wotton, Young.

NAY - Adams, Andrews, Annis, Barstow, Bliss, Brannigan, Breault, Brown R, Browne W, Bruno, Bull, Canavan, Cowger, Craven, Curley, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Greeley, Grose, Hatch, Hutton, Kane, Koffman, Laverriere-Boucher, Lerman, Lessard, Lewin, Lundeen, Mailhot, Makas, Marley, Marraché, McCormick, McKee, McLaughlin, McNeil, Mills S, Moody, Murphy, Norbert, Norton, O'Neil, Paradis, Patrick, Peavey-Haskell, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson E, Richardson J, Sampson, Saviello, Shields, Simpson, Smith N, Smith W, Stone, Sukeforth, Sullivan, Suslovic, Thompson, Twomey, Usher, Walcott, Wheeler, Mr. Speaker.

ABSENT - Ash, Berube, Bierman, Bunker, Davis, Dugay, Goodwin, Jackson, McGowan, Mills J, Pellon, Woodbury.

Yes, 61; No, 78; Absent, 12; Excused, 0.

61 having voted in the affirmative and 78 voted in the negative, with 12 being absent, and accordingly the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers **FAILED**.

Representative **DUNLAP** of Old Town moved that the House **RECONSIDER** its action whereby the motion to **RECONSIDER** whereby the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers **FAILED**.

The same Representative moved that the Bill be **TABLED** until later in today's session pending his motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

Subsequently, the same Representative **WITHDREW** his motion to **TABLE**.

Subsequently, the same Representative **WITHDREW** his motion to **RECONSIDER** whereby the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers **FAILED**.

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

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

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

**SENATE PAPERS
Non-Concurrent Matter**

Bill "An Act To Reapportion the Districts for Representatives to the United States Congress"

(H.P. 1139) (L.D. 1556)

PASSED TO BE ENGROSSED in the House on April 10, 2003.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "B" (S-47)** in **NON-CONCURRENCE**.

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

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

The following Joint Order: (S.P. 548)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Monday, May 5, 2003, at 11:00 in the morning.

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

**ENACTORS
Acts**

An Act To Reapportion the Districts for Representatives to the United States Congress

(H.P. 1139) (L.D. 1556)
(S. "B" S-47)

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

On motion of Representative **BRUNO** of Raymond, was **SET ASIDE**.

The Chair ordered a division on **PASSAGE TO BE ENACTED**.

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

Representative **BRUNO**: Mr. Speaker, Ladies and Gentlemen of the House. This is just a clarification to the Republican Caucus. Please follow my light on this. This is a redistricting plan that has been agreed to. We need to send a message so just please follow my light. We don't want to pass this under the hammer. Thank you.

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

A vote of the House was taken. 72 voted in favor of the same and 46 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

The House recessed until 4:00 p.m.

(After Recess)

The House was called to order by the Speaker.

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

SENATE PAPERS

Bill "An Act Repealing the Charter of the Brewer Water District" (S.P. 547) (L.D. 1594)

Came from the Senate, **REFERRED** to the Committee on **UTILITIES AND ENERGY** and ordered printed.

REFERRED to the Committee on **UTILITIES AND ENERGY** in concurrence.

The following Joint Order: (S.P. 549)

ORDERED, the House concurring, that Bill, "An Act To Increase Penalties for Furnishing or Trafficking Scheduled Drugs That Cause Death or Serious Bodily Injury," House Paper 701, Legislative Document 944, and all its accompanying papers be recalled from the Engrossing Division to the Senate.

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

READ and **PASSED** in concurrence.

CONSENT CALENDAR

First Day

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

(H.P. 934) (L.D. 1262) Bill "An Act To Implement the Maine Assistance Program for Lawyers" Committee on **JUDICIARY** reporting **Ought to Pass**

(H.P. 947) (L.D. 1275) Bill "An Act To Amend the Laws Governing Improvident Transfers of Title" Committee on **JUDICIARY** reporting **Ought to Pass**

(H.P. 1026) (L.D. 1399) Bill "An Act To Allow District Attorneys To Approve Immunity Requests" Committee on **JUDICIARY** reporting **Ought to Pass**

(H.P. 301) (L.D. 381) Bill "An Act To Clarify How Consumers Acquire Information about In-pack Sweepstakes, Contests and Games" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-227)**

(H.P. 449) (L.D. 586) Bill "An Act To Clarify and Improve the Fairness of the Law of Trustee Process" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-221)**

(H.P. 1115) (L.D. 1524) Bill "An Act To Conform to Federal Standards Maine's Law Regarding Strip Searches of Persons in Custody" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-232)**

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**.

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 (11) Ought Not to Pass - Minority (2) Ought to Pass as Amended by Committee Amendment "A" (H-121) - Committee on TRANSPORTATION on Bill "An Act To Delay the Fiscal Sustainability of the Highway Fund"

(H.P. 1010) (L.D. 1375)

TABLED - April 16, 2003 (Till Later Today) by Representative **USHER** of Westbrook.

PENDING - Motion of same Representative to ACCEPT the Majority OUGHT NOT TO PASS Report.

Representative **McKENNEY** of Cumberland **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 Buckfield, Representative **Gagne-Friel**.

Representative **GAGNE-FRIEL**: Mr. Speaker, Ladies and Gentlemen of the House. I need to speak against this motion. I can't support the Majority Report. I would like to go to the Minority Report. I am sorry that I was talked into voting for this gas tax bill last year. It has bothered me ever since. In fact, the only reason I voted for it was because they had added an amendment that would allow this to be delayed. This bill was supposed to come up every year. However, as you know, you already voted for the highway fund long before we even saw this delaying bill. What I fool I was to believe that that would happen the way it should. Instead, this first year the DOT brought the bill before the committee after the highway budget was voted on and claimed, therefore, they needed the tax to go forward where they have already made plans.

Was this explained to us in this House before we voted on the highway fund bill that the tax was already part of their budget? It wasn't. The department did not act in good faith. They made promises to who voted on that last year. It was a very close vote that it passed. This year the Maine tax on gasoline will be 24.6 cents this July and next year it is going up to 25.2 cents. This will bring in \$18 million this year, \$22 million next year, which is \$40 million in this biennium. If you remember, we just voted on a highway budget of \$594 million, which is almost \$600 million. There is a bond package where they are asking for \$75 million for the highway fund coming up to vote this year. When is there enough for the highway fund? If you think they scare you with tactics like you don't vote for this and your district won't get money for roads. It is not true. They make their plans in advance. You have six and seven year plans. I have been here. This is my seventh year. The roads in my district that needed help, they got help and we didn't have indexing at the time.

The people of our state look to us for help, not for the paying of more taxing. I stress this, particularly this year, when in our recent budget we sacrificed the needs of our people and now we proceed to vote cash into concrete. We vote not for an easier life for our relative in our nursing home and we vote not for our

children in the needy schools. Instead we voted on the automatic tax increase to continue. I say you should vote to end it at the end of this biennium in 2005 so you would vote no on this. I go along with the roll call.

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

Representative **MCKENNEY**: Mr. Speaker, Ladies and Gentlemen of the House. I hope the AP, the Associated Press, is listening today because this is the long awaited bill that they had us voting on about four weeks ago. Maybe now they can get the story right.

Regardless of which report you vote for today, the gas tax is not going away. The gas tax is scheduled to go into effect July 1 as enacted by the 120th Legislature. Either report is going to continue that gas tax forward. I wish I could tell you that we didn't have to have that gas tax, but because of the way the highway fund has been decimated to the tune of \$50 million, that gas tax now is critical. If we don't have it, then we go right back to square one and start all over again with a supplemental highway fund. Regardless of what you do today, however you vote on either report, the gas tax stays in effect.

What will change if you vote against this Majority Ought Not to Pass Report is the automatic feature. The automatic feature will be repealed. That feature is poor policy. Raising taxes is a difficult and painful thing, but it is something that we are supposed to do. We are a co-equal branch of the government. We are the Legislature. We raise taxes and we spend the revenue. By putting this on automatic pilot, we become irrelevant to the process. We give up some of our power to the Executive Branch. We have done that enough lately. It is time to stop doing that.

It is pretty difficult to go face our constituents and tell them that we have raised a tax. It is much easier to hide behind an automatic feature, but that is what we do and that is what we were put here to do. If that tax is necessary and you vote for it, then you ought to be able to go home and tell your constituents that you have done that and why you did. It is absolutely necessary. It is what they elected you for.

If you believe, as I do, that any kind of tax on automatic pilot is bad policy, then you can end it right here, right now. You just push the red button and that will do it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Usher.

Representative **USHER**: Mr. Speaker, Men and Women of the House. Maine's version of the motor fuel tax indexing deserves your support. Motor fuel tax indexing is indexing with discipline. Unlike the sales and income tax, we must now for each transportation budget, just like a municipality, conscientiously decide and set the tax rate. Some do not appreciate that the law requires the DOT to submit a bill like this present bill to the committee every two years. It is a balance. We have to bring the revenues before the committee and what the needs are. We really have a choice of deciding to set our fuel tax somewhere between the CPI or no increase at all. Maine's version of the motor fuel tax indexing requires this discussion to take place every two years. This is good government and is in stark contrast to the pattern of decision making that prevailed prior to the indexing.

Maine Better Transportation Association supports this. It favors the indexing because it creates a sustainable financing approach that is critical to any agency where it made long-term financial commitments. You have heard the numbers before, but it is worth saying again. In the '70s the highway fund represented 26 percent of all state revenue. Today, it is around 10 percent. Under the circumstances, the highway budget we seek to fund is

a good budget with solid capital investments. There is a lot of people ready to go to work and this is economic development. There should be concern that we are falling behind. We have a large state. We have double the amount of roads that our neighboring State of New Hampshire has. We have many, many bridges that need repair. Today we have this opportunity to start with the indexing program, which is brand new and vote for the Majority Report.

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

Representative **TRAHAN**: Mr. Speaker, Ladies and Gentlemen of the House. There is a reason why it is hard to raise taxes. I think it started with the tea party back a few years ago down in Boston. It is because government without accountability is out of control. Since when does the Legislative Branch give away its power to tax to an Executive Branch department? That is what we have done, ladies and gentlemen. If you support accountability, that accountability is to the taxpayer. As a legislator, you answer to the taxpayer. Their only accountability is through you. If they want to say no to a tax, it is through you, their legislator, their elected person. I knew on day one when this bill was put forward that it was to manipulate the numbers so that this Executive Department could always raise revenue and wouldn't have to come back for a fight on tax increase. That is all this was. I was here. I was taken out in the hall and had my ear burned to support this or I wouldn't have my projects done in my community. That is not a way to govern, ladies and gentlemen.

We have had our power strong-armed from us. It is time to take it back. That day is today. It is not two years from now. We had our power taken away and we need to have it back. Vote against this motion. Move on to the Minority Report and let's fix this problem right now.

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

ROLL CALL NO. 51

YEA - Adams, Barstow, Bennett, Bierman, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Churchill E, Clark, Collins, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey B, Earle, Eder, Faircloth, Finch, Fischer, Gerzofsky, Grose, Hatch, Hutton, Jackson, Jennings, Jodrey, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McGlocklin, McGowan, McKee, McLaughlin, McNeil, Mills J, Mills S, Norbert, Norton, O'Brien L, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Smith W, Sullivan, Suslovic, Tardy, Thomas, Thompson, Tobin D, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

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

ABSENT - Ash, Cowger, Duprey G, Goodwin, O'Neil, Young.
Yes, 86; No, 59; Absent, 6; Excused, 0.

86 having voted in the affirmative and 59 voted in the negative, with 6 being absent, and accordingly the Majority

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

BILLS IN THE SECOND READING
House as Amended

Resolve, Directing the Commissioner of Public Safety To Study the Emergency Medical Services System

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

(H. "A" H-208 to C. "A" H-187)

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

Bill "An Act To Increase the Compensation of Jurors"

(H.P. 344) (L.D. 452)

(C. "A" H-142)

Was reported by the Committee on **Bills in the Second Reading** and **READ** the second time.

On motion of Representative BRUNO of Raymond, was **SET ASIDE.**

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

Representative **BRUNO**: Mr. Speaker, Ladies and Gentlemen of the House. For those of you who know me, I have a bulldog. His name is Henry. Henry is short, fat and ugly and he is also stubborn. They always say a dog is just like his owner, so I guess I qualify on all four counts.

My stubbornness on this bill is the fiscal impact that it has in '06 and '07. On the way home last night I kept thinking. I have heard all these things of why we need to pass this bill now. I want to go over point by point with you why I think those are bad ideas. One, someone said we need to send a message to the Judicial Branch to let them know that this is a priority of the Legislature.

When I used to serve on the committee all we did was write a letter and say that our priorities as a committee are, and you listed off what the priorities were and sent them off. You didn't have to pass a \$2.9 million fiscal note to do it. I heard it is only a \$1.4 million fiscal note. Ladies and gentlemen, that is per year. It is \$1.4 million in the first year and \$1.5 million in the second year. You actually have a \$2.9 million fiscal note on this bill. This bill will go to the Appropriations Table. The problem is it shows up with zero fiscal note. I think we need to show some fiscal responsibility. What I am really upset about, what I have heard from some members, is that it has become a partisan issue. This is not partisan. Fiscal responsibility is everyone's responsibility. It should not take a partisan tone at all.

If you think about this, every committee that wants to set a priority just needs to pass a bill that says these are our priorities, add a fiscal note and we will pass it through. Why don't we just develop the '06-'07 budget now? That is what you have started with this bill with a \$2.9 million fiscal note. You have started the process to developing the '06-'07 budget. It is wrong. As I said before, I am not opposed to an increase in jurors' pay. I am opposed to the process we are going through. If we want to restore IF & W's game wardens, why don't we do it now and say that we will push it off into '06-'07. How about the Bureau of Liquor Enforcement, why don't we bring all those people in and we will pass it along to '06-'07. I don't think that is good fiscal practice. I think it is wrong. I think it puts a burden on the Appropriations Committee to say no to these bills when they

come to the table. I think our duty here as a chamber is to help out the Appropriations Committee. Let's not just push off the responsibility and say that we know you are going kill it on the table. Let's step up the plate here, not pass this bill. Mr. Speaker, I ask for a roll call.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended.**

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

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

ROLL CALL NO. 52

YEA - Adams, Barstow, Bennett, Blanchette, Bliss, Bunker, Canavan, Clark, Craven, Cummings, Dudley, 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, McGlocklin, McKee, McLaughlin, Mills J, Norbert, O'Brien L, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson J, Rines, Saviello, Simpson, Smith N, Smith W, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Wotton, Mr. Speaker.

NAY - Andrews, Annis, 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, Dugay, Fletcher, Glynn, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Ledwin, Lewin, Maietta, Mailhot, Marraché, McCormick, McGowan, McKenney, McNeil, Millett, Mills S, Moody, Moore, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Rosen, Sampson, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sullivan, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Woodbury.

ABSENT - Ash, Cowger, Duprey G, Norton, O'Neil, Young.

Yes, 69; No, 76; Absent, 6; Excused, 0.

69 having voted in the affirmative and 76 voted in the negative, with 6 being absent, and accordingly the Bill **FAILED PASSAGE TO BE ENGROSSED as Amended** and was sent for concurrence.

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 Not to Pass** - Minority (3) **Ought to Pass** - Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Amend the Laws Governing Penalties for Writing Bad Checks"

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

TABLED - April 30, 2003 (Till Later Today) by Representative RICHARDSON of Brunswick.

PENDING - **ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report.

Subsequently, Representative BUNKER of Kossuth Township **WITHDREW** his motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

On motion of the same Representative, the Minority **Ought to Pass** Report was **ACCEPTED**.

The Bill was **READ ONCE** and was assigned for **SECOND READING** Monday, May 5, 2003.

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

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

ENACTORS
Emergency Measure

An Act To Allow Modular Home Transporters To Obtain Trailer Transit Plates

(H.P. 266) (L.D. 323)
(C. "A" H-160)

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

Emergency Measure

An Act Relating to ATV Registration

(H.P. 279) (L.D. 359)
(C. "A" H-130)

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. 105 voted in favor of the same and 29 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 Assist Regional Transportation Providers To Comply with the Booster Seat Law

(H.P. 474) (L.D. 644)
(C. "A" H-161)

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. 135 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

An Act to Provide Additional Financing for Costs Associated with the Remediation of a Waste Oil Site in Plymouth

(H.P. 475) (L.D. 645)
(C. "A" H-166)

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. 124 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 Concerning the Adoption of Coastal Sand Dune Rules
(H.P. 513) (L.D. 696)
(C. "A" H-167)

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. 125 voted in favor of the same and 1 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 Promote and Advance Wild Ring-necked Pheasant Propagation

(H.P. 652) (L.D. 875)
(C. "A" H-129)

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. 125 voted in favor of the same and 1 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 Amend the Membership of the Maine Fire Protection Services Commission

(H.P. 857) (L.D. 1160)
(C. "A" H-156)

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. 130 voted in favor of the same and 1 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, Regarding Legislative Review of Portions of Chapter 840, Private Purchasing Alliances, a Major Substantive Rule of the Department of Professional and Financial Regulation, Bureau of Insurance

(H.P. 1016) (L.D. 1386)

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

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 311: Eligible Resource Portfolio Requirements Rule Amendment, a Major Substantive Rule of the Public Utilities Commission

(H.P. 1092) (L.D. 1495)

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

Acts

An Act Concerning the Treatment of Gross Income in Cases in Which Both Child Support and Spousal Support Are Considered

(H.P. 190) (L.D. 235)

An Act To Require Information on New Wells

(H.P. 271) (L.D. 341)

(C. "A" H-164)

An Act To Amend the Laws Governing Antique Vehicles

(H.P. 285) (L.D. 365)

(C. "A" H-149)

An Act Regarding the School Board of the Governor Baxter School for the Deaf

(H.P. 328) (L.D. 420)

(C. "A" H-139)

An Act To Increase the Availability of Handicapped Parking Spaces for People with Disabilities

(H.P. 332) (L.D. 424)

(C. "A" H-165)

An Act Clarifying the Maine Consumer Credit Code

(H.P. 374) (L.D. 485)

An Act To Manage Water Resources

(H.P. 380) (L.D. 491)

(C. "A" H-136)

An Act To Clarify the Responsibilities of the Department of Environmental Protection

(H.P. 427) (L.D. 564)

(C. "A" H-144)

An Act To Create Experimental Motor Vehicle Plates and Registration

(H.P. 507) (L.D. 690)

(C. "A" H-137)

An Act Regarding the Suspension of Licenses for Failure To Pay a Fine

(H.P. 518) (L.D. 701)

(C. "A" H-128)

An Act To Enhance Homeland Security

(H.P. 530) (L.D. 724)

(C. "A" H-131)

An Act To Clarify Inspection Standards Related to Vehicle Wheel Size

(H.P. 543) (L.D. 737)

An Act To Clarify That All Companies Offering Telephone Services for Compensation, Including Switchless Resellers, Are Telephone Utilities

(H.P. 574) (L.D. 775)

(C. "A" H-125)

An Act To Amend Motor Vehicle Frame Height Laws

(H.P. 595) (L.D. 818)

(C. "A" H-122)

An Act To Amend the Motor Vehicle Laws Pertaining to Mufflers

(H.P. 596) (L.D. 819)

(C. "A" H-178)

An Act To Amend the Maine Criminal Code as Recommended by the Criminal Law Advisory Commission

(H.P. 741) (L.D. 1020)

(C. "A" H-153)

An Act To Allow Consumer-owned Utilities To Purchase Power at Negotiated Wholesale Rates, Terms and Conditions

(H.P. 747) (L.D. 1030)

(C. "A" H-124)

An Act Regarding University of Maine System Boards of Visitors

(H.P. 819) (L.D. 1116)

(C. "A" H-138)

An Act To Clarify Sentencing for Persons Convicted of Class D and Class E Crimes Involving Domestic Violence

(H.P. 938) (L.D. 1266)

(C. "A" H-154)

An Act To Modify Water Well Reporting Requirements

(H.P. 1025) (L.D. 1398)

An Act To Amend a Requirement Concerning Dioxin

(H.P. 1030) (L.D. 1403)

(C. "A" H-169)

An Act To Improve Farmer Participation in the Agricultural Marketing Loan Fund

(H.P. 1049) (L.D. 1430)

An Act To Make Technical Amendments to Truck Size and Weight Laws

(H.P. 1065) (L.D. 1457)

(C. "A" H-177)

An Act To Improve Participation in the Farms for the Future Program

(H.P. 1066) (L.D. 1461)

An Act To Relocate the Prohibition of Use of State Government Computer Systems for Political Purposes to the Election Laws

(H.P. 1071) (L.D. 1466)

An Act To Amend the Civil Service Law with Respect to Classified Employees Who Accept Appointment to the Unclassified Service

(H.P. 1073) (L.D. 1468)

An Act To Improve Timeliness of Unemployment Trust Fund Deposits

(H.P. 1081) (L.D. 1476)

(C. "A" H-147)

An Act To Clarify Provisions Governing Corporate-owned Life Insurance Policies

(H.P. 1086) (L.D. 1481)

An Act To Make Technical Changes to Statutes Regarding Regulatory Boards and Registrations

(H.P. 1099) (L.D. 1506)

An Act To Raise the Threshold under the Fair Minimum Wage Rate on Construction Projects Law

(H.P. 1125) (L.D. 1532)

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, Directing the Department of Behavioral and Developmental Services To Conduct a Study Regarding a Registry of Direct Care Workers Working with Persons with Mental Retardation

(H.P. 104) (L.D. 95)
(C. "A" H-162)

Resolve, To Amend the Laws Governing the Health Care Workforce Leadership council

(H.P. 160) (L.D. 201)
(C. "A" H-163)

Resolve, Concerning the Titling of Mobile Homes, Boats, All-terrain Vehicles, Snowmobiles and Other Property

(H.P. 229) (L.D. 286)
(C. "A" H-141)

Resolve, Directing the Department of Education To Develop Guidelines for Outdoor Playground Surfaces

(H.P. 458) (L.D. 628)
(C. "A" H-150)

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**.

An Act to Require Flashing Lights for Private Snow Plows

(H.P. 156) (L.D. 197)
(C. "A" H-25)

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

On motion of Representative BOWLES of Sanford, was **SET ASIDE**.

The **SPEAKER**: The Chair recognizes the Representative from Sanford, Representative Bowles.

Representative **BOWLES**: Mr. Speaker, Ladies and Gentlemen of the House. This bill has been discussed to death. I have no reason and no wish to prolong the debate. I simply make this observation. This is the kind of bill that when the Legislature adjourns and you go home this summer and you are sitting at your Dunkin Donuts or your local breakfast shop that people are going to look at you and say, what in the world are you people thinking of in Augusta? Mr. Speaker, I would request a roll call.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

ROLL CALL NO. 53

YEA - Adams, Barstow, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Carr, Churchill J, Clark, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Earle, Eder, Faircloth, Finch, Fischer, Gerzofsky, Grose, Hatch, Hutton, Jackson, Kane, Ketterer, Koffman, Laverriere-Boucher, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McGowan, McKee, McLaughlin, McNeil, Mills J, 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,

Smith W, Sullivan, Suslovic, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Duprey B, Fletcher, Gagne-Friel, Glynn, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Landry, Ledwin, Lewin, Maietta, McCormick, McGlocklin, McKenney, Millett, Mills S, Moore, 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 - Ash, Churchill E, Cowger, Duprey G, Goodwin, Jennings, Thomas, Young.

Yes, 78; No, 65; Absent, 8; Excused, 0.

78 having voted in the affirmative and 65 voted in the negative, with 8 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

An Act To Amend the Regional Economic Development Revolving Loan Program

(H.P. 914) (L.D. 1240)

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

On motion of Representative KAELIN of Winterport, was **SET ASIDE**.

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

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

The same Representative **PRESENTED House Amendment "A" (H-198)** which was **READ** by the Clerk.

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

Representative **KAELIN**: Mr. Speaker, Ladies and Gentlemen of the House. This amendment attaches an emergency preamble to this bill, which is an economic development bill that I introduced for the Finance Authority of Maine. It was unanimously approved by the Business, Research and Economic Development Committee. After talking to FAME and before the bill moved out of committee, we discussed with the House Chair an emergency preamble so that the economic development agencies in the state can immediately benefit from the bill, which reduces the match that micro-business loans have to meet in order to use funds from the Revolving Economic Development Loan Fund. This simply attaches an emergency preamble to this important economic development bill. I appreciate your support. Thank you Mr. Speaker.

Subsequently, **House Amendment "A" (H-198)** was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-198)** in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH**.

Resolve, Directing the Department of Conservation To Create the Kennebec River Historic Waterway

(H.P. 497) (L.D. 680)
(C. "A" H-152)

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

On motion of Representative TWOMEY of Biddeford, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

ROLL CALL NO. 54

YEA - Adams, Andrews, Annis, Austin, Barstow, Bennett, Berry, Berube, Bierman, Blanchette, Bliss, Bowen, Bowles, Brannigan, Breault, Brown R, Browne W, Bryant-Deschenes, Bull, Bunker, Campbell, Canavan, Carr, Churchill J, Clark, Clough, Collins, Courtney, Craven, Cressey, Crosthwaite, Cummings, Curley, Daigle, Davis, Dudley, Dugay, Dunlap, Duplessie, Earle, Eder, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Glynn, Greeley, Grose, Hatch, Heidrich, Honey, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Maietta, Mailhot, Makas, Marley, Marraché, McCormick, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Moore, Murphy, Muse, Norbert, Norton, Nutting, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Peavey-Haskell, 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, Smith W, Snowe-Mello, Stone, Sukeforth, Sullivan, Suslovic, Sykes, Tardy, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Usher, Vaughan, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Bruno, Duprey B.

ABSENT - Ash, Churchill E, Cowger, Duprey G, Goodwin, Young.

Yes, 143; No, 2; Absent, 6; Excused, 0.

143 having voted in the affirmative and 2 voted in the negative, with 6 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act To Protect Reorganized Businesses"

(H.P. 752) (L.D. 1035)

Signed:

Senators:

PENDLETON of Cumberland
CATHCART of Penobscot
WOODCOCK of Franklin

Representatives:

NORBERT of Portland
BULL of Freeport

SIMPSON of Auburn
BENNETT of Caribou
MILLS of Farmington
CARR of Lincoln
DUPREY of Hampden
BRYANT-DESCHENES of Turner

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-222)** on same Bill.

Signed:

Representative:

SHERMAN of Hodgdon

Representative LORING of the Penobscot Nation - of the House - supports the Majority **Ought Not to Pass** Report.

READ.

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

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

Divided Report

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-224)** on Resolve, Authorizing the Commissioner of Administrative and Financial Services To Sell or Lease the Interests of the State in Certain Real Estate Located in Hallowell

(H.P. 1070) (L.D. 1465)

Signed:

Senators:

ROTUNDO of Androscoggin
LaFOUNTAIN of York
GILMAN of Cumberland

Representatives:

McLAUGHLIN of Cape Elizabeth
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 Not to Pass** on same Resolve.

Signed:

Representatives:

PEAVEY-HASKELL of Greenbush
CROSTHWAITE of Ellsworth

READ.

On motion of Representative McLAUGHLIN of Cape Elizabeth, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-224)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Monday, May 5, 2003.

SENATE PAPERS
Non-Concurrent Matter

Bill "An Act To Establish a Right of Entry for Surveyors Performing Surveying Services"

(H.P. 988) (L.D. 1342)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-196) in the House on April 30, 2003.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-196) AND SENATE AMENDMENT "A" (S-94)** in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR. 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. 369) (L.D. 1097) Bill "An Act To Release the Records of the Attorney General and the Maine State Police Regarding the Investigation, Prosecution and Trial of Dennis Dechaine" Committee on **JUDICIARY** reporting **Ought to Pass**

(S.P. 479) (L.D. 1441) Bill "An Act To Establish New License Fee Caps" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass**

(S.P. 493) (L.D. 1487) Bill "An Act To Allow Judges' Faxed Signatures in Involuntary Psychiatric Commitment Proceedings" Committee on **JUDICIARY** reporting **Ought to Pass**

(S.P. 90) (L.D. 231) Bill "An Act To Strengthen Delivery of Electricity Conservation Programs" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-88)**

(S.P. 128) (L.D. 352) Bill "An Act To Encourage Energy Efficiency and Security" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-87)**

(S.P. 292) (L.D. 897) Bill "An Act Concerning Health Insurance Reimbursement and Contracting Practices" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-90)**

(S.P. 495) (L.D. 1489) Bill "An Act To Update and Amend the Revised Maine Securities Act" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-91)**

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

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 (10) **Ought Not to Pass** - Minority (3) **Ought to Pass** - Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Prohibit Arbitrary Interest Rate Hikes"

(H.P. 687) (L.D. 930)

TABLED - April 30, 2003 (Till Later Today) by Representative O'NEIL of Saco.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

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

The same Representative **REQUESTED** that the Clerk **READ** the Committee Report.

The Clerk **READ** the Committee Report in its entirety.

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. 55

YEA - Andrews, Annis, Austin, Barstow, Bennett, Berry, Berube, Bierman, Blanchette, Bowen, Bowles, Brannigan, Breault, Brown R, Browne W, Bruno, Bryant-Deschenes, Bull, Bunker, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Cummings, Curley, Daigle, Davis, Dugay, Dunlap, Duplessie, Duprey B, Eder, Fischer, Fletcher, Glynn, Greeley, Hatch, Heidrich, Honey, Hotham, Jackson, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Kane, Ketterer, Koffman, Landry, Ledwin, Lemoine, Lessard, Lewin, Maietta, Mailhot, Marraché, McCormick, McGlocklin, McGowan, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Moore, Murphy, Muse, Nutting, O'Brien J, O'Neil, Paradis, Patrick, Pellon, Perry A, Piotti, Rector, Richardson E, Richardson M, Rogers, Rosen, Saviello, Sherman, Shields, Smith N, Smith W, Snowe-Mello, Stone, Sukeforth, Sullivan, Suslovic, Sykes, Tardy, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Usher, Vaughan, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Adams, Bliss, Canavan, Clark, Craven, Dudley, Faircloth, Finch, Gagne-Friel, Gerzofsky, Goodwin, Grose, Hutton, Laverriere-Boucher, Lerman, Lundeen, Makas, Marley, McKee, Norbert, Norton, O'Brien L, Percy, Perry J, Pineau, Pingree, Richardson J, Rines, Sampson, Simpson, Thomas, Twomey, Walcott, Watson.

ABSENT - Ash, Cowger, Duprey G, Earle, Peavey-Haskell, Young.

Yes, 111; No, 34; Absent, 6; Excused, 0.

111 having voted in the affirmative and 34 voted in the negative, with 6 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

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

Bill "An Act to Keep Foster Children Safe and Healthy"

(H.P. 63) (L.D. 55)

Which was **TABLED** by Representative DUPLESSIE of Westbrook pending **FURTHER ACTION**.

On motion of Representative DUNLAP of Old Town, the House **RECONSIDERED** its action whereby the Majority **Ought to Pass as Amended** Report was **NOT ACCEPTED**.

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

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. The House having already reconsidered its action, I no longer feel the need to speak to the motion. Thank you.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-170)** was **READ** by the Clerk.

Representative **TRAHAN** of Waldoboro **PRESENTED House Amendment "B" (H-240)** to **Committee Amendment "A" (H-170)**, which was **READ** by the Clerk.

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

Representative **TRAHAN**: Mr. Speaker, Ladies and Gentlemen of the House. From our earlier discussions on this legislation and the concerns that many people had, including myself, I would like to present this amendment to perhaps solve some of those concerns that people have. What this amendment would do is it would require the DHS to adopt major substantive rules on smoking in foster homes and foster parent's vehicles. I believe that this amendment would allow some flexibility for DHS to go out to through rulemaking and public hearing to adopt policies within foster homes that protect children, but also protect the rights of foster parents to smoke in safe areas. I think that this would be the beginning of perhaps some good policy on smoking within foster homes. I would encourage your adoption of this amendment. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Biddeford, Representative Laverriere-Boucher.

Representative **LAVERRIERE-BOUCHER**: Mr. Speaker, Men and Women of the House. I stand in support of this amendment. I agree with everything that Representative Trahan has said. I hope that everyone supports this amendment. Thank you.

Mr. Speaker, I wish to ask for a roll call.

Representative **LAVERRIERE-BOUCHER** of Biddeford **REQUESTED** a roll call on the motion to **ADOPT House Amendment "B" (H-240)** to **Committee Amendment "A" (H-170)**.

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 "B"

(H-240) to Committee Amendment "A" (H-170). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 56

YEA - Adams, Andrews, Annis, Austin, Barstow, Bennett, Berry, Berube, Bierman, Bliss, Bowen, Bowles, Brannigan, Breault, Brown R, Browne W, Bruno, Bryant-Deschenes, Bull, Bunker, Campbell, Canavan, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cowger, Craven, Cummings, Curley, Daigle, Dudley, Dugay, Duplessie, Duprey B, Eder, Faircloth, Fischer, Fletcher, Gagne-Friel, Glynn, Greeley, Grose, Hatch, Heidrich, Hotham, Hutton, Jackson, Jennings, Jodrey, Joy, Kaelin, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lerman, Lessard, Lewin, Maietta, Mailhot, Makas, Marley, Marraché, McCormick, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Murphy, Muse, Norbert, Norton, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Richardson M, Rogers, Rosen, Sampson, Saviello, Sherman, Shields, Simpson, Smith N, Smith W, Snowe-Mello, Stone, Sukeforth, Sullivan, Suslovic, Sykes, Tardy, Thompson, Tobin D, Tobin J, Trahan, Usher, Vaughan, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Cressey, Crosthwaite, Dunlap, Honey, Jacobsen, Lundeen, Moore, Nutting, Rines, Thomas, Treadwell, Twomey.

ABSENT - Ash, Blanchette, Davis, Duprey G, Earle, Finch, Gerzofsky, Goodwin, Peavey-Haskell, Perry J, Young.

Yes, 128; No, 12; Absent, 11; Excused, 0.

128 having voted in the affirmative and 12 voted in the negative, with 11 being absent, and accordingly **House Amendment "B" (H-240)** to **Committee Amendment "A" (H-170)** was **ADOPTED**.

Committee Amendment "A" (H-170) as Amended by **House Amendment "B" (H-240)** thereto was **ADOPTED**.

The Bill was assigned for **SECOND READING** Monday, May 5, 2003.

On motion of Representative **DAVIS** of Falmouth, the House adjourned at 6:38 p.m., until 11:00 a.m., Monday, May 5, 2003 pursuant to the Joint Order (S.P. 548).