

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
55th Legislative Day
Tuesday, May 20, 2003

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

Prayer by Reverend Bill Bliss, Bath United Church of Christ.
National Anthem by Mt. Blue Voices, Mt. Blue High School, Farmington.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act Authorizing the Operation of Low-speed Vehicles on Certain Roads" (EMERGENCY)

(H.P. 313) (L.D. 393)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-357) in the House on May 16, 2003.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-357) AS AMENDED BY SENATE AMENDMENT "A" (S-173)** thereto in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act To Include Androscoggin County in the Law Governing the Use of County Surplus Funds"

(H.P. 607) (L.D. 830)

Unanimous **OUGHT TO PASS** Report of the Committee on **STATE AND LOCAL GOVERNMENT READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED** in the House on May 9, 2003.

Came from the Senate with the Bill and accompanying papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

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

COMMUNICATIONS

The Following Communication: (H.C. 214)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON APPROPRIATIONS AND FINANCIAL
AFFAIRS**

May 15, 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 Appropriations and Financial Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 321

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Provide for Protected Reserve Funds

L.D. 449

An Act To Require All Fees, Fines and Penalties To Be Deposited into the General Fund

L.D. 534

An Act To Authorize a General Fund Bond Issue in the Amount of \$4,000,000 To Construct the Gulf of Maine Research Laboratory

L.D. 749

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Control State Spending Based on Certain Guidelines

L.D. 1064

An Act To Reduce the Size of All Departments and Agencies

L.D. 1173

An Act To Continue the Maine Farms for the Future Program

L.D. 1307

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Create the Maine Economic Stabilization and Endowment Fund

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

Sincerely,

S/Sen. Mary R. Cathcart

Senate Chair

S/Rep. Joseph C. Brannigan

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 215)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND
FORESTRY**

May 19, 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 Agriculture, Conservation and Forestry has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 926

An Act To Amend the Laws Governing the Bigelow Preserve To Allow for Cross-country Skiing

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

Sincerely,

S/Sen. Bruce Bryant

Senate Chair

S/Rep. Linda Rogers McKee

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 216)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON BUSINESS, RESEARCH AND ECONOMIC
DEVELOPMENT**

May 15, 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 Business, Research and Economic Development has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 401 An Act To Require the Plumbers' Examining Board To Adopt the Uniform Plumbing Code
- L.D. 688 An Act To Provide Incentives for Municipalities To Adopt a Building Rehabilitation Code
- L.D. 735 An Act to Increase Faculty in Maine Nursing Education Programs
- L.D. 1316 An Act To Establish Medical Gas and Vacuum System Installer Certification

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

Sincerely,
S/Sen. Lynn Bromley
Senate Chair
S/Rep. Nancy B. Sullivan
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 217)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

May 19, 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 Education and Cultural Affairs has voted unanimously to report the following bill out "Ought Not to Pass":

- L.D. 1432 An Act Regarding the Factors Used for General Purpose Aid in the Essential Programs and Services Model for "English as a 2nd Language" Students

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

Sincerely,
S/Sen. Neria R. Douglass
Senate Chair
S/Rep. Glenn Cummings
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 218)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES**

May 19, 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 Health and Human Services has voted unanimously to report the following bills out "Ought Not to Pass":

- S.P. 372 Joint Study Order to Establish the Task Force To Study Drug Overdose
- L.D. 439 Resolve, To Provide Equitable Services to Persons with Congenital Brain Anomalies
- L.D. 602 Resolve, to Allow Persons with Disabilities to Purchase Coverage Under the Medicaid Program
- L.D. 684 An Act To Provide Health Coverage for Smokers Who Suffer from Smoking-related Illnesses

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

Sincerely,
S/Sen. Michael Brennan
Senate Chair
S/Rep. Thomas J. Kane
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 219)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON INLAND FISHERIES AND WILDLIFE**

May 15, 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 Inland Fisheries and Wildlife has voted unanimously to report the following bill out "Ought Not to Pass":

- L.D. 4 An Act to Protect the Waters of the Saco River
- We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,
S/Sen. Bruce Bryant
Senate Chair
S/Rep. Matthew Dunlap
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 220)

STATE OF MAINE

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

May 12, 2003
Honorable Beverly C. Daggett, President of the Senate
Honorable Patrick Colwell, Speaker of the House
121st Maine Legislature
State House
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Insurance and Financial Services

has voted unanimously to report the following bills out "Ought Not to Pass":

- H.P. 725 Joint Study Order To Examine the Issue of Health Insurance Mandates
L.D. 889 An Act To Establish a State Single-payor Health Insurance Plan
L.D. 1540 An Act To Implement the Recommendations of the Health Care System and Health Security Board

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

Sincerely,
S/Sen. Lloyd P. LaFountain III
Senate Chair
S/Rep. Christopher P. O'Neil
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 221)

STATE OF MAINE

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

May 19, 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 Taxation has voted unanimously to report the following bill out "Ought Not to Pass":

- L.D. 920 An Act To Establish a Penalty on Gains from the Sale or Exchange of Land from Which Timber Has Been Harvested

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

Sincerely,
S/Sen. Stephen Stanley
Senate Chair
S/Rep. David G. Lemoine
House Chair

READ and ORDERED PLACED ON FILE.

**PETITIONS, BILLS AND RESOLVES REQUIRING
REFERENCE**

Bill "An Act To Provide Equitable Treatment to State Employees"

(H.P. 1198) (L.D. 1619)

Sponsored by Representative RICHARDSON of Brunswick. (GOVERNOR'S BILL)

Cosponsored by Senator TREAT of Kennebec and Representatives: CARR of Lincoln, Speaker COLWELL of Gardiner, McNEIL of Rockland, SMITH of Van Buren, Senators: President DAGGETT of Kennebec, DAVIS of Piscataquis, EDMONDS of Cumberland, LEMONT of York.

Committee on **LABOR** suggested and ordered printed.

REFERRED to the Committee on **LABOR** and ordered printed.

Sent for concurrence.

Bill "An Act to Amend the Charter of the New Portland Water District" (EMERGENCY)

(H.P. 1199) (L.D. 1620)

Sponsored by Representative McGLOCKLIN of Embden.

Cosponsored by Senator HATCH of Somerset.

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.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

the Cape Elizabeth High School Girls Swim Team, upon winning the State Class A Swim Championship for the 2nd consecutive year. The team's spectacular season, led by Coach of the Year Kerry Kertes and his assistant Ben Raymond, included winning its 3rd consecutive conference championship, setting 3 new state records, receiving top 10 national swimming ranking and qualifying for the national academic GPA Bronze level award. Two members of the team, Taylor McFarlane and Emily Caras, contributed greatly towards the team's success this year, each winning 2 individual events at the state meet and both setting records throughout the season. We send our congratulations to the members of the team on this occasion and extend to them our best wishes for their continued success;

(HLS 582)

Presented by Representative McLAUGHLIN of Cape Elizabeth.

Cosponsored by Senator BROMLEY of Cumberland, Representative BLISS of South Portland.

On **OBJECTION** of Representative McLAUGHLIN of Cape Elizabeth, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **MCLAUGHLIN**: Mr. Speaker, Men and Women of the House. They are back! Yes, the swim team was here last when they won the state championship. They are back because they have won for the second consecutive year. We have three representatives from the team here in the gallery today. We have senior Allie Night one of the co-captains. We have junior Skyler Armstrong another co-captain and we have Carrie Curtis, Coach of the team and coach of the year. Allie and Skyler are both top six finishers in the last three to four years. This team in the past three years has been undefeated. Listen up you Bangor folks.

Another outstanding achievement for this team is their 3.74 GPA. Not only are they excellent, excellent athletes, they are also very diligent and talented scholars. I am very pleased that they are here to be recognized with us today. Thank you.

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 **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-176)** on Bill "An Act Repealing the Charter of the Brewer Water District"

(S.P. 547) (L.D. 1594)

Signed:

Senators:

HALL of Lincoln

YOUNGBLOOD of Penobscot

Representatives:

RINES of Wiscasset

FLETCHER of Winslow

LUNDEEN of Mars Hill

MOODY of Manchester

ADAMS of Portland

BERRY of Belmont

BLISS of South Portland

CRESSEY of Baldwin

RICHARDSON of Skowhegan

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

Signed:

Representative:

GOODWIN of Pembroke

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-176)**.

READ.

On motion of Representative GOODWIN of Pembroke, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-176)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Wednesday, May 21, 2003.

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act to Establish the Full Right of Petition and Redress in Local School Board Decisions"

(H.P. 162) (L.D. 203)

Signed:

Senators:

DOUGLASS of Androscoggin

BRENNAN of Cumberland

MITCHELL of Penobscot

Representatives:

DAVIS of Falmouth

FINCH of Fairfield

LEDWIN of Holden

NORTON of Bangor

THOMAS of Orono

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-460)** on same Bill.

Signed:

Representatives:

CUMMINGS of Portland

GAGNE-FRIEL of Buckfield

ANDREWS of York

FISCHER of Presque Isle

MURPHY of Kennebunk

READ.

Representative GAGNE-FRIEL of Buckfield moved that the House **ACCEPT** the Minority **Ought to Pass as Amended** Report.

The SPEAKER: The Chair recognizes the Representative from Holden, Representative Ledwin.

Representative **LEDWIN**: Mr. Speaker, Ladies and Gentlemen of the House. As you can see, I am on the Majority Ought Not to Pass Report and would like to speak to that and tell you why I am there. In my opinion, our school board members receive the least accolades of anyone in public service, yet their job is very, very serious. They have the job of overseeing our schools. What can be more important? How many times are they second-guessed in any decision that they may make. This bill will make it really legal to second-guess them. I urge you to support the Majority Ought Not to Pass Report and continue our business. Thank you.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I think that the measure that is before us is a very important bill and one I put in for several constituents of mine down in South Portland. The purpose of the bill, simply stated, is to allow Maine residents, those Maine residents that live in municipal school districts, that would be not an SAD, but a school district where the city is the school district, the ability to petition their local elected representatives to their school board on public policy matters. Currently Maine state law prohibits local parents and voters from voting on these issues locally or creating local initiative processes. The purpose of this measure is simply to lift that restriction. These referenda will never be referenda on staff or on people. That is what it is not about. This isn't about putting forward a measure which will appropriate money. It is not about allowing a process where if somebody doesn't like Susie, the third grade teacher, having a petition drive on the teacher is certainly nothing about coaches. It is simply matters of public process or public policy that is decided by school districts. The right to petition elected governmental bodies in Maine applies to the Maine State Legislature, our county commissioners, our local city councils and board of aldermen and even in the case of my county, Cumberland County, our elected water district board of trustees. The sole exception in Maine, the only elected body, which is exempt and that exemption is through a lack of procedure, the citizen's right to petition are the elected officials who serve on school boards. What this bill will do if it is enacted is it will allow a local municipality, if they would like to have the initiative process, it's enabling legislation, it will allow them to put a provision in their local city charter, which would be voted on by everybody in town and if they want to have the right to petition their school board, then it will exist. If the voters in the community don't put this in their local city charter and it only applies to municipal school districts, then the right to petition will not be granted to those voters. This is, in the shortest of terms, it is enabling legislation. It is local control. If you support local control and support allowing decisions to be made locally between the parents and the school board, then I am hoping you will vote with me to support the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Finch.

Representative **FINCH**: Mr. Speaker, Ladies and Gentlemen of the House. I had not come here this morning planning to speak on this bill. I have not made it a point to speak on the floor of the House. Most of the time I think that anything that I could say will be said more eloquently by others. On this bill I feel

compelled to speak as a member of a school board who has great fear about the long-range implications of this bill. I believe this bill ought not to pass. As you will see, my name is on the Majority Ought Not to Pass Report. This bill came to our committee and was originally presented because of a situation in one municipality. In one municipality there was apparently a group of people who felt the school board was not listening to them. No other municipality seemed to have this problem. I am more concerned about the long-range implications and what this could potentially do to school boards across the state.

I am a member of a school board of an SAD. This bill does not apply to my board. I could simply set here and let this go through and shrug my shoulders and say it doesn't matter to us, so why should I care? On behalf of the school boards in municipalities, I would like to urge you to vote Ought Not to Pass. What this could possibly do is to hold up routine decisions of boards on policies for indeterminate periods of time and could create great roadblocks to our school boards in the normal performance of their functions. The school board passes a policy, a petition is written, which would call for a vote on that policy. In the meantime the policy cannot be implemented. School boards work on very tight calendar schedules as you know. If any policy which is passed by a school board can be held up and can be delayed, I see all kinds of confusion, not to mention the cost to municipalities of conducting potentially endless votes on these issues. I apologize for taking you time this morning. I know we have a lot of important things to do. I would not have stood up here this morning unless I felt so strongly that this is a bad bill and it should not pass. Thank you.

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

Representative **CUMMINGS**: Mr. Speaker, Ladies and Gentlemen of the House. This bill that you have before us in the Minority Report, for me, hinges on peanut butter. This year the Longfellow School in Portland, Maine, because of the allergic reaction of two kids out of 600 put forward a policy that eliminated the use of peanut butter for every child in that school. I personally think that is a bad decision. More importantly, I think that you ought to have the right to petition. If you agree with me, vote for the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Davis.

Representative **DAVIS**: Mr. Speaker, Ladies and Gentlemen of the House. I served on the school board in Falmouth for six years. It sounds very good that you can overturn school board decisions by petition and redress, but I think you would be reaching toward paralysis. At the turn of the century the progressives didn't like the way democracy was working so they implanted a bureaucracy instead and then the initiative and referendum and so on, but these things can go too far.

I urge you to not pass this, because I think it would make local school boards unable to govern and certainly they need to govern in these times. Thank you very much.

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

Representative **PERRY**: Mr. Speaker, Ladies and Gentlemen of the House. I am in a municipality. The Calais school system is in a municipality. I have been a board member on that system for a number of years. Policy is not something that is done on a spur of the moment issue. Our policies are set up that we hear them at least two times before they are passed into the permanent policy. If we have issues that are coming up and we have passed some policies that could be very controversial, and one that we did was a six-month process involving parents, community, the board and it was a drug policy. It was pretty

stringent and pretty hard. Not everyone will agree with that, but it has been a long process. We went through one hearing and there were some changes made. We went back to the community committee. We did the policy again and we came out with a policy that we were willing to follow. If we have problems, the community can come back. We can relook at the policy. To petition a process that we really need to go through as we make policies and we need to follow, sometimes absence of policies can be more problem to a district than the presence of policies.

I would like to ask you to not accept the Minority Report and go with the Majority Report of Ought Not to Pass. Thank you.

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 and I just want to point out a few things to you. First of all, if you look at the Minority Report the titles change because the title was a little bit confusing we thought. This bill doesn't actually establish anything. It is just permissive language that allows town charters to be amended by the citizens of a town. It is not as if the State Legislature is imposing any sort of mandate on any town in Maine. They are simply saying that if you want to establish the right of petition, you can put it in your town charter. That is all that this bill does. I also want to remind you that we are definitely a system of checks and balances here in Maine and this is truly checks and balances in its very finest moment. First you have to amend the charter and then if you amend the charter and you put this in, then the school board can still override any petition with a two-thirds vote. It is not as if anything in this bill, I don't see it at least, is going to really impose any costs on a municipality unless the municipality chooses itself to impose that cost. I urge you to accept the Minority Report. Thank you Mr. Speaker.

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

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

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

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

ROLL CALL NO. 131

YEA - Adams, Andrews, Barstow, Bliss, Brannigan, Brown R, Bruno, Bryant-Deschenes, Bull, Bunker, Cowger, Cressey, Cummings, Daigle, Duplessie, Duprey B, Eder, Fischer, Gagne-Friel, Glynn, Grose, Hatch, Hotham, Jennings, Kane, Lemoine, Lerman, Lewin, McGlocklin, McKee, McLaughlin, Moore, Murphy, Norbert, O'Neil, Paradis, Patrick, Richardson J, Richardson M, Rosen, Shields, Simpson, Snowe-Mello, Stone, Suslovic, Thompson, Tobin D, Twomey, Usher, Vaughan, Watson, Wotton, Mr. Speaker.

NAY - Annis, Ash, Austin, Bennett, Berube, Blanchette, Bowen, Bowles, Breault, Browne W, Campbell, Canavan, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Craven, Crosthwaite, Curley, Davis, Dunlap, Duprey G, Earle, Faircloth, Finch, Goodwin, Heidrich, Honey, Hutton, Jackson, Jacobsen, Jodrey, Joy, Kaelin, Landry, Laverriere-Boucher, Ledwin, Lessard, Lundeen, Makas, Marley, Marraché, McCormick, McKenney, McNeil, Millett, Mills J, Mills S, Moody, Muse, Norton, Nutting, O'Brien J, O'Brien L, Peavey-Haskell, Pellon, Percy, Perry A, Pineau, Pingree, Piotti, Rector, Rogers, Sampson, Saviello, Smith N, Smith W, Sukeforth, Sullivan, Sykes, Tardy,

Thomas, Trahan, Treadwell, Walcott, Wheeler, Woodbury, Young.

ABSENT - Berry, Bierman, Dudley, Dugay, Fletcher, Gerzofsky, Greeley, Ketterer, Koffman, Maietta, Mailhot, McGowan, Perry J, Richardson E, Rines, Sherman, Tobin J.

Yes, 53; No, 81; Absent, 17; Excused, 0.

53 having voted in the affirmative and 81 voted in the negative, with 17 being absent, and accordingly the Minority **Ought to Pass as Amended** Report was **NOT ACCEPTED**.

Subsequently, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "B" (H-463)** on Bill "An Act to Require Disclosure of Retail Prescription Drug Prices"

(H.P. 111) (L.D. 102)

Signed:

Senators:

BRENNAN of Cumberland

MARTIN of Aroostook

Representatives:

EARLE of Damariscotta

CRAVEN of Lewiston

KANE of Saco

CURLEY of Scarborough

WALCOTT of Lewiston

LAVERRIERE-BOUCHER of Biddeford

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

Signed:

Senator:

WESTON of Waldo

Representatives:

SHIELDS of Auburn

CAMPBELL of Newfield

LEWIN of Eliot

READ.

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

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

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-465)** on Bill "An Act To Require Full Disclosure of Prescription Drug Marketing Costs"

(H.P. 209) (L.D. 254)

Signed:

Senators:

BRENNAN of Cumberland

MARTIN of Aroostook

Representatives:

KANE of Saco

EARLE of Damariscotta

CRAVEN of Lewiston

WALCOTT of Lewiston

CAMPBELL of Newfield

LAVERRIERE-BOUCHER of Biddeford

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

Signed:

Senator:

WESTON of Waldo

Representatives:

SHIELDS of Auburn

DUGAY of Cherryfield

CURLEY of Scarborough

LEWIN of Eliot

READ.

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

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

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass** on Bill "An Act to Ensure Patient Access to Medical Records"

(H.P. 283) (L.D. 363)

Signed:

Senators:

BRENNAN of Cumberland

MARTIN of Aroostook

Representatives:

KANE of Saco

EARLE of Damariscotta

CRAVEN of Lewiston

SHIELDS of Auburn

WALCOTT of Lewiston

LEWIN of Eliot

LAVERRIERE-BOUCHER of Biddeford

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

Signed:

Senator:

WESTON of Waldo

Representatives:

DUGAY of Cherryfield

CAMPBELL of Newfield

CURLEY of Scarborough

READ.

Representative KANE of Saco moved that the House **ACCEPT** the Majority **Ought to Pass** Report.

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

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act To Amend the Abortion Reporting Laws To Eliminate Immunity for a Physician Who Reports Data on an Abortion"

(H.P. 242) (L.D. 299)

Signed:

Senators:

PENDLETON of Cumberland

CATHCART of Penobscot

Representatives:

NORBERT of Portland

BULL of Freeport

SIMPSON of Auburn

RICHARDSON of Brunswick

BENNETT of Caribou

MILLS of Farmington

SHERMAN of Hodgdon

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

Signed:

Senator:

WOODCOCK of Franklin

Representatives:

CARR of Lincoln

DUPREY of Hampden

BRYANT-DESCHENES of Turner

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

READ.

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

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

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act To Require State Reimbursement When Laws or Rules Devalue Private Property" (H.P. 663) (L.D. 886)

Signed:

Senators:

PENDLETON of Cumberland

CATHCART of Penobscot

Representatives:

NORBERT of Portland

BULL of Freeport

SIMPSON of Auburn

RICHARDSON of Brunswick

BENNETT of Caribou

MILLS of Farmington

DUPREY of Hampden

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-437)** on same Bill.

Signed:

Senator:

WOODCOCK of Franklin

Representatives:

SHERMAN of Hodgdon

CARR of Lincoln

BRYANT-DESCHENES of Turner

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

READ.

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

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House. This is a bill that I had submitted to the Legislature before and it has been submitted by other people. These bodies in the Legislature are continually passing laws that devalue the property value of privately owned property. The bill has been changed in the amended version. I would urge you to defeat the Ought Not to Pass and move on to accept the Ought to Pass version.

We have rules, regulations and laws all stacked up which go to continually devalue this process of owning property and having a full value in that property. We are continually being told what

we can and can't do with our property. Each time that we do this that results in devaluation.

The bill has been changed somewhat to just require that we do a review of all the laws, rules and regulations that devalue or property and notify the landowners.

I urge you to defeat the pending motion and go on and accept the amended Ought to Pass motion. Mr. Speaker, I request a roll call.

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

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

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

Representative NORBERT: Mr. Speaker, Ladies and Gentlemen of the House. This is a perennial issue before our committee, the issue of takings. The bill has been changed from its original form, but I urge you to reject the temptation to go along with this. The question really is where will it all end? If this bill were to pass, the Legislature, every state agency, would, within just a few short months, need to review all laws currently in effect, any law that has ever been passed, to see and examine the way they might devalue property. The bill, as amended, would also require notification of every property owner in the state that has been identified as having had their property devalued.

Ladies and gentlemen of the House, we live in a system that relies on Constitutional principles of a balance between private property and regulations that society has deemed necessary. If you just examine the few bills that we may have passed today, you can see the implications of such a sweeping bill. You will go back home to your selectmen and need to explain why they and others are going to have to help figure out just how the laws of this state have devalued property. I submit to you there are too many unanswered questions. How will we complete the work in such a short time and with such a tight budget? There is a large fiscal note on the bill, \$374,000 to help cover the meetings that each committee is going to have to conduct in the interim, as well as the mailing that is going to have to occur from the state to every private property owner in the state. Where does it end, ladies and gentlemen? How will we notify all these property owners? How could we possibly reach every property owner? What does devalue mean? I can think of many, many laws on the books that may not have had the intention of devaluing property, but the whole system of revenue sharing and school funding, tax policy, health care, you name it, arguably could be said to cause some communities to have suffered devaluations.

The Judiciary Committee has spent hours and hours, exhaustive reviews over the years, examining the complex legal, constitutional, fiscal public policy, health and considerations that surround takings issues. The good news is we did something about it. Back in 1995, with leadership from the good Rep from Cornville, when he chaired the committee, the committee recommended that a task force be established. The committee ended up establishing a land use mediation process that is in existence today called Cadrays to help individuals mediate the complex issues involved with land disputes, land regulation. This balance has been accepted overwhelmingly by this body in the past. We have said that bills such as this are unnecessary. They have great implications for local control. They would upset the fundamental balance in our system. I urge you to accept the Majority Ought Not to Pass Report.

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

Representative MILLS: Mr. Speaker, Ladies and Gentlemen of the House. I respect the concerns of the good Representative from Crystal. It is true, certainly, that government regulations of different sorts does have the impact, quite often of reducing the value of someone's property, but I must also say that to make this bill complete we would need to ask governmental agencies to do an inventory of all of those rules, laws and regulations and governmental provisions, which add value to our property. We all know that the building of highways adds value. We know that certain zoning regulations and protections of property add value to property. We can look into the newspaper and recognize that in downtown Baghdad without the existence of government and regulation of some sort and rules of a civilized society, property rapidly becomes worth nothing at all in the absence of governmental regulation. In truth, it is the existence of property rights, the existence of rules and laws and regulations that creates value in an organized society, at the same time, in many cases, it diminishes value.

My only suggestion for this bill is if we were to pass it and undertake this broad based inventory, we would also want to look at all of the rules and the laws and the provisions of Maine that add value so substantially to our citizens. For this reason, I do request that we vote no on this bill. Thank you.

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. 132

YEA - Adams, Annis, Ash, Barstow, Bennett, Blanchette, Bliss, Brannigan, Breault, Brown R, Browne W, Bruno, Bull, Bunker, Canavan, Clark, Cowger, Craven, Cummings, Daigle, Davis, Dudley, Dunlap, Duplessie, Duprey B, Duprey G, Earle, Faircloth, Finch, Fischer, Gagne-Friel, Grose, Hatch, Hotham, Hutton, Jacobsen, Jennings, Kane, Koffman, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lerman, Lessard, Lundeen, Makas, Marley, Marraché, McCormick, McGlocklin, McKee, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Moore, Muse, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Pineau, Pingree, Piotti, Rector, Richardson J, Sampson, Saviello, Simpson, Smith N, Smith W, Sukeforth, Sullivan, Suslovic, Tardy, Thomas, Thompson, Trahan, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Andrews, Austin, Berube, Bowen, Bowles, Bryant-Deschenes, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Eder, Glynn, Heidrich, Honey, Jackson, Jodrey, Joy, Kaelin, Lewin, McKenney, Murphy, Nutting, O'Brien J, Peavey-Haskell, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sykes, Tobin D, Treadwell, Vaughan.

ABSENT - Berry, Bierman, Dugay, Fletcher, Gerzofsky, Goodwin, Greeley, Ketterer, Maietta, Mailhot, McGowan, Perry J, Richardson E, Rines, Tobin J.

Yes, 95; No, 41; Absent, 15; Excused, 0.

95 having voted in the affirmative and 41 voted in the negative, with 15 being absent, and accordingly 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**.

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act To Establish and Enforce Abortion Facility Safety Requirements"

(H.P. 804) (L.D. 1101)

Signed:

Senators:

PENDLETON of Cumberland

CATHCART of Penobscot

Representatives:

NORBERT of Portland

BULL of Freeport

SIMPSON of Auburn

RICHARDSON of Brunswick

BENNETT of Caribou

MILLS of Farmington

SHERMAN of Hodgdon

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-434)** on same Bill.

Signed:

Senator:

WOODCOCK of Franklin

Representatives:

CARR of Lincoln

DUPREY of Hampden

BRYANT-DESCHENES of Turner

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

READ.

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

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

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act To Protect the Mental Health of Women and Girls"

(H.P. 805) (L.D. 1102)

Signed:

Senators:

PENDLETON of Cumberland

CATHCART of Penobscot

Representatives:

NORBERT of Portland

BULL of Freeport

SIMPSON of Auburn

RICHARDSON of Brunswick

BENNETT of Caribou

MILLS of Farmington

SHERMAN of Hodgdon

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

Signed:

Senator:

WOODCOCK of Franklin

Representatives:

CARR of Lincoln

DUPREY of Hampden

BRYANT-DESCHENES of Turner

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

READ.

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

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

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act To Amend the Laws Governing Abortion Reporting"

(H.P. 832) (L.D. 1129)

Signed:

Senators:

PENDLETON of Cumberland
CATHCART of Penobscot

Representatives:

NORBERT of Portland
BULL of Freeport
SIMPSON of Auburn
RICHARDSON of Brunswick
BENNETT of Caribou
MILLS of Farmington
BRYANT-DESCHENES of Turner

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-436)** on same Bill.

Signed:

Senator:

WOODCOCK of Franklin

Representatives:

SHERMAN of Hodgdon
CARR of Lincoln
DUPREY of Hampden

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

READ.

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

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

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-441)** on Bill "An Act Concerning Retirement Benefits for State Employees"

(H.P. 730) (L.D. 1009)

Signed:

Senators:

EDMONDS of Cumberland
STANLEY of Penobscot

Representatives:

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

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

Signed:

Senator:

BLAIS of Kennebec

Representatives:

SMITH of Van Buren
CRESSEY of Baldwin
HEIDRICH of Oxford
NUTTING of Oakland
TREADWELL of Carmel

READ.

Representative SMITH of Van Buren moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-440)** on Bill "An Act To Provide Collective Bargaining Rights to Certain Forest Products Workers"

(H.P. 972) (L.D. 1318)

Signed:

Senators:

EDMONDS of Cumberland
STANLEY of Penobscot

Representatives:

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

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

Signed:

Senator:

BLAIS of Kennebec

Representatives:

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

READ.

Representative SMITH of Van Buren moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-442)** on Bill "An Act To Extend Term Limits"

(H.P. 945) (L.D. 1273)

Signed:

Senators:

LEMONT of York
MAYO of Sagadahoc
GAGNON of Kennebec

Representatives:

CLARK of Millinocket
BROWN of South Berwick
MOORE of Standish
PATRICK of Rumford

BLANCHETTE of Bangor
CANAVAN of Waterville
JENNINGS of Leeds
LANDRY of Sanford

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

Signed:

Representatives:

GLYNN of South Portland
HOTHAM of Dixfield

READ.

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

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

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act To Ensure Fairness in Elections"

(H.P. 940) (L.D. 1268)

Signed:

Senators:

LEMONT of York
GAGNON of Kennebec

Representatives:

CLARK of Millinocket
GLYNN of South Portland
HOTHAM of Dixfield
BROWN of South Berwick
MOORE of Standish
PATRICK of Rumford
BLANCHETTE of Bangor
JENNINGS of Leeds
LANDRY of Sanford

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-438)** on same Bill.

Signed:

Senator:

MAYO of Sagadahoc

Representative:

CANAVAN of Waterville

READ.

Representative CLARK of Millinocket moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

CONSENT CALENDAR

First Day

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

(S.P. 497) (L.D. 1491) Bill "An Act To Delay the Repeal of Laws Governing the State's Response to an Extreme Public Health Emergency" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass**

(S.P. 559) (L.D. 1605) Bill "An Act To Amend the Law Relating to Multiple-employer Welfare Arrangements" (EMERGENCY) Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass**

(S.P. 61) (L.D. 138) Resolve, Directing the State Tax Assessor to Adjust the State Valuation for the Town of Ashland (EMERGENCY) Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-170)**

(S.P. 181) (L.D. 541) Bill "An Act To Ensure Timely Responses to Requests for School Administrative District Reapportionments" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-174)**

(S.P. 484) (L.D. 1452) Bill "An Act To Provide Incentives for Development and To Amend Traffic Movement Permit Standards" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-169)**

(S.P. 524) (L.D. 1561) Bill "An Act To Clarify the InforME Public Information Access Act" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-172)**

(S.P. 530) (L.D. 1571) Bill "An Act Concerning Technical Changes to the Tax Laws" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-175)**

(S.P. 553) (L.D. 1600) Bill "An Act To Recodify the Laws Governing Inland Fisheries and Wildlife" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-171)**

(H.P. 102) (L.D. 93) Bill "An Act Regarding the Duties of a Personal Representative" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-469)**

(H.P. 363) (L.D. 471) Resolve, To Study Obesity and Methods To Decrease the Cost of Health Care and Increase the Public Health Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-464)**

(H.P. 702) (L.D. 945) Bill "An Act To Facilitate Communication between Prescribers and Dispensers of Prescription Medication" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-457)**

(H.P. 714) (L.D. 957) Bill "An Act To Retain Teachers Holding Targeted Need Area Certificates" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-458)**

(H.P. 936) (L.D. 1264) Bill "An Act To Require Notice of Deficient Care Provided in Long-term Care Facilities" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-466)**

(H.P. 952) (L.D. 1298) Bill "An Act To Penalize a Person Who is Habitually Late Making Child Support Payments" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-476)**

(H.P. 968) (L.D. 1314) Bill "An Act To Establish Accountability in Out-of-home Abuse and Neglect Investigations" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-459)**

(H.P. 999) (L.D. 1364) Resolve, To Establish the Commission To Identify the Opportunities to Decrease the Occurrence of Developmental Disabilities and Childhood Mental Health Challenges Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-467)**

(H.P. 1028) (L.D. 1401) Bill "An Act To Provide the Office of the State Fire Marshal with Adequate Funding for Construction Plans Review" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-472)**

(H.P. 1042) (L.D. 1423) Bill "An Act To Facilitate the Implementation, Maintenance and Operation of the E-9-1-1 Emergency System" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-451)**

(H.P. 1053) (L.D. 1434) Bill "An Act To Ensure Basic Standards for Death Investigations by Law Enforcement Agencies" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-474)**

(H.P. 1054) (L.D. 1435) Bill "An Act To Clarify Immunity and Workers' Compensation for Search and Rescue Volunteers" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-452)**

(H.P. 1106) (L.D. 1513) Bill "An Act To Update the Department of Defense, Veterans and Emergency Management Laws" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-468)**

(H.P. 1122) (L.D. 1530) Resolve, Regarding Legislative Review of Portions of Chapter 115: Certification, Authorization and Approval of Education Personnel, a Major Substantive Rule of the Department of Education (EMERGENCY) Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-453)**

(H.P. 1126) (L.D. 1533) Bill "An Act To Create the Maine National Guard Education Assistance Program" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-455)**

(H.P. 1157) (L.D. 1585) Resolve, Regarding Legislative Review of Rules for the Audio Recording of Planned Interviews of Children, a Major Substantive Rule of the Department of Human Services (EMERGENCY) Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-477)**

(H.P. 1165) (L.D. 1592) Bill "An Act To Amend the Department of Corrections' Laws Pertaining to Juvenile Offenders" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-473)**

(H.P. 1169) (L.D. 1595) Bill "An Act To Enhance Electric Utility Consumer Protections" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-426)**

(H.P. 1172) (L.D. 1598) Bill "An Act To Ensure Access to Intelligence and Investigative Information" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-475)**

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

There being no objection, 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 as Amended** and sent for concurrence.

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

(H.P. 1059) (L.D. 1447) Bill "An Act To Improve Enforcement of the State's Natural Resource Protection, Timber Theft and Trespass Laws" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-456)**

On motion of Representative McKEE of Wayne, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ**.

On further motion of the same Representative, **TABLED** pending **ACCEPTANCE** of the Committee Report and later today assigned.

(H.P. 1162) (L.D. 1589) Bill "An Act To Change Certain Educational Requirements and Make Title Changes for Licensed Social Workers" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-454)**

On motion of Representative LAVERRIERE-BOUCHER of Biddeford, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ**.

On motion of Representative RICHARDSON of Brunswick, **TABLED** pending **ACCEPTANCE** of the Committee Report and later today assigned.

BILLS IN THE SECOND READING House

Bill "An Act To Make Technical Changes to the Laws Concerning Tobacco Manufacturers"

(H.P. 1104) (L.D. 1511)

House as Amended

Bill "An Act To Change the Personnel Employed by the Commission on Governmental Ethics and Election Practices"

(H.P. 106) (L.D. 97)

(C. "A" H-414)

Bill "An Act To Require Use of United States Citizens for Work with the Bureau of Parks and Lands"

(H.P. 227) (L.D. 284)

(C. "A" H-402)

Bill "An Act To Protect Health Care Practitioners Responding to Public Health Threats"

(H.P. 623) (L.D. 846)

(C. "A" H-435)

Bill "An Act To Establish a Municipal Affordable Housing Development District Tax Increment Financing Program"

(H.P. 635) (L.D. 858)

(C. "A" H-412)

Bill "An Act To Allow Women Recovering from Childbirth To Be Issued Temporary Handicapped Parking Permits"

(H.P. 766) (L.D. 1049)

(C. "A" H-409)

Bill "An Act To Amend the Sex Offender Registration and Notification Laws"

(H.P. 1107) (L.D. 1514)

(C. "A" H-420)

Bill "An Act To Authorize a Pilot Project To Allow Commercial Vehicles at Canadian Weight Limits Access to the Woodland Commercial Park in Baileyville"

(H.P. 1147) (L.D. 1565)

(C. "A" H-410)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the House Papers were **PASSED TO BE**

ENGROSSED or PASSED TO BE ENGROSSED AS AMENDED and sent for concurrence. ORDERED SENT FORTHWITH.

Bill "An Act To Improve the Procedure for Locating Runaway Children"

(H.P. 713) (L.D. 956)
(C. "A" H-367)

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

On motion of Representative LESSARD of Topsham, was SET ASIDE.

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Lessard.

Representative LESSARD: Mr. Speaker, Ladies and Gentlemen of the House. I was a little slow in getting to my feet yesterday. I apologize. I should have spoken out yesterday. This bill is to enhance the procedure in finding runaway kids. The title is misleading in that it will not enhance it. I speak from my past administrative experience and police service. I was on the Majority Ought Not to Pass Report on this bill. Therefore, I want to bring out a few things that we all should be aware of. This bill pertains to state laws of children who are in the custody of either the Human Services or Corrections Department. What this bill wants to do is once a juvenile is in that position and notification is made to the police departments that this child has runaway, within 24 hours or thereafter, I believe it is 48 hours, the Department can go to the agency where that child came from, the residency. It is admirable that that should happen, but let me tell you the pitfalls that occur once that happens. The call comes in on a runaway child and 48 hours passes and that agency notifies the agency where the child came from. Where the child came from there may be a divorce involved, the parents have moved away, therefore all the information is transferred to that agency where that child supposedly came from.

Originally when the call comes in for locating a runaway child, all the information is contained on a telegraphed item to all the agencies, including the national runaway child database. You can imagine when that agency receives that information now you have the investigation and they do make an attempt to locate the child with no results, where do they turn to? It is going to be a dead end street. They will not take the time because it is not a critical matter like a wanted person or somebody who is violent. This is just a runaway child. Here is the pitfall, the agency will not take the time to change the identifying number on that original Teletype that went out indicating that they are the original agency and transfer it to the second agency. We have a paper trail that is going to be convoluted. It is going to be misleading. Our laws protect our children in that they should not be arrested when they are located. They may be detained or the parents or the custodian of that child should appear. Here is where the problem may arise also. If that child is located out of state, how will they handle that particular individual?

I would hope that you would agree with me and turn this bill down. Goodness, if we would have found a better way to locate our missing children, I think the law enforcement agencies would have done that. We had testimony from the JAG, which is the Juvenile Justice Advisory Group. They indicate that this is not a good bill. The Maine State Police indicated that it is not a good bill. The Maine State Police did write up an amendment to this, as a request to the committee. I would urge you to vote against this LD for the reasons I specified. In my past experience I can tell you that there are so many mishaps that can happen along the way in the paper trail that it will hinder the locating of that individual. I urge you to turn it down. Thank you.

The SPEAKER: The Chair recognizes the Representative from Monmouth, Representative Smith.

Representative SMITH: Mr. Speaker, Men and Women of the House. Yesterday in anticipation of debate, I distributed a handout to all of you. It is two pages. If there is any chance you might be able to lay your hands on that today, I would appreciate your looking for it. This is LD 956. Currently when a child who is a ward of the state runs away from a temporary housing arrangement, the law enforcement agency in that jurisdiction has primary responsibility for that case, meaning they hold the file. They take care of the paperwork. They are the main contact. In most cases, however, a child who is a ward of the state who runs away from temporary housing tends to go back to their own hometown. If not to their parent's homes, they have aunts, uncles, boyfriend, girlfriend, friends, teachers, it is a safe place for them. Generally that is where they head.

Our goal with this bill is to get that child to a safe place as soon as possible. I believe that bill achieves that goal. What the bill actually does is after 48 hours after the running away and up to 60 days afterwards, there is this huge window of time. If the Chief of Police in that place of where the child ran away from deems it is in the best interest of the child, they can choose to pass the file or pass the primary jurisdiction to the child's legal residence if they find that that is the most effective way to find the child.

Again, this deals with children who are wards of the state when they are runaways. This does not talk about abductions or any crimes being committed. Running away is not a crime. We are not talking about making it a crime. What our hope is that by transferring the file to the agency of legal jurisdiction, the child's hometown, it will foster and create a sense of ownership and overall responsibility for the continued investigation of the missing child. The sense is that that is where they are most likely to be found. That is where the connections are. That is where their friends, their teachers and their social workers are most likely to hear about where they are. The police agency from that jurisdiction is the one most likely to have the connections.

Another point as well is that we added a sunset provision to this bill. It ends in two years. At that time the success of our proposal of this bill could be evaluated to see if we have achieved what we had hoped to.

Again, I would stress that if the Chief of Police at the originating agency where we started out feels that there is a very good reason to keep the file there, they can. It is up to that person's discretion. For instance, they may have intelligence that shows that the child is still in the immediate area or that that child has, we are usually talking teenagers here, that they have a network of friends there or there may be other information suggesting that the best chance of recovering the child is to stay there and they can do that.

I would wrap up by pointing out that if you were able to find your handout, the second page of it is an endorsement from the National Center for Missing and Exploited Children. They were very happy to see this provision come through. I would also make note that the Maine State Police endorsed the bill. The Maine Police Chief's Association was neutral on the bill. I feel that we do have the support to make it a success.

I would end by saying that I feel that rather than opening cracks for the child to fall through, what this bill does is broaden the net that will help to find them. I would appreciate your support. Thank you.

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Lessard.

Representative LESSARD: Mr. Speaker, Ladies and Gentlemen of the House. You need one agency, a lead agency,

to control the paperwork, the flow of the investigation. Whether you like it or not, you have the investigation. All the information has been disseminated as to where the children may be, to be located. If you don't have that, then things are going to slip through the cracks. I have seen it happen in the past on other cases and other things that happened. I ask you if there had been a better method of doing this in the past, we would have done that. We are now telling agencies how to handle investigations, what to do next. This is not the course to follow. We can already do that. This has been done in the past. Exchanging information is most important. To do this with an LD is not appropriate. Thank you Mr. Speaker.

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

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. I would ask you to support engrossment and passage of this important bill. Representative Smith has brought forward a very important issue within the state and I think with the assistance of the committee and the various police agencies we have modified and amended this bill to be a very important tool in assisting people in recovery of these runaway children from custodial care.

I am a foster parent. I am licensed, but I don't have anybody in my home at this time. I live in Kossuth Township as all of you folks on both sides of the aisle know and if somebody comes to my home for two days and is a disruptive female or a young fella that has serious problems and the state decided that they had to put them in some custody and he or she decides to run away from home, I can guarantee you they are not going to find them in Kossuth Township. I double the population on any given day when I am home usually. It is pretty tough to do that. In my instance and the reason why I insisted on some changes to address some of Chief Lessard's issues is we asked for the modification and the amendments in here allowing the Chief Executive Officer of the law enforcement agency, in my case it would be the Sheriff, if she or he decides that more than likely my lost child that used to live in Lewiston is going to runaway to Lewiston that he could have his deputies showering all of Washington County until the cows come home and would not be able to locate this young person. The file that everybody is talking about here and thinks is a big file in somebody's drawer is the responsibility to the federal government after 48 hours of typing this person's name into the missing and wanted kind of category as a child that has come up amongst the missing. The only file issue here is who is responsible every six months to respond to the federal government, is this child still lost, missing or whatever has been recovered. That is the only thing we are talking about.

My Sheriff most likely would say after a period of time of looking around Washington County, he would probably say it is in the best interest to call the chief down in Lewiston and say, would you want to take over the responsibility for this file in this federal computer? I think you are going to find them in your backyard somewhere. That chief down there says, sure Joe, my people will go out looking. We will take this thing over because Johnny used to live here and we know his family. We know his brother. We know his relatives. We will do a little work to see if we can't locate this child and take the responsibility on.

The biggest issue here and what really turned me on this bill was one simple fact, ladies and gentlemen, this child was placed in temporary custody and ripped away from their family for some reason. Who do you think has the most driving reason to find the child? Is it the state? We all know they really don't care. Is it really the police department that is overwhelmed by a lot of different things? Many police departments have the best of

intentions, but they are overworked as well. What about mom and dad, sister, brother, aunt and uncle who live in that town? They are the ones who are going to call up on the phone saying where is my child. I will tell you that somebody calling from Lewiston to Washington County saying where is my child is not as effective as somebody calling the chief of your hometown saying where is your child? I don't have any fears of anybody falling through the cracks. I think this is an enhancement, especially for those children who tend to be runaways, lost and forgotten. The most power in recovery I think is in the loved ones of the family and pressuring their local Sheriff or their local chief to continue to try to locate this person. I would ask you to support the engrossment and move on. Thank you.

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Lessard. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative **LESSARD**: Mr. Speaker, Ladies and Gentlemen of the House. You have heard a classic scenario of what should take place and how it could happen. Ladies and gentlemen, it does not happen that way. You have constables, deputy sheriffs and troopers that are in remote areas. Once they get that investigation handed to them, if they can't find the child, that is where it is going to stay. I am sorry to say that, but that is what happens. I can see things falling through the cracks. That lead agency has the responsibility of making sure things are done. They have their identifying name on it. It went to the national bureau and that is where it should lie, one central source where everybody can get their information and disseminate it from there. That investigation will start there and they should keep tabs of it. Thank you Mr. Speaker.

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

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I am really proud to stand here today in support of LD 956. I think it is very important to look at the flyer that Representative Smith passed out yesterday. What it says is this bill, the law enforcement agency having jurisdiction of the case, has primary responsibility for the first 48 hours. At least 48 hours, but no more than 60 days as a child has run away, that agency may, it doesn't say they must, they may choose to do so if deemed appropriate by its chief executive, transfer the file to the law enforcement agency who has jurisdiction over the child's hometown. Over and over again in the committee the question was constantly asked, will the original enforcement agency, will they completely let go of this? Will they not be involved? The answer came back to us each time, no, we will not completely surrender. We will still be involved in this case. I just think it is so important to take advantage of exactly what the Representative from Kossuth Township, Representative Bunker, what he said. This is a wonderful tool. Let's do all that we can to find these kinds. I think we owe it to the parents and to the child. I would ask for your support in voting Ought to Pass on LD 956. Thank you.

The Chair ordered a division on **PASSAGE TO BE ENGROSSED as Amended**.

Representative **LESSARD** of Topsham **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. 133

YEA - Andrews, Annis, Austin, Barstow, Bennett, Berube, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brown R, Browne W, Bruno, Bryant-Deschenes, Bunker, Campbell, Canavan, Churchill J, Clark, Clough, Collins, Courtney, Cowger, Cummings, Curley, Daigle, Davis, Dudley, Dunlap, Duplessie, Duprey B, Duprey G, Eder, Faircloth, Finch, Fischer, Glynn, Grose, Hatch, Heidrich, Hotham, Hutton, Jackson, Jacobsen, Jodrey, Kaelin, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lewin, Lundeen, Marley, Marraché, McCormick, McGlocklin, McKee, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Moore, Murphy, Muse, Norbert, O'Brien J, O'Neil, Paradis, Patrick, Peavey-Haskell, Pellon, Percy, Perry A, Pineau, Pingree, Piotti, Rector, Richardson J, Richardson M, Rogers, Rosen, Sampson, Saviello, Shields, Simpson, Smith N, Smith W, Snowe-Mello, Stone, Sukeforth, Sullivan, Suslovic, Sykes, Tardy, Thomas, Thompson, Tobin D, Trahan, Twomey, Usher, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Adams, Ash, Breault, Bull, Carr, Churchill E, Cressey, Crosthwaite, Earle, Gagne-Friel, Honey, Joy, Lerman, Lessard, McKenney, Norton, Sherman, Treadwell, Vaughan.

ABSENT - Berry, Bierman, Craven, Dugay, Fletcher, Gerzofsky, Goodwin, Greeley, Jennings, Maietta, Mailhot, Makas, McGowan, Nutting, O'Brien L, Perry J, Richardson E, Rines, Tobin J, Walcott.

Yes, 112; No, 19; Absent, 20; Excused, 0.

112 having voted in the affirmative and 19 voted in the negative, with 20 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended** and sent for concurrence. **ORDERED SENT FORTHWITH.**

Bill "An Act to Require that Certain Employees Be Paid on a Weekly Basis"

(H.P. 834) (L.D. 1131)
(C. "A" H-193)

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 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. 134

YEA - Adams, Ash, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Clark, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Gerzofsky, Grose, Hatch, Hotham, Hutton, Jackson, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Lerman, Lessard, Lundeen, Makas, Marley, Marraché, McGlocklin, McKee, McLaughlin, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Pineau, Pingree, Piotti, Sampson, Saviello, Simpson, Smith N, Smith W, Suslovic, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Austin, Barstow, Berube, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Churchill J, Clough, Collins,

Courtney, Cowger, Cressey, Crosthwaite, Curley, Daigle, Davis, Duprey B, Finch, Fischer, Gagne-Friel, Glynn, Heidrich, Honey, Jacobsen, Jodrey, Joy, Kaelin, Ledwin, Lewin, McCormick, McKenney, McNeil, Millett, Mills J, Mills S, Moody, Moore, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson J, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sullivan, Sykes, Tardy, Thomas, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Woodbury, Young.

ABSENT - Berry, Bierman, Dugay, Fletcher, Goodwin, Greeley, Jennings, Lemoine, Maietta, Mailhot, McGowan, Perry J, Richardson E, Rines.

Yes, 66; No, 71; Absent, 14; Excused, 0.

66 having voted in the affirmative and 71 voted in the negative, with 14 being absent, and accordingly the Bill **FAILED PASSAGE TO BE ENGROSSED as Amended.**

On motion of Representative RICHARDSON of Brunswick, the House **RECONSIDERED** its action whereby the Bill **FAILED PASSAGE TO BE ENGROSSED as Amended.**

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENGROSSED as Amended** and later today assigned.

The House recessed until 3:00 p.m.

(After Recess)

The House was called to order by the Speaker.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Finch who wishes to address the House on the record.

Representative **FINCH**: Mr. Speaker, Men and Women of the House. Unfortunately I was absent yesterday for three roll calls. On Roll Call 128 on LD 880, had I been present, I would have voted yea. On Roll Call 129 on LD 719, had I been present, I would have voted nay. On Roll Call 130 on LD 786, had I been present, I would have voted yea.

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

Bill "An Act To Include Androscoggin County in the Law Governing the Use of County Surplus Funds"

(H.P. 607) (L.D. 830)

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

Subsequently, the House voted to **RECEDE AND CONCUR.**

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

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "B" (H-463)** - Minority (4) **Ought Not to Pass** - Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Require Disclosure of Retail Prescription Drug Prices"

(H.P. 111) (L.D. 102)

Which was **TABLED** by Representative KANE of Saco pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

The Bill was **READ ONCE**. **Committee Amendment "B" (H-463)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Wednesday, May 21, 2003.

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

HOUSE DIVIDED REPORT - Majority (8) Ought to Pass as Amended by Committee Amendment "A" (H-465) - Minority (5) Ought Not to Pass - Committee on HEALTH AND HUMAN SERVICES on Bill "An Act To Require Full Disclosure of Prescription Drug Marketing Costs"

(H.P. 209) (L.D. 254)

Which was **TABLED** by Representative KANE of Saco pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

Representative **SHIELDS**: Mr. Speaker, Men and Women of the House. When you review this bill, you ask yourself what purpose does it serve? What does this bill accomplish? What it does is it causes a private business to divulge a part of their business plan and their business expense. Specifically it says they want reported to the state all expenses associated with advertising, marketing and direct promotion of prescription drugs through radio, television, magazines, newspapers, direct mail and telephone, educational or informational programs, materials and seminars, all expenses associated with food, entertainment, gifts of more than \$25, all expenses associated with trips and travel, all expenses associated with product samples.

The bill was amended to state that they would accept any expenses associated with an advertising purchase for a regional or national market, that includes advertising within the state. We assume that regional means something in the New England region and not just the Bangor region or the Portland region.

Most of the drug ads that I have seen have been on national market television and very little in the local regions. The bill does say that this information that is reported as expenses by these drug companies will be confidential. If they don't comply, there is going to a \$1,000 fine. What we really want to know or should know is how much people having to pay for the medications? What are they being charged? I am at a loss to explain why this overhead category of doing business is of such importance to the State of Maine. The bill does not state that it is used for anything particular, except storage of information. I hope that you will vote not to pass on this particular bill.

Under suspension of the rules, members were allowed to remove their jackets.

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. This is a consumer education and a consumer empowerment bill. It is a bill that was before this body two years ago and it passed with a considerable bipartisan majority, only to lose by a single vote in the Senate. As we all know, that sometimes happens. This week Maine achieved its greatest accomplishment yet in its quest to make prescription drugs more accessible to our constituents with the decision by the Supreme

Court to uphold the Maine RX Program. However, we do need to continue to do more and LD 254 represents a complimentary effort to the same bill to increase our leverage in negotiating with the pharmaceutical industry.

I want to make three or four simple points, because it really is a simple and straightforward bill. Maine is facing a major financial health crisis. The major contributing factor to this crisis is the skyrocketing cost of prescription drugs. A major factor contributing to the skyrocketing increases in prescription drugs is marketing, advertising and physician directed sales. I will comment on some of the research that has been done. There may be some material circulated that shows that the pharmaceutical industry spends twice as much money on its marketing and advertising as it does on research and development.

The public has the right to know what this is costing. As Representative Shields indicated, this bill has been amended from last year to collect data only on those activities taking place in Maine. There is universal consensus that our health care system is in crisis with record numbers of Mainers who cannot afford health insurance. Furthermore, we are witnessing a record number of small businesses, employers, who are committed to supporting their loyal employees that are throwing in the towel or drastically cutting back benefits, thereby increasing employee contribution or eliminating the benefit all together.

The net affect of this crisis unbending before our eyes is shifting the cost of privately insured Mainers and employers who do provide health care benefits, including the State of Maine. We are all paying the bill for the high cost of health care. We are witnessing a gross injustice being perpetrated on Maine workers, Maine small businesses and Maine taxpayers. While we are working on a more comprehensive long-term solution to the health care crisis via the Maine RX and the Governor's Dirigo health plan, we can and we must begin by dealing with one of the major cost drivers of the escalating costs. That, men and women of the House, is prescription drugs. In fact, it is interesting to note that in our public hearing of the joint select committee of the Governor's plan, in that public hearing on the Governor's proposal there was general support for increased disclosure of hospital and physician's charges for the benefit of consumers. If that is the case, why should we be more protective of pharmaceutical industry and their costs than we are of our own hospitals and physicians? These are going to be part of the new health care system.

Consumer empowerment, consumer awareness, consumer choice and transparency of transactions, transparencies of what money is coming in and going where. We have no idea from the drug companies, that is, of how much money they are spending here in Maine on their marketing and therefore how much of that is being contributed to the increased health care.

One constructive way of managing the cost of prescription drugs is through consumer education, choice and empowerment. The more consumers know about where the cost of the drugs come from and which drugs are most expensive, the more they can protect themselves and their pocketbooks and their health. The bill before you today represents a modest effort to begin reducing the cost of drugs through consumer knowledge of what they are paying for. The pharmaceutical industry has interestingly enough based its direct marketing campaign on the merits of consumer information and choice. They tell us that the more information and choice. They tell us that the more information the consumer has the better they can manage their health. This bill, men and women of the House, does exactly that by lifting the veil of secrecy that currently shields this industry from consumer knowledge and requires them to report to the

state the cost of those activities which are carried out in the State of Maine which have nothing to do with research, development, their own administrative costs and profits to which they are all entitled.

We have known that Americans, especially Mainers, pay nearly twice the cost of our neighbors in Canada. The industry claims the reason is research and development. As we know, a considerable part of that research and development is already being underwritten by the federal government through the institutes of health.

This is literally a truth in advertising bill. We merely ask that the industry provide the data on actual marketing costs and let the facts speak for themselves. We did not, with the Maine RX Program and we cannot now allow ourselves to be intimidated by threats that reducing access to drugs will be a result of any activities that we take here and leave us being held hostage to the power and influence of the industry.

The Supreme Court decision yesterday affirmed the decision and the right of Maine to use the marketplace to negotiate a reduction in prescription drug prices. This information will help us further to negotiate from a position of knowledge information and strength. It merely asks for a reasonable level of accountability that generates hundreds of billions of dollars in profit from public tax dollars and unfortunately the empty pockets of our constituents and small business.

There have been a number of fact sheets distributed for your review. Please examine them carefully. In a state with a \$150 million deficit and a Medicaid deficit caused primarily by the skyrocketing costs of prescription drugs, passing this bill represents a small, but important step in the right direction. I urge your support for the Majority Ought to Pass motion. 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. If you look down, I was on the majority vote. At this time I am removing myself and I am moving down to the Ought Not to Pass. This isn't a truth in advertising bill, it is something that is none of our business. The next thing it will be will be Anthem, the doctors, the hospitals and the lawyers. Why are we targeting one industry? This is going to do nothing to lower the price of prescription drugs. It is only going to reach in and find out something that these people are spending money to advertise the same as all other businesses advertise. I would like a roll call.

Representative **CAMPBELL** of Newfield **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

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

Representative **RICHARDSON**: Mr. Speaker, Ladies and Gentlemen of the House. I don't like what this sort of a bill implies. This sort of a bill requiring a company to disclose their advertising is probably unnecessary. Most companies of any size print a financial report and they tell you pretty much what their advertising is. My rhetorical question is, what are we going to do with this after we have gotten the information. Are we going to tell the companies how much they are going to spend for advertising? How do we know whether this advertising is necessary or not? Most companies won't spend a dime more than they have to. I don't like the direction that this type of a bill takes us. I would urge that we defeat it.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Lemoine.

Representative **LEMOINE**: Mr. Speaker, Ladies and Gentlemen of the House. There should be no doubt that the prescription drug situation in this state and around the nation is unique. It is a marketplace unlike any other. We know, for instance, there are billions of dollars that are exchanging hands over medications that are required to keep people alive. We know that the number of people the pharmaceutical companies employ to direct market drugs has tripled in the past few years, but the number of doctors they sell to has remained the same. It is a rare day today when you can go to a doctor's office and not find somebody getting a free lunch sponsored by a pharmaceutical company. We also know that the pharmaceutical companies have now spent about \$9.4 billion a year, billion, to support their advertising. They are doing that from profits made from people who are buying their drugs. The reason this is a public policy issue and needs to be decided by this body is because those same pharmaceutical companies come to us and the people we represent and say that we need to charge you these extremely high prices because we must have that money to continue our research. We don't think that is the case. Come show us what you are spending. If it is justified, your prices are justified. We need to have more information out in this marketplace to know if it is functioning properly or if, in fact, the people we represent are being gouged. I will be supporting the chairman on this vote.

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

Representative **CURLEY**: Mr. Speaker, Ladies and Gentlemen of the House. Like everyone in this body, I want the medications for my constituents to cost less. It is important, but LD 54 does absolutely nothing to decrease the cost of pharmaceuticals for the people of the State of Maine. It was interesting in the public hearing that our senior citizens knew that. We had five bills that we heard at the Civic Center. The room was set up for 150 or 200 people. The room was empty. Five senior citizens came. They knew that this bill made absolutely no difference to them when they went to pay for their medications. In fact, what concerns me more is that I think this is driving up the cost of medications in our state.

First, we are asking the pharmaceutical companies to pay a fee to file this information. We are then going to fine them if they don't do that. Those costs will be directly charged to people who are buying their medications. Second, I asked a question in the public hearing, the work session, what would we be doing with this information? I was told by the sponsors that physicians would have this information and maybe they would make different decisions about the medications that they prescribed. I don't know about anyone here, but I don't want the physicians who take care of my mother or my children or my neighbors prescribing a medication that the company spends less money in marketing. I want them to prescribe the medication that saves their life or makes their life better. LD 254 can have a negative impact on the important care that we provide for the citizens of our state. I urge you to vote no on the Majority Ought to Pass Report.

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. Several questions have been raised about the validity of the data and who would use it. The report clearly specifies that it would be submitted to the Department of Human Services for use in our negotiations. I started off my remarks by saying I had two or three simple premises. One, the advertising costs and

marketing costs of prescription drugs is the dominant significant cost factor in the pricing of the drugs. Secondly, the presumption is that the advertising is going to influence the choice of medications on the part of consumers and selection by physician. As we find ourselves being directed through TV to the highest priced drugs where lower cost drugs are available. That is where the equation fits. That is why we are paying higher costs.

Let me ask you for a moment, the pharmaceutical industry touts that the major objective of its marketing programs as consumer education. Let me ask you, if you tune into the Super Bowl and you can imagine for a moment what they are paying for a 60-second commercial in the Super Bowl and the ad consists of nothing more than maybe a dozen people standing on a mountain who are making the statement, I wish I knew. I wish I knew. Is that information? Is that education? It hooks people. It hooks people on Nexium, because you wait and you get the connection. It is Nexium and everybody is wishing that they knew about Nexium. I didn't know what Nexium did. I didn't know the benefit of it. I sure knew that they were paying millions and millions and millions of dollars to have people talking on a mountain top about saying they wish they knew about Nexium. Thank you Mr. Speaker.

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

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. I sure wish we had the Super Bowl in Maine, but that is a national event and national advertising and this bill has nothing to do with that. It would be for advertising allocated only to Maine. That is what the bill accomplishes. The bill also says that this information is going to be confidential. The public will not know what this information is. The picture of the pharmaceutical company has been painted as some sort of horrible thing out there who is trying to gouge your pocketbook. I want to ask you, of all the products they produce, how many people are alive today and how much suffering has been relieved? This is an unprecedented intrusion into private business. Government has not done this before in other types of business. There are real expenses to produce a drug. They put in 5,000 drugs to go through extensive testing for 10 to 12 years. Another 5,001 will come out. It is going to cost the company about \$800 million. That tells you something about why we have to pay something for medication. The cost of advertising in Maine is extremely insignificant. It has no affect on lowering prices in Maine. It may raise them slightly. It produces only a nuisance to the pharmaceutical company and accomplishes a storage of information here which is confidential and we can't have access to anyway. I hope that you will look closely at this bill and think about it and vote to defeat it.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative McNeil.

Representative **MCNEIL**: Mr. Speaker, Ladies and Gentlemen of the House. I rise today to ask you to support the Majority Ought to Pass as Amended Report. This comes as a surprise to me this year that I am on this side of it. During one of the breaks very early in our session I was home and it was the day that the *Portland Press Herald* came out with a full-page report about the cost of drugs in Canada. I thought I would just call up and compare the costs of my brother's medication, which he takes two medications to alleviate severe epilepsy. His medications at the pharmacy, because he has insurance to pay for it comes to almost \$1,200 for one month just for those two medications. When I called Canada, that same medication would have \$360 for the month's supply. If my brother had been a cash-paying customer, which many of us have constituents who

are, that would have probably run \$1,300 to \$1,400 for that same medication.

Do I think this bill is the cure all that will cure everything? No, probably not, but I think it is a step in the right direction. One speaker said it is really none of our business what they pay. I believe it is our business here in the State of Maine for us as State Representatives to start to garner information that will be useful to us down the road to help all of our constituents. I urge you very strongly to pass this as a first step in getting somewhere at the cost of prescription drugs. Thank you.

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

Representative **WALCOTT**: Mr. Speaker, Men and Women of the House. I would just like to quickly address a couple of the comments that the good Representative from Auburn, Representative Shields, made. First, I would like to address the issue of confidentiality. In the bill it is confidential information submitted to the Department of Human Services by individual companies. That information is confidential to protect their business interests. However, that information is later on released by the Department of Human Services in aggregate form, all companies put together, so that we will know what the cost of marketing in aggregate. That is really what is important.

The SPEAKER: The Chair recognizes the Representative from Turner, Representative Bryant-Deschenes.

Representative **BRYANT-DESCHENES**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to address a remark that was made by the good Representative from Saco, Representative Kane, who was discussing the advertisement, which reiterates, I wish I knew, I wish I knew. I think the disease that is being discussed in this is esophageal reflux disease, which eventually leads to cancer of the esophagus. I think that is what some of these patients may say, I wish I knew. I don't know that advertising is such a bad thing. I think it does educate the consumer and bring them to a position to have a condition treated.

The second thing that I would like to remark about is some remarks from the good Representative from Lewiston, Representative Craven, at a meeting where we were earlier today. I would say that this is part of the marketing cost, as something that she described at that meeting and that was having a constituent of hers who received free samples for chemotherapy for about a year's treatment. I think this is something that the pharmaceutical companies do when they provide physicians with free samples. I would say that that is part of advertising. I don't think it is always such a negative thing.

The SPEAKER: The Chair recognizes the Representative from Frenchville, Representative Paradis.

Representative **PARADIS**: Mr. Speaker, Colleagues of the House. I would like to amplify a little on the testimony of my good friend, Representative McNeil. There are two reasons why prescription drugs are so much lower in Canada. First, there can be no advertising in the media of the pharmaceutical drugs in Canada. The second reason is there is a price setting board in Ottawa, three people that decide the price that they will offer the pharmaceutical companies. Our RX Program will work something like that. Very simple measures, but it works. Buses go every year across the boarder to get cheaper drugs. It is high time that we do something about this that is not only unfair, but it is highly obscene, the profits that these companies make. I would urge support for this measure.

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

Representative **CRAVEN**: Mr. Speaker, Men and Women of the House. I would like to correct what Representative

Deschenes said. What I really said earlier in a meeting was that I had a constituent who is 37 years old and she is on chemotherapy treatments and she has not taken it for a year, because she cannot afford the \$135 that it costs her per month to buy her medication. The woman works 40 hours a week and cares for two children. There is no doubt in my mind that spending billions of dollars every day on television to advertise drugs do increase their costs. Drug companies spend billions and billions of dollars and our very own American born citizens can't afford life saving treatments for breast cancer. Thank you.

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

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. Seems like nothing new under the sun. We were here debating this in the 120th also. I am going to again support this. I think there is nothing wrong with asking a company to give their overall budget for marketing. We all market ourselves when we go out to campaign. You know what? The citizens of Maine expect me to tell you where I spend every penny. They don't say, we are going to let that go, because after all the next election, she doesn't want to give away all of her hints on how she got elected. They want me to be accountable. They want you to be accountable. I believe the Maine citizens want the big companies to be accountable. We are not saying we don't want you to make money, we are saying, tell us what you spend because you have been telling society now for years that the reason why drug prices are so high is for research and development. They say to the rest of the world, Europe, not just Canada, we know you can't afford to pay it so we will tack it onto American citizens, in this case, Maine citizens. It is wrong.

If I am expected to give full disclosure of what I spend on a campaign, it is not life threatening, then I see no problem with asking the companies to give us the bottom dollar. What do you spend? I think it is time you can send another message as the Supreme Court did yesterday. American citizens, Maine citizens in particular for our concerns, deserve to be able to have some of the good things in life. We can't police the world. We can't do all the research for the world. We can take care of our own. I don't think this is a problem in doing that. It is the ethical and moral thing to do. Thank you.

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

Representative **CAMPBELL**: Mr. Speaker, Men and Women of the House. A few years back we passed a law outlawing the advertising on cigarettes because they were bad for you and then we banned the advertising of alcohol because that supposedly is bad for you. Now we are putting the muzzle on the drug companies for something that saves people's lives.

The SPEAKER: The Chair recognizes the Representative from North Haven, Representative Pingree.

Representative **PINGREE**: Mr. Speaker, Men and Women of the House. I only want to speak briefly to a couple points that have been made here today. No one disputes that drug companies save lives. We appreciate their efforts. We appreciate their efforts by making them the most profitable industry in the world. My mom, obviously many of you know she has worked hard on this issue, she often tells a story that has already been told here today by the difference between drug prices in Maine and in Canada. There is a life saving drug called Tomoxifin. It is a breast cancer drug. In Lewiston, Maine, that breast cancer drug costs \$110 a month. Those seniors that go over to Canada to buy Tomoxifin it costs them \$12.35 a month. There is obviously a huge difference here. The drug companies are very good at scare tactics. My mom told the story a few times. I saw her on the panel with a former Rep. She told the

story of the senior in Lewiston, Maine, buying the drug for \$110 a month. The former Rep said while Senator Pingree has very good intentions what she doesn't understand is that money is different in Canada. That is the reason for the cheaper drugs. The drug companies are very good at spreading misinformation. The more information that we have as Maine Legislators, the better policies we can make. This is not a bill that will raise drug prices. These companies have plenty of money and this is not a ridiculous fee. I believe that that is just a scare tactic. This will help us make good decisions. I think on this front I join many of you here today in being proud of the work Maine has done on prescription drug polices. I am happy to support this effort and I believe in this effort. We will continue to lead. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **DUDLEY**: Thank you Mr. Speaker. To the Representative from Newfield, does this bill ban advertising for drug manufacturers?

The SPEAKER: The Representative from Portland, Representative Dudley has posed a question through the Chair to the Representative from Newfield, Representative Campbell, should he care to answer.

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

Representative **RICHARDSON**: Mr. Speaker, Ladies and Gentlemen of the House. I notice that all we are asking for from the drug companies is a disclosure of their advertising. We are hoping that we can force them to cut it. We asked them to disclose the money that they spend on R & D and we don't have any idea of asking them to cut that. It is all a part of the drug company. It is all part of the drug price, I should say. I suspect if you really knew what was going on between the drug companies and Canada, you will find that the reason the prices in the United States are so high is because we are subsidizing the prices in Canada. I can't prove that, but I wouldn't be surprised that that is the case since they all make the same drugs. Besides which, the Canadian people get subsidies from their government. I think you ought to defeat this bill.

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

Representative **PERRY**: Mr. Speaker, Ladies and Gentlemen of the House. I am a practicing nurse practitioner. I spend a lot of time talking my patients out of the most expensive drugs because they have seen them on TV. They are blood pressure medications that can cost \$50 to \$70 a month. The same exact type of medication, no advertisement for it, can cost \$13 to \$14 a month. I have to talk them into the least expensive one because it is a generic medicine. It doesn't have a great brand name and it doesn't have the advertising that goes with it. It works just as well. I think it is worth finding out how much they are spending on advertising, because quite honestly there is a lot of good medicine out there that is very effective and a lot less expensive. They are not advertising. It is worth finding out what is being spent. Thank you.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Muse.

Representative **MUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I find this bill, frankly, to be intrusive. I find it to be invasive and I find it to be intolerable. I have to look at the intent of this bill and it would appear to me that what we are trying to do is to paint a picture of these companies. We are trying to demonize them by virtue of how much they spend on their

advertising and marketing budgets. I would suggest that we can't paint that picture accurately unless we paint a more complete picture. If we are going to analyze how much they spend on marketing, I think it is important that that be put into perspective with what they, in fact, do for gross sales. Perhaps we also need to look at what they provide for jobs, what they make for donations and how much they pay in taxes before we can really assess them.

There is a phrase in Latin, I think it is *Ki Bono* that I try to think of when I look at bills like this. It means, who is to gain. I would put forth to this group today that I don't think anyone is to gain from this bill. I hope you would vote against it. Thank you Mr. Speaker.

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

ROLL CALL NO. 135

YEA - Adams, Ash, Barstow, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Lemoine, Lerman, Lessard, Makas, Marley, McGlocklin, 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, Sampson, Saviello, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Trahan, 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, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Duprey B, Fletcher, Glynn, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Ledwin, Lewin, Lundeen, Marraché, McCormick, McKenney, Millett, Mills S, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Tobin J, Treadwell, Vaughan, Young.

ABSENT - Dugay, Goodwin, Maietta, Mailhot, McGowan, Moore, Richardson E, Rines.

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

79 having voted in the affirmative and 64 voted in the negative, with 8 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-465)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Wednesday, May 21, 2003.

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

HOUSE DIVIDED REPORT - Majority (9) Ought to Pass - Minority (4) Ought Not to Pass - Committee on HEALTH AND HUMAN SERVICES on Bill "An Act to Ensure Patient Access to Medical Records"

(H.P. 283) (L.D. 363)

Which was **TABLED** by Representative KANE of Saco pending his motion to **ACCEPT** the Majority Ought to Pass Report.

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

Representative **CURLEY**: Mr. Speaker, Men and Women of the House. I rise to speak in opposition to LD 363. The purpose

of this bill or the title is to ensure patient access to medical records. It places a cap on the fee that physicians can charge for copying medical records. I had never heard of this being a problem for anyone before. I called 15 physicians in my district and not one of them charged patients for medical records. It was a service they provided their patients.

On the other hand, they did charge insurance companies and lawyers. What we are doing is really not ensuring patient's access to their records, we are trying to keep the cost down for lawyers and insurance companies. Don't get me wrong, I don't want to gouge lawyers for copying medical records, but there is a federal standard through HIPA that allows us, if a lawyer feels that they are being charged too much to ask for an appeal. Those costs can be rescinded, but there is a negative impact on this bill on our constituents. For example, if you had a family that had a new set of premature twins and each of those twins needed to be sent to a specialist for health care, right now the referring physician would charge nothing for those medical records. If this bill passed, the physician could charge \$10 for each of those records, which could be \$80 or \$100 for that family that cannot afford it and do not need to pay it.

There is also a fiscal note on this bill. The state agreed and it is over \$5,000 for the state to pay for medical records of those that they are guardians for. This increases the health care costs. It does not insure access for patients and, in fact, we are hurting our constituents by passing this bill. I urge you to vote no on LD 363.

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

Representative **KANE**: Mr. Speaker, Ladies and Gentlemen of the House. The previous speaker, Representative Curley, was accurate in saying that some physicians do not charge. The same physicians would not be mandated to charge. What this attempts to do in a fairly straightforward way is to establish some consistency among providers with respect to the cost of the production of medical records. Trial lawyers, as was noted, was one of the major requestors of a significant number of medical records in addition to the patients themselves. Trial lawyers cannot profit from whatever gets charged. They have to pass it onto their clients. Some of the circumstances being presented to us was instances where an institution or a hospital could charge astronomical prices. There is no regulatory, systemic way of managing at the present time. The intent of the bill is to provide a reimbursement mechanism so that everybody would know, heads up, in advance, exactly what the costs are per page. It is that simple. It is that straightforward. I would urge your acceptance of the Majority Ought to Pass Report.

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

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

Representative **MILLS**: Mr. Speaker, Men and Women of the House. I rise in support of this legislation. It is a fairly simple bill. It has been blown out of proportion a little bit. I did attend the hearing and one of the work sessions on the bill. Just to explain a little bit, as a lawyer, I do sometimes request records for clients or people who come with issues and questions about something that has happened to them that might pertain to their medical records. Under Maine law, for many, many years, patients have had a right to have access to their medical records. It is true that many physicians, most physicians, don't charge for those records, which is a great situation to have. I applaud those physicians, but some institutions, through a middle man or middle agency which keeps the records do charge and some of them charge an exorbitant amount of money for people just to review

their own records. I think the committee heard that as much as \$80 to \$100 for a very small set of records, five or six pages, has been charged to these patients or former patients in order to obtain access to their records, access to which they have a statutory right at the present time and for many, many years. This bill does not increase the charges. It does not set a floor. It does not set a standard. It simply sets a cap for the charges that may be made for records. It is true that lawyers sometimes ask for these records, insurance companies ask for these records, many different people ask for these records. Individuals and family members often times ask for the records so that they can better understand their or their families or loved ones medical history better. When it is somebody other than the patient, whether it is a personal representative, through probate court, whether it is a person with a power of attorney, whether it is a mother or father, sister or brother. Those people who don't pass on the charges to the patient, your lawyer doesn't pay those charges for the patient. Those are assumed by the patient themselves. Ultimately any charge that is made is not let out, but the charge is passed on. Sometimes in institutions, it was said at the hearing, charge a high fee in order to discourage patient access to their own records. I don't think that happens a lot, but it does happen. It has happened on occasion. The reason for the \$10 charge for the first page, the first page only, not \$10 per page for the whole record, it is simply to accommodate those people who need to charge something for the research and retrieval of the records, \$10 for the first page and 35 cents for each additional page. It is a reasonable fee and we think it clarifies the current statute on access to patient records.

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

A vote of the House was taken. 77 voted in favor of the same and 54 against, and accordingly the Majority Ought to Pass Report was **ACCEPTED**.

The Bill was **READ ONCE** and was assigned for **SECOND READING** Wednesday, May 21, 2003.

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

ENACTORS

Emergency Measure

An Act Relating to Harness Racing Laws

(H.P. 521) (L.D. 704)
(C. "A" H-397)

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

On motion of Representative CLARK of Millinocket, 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-479) which was **READ** by the Clerk.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House. What this amendment does is it specifies the proceeding judge and the associate judges appointed to the State Harness Racing Commission are deemed to be employees

of the state for the purpose of the Maine Tort Claims Act. All this is is a technical amendment.

Subsequently, **House Amendment "A" (H-479)** was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (H-397)** and **House Amendment "A" (H-479)** in **NON-CONCURRENCE** and sent for concurrence.

Emergency Measure

An Act To Simplify Calculation of Legal Interest

(H.P. 835) (L.D. 1132)
(C. "A" H-393)

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

On motion of Representative MILLS of Cornville, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

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

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-393)** was **ADOPTED**.

The same Representative **PRESENTED** House Amendment "A" (H-488) to **Committee Amendment "A" (H-393)** which was **READ** by the Clerk.

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

Representative MILLS: Mr. Speaker, Men and Women of the House. This bill was introduced before cloture in November for purposes of straightening out some things that were confusing and inconsistent and wrong in regard to how interest is calculated on civil judgments in the State of Maine. I will spare you the history of how those laws became confused and inconsistent. The bill as it was finally drafted by a very competent committee of the Maine Bar Association included a provision that prejudgment interest should be charged in small claims cases. It was brought to our attention yesterday that interest has never been calculated or charged in small claims cases unless interest was based on a specific contract or note with the rates stated. The purpose of the amendment that lies before you is to make sure that the new law preserves the practice that has existed in Maine for many decades and that is that in simple small claims procedures that are customarily held within a few months of the time when they are filed, with very short passages of time and very small amounts involved, that we don't put the parties or the court to the burden of calculating interest in those cases unless there is, for some reason, a stated rate of interest in the document that gives rise to the claim itself. This amendment, if adopted, will preserve that practice and will make it clear that we are not trying to change the substance of the law in that respect. That is the reason for this amendment.

Subsequently, **House Amendment "A" (H-488)** to **Committee Amendment "A" (H-393)** was **ADOPTED**.

Committee Amendment "A" (H-393) as Amended by **House Amendment "A" (H-488)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (H-393)** as Amended by **House Amendment "A" (H-488)** thereto in **NON-CONCURRENCE** and sent for concurrence.

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

Emergency Measure

An Act Concerning Storm Water Management
(S.P. 529) (L.D. 1570)
(C. "A" S-151)

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. 129 voted in favor of the same and 2 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

**Resolve Pursuant to the Constitution
Public Land**

Resolve, Authorizing the Transfer of Land from the State to Maine School Administrative District No. 16
(H.P. 1136) (L.D. 1550)
(C. "A" H-388)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 23 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 128 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 To Reimburse the State Poet Laureate and To Provide Access to the State Poet Laureate's Services
(H.P. 93) (L.D. 84)
(C. "A" H-392)

An Act to Clarify the Definition of Livestock
(H.P. 140) (L.D. 181)
(C. "A" H-377)

An Act to Elevate the Standards of Foster Parenting in the State
(H.P. 194) (L.D. 239)
(C. "A" H-399)

An Act To Promote Consistent Protection of the State's Waters
(H.P. 200) (L.D. 245)
(C. "A" H-378)

An Act To Change the Options for a Lobster Management Zone and To Change Entry Criteria for Noncommercial Licensees
(H.P. 520) (L.D. 703)
(C. "A" H-375)

An Act To Protect Health Care Workers Who Report Medical Errors
(H.P. 526) (L.D. 720)
(C. "A" H-396)

An Act Concerning Municipal Firearms Discharge Ordinances
(H.P. 781) (L.D. 1063)
(C. "A" H-321)

An Act To Encourage Hunting by Simplifying Hunting Laws

(H.P. 801) (L.D. 1083)
(C. "A" H-391)

An Act To Amend the Laws Regarding Junkyards, Automobile Graveyards and Automobile Recycling Businesses
(H.P. 1002) (L.D. 1367)
(C. "A" H-381)

An Act To Clarify the Timber Harvesting Notification Requirements
(S.P. 463) (L.D. 1407)
(H. "A" H-385)

An Act To Create the Scallop Advisory Council and the Scallop Research Fund
(H.P. 1039) (L.D. 1416)
(C. "A" H-374)

An Act To Amend the Forester Law
(H.P. 1063) (L.D. 1455)
(S. "A" S-156)

An Act To Amend Maine's Arborist Licensing Laws
(H.P. 1068) (L.D. 1463)
(C. "A" H-386)

An Act To Protect Maine Consumers from Hidden Fees and Charges
(H.P. 1084) (L.D. 1479)
(C. "A" H-394)

An Act To Amend the Motor Vehicle Laws
(H.P. 1113) (L.D. 1520)
(C. "A" H-371)

An Act To Reclassify Certain Waters of the State
(H.P. 1121) (L.D. 1529)
(C. "A" H-373)

An Act To Amend Certain Provisions Relating to a Permit To Carry Concealed Firearms To Be Consistent with Changes to the Statute Relating to Possession of Firearms by Prohibited Persons
(H.P. 1132) (L.D. 1546)

An Act To Amend the Laws Concerning State Board of Alcohol and Drug Counselors
(H.P. 1142) (L.D. 1559)

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.

An Act To Promote Energy Conservation
(S.P. 92) (L.D. 233)
(C. "A" S-145)

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

On motion of Representative RICHARDSON of Brunswick, was **SET ASIDE**.

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

An Act To Amend the Maine "Lemon Law"
(H.P. 664) (L.D. 887)
(C. "A" H-382)

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

On motion of Representative RICHARDSON of Brunswick, 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: The Chair recognizes the Representative from Biddeford, Representative Sullivan.

Representative SULLIVAN: Mr. Speaker, Ladies and Gentlemen of the House. I would like to speak on behalf of the committee. It was a unanimous committee report. It was one of the rare times that democracy really worked. We had the Attorney General on one side. We had manufacturers on the other side sitting at the table and we hammered out a compromise where everybody really was happy. It was really a joy to behold. It is a consumer's bill and it is a business bill. When those two can merge, well, we felt really good walking out that night and I would love your support on this.

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. 136

YEA - Adams, Andrews, Annis, Austin, Barstow, Bennett, Berry, Berube, Bierman, Blanchette, 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, Cressey, Crosthwaite, Cummings, Curley, Daigle, Davis, Dudley, Dunlap, Duplessie, Duprey B, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Glynn, Greeley, Grose, Hatch, Heidrich, Honey, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Ketterer, Koffman, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Makas, Marley, Marraché, McCormick, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, 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 J, Richardson M, Rines, Rogers, Rosen, Sampson, Saviello, Sherman, Shields, Simpson, Smith N, Smith W, Snowe-Mello, Stone, Sukeforth, Sullivan, Suslovic, Sykes, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Usher, Vaughan, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - NONE.

ABSENT - Ash, Dugay, Goodwin, Kane, Maietta, Mailhot, Moore, Richardson E, Tardy.

Yes, 142; No, 0; Absent, 9; Excused, 0.

142 having voted in the affirmative and 0 voted in the negative, with 9 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Resolve, To Protect High and Moderate Value Waterfowl and Wading Bird Habitats

(H.P. 908) (L.D. 1234)
(C. "A" H-372)

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

On motion of Representative DUNLAP of Old Town, was **SET ASIDE**.

On further motion of the same Representative, **TABLED** pending **FINAL PASSAGE** and later today assigned.

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

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

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (H-440)** - Minority (5) **Ought Not to Pass** - Committee on **LABOR** on Bill "An Act To Provide Collective Bargaining Rights to Certain Forest Products Workers"

(H.P. 972) (L.D. 1318)

Which was **TABLED** by Representative SMITH of Van Buren pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended Report**.

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

Representative TREADWELL: Mr. Speaker, Ladies and Gentlemen of the House. Very briefly, this bill came to the committee as a bill to allow the wood operators in the State of Maine to organize to provide collective bargaining rights for those operators. The amendment that you have (H-440) replaces the bill and it becomes a bill that will get the state involved in this price setting process through the Department of Labor and the Board of Arbitration and Mediation. The state will be fixing the prices. The reason this was done is because the original bill ran afoul of the anti-trust laws. The state being involved in this will put the state in a position of setting prices for woodcutting operations and hauling from the woods to the mills. There is also a fiscal note with the bill, \$99,589, that is going to have to be paid from someplace. I would urge you to reject the current motion and I guess that is what I am asking. I would like a roll call, Mr. Speaker.

Representative TREADWELL of Carmel **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended Report**.

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

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House. The bill that you have before you today came about because of the problems, the very severe problems, experienced by the forest products harvesters and truckers. These people who used to be employees of the major landowners and companies are no longer called employees. They are called independent contractors. Even though they are called independent contractors and they have about a 10 or 15 page contract that they sign, they are completely controlled and dictated to by the companies with regard to where they are going to work, when they are going to work, how they are going to do it and how they are going to get paid. They have no say whatsoever in any of this. It used to be as employees at least there were certain protections given to them on the number of hours they would work or the minimum rates they would have. Now these people who are small businesses and who have made investments of up to \$500,000 for equipment find themselves being more efficient all the time and being paid less for what they do.

In order to try to give them some redress, we looked at the law that had been passed by the Legislature when it created the Agricultural Bargaining Council. It was an analogist situation. You had farmers who had substantial investments who essentially were tied to one processor and who had no say in what the contract rates would be. In the 1970s the Legislature created the Agricultural Bargaining Council. It was able to do this because the federal anti-trust laws have a specific exemption for agriculture. However, forest harvesting is not agriculture. The amendment that has been crafted comes under a different kind of

exemption from the anti-trust laws where state action is involved. What we have done in this amendment is it allows the major landowners and this law only applies to landowners who have over 100,000 acres. It allows them to be able to come to agreements with their contractors and if so, there is no action needed by the state whatsoever. If there is a request by three or more of the contractors to have the state involved, then the process comes in. The state would then ultimately set the rate after considering the input of both parties.

You have material put before you showing you the necessity for this law. Before the committee we had 50 truckers and wood harvesters who came and testified before us. They all told us the same story. Basically they have become more efficient. Their investments have increased and the rates being paid to them have been decreased every year. Once they have made that investment, they are locked in. They have no choice but to keep that machinery working to avoid foreclosure and repossession. This is a case where these people are given a chance to bargain or negotiate with the companies in a world where they presently have no chance whatsoever. If we are interested in helping these small businesses stay alive and stay viable and we recognize their importance to the forest industry. We ask you to pass this and give these people a chance to live in the State of Maine and work in the State of Maine. Thank you.

Representative TRAHAN of Waldoboro asked leave of the House to be excused from voting on L.D. 1318 pursuant to House Rule 401.12.

The Chair granted the request.

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

Representative JACKSON: Mr. Speaker, Ladies and Gentlemen of the House. I get up today with a heart that is really pounding quite hard. I don't want to take a lot of your time, but I don't know how to say this and not lose your attention because it is my lifetime. The thing about this is the industry has changed. A \$250,000 or \$300,000 investment is the norm now, for some guys it is a million dollars. Most of us to get into something like this had to put up their house and whatever else you could scrounge up to get the bank to let you have it. That is where the problem is. Once you have signed your whole life away, you have lost any chance of bargaining power. For a lot of us there is no other place to go. You either do it or you can go home and they will get a Canadian to do it in your place. The good Representative from Carmel, Representative Treadwell, talked about having the state involved in it. The state and federal government is already involved in it. They are allowing big landowners to use the bonded labor program to drive down the prices that someone like myself can get to cart or haul wood. Because those rates are set, it is basically whatever the Canadian will do it for, I have to do it for or it is legal to use a Canadian. I don't think the Canadians are getting really rich, but because of the exchange rate and the health care, they can do it. What Representative Smith is talking about with the truckers and loggers coming down for committee, I don't think there is any one at all on the committee that heard that testimony that day that can say that there isn't a problem there. These are all guys from my area. All they want to do is provide for their families. I talked them into coming down. Everyone that got up and spoke before the committee, one of the large landowners wrote their name down and I have no doubt that there is going to be retaliation because of it. Four of them broke down and was real close to tears and I know what that is like. I know what that is like, because I have been there too.

I know you have been lobbied hard on this. I don't see that it is going to ruin the industry. I sent this paper around showing

how much more efficient we have gotten while our wages have gone down. I know that at the hearing a member of the Forest Products Council, a board member, spoke in favor of this legislation. It is something that since I was a kid have seen this going on. I have seen some of the dirtiest deals that you can imagine happen. It is because there is only one now and they can do whatever they want and get away with it. I leave you with the fact that I am just a normal man, just a logger. I have been sent here to represent my district. The only reason I was sent there was because back in 1998 after years of frustration by my parents and my grandparents, a group of us got together and begged our elected officials to come up and talk to us. After every one of them refused, we decided we had to do something. What I always thought was because we were so far away, people didn't really know what was going on. We decided to go and make a stand on the Canadian border. We stayed there for a week. Whatever you think of it, I understand. I am proud that we did it, but I am not sure if I think it was the greatest idea in the world, but we had to do something. Because of that, we got this study. In it gives out 169 percent landowner profits. It talks about having to set rates. Because of that study, we got this study. This came out and it was actually in the last session here. I tell you there is a whole lot of studying going on, but what we really need is something serious to happen. I see this, not as something that is going to ruin the industry, but it is going to give people a chance to present their argument. If their argument is sincere, maybe they will get something for it. If it isn't, then they won't get fired because they brought it up. That is what happens. We can go downstairs here to the second floor and you can look at the history of this. It is all there in newspaper files and you can see every time that something came up and it happens about every 10 years. What goes on is someone gets squashed and it scares the rest of them into going back and doing it for what they were and the beat goes on.

I would close to beg you to support this. I understand there might be some questions, but I don't think it is going to hurt the industry like a lot of you think it might. I do think it will give people in northwestern Maine the opportunity to stay there. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Frenchville, Representative Paradis.

Representative PARADIS: Mr. Speaker, Members of the House. I think the older folks here probably remember the song by Tennessee Ernie Ford. With the line, "I sold my soul to the country store." We got a modern variation of that. I signed my life away to the big landowners. Neither scenario is very appealing. The problems have been growing for years. Exploitation by greedy international corporations has been prevalent in the northern Maine woods for decades. As a high school student I worked in the woods cutting pulp with dad. It was not uncommon to get word that the price for a cord had been reduced and we had nothing to say about it. The same has existed with operators of mechanical harvesters, haulers. It is the same situation. People are punished for efficiency. These corporations are presently out of control. They have to be reined in. Big business is putting small business out of business. Vote for LD 1318. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative McNeil.

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

The SPEAKER: The Representative may pose her question.

Representative MCNEIL: Mr. Speaker, Ladies and Gentlemen of the House. Perhaps Representative Jackson could answer these two questions. Is this similar to the situation that

we discussed at the Transportation Committee? Another one, why does government have to be involved with a union getting started? I can't grasp that piece yet. Could somebody explain that to me some more?

The SPEAKER: The Representative from Rockland, Representative McNeil has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative SMITH: Mr. Speaker, Men and Women of the House. I don't know anything that happened in Transportation Committee, but let me address the second part of your question, if I may. Why does government have to get involved? Government has always gotten involved when there has been a gross inequity in the bargaining power of people in the state. If you will notice, one of the first times government got involved in this state was when government set up the Public Utilities Commission where the government said we are going to set the rates that the utility companies are going to charge our consumers and our businesses. Government got involved then. We know that in the '70s the government got involved when they set up the Agricultural Bargaining Council to which they appoint people. Whenever there has been a gross inequity in bargaining power government gets involved. I can think of a law that was passed some years ago where government got involved in past legislation to protect our motor vehicle dealers because of the inequity in their position with the large automobile companies. Yes, we do it all the time. We get involved on prescriptions. We do it all the time when we think there is a gross inequity. Yes, we heard huge, substantial testimony from some very, very honest hardworking people in our state who came to us and said, we have no bargaining power. We invest our time, our lives, our money, our equity and every year we are paid less for it. We are told, take it or leave it. That is a gross inequity. That is why government gets involved. Thank you for your question.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Watson.

Representative WATSON: Mr. Speaker, Ladies and Gentlemen of the House. If I might just add to that, the state involvement here is the fact that the state runs the State Board of Arbitration and Conciliation. We are not talking about setting up a state agency to monitor this industry, but only allowing a framework within which the parties can bring their dispute to an already existing agency. That is the state involvement. The Arbitration and Conciliation Board that will eventually, if there is a dispute, if the parties can't work out the rate, then the board will take evidence from both sides and work it out. That is the extent of the state involvement. I don't want the impression that we are talking about injecting the state into a process in which it has no place or inventing or hiring bureaucrats to solve a problem that is going on within the industry. All we are doing is allowing the parties to bring that dispute to an already existing board. That is the extent of the state involvement. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Littleton, Representative Wotton.

Representative WOTTON: Mr. Speaker, Ladies and Gentlemen of the House. I hate to say, but back in the '70s I helped get ABC going, Aroostook Bargaining Council. Our biggest processor at the time, McCain, said we were going to have to go out of business if you guys do this. By working together after we got the bill passed, we learned a lot of what we had to do for McCain to keep them in business. They, in turn, paid us for it. I can tell you they are the biggest French fry company in the world and the farmers have stayed on the farm because of it. I appreciate your support for this bill. Thank you.

ROLL CALL NO. 137

YEA - Adams, Annis, Barstow, Bennett, Blanchette, Bliss, Brannigan, Breault, Brown R, Bull, Bunker, Canavan, Churchill E, Churchill J, Clark, Cowger, Craven, Cummings, Daigle, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Goodwin, Grose, Hatch, Hutton, Jackson, Jennings, Jodrey, Ketterer, Koffman, Landry, Laverriere-Boucher, Lemoine, Lerman, Lessard, Lundeen, Makas, Marley, Marraché, McGlocklin, 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, Sherman, Simpson, Smith N, Smith W, Sukeforth, Sullivan, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Wotton, Young, Mr. Speaker.

NAY - Andrews, Austin, Berry, Berube, Bierman, Bowen, Bowles, Browne W, Bruno, Bryant-Deschenes, Campbell, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Davis, Duprey B, Fletcher, Glynn, Greeley, Heidrich, Honey, Hotham, Jacobsen, Joy, Kaelin, Ledwin, Lewin, McCormick, McKenney, Millett, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson M, Rogers, Rosen, Shields, Snowe-Mello, Stone, Sykes, Tobin D, Tobin J, Treadwell, Vaughan, Woodbury.

ABSENT - Ash, Carr, Dugay, Kane, Maietta, Mailhot, Mills S, Moore, Richardson E, Tardy.

Yes, 89; No, 51; Absent, 10; Excused, 1.

89 having voted in the affirmative and 51 voted in the negative, with 10 being absent and 1 excused, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-440) was READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Wednesday, May 21, 2003.

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.

Bill "An Act To Prohibit Personal Watercraft on Lake St. George in the Town of Liberty"

(H.P. 477) (L.D. 647)

(C. "A" H-389)

TABLED - May 16, 2003 (Till Later Today) by Representative RICHARDSON of Brunswick.

PENDING - **PASSAGE TO BE ENGROSSED.**

On motion of Representative DUNLAP of Old Town, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION.**

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-389) was ADOPTED.**

The same Representative **PRESENTED House Amendment "A" (H-461) to Committee Amendment "A" (H-389) which was READ** by the Clerk.

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

Representative DUNLAP: Mr. Speaker, Ladies and Gentlemen of the House. This amendment more fully reflects the intent of the committee when we put this report together. It includes more specific language on the roll of the Land Use Regulation Commission in its role in the regulation of surface water used and also places an emergency on the legislation,

which also was a reflection of the report of the committee. Thank you Mr. Speaker.

Subsequently, **House Amendment "A" (H-461) to Committee Amendment "A" (H-389) was ADOPTED.**

Committee Amendment "A" (H-389) as Amended by House Amendment "A" (H-461) thereto was ADOPTED.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-389) as Amended by House Amendment "A" (H-461) thereto and sent for concurrence.**

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

An Act to Ban Smoking in Beano and Bingo Halls
(H.P. 186) (L.D. 227)
(H. "B" H-309)

TABLED - May 16, 2003 (Till Later Today) by Representative RICHARDSON of Brunswick.

PENDING - **PASSAGE TO BE ENACTED.**

On motion of Representative DAIGLE of Arundel, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION.**

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

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **House Amendment "B" (H-309) was ADOPTED.**

The same Representative **PRESENTED House Amendment "B" (H-483) to House Amendment "B" (H-309) which was READ** by the Clerk.

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

Representative **DAIGLE**: Mr. Speaker, Men and Women of the House. The position of this current piece of legislation is that we are prohibiting smoking in bingo and beano halls with the exception of those run by the Native American Tribes. I am not contesting that matter, but what I am proposing in House Amendment "B" (H-483) is a simple amendment recognizing a couple of basic principles. I believe that when we adopted the earlier amendment, we recognized two basic things. One, the concept of sovereignty between the Native American Tribes and the second, the financial importance of their particular operation and why they needed that freedom to operate as they feel fit.

My amendment would continue this exemption by adding the language or by a nonprofit organization staffed solely by volunteers. Referring back to that earlier principle of financial need, bingo and beano games, which are sponsored by many of our nonprofit organizations staffed by volunteers also because there are certain financial needs. They are doing this not to enjoy themselves particularly, I'm talking about the organizations that run them, but because they are trying to raise money, just as the Native American Tribes wish to raise money for their needs. These organizations use their money to finance food pantries, to help victims of a fire, flood or a natural disaster. They support medical programs. They buy Christmas gifts for needy children and financial scholarships for some of our most needy citizens who are trying to advance their higher education. I believe these are also very important financial needs. I think they are equally important to anything else that we are willing to give an

exemption or special status here in the House. Further, on the issue of sovereignty, when everybody participating is volunteering to be there, I believe that is a sovereignty issue also. If you have consenting adults, volunteering to go to that place where there may or may not be smoking, there is no compelling reason to tell them that that is a practice they can. As long as cigarettes are legal and they wish to be there, so be it. I do agree that it is a different matter when you have employees who are involuntarily assigned to expose themselves that way. I agree with that. My exemption provides a mechanism. I do not wish to see the nonprofit organizations raising money for this important charity work to find their ability to do so to be limited unnecessarily. I encourage your support of this very simple amendment recognizing that individual freedom is an important need for these organizations, be it VFW, American Legion, church organizations or whatever, to choose for themselves whether or not to have bingo games where smoking may be allowed. Thank you.

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

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. The practical effect of House Amendment "B" is to indefinitely Postpone the bill. No one would be left out of this amendment, because how many of these beano and bingo halls exist that do not fall under this umbrella. Some years ago in this chamber we had a very lengthy debate over whether or not we were going to prohibit smoking in restaurants. I spoke against that bill. It was overwhelmingly thumped. A couple of years later the bill came back. I spoke against it again and that time I was overwhelmingly thumped. I think the point is that the tide has more or less turned on the issue of smoking in public places like restaurants and beano halls. I still am opposed to the restaurant smoking ban because I feel it is a matter of proprietary choice. I have spoken against this bill. However, the Committee on Health and Human Services and this body have entertained my concerns with not only good humor, but with great forthrightness. I am willing to accept half a loaf in the bill as it is currently before us without House Amendment "B." It serves my district well as it is written. Is it as far as I would like to go? Probably not, but out of respect for this body, I think that we should leave the bill as it currently stands. With that Mr. Speaker, with great respect for my good friend from Arundel, Representative Daigle, I would move Indefinite Postponement of House Amendment "B."

Representative **DUNLAP** of Old Town moved that **House Amendment "B" (H-483) to House Amendment "B" (H-309) be INDEFINITELY POSTPONED.**

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

Representative **COWGER**: Mr. Speaker, Men and Women of the House. I hope you will join me in supporting my good friend from Old Town and support the pending motion of Indefinite Postponement. I just want to briefly remind the members of the body that this original bill received strong bipartisan support from the committee and also received a strong bipartisan vote of this chamber on the original bill. As you have heard, we have added one amendment to accommodate a very narrow exemption for high-stakes bingo to help support the revenue to our Native American Tribes. While I didn't support that amendment, I think it is appropriate and it does reflect the desires of this body. The concern is not for the workers in these halls. The concern is for people attending and playing beano and bingo. If we want to protect the people attending these games in a bipartisan fashion, I would urge you to support the pending motion. Mr. Speaker, when the vote is taken, I would request a roll call.

Representative COWGER of Hallowell **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "B" (H-483) to House Amendment "B" (H-309)**.

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

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I am responding to my good friend from Hallowell, Representative Cowger. I understand his point that the bill has been amended already to say that the motive of raising profits for one particular group is important. I just remind the body that raising profits for one group, I do not feel is any more important, I think it is less important, than raising charity for the most needy citizens in our state. I urge you to vote against the pending motion. Thank you.

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

Representative **PATRICK**: Mr. Speaker, Men and Women of the House. I just would like to touch briefly on the aspect of profits for nonprofits. I will once again reiterate in Oxford County, Rumford was the first town to go nonsmoking. Did that hurt our profits? For two weeks it dropped them about 10 percent. The third week it came back to even and the fourth week we are now making 10 or 15 percent more in a situation where we were the only nonsmoking bingo. Every other bingo shortly followed suit and they are making money. If all nonprofits in the state go nonsmoking, there will be more nonsmokers attending all bingos, increasing the profits that nonprofits are now getting, which will help all nonprofits to do more good things. Thank you Mr. Speaker.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "B" (H-483) to House Amendment "B" (H-309). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 138

YEA - Adams, Annis, Barstow, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Clark, Cowger, Craven, Cummings, Davis, Dudley, Dunlap, Duplessie, Earle, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Goodwin, Grose, Hatch, Hutton, Jackson, Jacobsen, Jennings, Ketterer, Koffman, Landry, Laverriere-Boucher, Ledwin, Lerman, Lessard, Lundeen, Makas, Marley, Marraché, McCormick, McGlocklin, McKee, McLaughlin, McNeil, Mills J, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson J, Rines, Sampson, Saviello, Simpson, Smith W, Sullivan, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Austin, Bennett, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Duprey B, Duprey G, Fletcher, Glynn, Greeley, Heidrich, Honey, Hotham, Jodrey, Joy, Kaelin, Lemoine, Lewin, McKenney, Millett, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson M, Rogers, Rosen, Sherman, Snowe-Mello, Stone, Sukeforth, Sykes, Tobin J, Trahan, Treadwell, Vaughan, Young.

ABSENT - Ash, Carr, Churchill E, Dugay, Eder, Kane, Maietta, Mailhot, McGowan, Mills S, Moore, Pellon, Richardson E, Shields, Smith N, Suslovic, Tardy, Tobin D.

Yes, 78; No, 55; Absent, 18; Excused, 0.

78 having voted in the affirmative and 55 voted in the negative, with 18 being absent, and accordingly **House**

Amendment "B" (H-483) to House Amendment "B" (H-309) was INDEFINITELY POSTPONED.

Subsequently, **House Amendment "B" (H-309) was ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "B" (H-309).**

Representative KAELIN of Winterport **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. 139

YEA - Adams, Annis, Barstow, Berube, Blanchette, Bliss, Brannigan, Breault, Brown R, Browne W, Bruno, Bull, Bunker, Canavan, Clark, Collins, Cowger, Craven, Crosthwaite, Cummings, Davis, Dudley, Dunlap, Duplessie, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Goodwin, Grose, Hatch, Hotham, Hutton, Jackson, Jacobsen, Jennings, Koffman, Landry, Laverriere-Boucher, Ledwin, Lerman, Lessard, Makas, Marley, Marraché, McCormick, McKee, McKenney, McLaughlin, McNeil, Mills J, Moody, Murphy, Muse, Norbert, Norton, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson J, Sampson, Saviello, Shields, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Austin, Bennett, Berry, Bierman, Bowen, Bowles, Bryant-Deschenes, Campbell, Churchill J, Clough, Courtney, Cressey, Curley, Daigle, Duprey B, Duprey G, Fletcher, Glynn, Greeley, Heidrich, Honey, Jodrey, Joy, Kaelin, Ketterer, Lewin, Lundeen, McGlocklin, Millett, Nutting, Peavey-Haskell, Rector, Richardson M, Rines, Rogers, Rosen, Sherman, Snowe-Mello, Stone, Sukeforth, Sykes, Thomas, Tobin J, Trahan, Treadwell, Vaughan, Young.

ABSENT - Ash, Carr, Churchill E, Dugay, Kane, Lemoine, Maietta, Mailhot, McGowan, Mills S, Moore, Pellon, Richardson E, Tardy, Tobin D.

Yes, 88; No, 48; Absent, 15; Excused, 0.

88 having voted in the affirmative and 48 voted in the negative, with 15 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.**

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **UTILITIES AND ENERGY** reporting **Ought Not to Pass** on Bill "An Act To Require That Residential Customers Be Given Contracts for Utility Line Extensions"

(H.P. 275) (L.D. 355)

Signed:

Senators:

HALL of Lincoln

BROMLEY of Cumberland

YOUNGBLOOD of Penobscot

Representatives:

RINES of Wiscasset
FLETCHER of Winslow
LUNDEEN of Mars Hill
MOODY of Manchester
BLISS of South Portland
BERRY of Belmont
CRESSEY of Baldwin
RICHARDSON of Skowhegan

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

Signed:
Representatives:
ADAMS of Portland
GOODWIN of Pembroke

READ.

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

Divided Report

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-471)** on Bill "An Act To Change the Time Requirement for Mental Retardation Evaluations" (H.P. 1085) (L.D. 1480)

Signed:
Senators:
BRENNAN of Cumberland
WESTON of Waldo
Representatives:
EARLE of Damariscotta
CRAVEN of Lewiston
WALCOTT of Lewiston
CAMPBELL of Newfield
LEWIN of Eliot
LAVERRIERE-BOUCHER of Biddeford
KANE of Saco

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

Signed:
Representative:
CURLEY of Scarborough

READ.

On motion of Representative WALCOTT of Lewiston, the Majority **Ought to Pass as Amended** Report was **ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-471)** was **READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Wednesday, May 21, 2003.

ENACTORS

Emergency Measure

An Act To Improve the Administration of the Baxter Compensation Program

(S.P. 263) (L.D. 768)
(C. "A" S-164)

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. 139 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.**

Acts

An Act To Implement the Recommendations of the Task Force on Rail Transportation and Correct an Inconsistency

(S.P. 208) (L.D. 599)
(C. "A" S-136; H. "A" H-400)

An Act To Clarify When Notice is Effective to Terminate a Tenancy at Will

(H.P. 729) (L.D. 1008)

An Act To Protect the Small Forest Landowners

(S.P. 500) (L.D. 1500)
(C. "A" S-162)

An Act To Promote and Monitor Competition in the Solid Waste Industry

(S.P. 507) (L.D. 1515)
(C. "A" S-163)

An Act To Protect Plaintiffs and Minor Children in Certain Civil Protection Order Cases

(S.P. 527) (L.D. 1568)
(C. "A" S-165)

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.

CONSENT CALENDAR

First Day

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

(H.P. 923) (L.D. 1249) Bill "An Act To Amend the Laws Governing the Quality Child Care Tax Credit" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-480)**

(H.P. 1131) (L.D. 1542) Bill "An Act To Effectively Separate Children's Homes from Adult Residential Care Facilities Regarding Fire Safety" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-487)**

(H.P. 1171) (L.D. 1596) Bill "An Act Regarding Sinks in Eating Establishments" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-484)**

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

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

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

On motion of Representative TARDY of Newport, the House adjourned at 5:16 p.m., until 9:00 a.m., Wednesday, May 21, 2003.