

MAINE STATE LEGISLATURE

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

Volume II

First Regular Session

May 27, 2003 – June 14, 2003

First Special Session

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Second Regular Session

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Second Special Session

February 3, 2004 - April 7, 2004

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ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
 FIRST REGULAR SESSION
 64th Legislative Day
 Tuesday, June 3, 2003

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

Prayer by Reverend Calvin O. Dame, Unitarian Universalist Community Church, Augusta.

National Anthem by Sofia Zrioka, Greely Junior High School, North Yarmouth.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

ORDERS

On motion of Representative LORING of the Penobscot Nation, the following Joint Resolution: (H.P. 1207) (Under suspension of the rules, cosponsored by Senator PENDLETON of Cumberland and Representatives: ADAMS of Portland, ANDREWS of York, ANNIS of Dover-Foxcroft, ASH of Belfast, AUSTIN of Gray, BARSTOW of Gorham, BENNETT of Caribou, BERRY of Belmont, BERUBE of Lisbon, BIERMAN of Sorrento, BLANCHETTE of Bangor, BLISS of South Portland, BOWEN of Rockport, BOWLES of Sanford, BRANNIGAN of Portland, BREault of Buxton, BROWN of South Berwick, BROWNE of Vassalboro, BRUNO of Raymond, BRYANT-DESCHENES of Turner, BULL of Freeport, BUNKER of Kossuth Township, CAMPBELL of Newfield, CANAVAN of Waterville, CARR of Lincoln, CHURCHILL of Orland, CHURCHILL of Washburn, CLARK of Millinocket, CLOUGH of Scarborough, COLLINS of Wells, Speaker COLWELL of Gardiner, COURTNEY of Sanford, COWGER of Hallowell, CRAVEN of Lewiston, CRESSEY of Baldwin, CROSTHWAITE of Ellsworth, CUMMINGS of Portland, CURLEY of Scarborough, DAIGLE of Arundel, DAVIS of Falmouth, DUDLEY of Portland, DUGAY of Cherryfield, DUNLAP of Old Town, DUPLESSIE of Westbrook, DUPREY of Hampden, DUPREY of Medway, EARLE of Damariscotta, EDER of Portland, FAIRCLOTH of Bangor, FINCH of Fairfield, FISCHER of Presque Isle, FLETCHER of Winslow, GAGNE-FRIEL of Buckfield, GERZOFKY of Brunswick, GLYNN of South Portland, GOODWIN of Pembroke, GREELEY of Levant, GROSE of Woolwich, HATCH of Skowhegan, HEIDRICH of Oxford, HONEY of Boothbay, HOTHAM of Dixfield, HUTTON of Bowdoinham, JACKSON of Fort Kent, JACOBSEN of Waterboro, JENNINGS of Leeds, JODREY of Bethel, JOY of Crystal, KAELIN of Winterport, KANE of Saco, KETTERER of Madison, KOFFMAN of Bar Harbor, LANDRY of Sanford, LAVERRIERE-BOUCHER of Biddeford, LEDWIN of Holden, LEMOINE of Old Orchard Beach, LERMAN of Augusta, LESSARD of Topsham, LEWIN of Eliot, LUNDEEN of Mars Hill, MAIETTA of South Portland, MAILHOT of Lewiston, MAKAS of Lewiston, MARLEY of Portland, MARRACHÉ of Waterville, McCORMICK of West Gardiner, McGLOCKLIN of Embden, McGOWAN of Pittsfield, McKEE of Wayne, McKENNEY of Cumberland, McLAUGHLIN of Cape Elizabeth, McNEIL of Rockland, MILLETT of Waterford, MILLS of Farmington, MILLS of Cornville, MOODY of Manchester, MOORE of the Passamaquoddy Tribe, MOORE of Standish, MURPHY of Kennebunk, MUSE of Fryeburg, NORBERT of Portland, NORTON of Bangor, NUTTING of Oakland, O'BRIEN of Augusta, O'BRIEN of Lewiston, O'NEIL of Saco, PARADIS of Frenchville, PATRICK of Rumford, PEAVEY-HASKELL of Greenbush, PELLON of Machias, PERCY of Phippsburg, PERRY of Calais, PERRY of Bangor, PINEAU of Jay, PINGREE of North Haven, PIOTTI of Unity, RECTOR of Thomaston, RICHARDSON

of Greenville, RICHARDSON of Brunswick, RICHARDSON of Skowhegan, RINES of Wiscasset, ROGERS of Brewer, ROSEN of Bucksport, SAMPSON of Auburn, SAVIELLO of Wilton, SHERMAN of Hodgdon, SHIELDS of Auburn, SIMPSON of Auburn, SMITH of Monmouth, SMITH of Van Buren, SNOWMELLO of Poland, STONE of Berwick, SUKEFORTH of Union, SULLIVAN of Biddeford, SUSLOVIC of Portland, SYKES of Harrison, TARDY of Newport, THOMAS of Orono, THOMPSON of China, TOBIN of Windham, TOBIN of Dexter, TRAHAN of Waldoboro, TREADWELL of Carmel, TWOMEY of Biddeford, USHER of Westbrook, VAUGHAN of Durham, WALCOTT of Lewiston, WATSON of Bath, WHEELER of Kittery, WOODBURY of Yarmouth, WOTTON of Littleton, YOUNG of Limestone, Senators: BENNETT of Oxford, BLAIS of Kennebec, BRENNAN of Cumberland, BROMLEY of Cumberland, BRYANT of Oxford, CARPENTER of York, CATHCART of Penobscot, President DAGGETT of Kennebec, DAMON of Hancock, DAVIS of Piscataquis, DOUGLASS of Androscoggin, EDMONDS of Cumberland, GAGNON of Kennebec, GILMAN of Cumberland, HALL of Lincoln, HATCH of Somerset, KNEELAND of Aroostook, LaFOUNTAIN of York, LEMONT of York, MARTIN of Aroostook, MAYO of Sagadahoc, MITCHELL of Penobscot, NASS of York, ROTUNDO of Androscoggin, SAVAGE of Knox, SAWYER of Penobscot, SHOREY of Washington, STANLEY of Penobscot, STRIMLING of Cumberland, TREAT of Kennebec, TURNER of Cumberland, WESTON of Waldo, WOODCOCK of Franklin, YOUNGBLOOD of Penobscot)

JOINT RESOLUTION IN MEMORY OF UNITED STATES ARMY PRIVATE FIRST CLASS LORI ANN PIESTEWA, THE FIRST AMERICAN WOMAN SOLDIER KILLED IN ACTION IN THE IRAQ WAR

WHEREAS, United States Army Private First Class Lori Ann Piestewa was the first American woman to fall in combat during the recent war with Iraq and she died a hero's death when her unit was ambushed by enemy troops; and

WHEREAS, Lori Ann Piestewa was a 23-year-old Hopi Indian, a native of Arizona, a mother of 2 young children, a sister, a daughter, an aunt and a friend to many and her untimely death has created a void in the lives of those loved ones who survive her; and

WHEREAS, Lori Ann Piestewa grew up in Lower Moenkopi, Arizona and had been a leader in the Tuba City Unified School District Junior ROTC program and was the daughter of a Vietnam War veteran and granddaughter of a veteran of World War II and she joined the United States Army 4 1/2 years ago; and

WHEREAS, Lori Ann Piestewa exemplified the spirit of sacrifice, honor, trust and commitment and her ultimate sacrifice will not be forgotten by her grateful nation; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-first Legislature now assembled in the First Regular Session, on behalf of the people we represent, take this opportunity to express our sincere condolences to the loving family of Private First Class Lori Ann Piestewa; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Piestewa family and the Hopi Tribal Council with our deepest gratitude and respect for her sacrifice on behalf of the People of the State of Maine and the Penobscot Nation and with our best wishes and appreciation.

READ.

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

Representative LORING: Mr. Speaker, Men and Women of the House. PFC Lori Ann Piestewa was honored during the memorial service at the service at the Women's Memorial at

Arlington Cemetery last Memorial Day. Pentagon officials for the first time publicly stated that she fought back. "She drew her weapon and fought and did it with courage and honor", stated Shirley Martin as Deputy Secretary of the Air Force. A congressman from Arizona said she fought tooth and nail along side a sergeant to give other soldiers time to climb out. Her last stand was fighting with all her might defending her own people. She fought with courage and valor.

She was the first Hopi woman and Native American woman to die in combat in defense of the United States. She was a daughter, a sister, a mother, a friend. She has had a mountain and a highway named after her and over 21 tribes have paid homage to her. After the ceremonies, the songs, the poems, the gifts, there is an empty space that will always be felt by her family and especially her children. Lori's son Brandon turned five years old on Memorial Day. Rose petals were ceremoniously placed in the reflection pool at the Women's Memorial by her father, Terry, her mother, Priscilla, her brothers Adam and Waylon and her three year old daughter, Carla. Freedom is not free. The price is paid not only by the dead, but by those who must live without their loved ones. The empty space may never be filled. According to Hopi legend, if a person had a good heart when he or she died, their spirit would return to Earth in the form of moisture. Perhaps because it is so treasured in that dry and arid climate for its life giving and life nourishing qualities.

Lori was known to have had a good heart, to love life, people and above all her family and friends. On the day that the Piestewa family was notified of her death an unusual event occurred in her hometown of Tuba City, moisture fell back to Earth in the pure white form of snow.

Subsequently, **ADOPTED**.
Sent for concurrence.

SPECIAL SENTIMENT CALENDAR

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

In Memory of:

Charles A. Greer, of Portland, a longtime math teacher and head of the Math Department at Old Orchard Beach High School, who will be remembered for his dedication and commitment to the education of our youth. Mr. Greer will be greatly missed by his loving family, many friends and the scores of students whom he taught;

(HLS 521)

Presented by Representative EDER of Portland. Cosponsored by Representative LEMOINE of Old Orchard Beach, Senator PENDLETON of Cumberland, Representative ADAMS of Portland, Representative CUMMINGS of Portland, Representative DAVIS of Falmouth, Representative DUDLEY of Portland, Representative MARLEY of Portland, Representative NORBERT of Portland, Representative SUSLOVIC of Portland, Senator BRENNAN of Cumberland, Senator BROMLEY of Cumberland.

On **OBJECTION** of Representative EDER of Portland, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **EDER**: Thank you Mr. Speaker. Good morning Mr. Speaker, Men and Women of the House. I did not have the pleasure of knowing Chuck Greer. I know that he was very dear to the students whose lives he had touched. I do believe that the entire school the day of his funeral did not have

classes so that they could leave to attend his funeral in Old Orchard Beach.

His connection to my district was that he worked for 20 years at a neighborhood bar and a mutual friend of ours asked that I would put this sentiment in. The cautionary tale here is that Chuck, who did not smoke, but worked in this bar for 20 years, was exposed to second-hand smoke and died of lung cancer. I wanted to share this with the body because his employer attended the hearing on the issue of second-hand smoke exposure and testified in favor of not allowing smoking in the workplace, in restaurants and in bars. I thought it was a story that should be told.

My deepest condolences go out to Chuck Greer and his family and those whose lives he has touched. Thank you Mr. Speaker.

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

**REPORTS OF COMMITTEE
Divided Report**

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-249)** on Bill "An Act To Protect Workers from Secondhand Smoke and To Promote Worker Safety"

(S.P. 437) (L.D. 1346)

Signed:

Senators:

BRENNAN of Cumberland
MARTIN of Aroostook
WESTON of Waldo

Representatives:

KANE of Saco
EARLE of Damariscotta
CRAVEN of Lewiston
SHIELDS of Auburn
CURLEY of Scarborough
WALCOTT of Lewiston
CAMPBELL of Newfield
LEWIN of Eliot
LAVERRIERE-BOUCHER of Biddeford

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

Signed:

Representative:

DUGAY of Cherryfield

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-249).**

READ.

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

Representative DUGAY of Cherryfield **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**: 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. 206

YEA - Adams, Andrews, Annis, Ash, Barstow, Berube, Bliss, Bowles, Brannigan, Breault, Brown R, Browne W, Bruno, Bryant-

Deschenes, Bull, Campbell, Canavan, Churchill E, Churchill J, Cowger, Craven, Crosthwaite, Cummings, Daigle, Davis, Dudley, Duplessie, Earle, Eder, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Heidrich, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Kaelin, Kane, Ketterer, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lewin, Lundeen, Mailhot, Marraché, McCormick, McKenney, McLaughlin, McNeil, Mills J, Mills S, Moody, Murphy, Norbert, Norton, O'Brien J, Paradis, Peavey-Haskell, Percy, Perry A, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Richardson M, Rosen, Sampson, Saviello, Shields, Simpson, Smith N, Stone, Sukeforth, Sullivan, Suslovic, Sykes, Twomey, Usher, Walcott, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Austin, Bennett, Bierman, Blanchette, Bowen, Carr, Clark, Clough, Collins, Courtney, Cressey, Dugay, Dunlap, Duprey B, Duprey G, Glynn, Goodwin, Hatch, Honey, Joy, Maietta, Makas, Marley, McGowan, Millett, Moore, Muse, Nutting, Pellon, Rines, Rogers, Sherman, Snowe-Mello, Tardy, Thomas, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Watson.

ABSENT - Berry, Bunker, Curley, Gerzofsky, Greeley, Grose, Koffman, Lerman, McGlocklin, McKee, O'Brien L, O'Neil, Patrick, Perry J, Smith W, Thompson.

Yes, 94; No, 41; Absent, 16; Excused, 0.

94 having voted in the affirmative and 41 voted in the negative, with 16 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-249)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-249)** in concurrence. **ORDERED SENT FORTHWITH**.

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-546)** on Bill "An Act To Permit Video Gaming for Money Conducted by Nonprofit Organizations" (H.P. 996) (L.D. 1354)

Signed:

Senators:

LEMONT of York
MAYO of Sagadahoc
GAGNON of Kennebec

Representatives:

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

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

Signed:

Representative:

GLYNN of South Portland

READ.

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

Representative GLYNN of South Portland moved that the Bill and all accompanying papers be **COMMITTED** to the Committee on **LEGAL AND VETERANS AFFAIRS**.

The same Representative **REQUESTED** a roll call on the motion to **COMMIT** the Bill and all accompanying papers to the Committee on **LEGAL AND VETERANS AFFAIRS**.

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 South Portland, Representative Glynn.

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. We have before us a piece of pending legislation regarding gambling. The Majority Report that was reported out by our committee purports to allow nonprofits to be able to have up to five video gambling machines in each one of their premises throughout the State of Maine. This issue, in my mind and in the minds of many colleagues that I have spoken with, should not be voted on by the House of Representatives today and, in fact, should be a decision that is deferred until after the November election. I would like to stipulate a few reasons why.

The voters of Maine are considering in November two issues centering around gambling and video casino slot machines. One, being the Indian gambling bill as it is often referred to by the public. It will allow a big casino to be located here in the State of Maine. That issue is a citizen initiative referendum. We are going to be voting on it in November. Another referendum that is known commonly by the constituents is the **RACINO** referendum to allow video slot machines to be present at the horse track in Bangor. These machines and the presence of them as legal gambling machines in Maine has been something that has been illegal for long standing practice for the State of Maine. The voters are going to be weighting in as to whether or not they want casino gambling in Maine. If the legislation that has been reported out by the Joint Standing Committee on Legal and Veterans Affairs is adopted today, in effect, we will have a preemption of the voters and we will have little mini casinos of five slot machines in your district, in my district and all over the State of Maine. They are going to be put in our districts prior to the voters weighing in on the gambling issue in November.

To say the least, I don't believe that is a prudent action of the Legislature. If the voters of Maine want gambling, we are going to know that after November and I think we will be in a position to evaluate this legislation. If, in fact, the voters do not want gambling, you will by passing this legislation, force mini casinos all over the State of Maine prior to them weighing in on their vote. I believe we will get many calls from our constituents after we adjourn if we pass this bill today saying that we preempted their vote. We didn't care how they felt. We didn't let them weigh in. I believe that the situation is completely and totally avoidable by a simple act. That act is voting in support of this motion to Commit this bill and its accompanying papers back to Legal and Veterans Committee and then the committee can carry this bill over until the next regular session. When we come back in January, having the knowledge and the strength of whatever the decision of the voters of the State of Maine weigh in on this issue, evaluate it at that time. Thank you.

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

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. I hope you will oppose the pending motion before us. We had the public hearing on April 17th. We had testimony from all over the State of Maine, nonprofits here and there from every community come and testify in support of this piece of legislation. We worked, as the Legal and Veterans Affairs Committee, long and hard on having a bill that was close to 30

some odd pages long to an amendment that is only 12. We went through it with a fine-tooth comb. The good Representative from South Portland says that we want to wait and see what the voters have to say on gambling come November. Are we going to wait on tax reform? I don't think so. Are we going to wait on other things that the people have out there for other means of importance of the public? No. We are the Legislature. We bring our ideas and our constituent's ideas to the front. They elect us to have their ideas brought here to the halls of government here in Augusta. If we wait for every citizen's initiative to come forth, we might as well not even have a Legislature.

This bill was worked on very hard with a fine-tooth comb by every member of the Legal and Veteran's Affairs Committee. We had numerous work sessions on this. We have other bills in the system to do with OTBs. That is coming up later on. That does not go out to the people. We had a lot of discussion during the public hearing with the second floor opposing all gaming bills. That is their prerogative to oppose that. We, as a committee in the committee process, looked at every single piece of this bill. We looked at it very carefully. We made sure that every part of this amendment that we are going to be looking at applies to everybody in the State of Maine. We looked at the tax issue with the BETR Program and the TIF to see if those played into account to this piece of legislation and it doesn't. That means that somebody in Sanford, Representative Bowles district, cannot open up a VLT for a nonprofit organization and get BETR or TIF money for this. We made sure that is not in here. We made sure that the organizations cannot use this as a tool for making money for themselves. You have to give it out in scholarships or other funds of nonprofits, like the VFWs or the American Legions or the Elks Clubs do day in and day out in this fine State of Maine. I urge you to vote against the Commit. Thank you.

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

Representative RICHARDSON: Mr. Speaker, Men and Women of the House. I am going to ask you to vote today against this motion to Commit. I think the argument made by the good Representative from South Portland, Representative Glynn is flawed for the following reason. Whether you agree or you don't agree to a casino, large stake, high stakes gambling casino in a certain part of this state in no way should infer that you approve or disapprove of nonprofit organizations having this gaming video device within their building. As I look at the bill, and that is probably important before deciding whether you are going to vote on this not, it says that it is charitable organizations, civic leagues, benefit societies and all kinds of private groups, veteran's organizations are the only ones that can have this option at all. The license is by the State Police following a background check and, most importantly, local approval is required for licenses to operate. Local control is very much a part of this particular bill.

If you look on, it specifies that you can only have five of these terminals in each of the locations. You can only be 21 or older to play it. Only members of the organization or their guests are allowed to play. Here is what I like about it. Eight percent of the profits go to municipal revenue sharing public education funds and other various opportunities. I would say a 12 to 1 report, one that was considered by the committee, one that provides for local control, one that is limited in its scope as to who it applies to and also allows some of those profits to be diverted to municipal revenue sharing and education is a worthwhile endeavor. It ought to get our support. I ask you to vote against the motion to Commit and allow the bill to continue. Thank you very much.

The SPEAKER: A roll call has been ordered. The pending question before the House is to Commit the Bill and all

accompanying papers to the Committee on Legal and Veteran's Affairs. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 207

YEA - Andrews, Annis, Austin, Berube, Bowen, Bowles, Browne W, Bruno, Bryant-Deschenes, Campbell, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Daigle, Davis, Duprey B, Eder, Fletcher, Glynn, Heidrich, Jacobsen, Jodrey, Joy, Kaelin, Lewin, McCormick, McKenney, McNeil, Millett, Mills S, Moody, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Perry A, Rector, Richardson M, Rogers, Rosen, Shields, Snowe-Mello, Sukeforth, Sykes, Tobin D, Trahan, Treadwell, Wheeler, Woodbury.

NAY - Adams, Ash, Barstow, Bennett, Blanchette, Bliss, Brannigan, Breault, Brown R, Bull, Bunker, Canavan, Carr, Clark, Cowger, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Faircloth, Finch, Fischer, Gagne-Friel, Goodwin, Hatch, Honey, Hotham, Hutton, Jackson, Jennings, Kane, Ketterer, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, Maietta, Mailhot, Makas, Marley, Marraché, McGowan, McLaughlin, Mills J, Moore, Norbert, Norton, Paradis, Pellon, Percy, Pineau, Pingree, Piotti, Richardson E, Richardson J, Rines, Sampson, Saviello, Sherman, Simpson, Smith N, Smith W, Stone, Sullivan, Suslovic, Tardy, Thomas, Tobin J, Twomey, Usher, Vaughan, Walcott, Watson, Wotton, Young, Mr. Speaker.

ABSENT - Berry, Bierman, Curley, Gerzofsky, Greeley, Grose, Koffman, Lerman, McGlocklin, McKee, O'Brien L, O'Neil, Patrick, Perry J, Thompson.

Yes, 54; No, 82; Absent, 15; Excused, 0.

54 having voted in the affirmative and 82 voted in the negative, with 15 being absent, and accordingly the motion to COMMIT the Bill and all accompanying papers to the Committee on LEGAL AND VETERANS AFFAIRS FAILED.

Representative GLYNN of South Portland 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 South Portland, Representative Glynn.

Representative GLYNN: Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the Majority Report. I would like to give a few reasons why I think that this is a very poor idea for the State of Maine.

We just had a small debate about the referendum that is taking place in November and the fact that the voters will be weighing in on gambling issues in November. I do take exception and disagree with the good Representative from Brunswick who had referenced that this issue is a different issue. I take exception in that because video gambling machines are something that are currently banned from operation. They are illegal in the State of Maine and the voters are going to have a say on that. If we adopt this bill today in its present form, we are going to be taking away local control. We are going to be having little mini casinos located in all of our districts and all of our towns, which may be very well against the wishes of the voters in our community and our local town councilmen and boards of selectmen. They should have final say as to whether or not any of these devices are in their communities, because that is their job to fleece these things.

The gambling issue is one that has been debated quite a bit. I guess you could say that the Legal and Veterans Committee has been bitten by the gambling bug. Whatever the dynamics we have on our committee, our committee is very much in favor of

gambling and these gambling issues and has voted on a number of these bills. I would like to let you know that that is not a common belief that is held within the State of Maine. We just recently elected a Governor, Governor Baldacci, the Chief Executive, who ran on the issue of opposition to expansion of gambling and has been quoted in the papers as saying that he would veto this legislation and similar legislation. We can't take into effect the actions of the administration.

The Chair reminded Representative GLYNN of South Portland that it was inappropriate to question the motives of the Chief Executive.

Representative **GLYNN**: Mr. Speaker, I appreciate your comments on that. I think it is important that we take into effect the wishes of the people of the State of Maine and that we did elect someone to office that ran on that campaign issue. I do think that is relevant. I think it is also highly relevant that we take into account and into mind that the administration testified against this expansion of gambling before our committee as well as the State Police. What we are asking to do is open up a number of mini casinos throughout these communities. The voters in the community should be able to say that they don't want these types of machines in their community. We didn't really provide for that. In fact, if someone is denied a license by a local authority, much in the same manner that you can appeal a liquor license, you can appeal to the state and get one issued anyway over the wishes of your local municipality, based on the wording of this bill.

I think it is also interesting that when we had our discussions and work sessions in the Legal and Veterans Affairs Committee, we gave a whole lot of discussion to tying these devices to liquor licenses. Somehow or rather unless you are boozed up, it is thought that we shouldn't have these gaming machines going on. There needs to be liquor present. Liquor sold and consumed while this gambling is going on. These issues, I think are very important. The passage of this prior to the November referendums on the two gambling issues, which all speak of gambling slot machines, I believe is very much preempting the voters. It is a bad policy move for the State of Maine. If this was good idea, why didn't we see a bill like this prior to this gambling bug that has set on the Legal and Veterans Affairs Committee? I urge a no vote.

The **SPEAKER**: The Chair recognizes the Representative from Dixfield, Representative Hotham.

Representative **HOTHAM**: Mr. Speaker, Men and Women of the House. I rise in support of the Majority Ought to Pass as Amended Report. I would like to address some of the concerns from the good Representative from South Portland, Representative Glynn. I tell you, we worked hard on this bill. We heard testimony as you all do in committee from both sides of this issue. There was some measure of concern when the commissioner came to us and testified against this bill, but also offered the assistance of the State Police in helping to draft the legislation so that it met licensing requirements and regulation requirements. I don't know if there was a hidden message there or not. That is not germane to the bill.

Local control, I wouldn't really care for a licensing procedure that didn't have an appeal process. It is my understanding that in the case of liquor licenses when they are denied at the local level, very seldom are they overturned at the state level. I think the same measures would be used in this instance. We have in our towns and communities now several of what has been referred to as grey machines. These grey machines exist in several nonprofit organizations. This bill deals with reality. I think the reason we haven't seen this come before this Legislature before this is because I don't think there was a general feeling that the people of the State of Maine have come to grips with the

gambling issue. I think they have come to grips with it. I think they know that gambling has become part of society in Maine. We have busloads of people going out of state to do it. We have Internet gambling available to us now. The grey machines are suspect at best.

I think this is a good bill. I urge its passage. I hope you will follow my light on this. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Standish, Representative Moore.

Representative **MOORE**: Mr. Speaker, Ladies and Gentlemen of the House. I voted in favor of this measure when it came before our committee after we heard hours of testimony from many, many of our constituents who came forward represented by the Maine Coalition of Nonprofit Organizations. The president of that group, representing 22 Elks Lodges, 173 American Legion Posts, 85 VFW Posts, 15 Eagle and the Club Calumet came forward and spoke on behalf of the constituents of those organizations.

I don't feel that we are undercutting the wishes of the people of the State of Maine by dealing with issues as they come before us. The many charitable endeavors of these organizations include thousands and thousands of donations to children's organizations, homeless shelters and elsewhere. It is no untimely for us to deal with this today. Rather it is a waste of time to redigest all of the information that we have carefully reviewed in committee after hours of deliberation to do it all over again. Why waste the time? Let's vote on it. Let's get it over with. Please vote yes. Let's pass this bill. Thank you.

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. 208

YEA - Adams, Ash, Barstow, Bennett, Berube, Blanchette, Bliss, Bowen, Brannigan, Breault, Brown R, Browne W, Bruno, Bunker, Campbell, Canavan, Clark, Cowger, Craven, Cummings, Dugay, Dunlap, Duplessie, Duprey G, Earle, Finch, Fischer, Goodwin, Greeley, Hatch, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Kaelin, Kane, Ketterer, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lerman, Lessard, Lundeen, Maietta, Makas, Marley, Marraché, McGowan, McLaughlin, Mills J, Moody, Moore, Muse, Norbert, Norton, Nutting, O'Brien J, Paradis, Patrick, Pellon, Percy, Pineau, Pingree, Richardson E, Richardson J, Sampson, Saviello, Sherman, Shields, Simpson, Smith N, Smith W, Sullivan, Tardy, Tobin J, Twomey, Usher, Walcott, Watson, Young, Mr. Speaker.

NAY - Andrews, Annis, Austin, Bowles, Bryant-Deschenes, Bull, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Daigle, Davis, Dudley, Duprey B, Eder, Faircloth, Gagne-Friel, Glynn, Heidrich, Honey, Joy, Lewin, McCormick, McKenney, McNeil, Millett, Mills S, Murphy, Peavey-Haskell, Perry A, Piotti, Rector, Richardson M, Rines, Rogers, Rosen, Snowe-Mello, Stone, Sukeforth, Suslovic, Sykes, Thomas, Tobin D, Trahan, Treadwell, Vaughan, Wheeler, Woodbury, Wotton.

ABSENT - Berry, Bierman, Curley, Fletcher, Gerzofsky, Grose, Koffman, Mailhot, McGlocklin, McKee, O'Brien L, O'Neil, Perry J, Thompson.

Yes, 84; No, 53; Absent, 14; Excused, 0.

84 having voted in the affirmative and 53 voted in the negative, with 14 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-546) was READ by the Clerk and ADOPTED.**

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-546)** and sent for concurrence.

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

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

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.

Resolve, Directing the Department of Inland Fisheries and Wildlife To Conduct a Programmatic Review within Certain Areas of the Department (EMERGENCY)

(S.P. 52) (L.D. 129)

(C. "A" S-125)

TABLED - May 14, 2003 (Till Later Today) by Representative RICHARDSON of Brunswick.

PENDING - **FINAL PASSAGE**.

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 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

An Act To Promote Energy Conservation

(S.P. 92) (L.D. 233)

(C. "A" S-145)

TABLED - May 20, 2003 (Till Later Today) by Representative RICHARDSON of Brunswick.

PENDING - **PASSAGE TO BE ENACTED**.

Subsequently, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

An Act To Fund Municipal Collection of Household Hazardous Waste

(H.P. 1135) (L.D. 1549)

(H. "A" H-526 to C. "A" H-494)

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

PENDING - **PASSAGE TO BE ENACTED**.

Representative DAIGLE of Arundel **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 Arundel, Representative Daigle.

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. In a few short weeks, maybe even one, we will all be going home and thereafter we will start seeing legislative summaries where people will write about what we did

this session. What they will typically write about is how it was a difficult budget year. How we were disappointed that we couldn't do more for our senior citizens, our schools, transportation of our mentally ill, for our highways, for our game wardens and the list can just go on and on. They will probably talk about how each subject matter, each committee dealt with the difficult time that we had before us. We decided that this was the year where it wasn't what we could do, but what we could do without was the marching orders that we lived by.

Perhaps depending upon our upcoming vote, there will be one exception to that. That is this bill that creates a new program with a new tax. When I walk through the grocery store a week or two from now and people ask me, Bob, why couldn't you find transportation for the mentally ill? I will tell them we did our best, but it just wasn't there. They will go through the other list I just mentioned earlier. Why couldn't you do that? It just wasn't there. It wasn't the time. We were not going to raise taxes. Some of them are going to say, why did you start it in Natural Resources? A new tax for a new program with no crisis requiring it to be put ahead of all the other priorities that face us. It will require us to tax more than 80 percent of revenue from a non-hazardous product to turn over to a subject matter that is important, but not as important as the other things we have dealt with.

When that happens to me in the grocery store, I am going to turn to them and say that I didn't vote for it. I know the next question on their minds is going to be, who did? With the actions we take next, I will be able to answer that question.

The SPEAKER: The Chair recognizes the Representative from Medway, Representative Duprey.

Representative **DUPREY**: Mr. Speaker, Ladies and Gentlemen of the House. I would just like to mention an observation that I was made aware of yesterday for the first time. Something that I don't always do is watch TV. I must have been extremely bored last night. I found myself watching for a few minutes. There was a commercial, it was one of the paint manufacturers, Glidden, I believe, they have come out with a new paint container. It was plastic. It resembled the laundry detergent bottles that we find in our homes with the pourable spout. I am just wondering, I would like to pose a question to anyone that may answer, would this 20 cent fee also apply to any and all paint containers or are we talking just the metal ones?

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. To answer that question, the bill applies the 20 cent tax on all coatings in one gallon sized containers or larger. It is not respective to the type of container and whether it can be recycled. All coatings in the case of oil based paints, which are hazardous and in the case of latex paints, which are paints that are the most used and are non-hazardous. This material you are talking about is a latex paint. It is irrelative of the container. Yes, that material would be taxed as well.

The SPEAKER: The Chair recognizes the Representative from Bar Harbor, Representative Koffman.

Representative **KOFFMAN**: Mr. Speaker, Men and Women of the House. In answer to the question, the 20 cent a gallon on paint applies to architectural coverings, not all uses of paint. It doesn't include commercial uses. If you are painting a ship down to BIW, you are not paying 20 cents a gallon for it. It is for residential use primarily. It includes the plastic buckets as well as the metal buckets. I just finished spending my last three weekends painting every room of the house for my mother in law

who is 83 who got married recently at our house. They just finished their honeymoon. They are still married. They are very happy. They have a lot of experience, both of them, so they should do well. In any case, I have bought about 10 gallons of paint to get all of these rooms spruced up for the wedding. I spent \$2 on fees, hypothetically, if this program were approved. I think my \$2 for this wonderful wedding were well spent. My wife has promised me that I won't have to paint the house again for another 10 years.

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

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. If you don't have a methodology for disposing of these old paint cans, we're just using paint cans as an example, whether they be plastic paint buckets or what, you know where they are going to wind up. Drive around your districts in areas where there are some woods and that is where you are going to find them. It happens in my area. It is an enormous problem in terms of the issues that we are dealing with in my committee on landowner relations. People go out to remote areas and they throw away their paint cans and they throw away their old tires.

You remember the overflow prevention device that we mandated to put in propane tanks. What happened to all the old propane tanks? They threw them on top of the paint cans in the woods. Unless we have some way to encourage people to dispose of things properly, these problems are going to continue. It is going to continue to be an epidemic, a crisis down the road because landowners are going to get pretty tired of it and they are going to start posting their land against all uses. That is the angle that I am coming from on this particular issue. I find the comments of my good friend from Arundel, Representative Daigle, to be most interesting about new taxes and new programs in DEP. He was arguing the exact opposite end of that debate when we created the Milfoil Sticker Program, which was a \$10 fee for a brand new program within DEP to address a problem that does not exist. It does not exist now. It did not exist then. If we can levy \$10 on every boat, which does not create a problem in terms of lake protection, but we have a lake protection sticker, I think we can afford 20 cents on a can of paint to solve a real problem out in the Maine woods. Thank you Mr. Speaker.

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

Representative **COWGER**: Mr. Speaker, Colleagues of the House. We will not resurrect the debate on invasive aquatic species here today. I would like to respond to my good friend from Arundel. I, too, have heard comments at the grocery store for years now. People have said, what do I do with the old chemicals in my basement? What do I do with the old pesticides or these old paints? The answer has been for years, I don't know. Call the DEP. They call the DEP and the DEP says, I don't know. We have been working for close to a decade in the State of Maine to come up with a solution for disposing of household hazardous waste. I think we should be proud to be voting for this bill so that we can go home to our constituents and say we now have a program and we will be providing funds to local and regional entities to collect finally, once and for all, and dispose of this material. I am going to be glad to go back to my local grocery stores after the enactment of this bill.

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

Representative **JOY**: Mr. Speaker, Ladies and Gentlemen of the House. This fund that is going to be assessed on paint and pesticides, including latex paints, which is not a pollutant is supposedly to provide the funds to the communities to build a

small storage place to house these things when they are collected. However, there is a serious problem beyond that. Those places where we take our waste products to have no place of disposing of them from there. How big of a building are they going to have to have to house all of these things? The industry has sent us a letter, to members of the committee, indicating that they will be doing a collection of these materials on a gratis basis. There will be no charge for it. This is down the road. Right now you are being asked to levy a tax on every one who goes to buy a gallon of paint or a unit of pesticides. I don't believe that this is the way that we should be going. I don't think that I want my transfer station building a building there that is going to house something that is going to set there and set and set there until somebody comes up with a process for taking care of these. With regard to paint cans, there is absolutely no reason for these to be left out in the woods anywhere. You use the paint, let the paint in the can dry, and take it to your transfer station and they will reprocess those cans just the same way they do anything else. This is absolutely unnecessary. Thank you.

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. 209

YEA - Adams, Barstow, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Cowger, Craven, Cummings, Davis, Dudley, Dunlap, Duplessie, Earle, Eder, Faircloth, Fischer, Gagne-Friel, Gerzofsky, Hatch, Hotham, Hutton, Jackson, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Lemoine, Lerman, Lessard, Lundeen, Makas, Marley, Marraché, McLaughlin, Mills S, Moody, Norbert, Norton, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Pineau, Pingree, Piotti, Rector, Richardson J, Sampson, Saviello, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Trahan, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Ash, Austin, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cressesey, Crosthwaite, Daigle, Dugay, Duprey B, Duprey G, Finch, Glynn, Goodwin, Greeley, Heidrich, Honey, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Ledwin, Lewin, Maietta, Mailhot, McCormick, McGlocklin, McGowan, McKenney, McNeil, Millett, Mills J, Moore, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Richardson E, Richardson M, Rines, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tobin D, Tobin J, Treadwell, Vaughan, Young.

ABSENT - Berry, Curley, Fletcher, Grose, McKee, O'Brien L, Perry J, Tardy, Thompson.

Yes, 72; No, 70; Absent, 9; Excused, 0.

72 having voted in the affirmative and 70 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. **ORDERED SENT FORTHWITH.**

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

SENATE PAPERS

Resolve, Concerning Reauthorization of a 1997 Pollution Control Bond Issue

(S.P. 583) (L.D. 1628)

Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and ordered printed.

Came from the Senate, under suspension of the rules and **WITHOUT REFERENCE** to a Committee, the Resolve **READ**

TWICE and PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-252).

Representative DAIGLE of Arundel moved that the Resolve and all accompanying papers be **INDEFINITELY POSTPONED**.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I know this is an unusual motion to make, but this is an unusual situation. This Resolve involves taking bond money passed in 1997 for the abatement of tire piles that was not spent, \$1 million and further authorizing it to be spent beyond its normal life span. The reason for my objection is that earlier this session when we were trying to find ways to balance the budget, the Natural Resources Committee discovered that the department had been taking bond money for tire piles, spending it to abate those tire piles as intended by the public and then in seeking cost recovery from the owners of those tire piles was taking that money and instead of replenishing the tire pile fund, was using it for other department purposes.

I believe if you walk the streets and ask if they approved a tire bond last year, they would say yes. If you spent that money and got some back, do you expect to repay that account? The public would say yes. The Department of Environmental Protection was caught doing just the opposite. They were putting that money in another account and then later on raiding that account for us to cover other deficit spending. We already had one scandal in DHS for doing a very similar thing with checks. There is no difference with this. In this case a mistake made by the department was they didn't spend the money fast enough to float it through this and to use it inappropriately. I don't believe that should go without consequence. The consequence deserved in this situation is when they are caught not abusing that fund fast enough that we don't even give them the chance to extend the time that they can further contribute to that abuse. For that reason, I move Indefinite Postponement to settle this thing and be done with it and then we can move to the next tire pile bond money to see whether or not we implement constitutional controls to prevent this flagrant abuse of the public's trust when they pass a bond in this body. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Bar Harbor, Representative Koffman.

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

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

Representative **KOFFMAN**: Mr. Speaker, Ladies and Gentlemen of the House. The history that the good Representative from Arundel has presented to us on the floor, I would like to know in what year did the DEP allegedly misappropriate tire funds?

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. As the good Representative from Bar Harbor, Representative Koffman, knows or perhaps he missed the committee meetings that he chairs, but earlier this session, in January, meeting with the department, our committee delved into this issue and we found that budget items were being identified by the Chief Executive to transfer to the general fund and we asked where that fund came from. We found the origin of that money was that millions of dollars had been spent through the bond process to abate tire piles. After the fact, the department sought tax recovery from the owners of those tire piles. The owners and the owner's insurance policy paid money back to the state to replenish the cost of that abatement and instead of putting that money against the source of that bond in order to go

one tire pile further down the road and to do more remediation, the department chose to put that money aside in a separate account to spend that on separate expenditures unrelated to tire piles and ultimately in one of the first actions taken to balance the budget under a crisis situation this session, we authorized that money going back into the general fund. Thank you.

Representative **DUPLESSIE** of Westbrook moved that the Resolve be **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

Representative **DAIGLE** of Arundel **REQUESTED** a roll call on the motion to **REFER** the Resolve to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

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 Bar Harbor, Representative Koffman.

Representative **KOFFMAN**: Mr. Speaker, Ladies and Gentlemen of the House. Before we cast our votes, I want to remind the body that a large majority of the citizen's of the State of Maine and certainly, I believe, the majority of the Natural Resources Committee is committed to removing the excess tire pile inventory that accumulated in the decades leading up to the program's inception. These funds that were authorized in 1997 is really a technical issue. It had been put into the budget to get rid of the tire supply. To lose that would be just a tragedy, I think. I appreciate the Representative from Arundel's concern, although I don't recall his history very well. Maybe other members of the committee will have to remind me. We are meeting at 12:30 today and we certainly will discuss it then. I hope you will support the motion of the whip.

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

Representative **JOY**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to pass onto you that the Representative from the Department of Environmental Protection assured us that they had adequate monies in that fund to take care of the tires as they were working on their schedule. To bring this forward now would leave a big question in my mind as to what the money is going to be used for. I would suggest that you defeat the pending motion.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is to Refer to the Committee on Appropriations and Financial Affairs. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 210

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

NAY - Andrews, Annis, Austin, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Daigle, Davis, Duprey B, Glynn, Goodwin, Greeley, Heidrich, Honey, Jacobsen, Jodrey, Joy, Kaelin, Ledwin, Lewin, Maietta, McCormick, McKenney, McNeil, Mills S, Moody, Moore, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Richardson E,

Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin J, Trahan, Treadwell, Vaughan, Young.

ABSENT - Berry, Breault, Curley, Fletcher, Hotham, Jackson, Marraché, McKee, Millett, Perry J, Thompson, Usher.

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

78 having voted in the affirmative and 61 voted in the negative, with 12 being absent, and accordingly the Resolve was REFERRED to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** in **NON-CONCURRENCE** 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 **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-61)** on Bill "An Act To Increase the Assessment on Workers' Compensation Insurance To Fund the Workers' Compensation Board Administrative Fund"

(S.P. 21) (L.D. 35)

Signed:

Senators:

EDMONDS of Cumberland
STANLEY of Penobscot

Representatives:

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

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-62)** on same Bill.

Signed:

Senator:

BLAIS of Kennebec

Representatives:

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

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-61) AS AMENDED BY SENATE AMENDMENT "A" (S-251)** thereto.

READ.

Representative SMITH of Van Buren moved that the House **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. I fully support the bill as amended by Senate Amendment (S-251). I would just like to give some of the background negotiations that have occurred. It has been a collaborative effort between the administration, both bodies and both parties in both bodies here in the Legislature. We came to an agreement that is reflected in Senate Amendment (S-251). As a part of that agreement we had agreed to send another bill

having to do with the governance of the Workers' Comp Board, LD 550, to commit it back to the Labor Committee. I am saying this only to make the body aware that this is a part of the negotiation that we have seen before us now and there is another part to follow. Mr. Speaker, I request a roll call on this.

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, Men and Women of the House. To briefly clarify with regard to the negotiations as stated by the good Representative from Carmel, there has indeed been discussion of a carry over of LD 550, which deals with trying to correct the difficulties that have been periodically arising with regard to the board's governance. There has been no agreement by this side of the aisle that LD 550 will be carried over. That is still under consideration. This bill specifically provides for the budget for the Workers' Compensation Board. It reflects the increased cost that had resulted to the Workers' Compensation Board from the demands upon the worker advocate system. As we move further into the 1992 Workers' Compensation Law, it is becoming apparent year after year that as there are more cases coming on board, there is more demand for employee advocate services and therefore more funding is required. This bill recognizes that demand and that need and provides for services for such. Thank you.

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. 211

YEA - Adams, Andrews, Annis, Ash, Austin, Barstow, Bennett, Berube, Bierman, Blanchette, Bliss, Bowen, Bowles, Brannigan, 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, Daigle, Davis, Dudley, Dugay, Dunlap, Duplessie, Duprey B, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Glynn, Greeley, Grose, Hatch, Heidrich, Honey, Hutton, Jackson, Jennings, Jodrey, Kaelin, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Maietta, Mailhot, Makas, Marley, McCormick, McGlocklin, McGowan, McKenney, McLaughlin, McNeil, Mills J, Mills S, Moody, Moore, Murphy, Norbert, Norton, Nutting, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Peavey-Haskell, Pellon, Percy, Perry A, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Sampson, Saviello, Sherman, Shields, Simpson, Smith N, Smith W, Snowe-Mello, Stone, Sukeforth, Sullivan, Suslovic, Sykes, Tardy, Thomas, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Jacobsen, Joy, Vaughan.

ABSENT - Berry, Breault, Curley, Fletcher, Goodwin, Hotham, Marraché, McKee, Millett, Muse, Perry J, Thompson, Usher.

Yes, 135; No, 3; Absent, 13; Excused, 0.

135 having voted in the affirmative and 3 voted in the negative, with 13 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-61)** was **READ** by the Clerk.

Senate Amendment "A" (S-251) to Committee Amendment "A" (S-61) was READ by the Clerk and ADOPTED. Committee Amendment "A" (S-61) as Amended by Senate Amendment "A" (S-251) thereto was ADOPTED.

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

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-61) as Amended by Senate Amendment "A" (S-251)** thereto in concurrence. **ORDERED SENT FORTHWITH.**

**ENACTORS
Acts**

An Act To Change the Name of the Augusta Mental Health Institute to "Riverview Psychiatric Center"

(S.P. 525) (L.D. 1562)
(C. "A" S-208)

An Act To Authorize the Deorganization of the Town of Centerville

(H.P. 1201) (L.D. 1624)
(H. "A" H-540)

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.

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

An Act To Improve Collection of Information about Work-related Injuries and To Enhance Injury Prevention Efforts

(S.P. 135) (L.D. 398)
(S. "A" S-239)

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

On motion of Representative DUPLESSIE of Westbrook, was **SET ASIDE.**

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

An Act To Regulate the Delivery and Sales of Tobacco Products and To Prevent the Sale of Tobacco Products to Minors

(H.P. 910) (L.D. 1236)
(C. "A" H-538)

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

On motion of Representative CUMMINGS of Portland, was **SET ASIDE.**

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

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

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

ROLL CALL NO. 212

YEA - Adams, Andrews, Annis, Ash, Barstow, Bennett, Berube, Bliss, Bowen, Brown R, Browne W, Bruno, Bryant-Deschenes, Bull, Bunker, Campbell, Canavan, Carr, Churchill E, Clark, Clough, Collins, Courtney, Cowger, Craven, Cummings,

Daigle, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Glynn, Greeley, Grose, Hatch, Heidrich, Honey, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Kaelin, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McCormick, McGlocklin, McGowan, McKenney, McLaughlin, McNeil, Mills J, Mills S, Moody, Moore, Murphy, Muse, Norbert, Norton, O'Brien J, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Sampson, Saviello, Shields, Simpson, Smith N, Smith W, Stone, Sukeforth, Sullivan, Suslovic, Sykes, Tardy, Thomas, Tobin D, Tobin J, Trahan, Twomey, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Austin, Bierman, Blanchette, Bowles, Churchill J, Cressey, Crosthwaite, Davis, Duprey B, Joy, Lewin, Maietta, Nutting, O'Brien L, Peavey-Haskell, Sherman, Snowe-Mello, Treadwell, Vaughan.

ABSENT - Berry, Brannigan, Breault, Curley, Fletcher, Goodwin, Marraché, McKee, Millett, Perry J, Thompson, Usher.

Yes, 120; No, 19; Absent, 12; Excused, 0.

120 having voted in the affirmative and 19 voted in the negative, with 12 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

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

(H.P. 908) (L.D. 1234)

(H. "A" H-506 and H. "B" H-539 to C. "A" H-372)

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

On motion of Representative CARR of Lincoln, was **SET ASIDE.**

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-372) as Amended by House Amendment "A" (H-506) and House Amendment "B" (H-539)** thereto was **ADOPTED.**

The same Representative **PRESENTED House Amendment "C" (H-543) to Committee Amendment "A" (H-372)** which was **READ** by the Clerk.

The **SPEAKER:** The Chair recognizes the Representative from Lincoln, Representative Carr.

Representative **CARR:** Mr. Speaker, Men and Women of the House. This amendment that I present is an amendment that would require the adoption of major substantive rules rather than the rules that are put forward in our last debate, which would be routine technical rules. We had this discussion the other day. I won't belabor the issue, but this would require that with the major substantive rules that they come back before the Legislature for review before it was implemented. Mr. Speaker, I ask for a roll call.

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

Representative **DUNLAP:** Mr. Speaker, Ladies and Gentlemen of the House. I understand why there is concern about the issue of designation of various areas as essential habitat or high value habitat or anything of that nature. I understand that concern. However, the rulemaking process, it might be worth our while to revisit that a little bit right now. For

those of us who were around in the old days before we had the Administrative Procedures Act, you may remember if you were in this chamber in those days, I was not, that you needed a bill to do almost anything. In fact, if you go back through the Legislative Record, especially in the last century it is particularly entertaining. I don't mean the last century, I mean the century before that, the 19th Century. If you were someone who adopted a child and you wanted that child to have your last name, it required a bill before the Legislature. Everything required legislation. The Administrative Procedures Act helped change that a little bit. Those minor things that only impacted either a certain situation or certain individuals could then be handled by administrative rule. The process that was put in place was two tiers. You had minor technical rules for things that really were not a big deal and then you had major substantive rules and those came back to the Legislature for review. That is the Administrative Procedures Act.

I think that what we are doing here with this particular piece of legislation is of a fairly narrow minor nature. I don't think it quite falls into the penumbra of major substantive rules to come back for full legislative review if you are going to be designating a marsh as high value waterfowl habitat. I don't think that is something that would require statewide interest. I do understand the concern of notification of landowners and as my good friend from Lincoln has already mentioned, we have already had a lengthy discussion about how landowners are notified and how they are handled by their state government. I do think that this falls into the category of a fairly minor technical rule. I think the original amendment that was brought forward by the good committee chair was very, very appropriate. I do not think that this needs to be a major substantive rule. If we are going to start basically reviewing and revisiting every action by every member of every agency, then we are going to be in for a very, very long legislative session.

I understand the sentiment behind this, Mr. Speaker. I respect it. However, I do not think it is necessary. I think it is ultimately going to be an encumbrance upon this chamber to review these types of rules and therefore in order to avoid setting what I consider to be a very, very windy precedent, I would move Indefinite Postponement of this amendment with all due respect to its sponsor. Thank you Mr. Speaker.

Representative DUNLAP of Old Town moved that **House Amendment "C" (H-543) to Committee Amendment "A" (H-372) be INDEFINITELY POSTPONED.**

The SPEAKER: The Chair recognizes the Representative from Lincoln, Representative Carr.

Representative CARR: Mr. Speaker, Men and Women of the House. It is not my intent to prolong this issue. I think probably most people have made up their mind on how they wish to vote. I think my disagreement doesn't necessarily come with the intent of the rulemaking authority. My disagreement comes with whether or not this particular issue is of major importance to the people of the State of Maine. I submit to you that this is a major change if you happen to own the property in which this area was designated. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Collins.

Representative COLLINS: Mr. Speaker, Ladies and Gentlemen of the House. I think this is a very important decision. It should fall under the jurisdiction of the committee of jurisdiction. When you potentially take away somebody's property rights, and this could potentially do that depending on where these areas are designated in the State of Maine. We represent the people here in Maine. These kinds of very important decisions dealing with people's property rights, our constituents, should fall under the jurisdiction of the committee. It should be just a technical rule

change. We all, as committee members, have seen those. A lot of times we just glance at them and they are passed along. I think this is too important to fall under that heading of technical rules. It should fall under substantive rules. Thank you. I request a roll call.

Representative COLLINS of Wells **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "C" (H-543) to Committee Amendment "A" (H-372).**

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 Crystal, Representative Joy.

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House. If you are concerned about a proliferation of bills before this body, we should go back and consider before the act that the good Representative from Old Town mentioned. Back then there were a much smaller number of bills before this body. I would like to remind you that if this bill is Indefinitely Postponed or this amendment, then what you are looking at is somebody coming down the road in one or two years when their property has really been affected and asking the Legislature to put in a bill to turn it over again. This idea of creating a proliferation of bills is kind of redundant. I ask you to defeat the pending motion.

The SPEAKER: The Chair recognizes the Representative from Bar Harbor, Representative Koffman.

Representative KOFFMAN: Mr. Speaker, Ladies and Gentlemen of the House. One of my neighbors near my seat asked, what is this bill about. In 1999, the Joint Committee on Inland Fisheries and Wildlife and the Natural Resources Committee unanimously voted to request that the Department of Inland Fisheries and Wildlife provide us with information about high and moderate ranked waterfowl wading bird's habitat so that we, our two committees, could do our job based on accurate information about the values of those natural resources which are important to hunting, fishing, Ducks Unlimited, Sportsmen's Alliance of Maine, the Maine Realtors and to all of us. We want some information. That information will be used prudently and carefully in deliberations about public policy. That is all this is about. I urge you to vote for Indefinite Postponement of the amendment.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Tobin.

Representative TOBIN: Mr. Speaker, Ladies and Gentlemen of the House. I think this is a case where prudence should take precedent. I see nothing wrong with bringing back any rules, at least rules that govern people's property rights. I see nothing wrong with bringing that back and having the committee of jurisdiction review those to make sure that they are not too extreme. I urge you to defeat this motion. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "C" (H-543) to Committee Amendment "A" (H-372). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 213

YEA - Adams, Ash, Barstow, Blanchette, Bliss, Bull, Bunker, Canavan, Churchill E, Cowger, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Jennings, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McGlocklin, McGowan, McLaughlin, Mills J, Mills S, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Pineau, Pingree, Piotti, Richardson J, Rines, Saviello, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas,

Twomey, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

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

ABSENT - Berry, Brannigan, Breault, Browne W, Curley, Fletcher, Marraché, McKee, Millett, Perry J, Sampson, Thompson, Usher.

Yes, 73; No, 65; Absent, 13; Excused, 0.

73 having voted in the affirmative and 65 voted in the negative, with 13 being absent, and accordingly **House Amendment "C" (H-543) to Committee Amendment "A" (H-372) was INDEFINITELY POSTPONED.**

Subsequently, **Committee Amendment "A" (H-372) as Amended by House Amendment "A" (H-506) and House Amendment "B" (H-539) thereto was ADOPTED.**

The Resolve was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-372) as Amended by House Amendment "A" (H-506) and House Amendment "B" (H-539) thereto in concurrence.**

Subsequently, the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

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

**ENACTORS
Acts**

An Act To Protect Workers from Secondhand Smoke and To Promote Worker Safety

(S.P. 437) (L.D. 1346)
(C. "A" S-249)

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

On motion of Representative DUGAY of Cherryfield, 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 Sorrento, Representative Bierman.

Representative **BIERMAN**: Mr. Speaker, good people of the House. I would just like to lay out some facts before we vote on this. There are approximately 2,129 restaurants in the great State of Maine. At those restaurants smoking is not allowed. Right there I think the residents of this state have an option of where they can go and have something to eat and something to drink. In many of those establishments drinking is permitted. At the bars and taverns, not all bars and taverns allow smoking in their establishments, only a handful actually allow smoking. I believe that if this is a health issue for employees, they have options of where they may work. I also feel that we are tying the hands of small businesses once again and not allowing this control staying in the hands of local control in small businesses and taverns and bars. I am also concerned about the fiscal note

on this. It is going to be a one-time gain of \$243,750 to the general fund with a loss of \$48,750 in fiscal year '03 and '04 with a \$65,000 loss to the general fund every year thereafter. The continuing loss of \$65,000 over the course of 10 years is getting into the big dollar category versus a one-time gain of \$243,000. Fiscally, I don't believe this is a smart move, as well.

There have been other states that have made these bans on smoking in restaurants. Some have taken it as far as all eateries and bars and restaurants, complete smoking bans. New York is a state that comes to mind. Right now New York is having some serious problems with noise ordinances being broken because people are outside and they are making so much noise due to cigarette breaks. Bars and taverns are losing businesses because people just aren't frequenting them as much as they used to. I would hate to see us go down that same road just to revisit it later and retract what we have done.

There was a proposed ban in New Hampshire, HB 713, eatery smoking ban. That just recently failed. I would encourage the members of the House to think before we press that button. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Rines.

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

The SPEAKER: The Representative may pose his question.

Representative **RINES**: Mr. Speaker, Men and Women of the House. Who is going to be responsible for the enforcement of this large piece of legislation? Thank you.

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. We voted just about an hour and half ago 94 to 41 to pass this bill, after a very thorough and favorable public hearing resulting in a 12 to 1 vote. We have been down this road before with restaurants. We have voluminous testimony now back from restaurants that it was the best thing that ever could happen to their business, for their employees, themselves and for the increase of comfort level of their patrons. It is a major public health issue. I am not going to go over all the details, which you all have available in this yellow handout. There are some very significant facts that are laid out there. What I will quote is from Philip MorrisUSA.com, the Philip Morris website. They say that public health officials have concluded that secondhand smoke from cigarettes causes disease, including lung cancer, heart disease in nonsmoking adults as well as causes conditions in children, such as asthma, respiratory infections, cough, wheeze, middle ear infections and sudden infant death syndrome. In addition, public health officials have concluded that secondhand smoke can exacerbate adult asthma and cause eye, throat and nasal irritation. Secondhand smoke also is known as an environmental tobacco smoke is a combination of smoke coming from the lit end of a cigarette, plus the smoke exhaled by the person smoking. Philip Morris USA believes that the conclusions of public health officials concerning environmental tobacco smoke, also known as secondhand smoke, are sufficient to warrant measures that regulate smoking in public places. I urge you to support the 12 to 1 Majority Ought to Pass Report and to stick to the previous vote, 94 to 41 that we passed just an hour ago. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Cherryfield, Representative Dugay.

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

The SPEAKER: The Representative may pose his question.

Representative **DUGAY**: Mr. Speaker, Men and Women of the House. Preferably to the chair of the committee, I just want to know if in this particular piece of legislation if this covers all establishments in the State of Maine where people smoke or have we carved out any particular businesses, as in nonprofits or off track betting or in racetracks? I just want to have the chair confirm who we have carved out of this bill and why.

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

Representative **KANE**: Mr. Speaker, Ladies and Gentlemen of the House. At the public hearing there were several representatives from off track betting who made a persuasive case for exempting six off track betting parlors, but with significant regulations attached to where customers may smoke. If you read the bill and you read the amendment, you would note that it would have to be a sealed room in which neither employees nor patrons must pass through. They may be able to participate within the sealed setting. There are six or seven of them in the State of Maine. The Senate Amendment that was attached to this bill makes it apply only to the currently licensed OTBs. It cannot extend further beyond the existing OTBs in the state. It was an attempt to respond to a sector of our business that does not generally bring in the cross section of patrons. It was a combination attempting to be responsive and at the same time to maintain consistency with our principles of protecting public places. Thank you.

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

Representative **MUSE**: Mr. Speaker, Ladies and Gentlemen of the House. Like many in this room, I smoked for years up until about 16 years ago. I was good for about three packs a day and four on a night when I would go out. My good wife for dad's day about 15 years ago gave me a card. When I read it, I discovered I had an expense paid trip to the hypnotist. I nodded and said, that would be nice and she said, read the next page. I discovered that it was next Tuesday at 8:00. I share that with you just to let you know that I view myself as somewhat of an expert in this field. We have talked about health concerns here. We have talked a little bit about business concerns. I can see both sides of this, but I think it is the concern of some of the bars in the State of Maine that weighs on my plate. I would just like to cite three examples of some parts of the world where we have put these bands in place.

One, would be our friends on the west coast in California in 1994 when they put their ban in place. You read about some of the increases in sales, but what you don't read about is the fact that the economy or taxable sales in the four years following rose 31 percent and 1,039 bars went out of business.

If you move a little bit toward the east and pause for a second in Ottawa, 80 days after the law went into place there were 730 jobs lost, nine businesses closed and \$16 million in revenue and a person by the name of Dan Tate who for 23 years ran an air cleaning business in Ottawa called Pure Air was out of business. Coming further east to New York there is an article today in the *Washington Post* that gives a very vivid description of the Representatives in that state scrambling to come up with amendments to address some of the concerns that they are finding after the fact.

A quote from the New York Night Life Association. "This is the grossest political miscalculation the city mayor has ever made." Bubbles Lounge, just eight blocks from the World Trade

Center, sales have dropped 48 percent. Forty-eight percent is a relatively substantial number in my book. I think we have to look for a short time, at least, at the effect that this is going to have. I would remind the body that just a few weeks ago we passed a law that banned smoking in beano halls. We stepped back for a minute and said that we have to think about this in the case of the tribal halls. We made an exception. That exception was to address the effect it was going to have on business.

Ladies and gentlemen, I would think we have an opportunity today to make that same kind of an exception. We need to think about the people that are running these little bars. I think that we can all stand here and say that smoking isn't evil and that it ought to be banned. I think we ought to perhaps think just a little bit about the people who continue to smoke who send substantial amounts of revenue to this body. I think that maybe we ought to give them one last spot, one last bastion of relief, one last area where they can enjoy a freshly poured cognac and maybe a sweet Dominican cigar. Thank you Mr. Speaker.

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. I agree that we should be concerned about small business. Many of the arguments being made today about the impact on the small businesses were made when we were debating the ban on restaurants. The mom-and-pop rural restaurants would not survive. They did survive. They have not gone over. People's behavior has adapted. In part of our testimony we received a letter from the owner of Dimillos Floating Restaurant. I want to quote what he said. "As some of you may recall, I stood before this committee five years ago and opposed the bill that ultimately made all Maine restaurants smoke free. I believed then that this policy would be nothing but a burden on the owners, leading many to suffer economically. I am pleased to tell you today that I was wrong in that regard. Not only did I misjudge the level of enjoyment my customers would take in the change to clean air, but I misjudged how important it was to my staff. I saw fewer missed days of work, fewer days of working despite colds and flu, better moral and some of my smoking employees were actually able to quit after many failed attempts in the past. My restaurant was cleaner and my customers could smell the salt air and fresh food rather than persistent stale smoke of the past. As is the story across Maine, my business not only didn't suffer, but, in fact, improved with the new law in place. As is the story across Maine, my business will continue to flourish. So much was the improvement that I decided to make my bar smoke free as well. I have never regretted it for a moment and the story remains the same, healthy workers and an increase in sales."

The word we heard from many of the small bar owners was, please don't do it incrementally. Have a ban where this creates a level playing field. Many bar owners want to go smoke free, but they are afraid if they go smoke free and the bar down the street or across the street doesn't go smoke free, they are afraid of losing customers. Their plea to us is make a level playing field. Make it a level playing field and let us all operate in a cleaner, healthier smoke free environment. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Madison, Representative Ketterer.

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

The SPEAKER: The Representative may pose her question.

Representative **KETTERER**: Mr. Speaker, Men and Women of the House. The summary on this bill it seems to me, and I haven't really heard anybody talk about this yet, that this bill would eliminate any existing exemptions that are now in place. It

repeals the provision in public places laws that permits public places to have a designated public smoking area. I am not sure if I am interpreting that correctly. I would like somebody to tell me if that is true or not, other than the off track betting, I know the amendment includes that.

The SPEAKER: The Representative from Madison, Representative Ketterer has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Cherryfield, Representative Dugay.

Representative **DUGAY**: Mr. Speaker, Ladies and Gentlemen of the House. Following up the chairman of the Health and Human Services Committee, my chair who I have a great deal of respect for, when he talks about leveling the playing field, can you imagine for those of you who have visited the other part of Augusta where Jonathans is at, as an example, I just visited there last week for the very first time.

If you go to Jonathans after this bill passes, you are not going to be able to smoke. It is going to affect Jonathan's business. It is going to affect his business by as much as 30 percent. I can go across the street to the Elks Club, that is a nonprofit and go in there and have a drink and have a cigarette and they will be exempt from this particular piece of legislation. How that levels the playing field for the small business owner of the State of Maine, I am not too sure? I have been on this committee for five years. Two years ago we had a bill that we had to have off campus and over 500 people came there to testify against the bill. They were the ones in the Elks Club, the legion halls and the VFWs. We were so intimidated by the number of people that came to testify against the bill, we not only heard the bill, but about an hour later we worked the bill. We voted unanimous Ought Not to Pass. The problem was there was so many people there that we figured out that we were really walking down the wrong road. I think we are today. I don't think the bar owners have a lobbyist. I don't think the bar owners can get up here in large numbers and testify against the bills like we would want them to do. I actually missed the public hearing on this particular bill, but when I looked at it, I couldn't see that there was 25 or 30 employees of restaurants or bars coming in to say please pass this legislation because it affects my health.

I think we have to think about the revenue short fall we have right now. It is a billion dollars. I think we have to figure out the revenue that we are going to lose from 30 percent of revenue lost for bar room owners in the next two years in the State of Maine. I think we had better look at this from a business perspective. I think if we do then we will be doing the right thing. I think there is a chance for bars to perhaps become nonsmoking on their own. If they want to become nonsmoking on their own, let's give them a 20 or 25 percent rebate on their taxes. Let's give them the incentive to become nonsmoking. The bar rooms that want to remain smoking should be able to remain smoking.

As I finish, there are only two things that I would really like to ban in bar rooms. I have spent a fair amount of time in bar rooms. I will say I have. There are only two things that I would like to see banned. Number one, a band playing Proud Mary. Number two, to make sure that Josh Tardy could never sing in a bar room ever again. Thank you very much.

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

Representative **LAVERRIERE-BOUCHER**: Mr. Speaker, Men and Women of the House. Just a point of clarification, the Elks Club, a person cannot just walk in and have a drink there. They have to be either invited or a member. It is not as easy as just finding a private club. You have to be a member or be invited as a guest. Thank you.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Kane. 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 **KANE**: Mr. Speaker, Men and Women of the House. It will be my final time. We have been talking for the past month or more about health care. It is dominating the legislative agenda this session, whether it is prescription drugs or, more importantly now, the Dirigo Plan. All of that is in response to what we have all acknowledged to be a major crisis in health care. We hear it from all sectors. We hear it from small business who say that the cost of the health care premiums are driving them out of business. We don't have to stretch very far to see the logical connection between the cost of health care today and the kinds of circumstances in our environment that are contributing to the problems in health care and the costs. As the Philip Morris website disclosed, the health care officials, the CDC all acknowledge the major causes of our increasing costs in health care is respiratory, cardiovascular, cancer, all of these major problems are connected to tobacco. We have made tremendous progress in Maine. We have a right to be very, very proud of our track record, particularly as witnessed by the ban of smoking in restaurants. We continue to move incrementally. This is another incremental move with a view to improve the quality of health care for the people whose health care we have to pay for. Please, as we press that button, look not only at the human benefits of this, but the economic benefits of this for our state. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Newport, Representative Tardy.

Representative **TARDY**: Mr. Speaker, Men and Women of the House, Representative Dugay. I rise today in opposition to this bill. I do think it is appropriate to clarify my position. I understand and agree with the educational efforts of the many, many groups that have educated the public and encouraged people to choose a smoke free environment and a smoke free lifestyle. I don't want to be redundant and reiterate the big policy issues on both sides of this debate. I do want to enlighten this body on the small picture and how it can affect the small business.

Several years ago I made what I sometimes think a regrettable decision to get into commercial real estate. As part of that endeavor, I became a hotel owner. It is in the small town of Pittsfield, Maine. As part of this motel, one of my tenants is a small little pub. It is the only pub in town with the exception of an Elks Lodge. I am a member of the Elks Lodge. Most of the patrons in my tenant's bar are smokers. All of the employees are. Several months ago in anticipation of this bill I asked my good friend, the bar owner and manager, how this type of bill is going to affect him and his bar and his employees. His response was very predictable, in my estimation. He said basically that you are going to have to take the keys. I am not going to be able to pay the rent. Thirty percent is what it is projected it is going to affect. It is going to affect Jonathans. I suggest to you that 30 percent for the little business that is in the little town and the little piece of the economy that I am a part of that, is the whole game. Thirty percent equals 100 percent. It is going to shut that business down. Those patrons are going to go to the Elks Lodge. In the little community of Pittsfield, Maine, many of the same patrons that come into Casey's Place go to the Elks Lodge. It is all part of the same population.

I oppose this bill because I think it is over reaching by government. I oppose this bill because of the small picture. It is going to put my tenant out of business and it is going to adversely

affect my real estate venture. I can get through that. I can go on to more regrettable business ventures and life will go on. For that little piece of the economic pie, that will be gone. Thirty percent is 100 percent of the ballgame. Thank you Mr. Speaker.

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

Representative **COWGER**: Mr. Speaker, Colleagues of the House. I have had an opportunity to consult with the Director of the Bureau of Health regarding private clubs like Elks Clubs. I don't think that any business is going to be lost to these Elks Clubs. I don't think that bars are going to lose any business at all. Let me just remind you what the current law is on private clubs. Private clubs are required to be smoke free today, under current law, unless two conditions are met. As the good Representative from Biddeford said, if it is members only and there are no paid employees on staff. Only during those occasions that therefore there wouldn't be anybody coming from outside, would there be smoking allowed in a private club under current law today. I don't believe these are going to be competing any way whatsoever with our private bars and restaurants. Thank you.

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

Representative **RICHARDSON**: Mr. Speaker, Ladies and Gentlemen of the House. All of this testimony that we have had probably is true. Probably smoke hurts people. I was a smoker for a while. I gave it up. I chose to give it up. I am getting a lot of e-mail from people who feel that they are being disenfranchised. The appeal from them is, we are citizens too. We want to have a choice. It seems to me that we just must impose our will on everybody. We can't let people make their own decisions as to whether they want to smoke or not smoke and where they want to smoke and not smoke. We have done a pretty good job of eliminating it against the will of a lot of people. Is it so important that everybody is made to quit smoking? Is it so important that we have to have our way and make this happen? Do you know that you are gradually chipping away at our individual freedoms? Doesn't this mean anything to anybody? It means a lot to me to see us standing here or sitting here and absolutely imposing our will against the will of a lot of people that would like to have the freedom to do and enjoy their life. This is what we are all about in this country. It is the pursuit of happiness. We don't have to acquire it, but we like to pursue it. These bills that we are doing are gradually eroding the ability to pursue the happiness that we would like to enjoy among some people.

Not all of us care. I don't like smoking. I don't do it anymore. I don't go places where I know that smoking is going to be. I don't care if somebody else wants to, if they can do it. As far as people losing business, they probably won't lose business. If they do, what have we gained by doing this? Let's think in terms of what we are doing to individual choice. The worse thing about government is pulling things away from people that they enjoy doing. I suggest that we stop doing it.

The SPEAKER: The Chair recognizes the Representative from Phippsburg, Representative Percy.

Representative **PERCY**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to speak from the profession of being an entertainer. No one has said anything about that. I have heard from many performers throughout the state who support this bill wholeheartedly because we are tired of working in an environment that is not safe and healthy. Don't forget, many performers don't have health insurance so they follow that path of working in an environment where you can get cancer and then they don't have the money, the funds, the insurance to help them

if they come down with cancer. I strongly support this bill as do many of my fellow musicians and other performers. Thank you.

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

Representative **LANDRY**: Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to throw in my two cents here and remind the body that I am a cancer survivor. I know what I went through in the past 10 years fighting cancer. I wouldn't want to see anyone else go through it. I have been a professional musician in my lifetime for some 22 years. I played in a lot of smoke filled bars, as recently as a few weeks ago. I can tell you that it is a problem for musicians. Most of the musicians develop cancer from secondhand smoke, which has been proven to happen, and they don't have insurance. Yes, being objective about this as we should be, I guess, about anything we look at, being objective you have to consider, are we, in fact, chipping away at the rights of some of the citizens that smoke and enjoy smoking. I think you will find that if you talk to anyone that smokes and has smoked for a long time and you asked them if you could quit without gaining 60 pounds or without becoming an incredibly irate person or start tasting food again, would you do so if it were made possible? A lot of them would say that yes, they would. If you spoke to a lot of the workers in bars, I don't care whether it is the VFW Club or Dimillos or anybody, where smoking is allowed and they don't smoke, they will tell you it is tough going to work under those conditions and I don't think we are really chipping away at people's rights as much as we are kind of steering them in the right direction toward a healthier lifestyle.

This year we are looking at health reform and finding ways to improve preventative medicine. Here is a shot right here at preventative medicine. If you clean up the environment, you are going to be performing preventative medicine of sorts by getting that away from the people that are breathing it just like we did with asbestos and just like we did with Agent Orange, ironically enough. I would ask that when we consider all these things that we look at the whole picture, not just the money end of it, the business aspect end of it, but from the point of view that we were sent here to do and that is to look after the well being of the people who live in this great state. Thank you.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Collins.

Representative **COLLINS**: Mr. Speaker, Ladies and Gentlemen of the House. We have all discussed the evils of smoking. I used to be a smoker. I quit 10 years ago. If we all feel that smoking is so bad for us, maybe we should put an amendment to this bill and ban smoking completely in Maine. If you think we have a budget problem now, let me read this figure to you. Total budget for fiscal year ending 6/30/03, total income for cigarette and tobacco packs, \$105 million. Can we really think it is so bad when we spend that money freely here in the state? I think we ought to think this thing through. One hundred and five million dollars is a lot of money. We should just ban it. We will ban smoking and tobacco sales entirely. We can be the first in the nation to ban it, but you are going to have to suffer the consequences. With this legislation you are also going to suffer some consequences. Thank you.

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

Representative **LAVERRIERE-BOUCHER**: Mr. Speaker, Men and Women of the House. I hear a lot about loss of business and percentages. From what I have read and I have heard from restaurants, they also thought they would lose a lot of business. However, what I have heard is that they have not lost business, in fact, the businesses have gotten better. I just

wanted to make that point so we don't forget that. There were people afraid when we made this ruling for restaurants and they are better off today financially with business than they were prior. Thank you.

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

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. We have a lot of freedoms in this country. You are free to kill yourself if that is what you want to do, but you are not free to take others with you. I just remind you that this bill is about the protection of other people, not yourself. You are still free to smoke if that is what you want to do, but we need to protect the employees of all these facilities. Thank you.

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

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. We have had a couple of references today to the prior action of the Legislature that prohibited smoking in restaurants. I would like to direct your attention back to that debate when we were told in good faith not to worry because people will still have a place to go and smoke because we are going to exempt the bars and lounges. When you talk about how there has been this level playing field and the restaurants all thought they were all going out of business because this wasn't going to be a good thing. It has proven otherwise. I can tell you, and maybe if you think about it, you will notice that there is probably a few small restaurants in your area that were there then, but aren't there now. It is not because of an economic disadvantage. Obviously you couldn't smoke in any restaurants so there was no economic advantage. I know of several small restaurants in my immediate geographic area that closed, not because of an economic disadvantage, but because the owners themselves just simply were disgusted that they could not run the type of restaurant and kinder to the type of clientele they wanted to. They figured if they couldn't run their own business, then to heck with it. They weren't going to run their business. They closed up shop. Sold them and they became other things or something like that.

The issue of worker's health. I discussed this when we did the restaurant smoking ban too. I just find it absolutely hilarious that we are suddenly so concerned about restaurant workers. I can stand here and tell you how many fights I have broken up in a bar. I have been bartending for many years. I have been in food service since I was in college at one level or the other. They are dangerous places to work. I have dealt with fire fighters coming in with their hoses and putting out fires in our bar, believe it or not. There have been many fights. I have been abused by customers. I have been threatened by customers. I have dealt with angry cooks and weight staff and dealt with more health hazards than I care to recount. Never once did I ever consider smoking to be anywhere in the top 10.

It is really about whether or not people who don't like smoking don't want to see smoking anywhere. That is really what it is about. I just wish we would be honest about that. As far as the health of restaurant workers, there are a lot of other things you could do long before a smoking ban to make their health situations better. Better working hours would be nice. Better pay would be nice. I can speak to that quite personally and forcefully. The fact of the matter is if you want to get to worker's health, there are a lot of other areas that have already been addressed through our workplace safety laws that I don't think an issue of someone smoking or being exposed to smoke is really going to address. For those restaurant workers who smoke, they are just going to go out to the back dock and smoke. For those who are going to be exposed to secondhand smoke, if the bar they work

at is now their worse enemy and we ban smoking in bars, then we are going to be looking at something else. We have already discussed prohibiting smoking in people's homes, for example.

I don't think this is really going to do much to enhance worker safety in the workplace, at home or anywhere else. I don't believe this is going to accomplish anything other than make it a little bit harder for those small businesses to run the type of business they want for people who want to choose to go to the type of venue they want to to have that venue available to them.

The SPEAKER: The Chair recognizes the Representative from Cherryfield, Representative Dugay.

Representative **DUGAY**: Mr. Speaker, Ladies and Gentlemen of the House. If you ran a small business in the State of Maine now, if you have been in business for the last eight or nine years, it is tough to run a small business in the State of Maine. If you have 10 employees or less, every single day you are going to wonder if you have enough cash flow to stay in business. You are getting letters in the mail that your multi-peril insurance is going to be cancelled or perhaps rewritten. If it is going to be rewritten, you are probably not going to be able to afford the premium. It is tough to be in business in the State of Maine.

I look at this green sheet that was passed around. It says support Maine businesses. This is from SAFE, Smoke Free Air for Everyone. It says support Maine businesses. Owners of smoking venues increasingly run the risk of liability for secondhand smoke related employee illness. You know what, small businesses in Maine increasingly run the risk of being in business. If you are going to take 30 percent of the revenue from the barroom owners in the State of Maine, we are running the risk of putting them out of business. That is the bottom line. When you are trying to find out if you can make payroll, you are trying to figure out if you can pay the 941 payroll deposit, the workers' compensation, stock for a big weekend and all of a sudden you are going to lose 30 percent of your revenue. Oh, we are going to level the playing field. It is all going to work out. When is it going to work out? In a year, year and a half, two years. You can go out of business in small business in two months. There is no time for this level playing field to take affect. Remember you are going to Jonathans and you are going to sit down and you are going to have a drink and you are not going to smoke. That is a guy who is in a for profit business. We are now exempting the nonprofits. We are exempting them because they have a very powerful lobby. If we had not carved that group out, they would have been at that committee in droves. The reason they were not here is because we carved it out. You are going to go over to the Elks Club, sit down, in a nonprofit building, and you are going to compete with that guy that is across the road who is in business for profit. He is going to take a 30 percent hit. He is going to have to lay off people. This is a terrible idea. I urge you to not support this 12 to 1 report. Thank you very much Mr. Speaker.

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

Representative **PARADIS**: Mr. Speaker, Ladies and Gentlemen of the House. I will be very brief. There is a survey that was taken in Boston a few weeks ago. They imposed a ban over there. The reporter went around and surveyed the tavern owners. Ninety-five percent positive in favor of it. We hear the same arguments. Those of you have been lucky enough to dine at Rosett's Diner in Frenchville, she was questioned about that when we went through that debate. Her response was very accurate. She said, "For every smoker that I lose, I will gain two nonsmokers who can't come because of health reasons. Those smokers will be back too." She was right.

Why is that when the choices between the almighty dollar and profit and people's health, the odds always seem to be stacked in favor of the dollar? Our constituents demand that we exercise a little courage. Let' show it today and vote for LD 1346. Thank you.

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

Representative **SIMPSON**: Mr. Speaker, Men and Women of the House. I will make this brief, just to respond to my good friend from Old Town. When this body was debating banning smoking in restaurants, I was a restaurant worker. I still am. I was very thankful as was my coworkers. Someone was doing something to protect our health. I had to work in smoke filled environment the entire time I was pregnant. There was a concern for my health, but at the same time I needed to pay my bills. I think this is one small thing we can do for restaurant and bar workers to make their work environment more healthy. We can't give them benefits because most people who work in bars don't have them, but we can do something to lessen the health risk of going to work. I urge you to vote for the pending motion. Thank you.

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

Representative **MUSE**: Mr. Speaker, Men and Women of the House. I will be brief as well. I just wanted to respond to some of the statistics that were thrown out by my friend from Biddeford. Speculation and guesstimates are not the same as facts. I would like to cite a study that was done by Fabrezo and McLaughlin of New York City following their ban. "Reading across the Bronx the question was posed, according to their records on 300 restaurants since the smoking ban went into affect in April, have your sales increased, decreased or stayed the same?" The decrease number on average was 67 percent. I would like to add also that I was on the bus last week that took Representative Dugay out to Jonathans. It was not my first trip. We did, in fact, have a very interesting discussion with Shawn, the man that owns the bar. I found that he had a great deal to say, but more pointed was the waitress who stopped by and talked to us. I would like to quote her. She said to us all, "You guys on the hill better just leave us alone. I am down here. I sling beers and chicken wings to feed two kids and I need every penny that I make." I think she should be entitled to that. Thank you Mr. Speaker.

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

Representative **DUPLESSIE**: Mr. Speaker, Ladies and Gentlemen of the House. I really hate to belabor this. We all know the dangers of secondhand smoke. Nationally at least 38,000 people die each year as a result of secondhand smoke. Maine citizens are struggling with the cost of health care. All of us in this body are working on health care reform, trying to help out Maine citizens. Many people are uninsured, especially young adults. People aged 19 to 24 are least likely to have health insurance, but are often the ones that work in the hospitality industry that are exposed to secondhand smoke. In an eight-hour work shift the average nonsmoking bar employee may inhale secondhand smoke equivalent to 16 cigarettes a day. Even someone that does not smoke cigarettes themselves, this amount of smoke may cause short or long-term health affects that we will all pay for. Controlling health problems, becoming a healthier population, is a key in controlling our health care costs. Yes, we have a moral obligation to protect employees from a hazardous environment where they work. Thank you. I encourage you to vote for enactment of this bill. Thank you.

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. 214

YEA - Adams, Andrews, Annis, Barstow, Berry, Berube, Bliss, Bowles, Breault, Brown R, Browne W, Bruno, Bryant-Deschenes, Bull, Campbell, Canavan, Churchill E, Churchill J, Cowger, Craven, Crosthwaite, Cummings, Daigle, Davis, Dudley, Duplessie, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Greeley, Grose, Hotham, Hutton, Jackson, Jacobsen, Jodrey, Kaelin, Kane, Koffman, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Mailhot, Marley, Marraché, McCormick, McKenney, McLaughlin, McNeil, Mills J, Mills S, Moody, Murphy, Norbert, Norton, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Rosen, Saviello, Shields, Simpson, Smith N, Smith W, Stone, Sullivan, Suslovic, Sykes, Tobin D, Twomey, Walcott, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Ash, Austin, Bennett, Bierman, Blanchette, Bowen, Carr, Clark, Clough, Collins, Courtney, Cressey, Dugay, Dunlap, Duprey B, Duprey G, Glynn, Goodwin, Hatch, Heidrich, Honey, Jennings, Joy, Ketterer, Maietta, Makas, McGlocklin, McGowan, Moore, Muse, Nutting, Peavey-Haskell, Pellon, Richardson M, Rines, Rogers, Sherman, Snowe-Mello, Sukeforth, Tardy, Thomas, Tobin J, Trahan, Treadwell, Vaughan, Watson, Young.

ABSENT - Brannigan, Bunker, Curley, Fletcher, McKee, Millett, Sampson, Thompson, Usher.

Yes, 95; No, 47; Absent, 9; Excused, 0.

95 having voted in the affirmative and 47 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. **ORDERED SENT FORTHWITH.**

Reference was made to Bill "An Act To Control County Jail Health Care Expenses"

(H.P. 585) (L.D. 808)

In reference to the action of the House on June 2, 2003, whereby it Insisted and Joined in a Committee of Conference, the Chair appointed the following members on the part of the House as Conferees:

Representative BUNKER of Kossuth Township
Representative LESSARD of Topsham
Representative GREELEY of Levant

SENATE PAPERS
Non-Concurrent Matter

Bill "An Act To Provide Collective Bargaining Rights to Certain Forest Products Workers"

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

Majority (8) **OUGHT TO PASS AS AMENDED** Report of the Committee on **LABOR READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-440) in the House on May 23, 2003.

Came from the Senate with the Reports **READ** and the Bill and accompanying papers **COMMITTED** to the Committee on **LABOR** in **NON-CONCURRENCE.**

On motion of Representative SMITH of Van Buren, the House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH.**

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **UTILITIES AND ENERGY** reporting **Ought Not to Pass** on Bill "An Act To Establish the Locally Governed Water District Act" (S.P. 447) (L.D. 1359)

Signed:

Representatives:

RINES of Wiscasset
FLETCHER of Winslow
ADAMS of Portland
BERRY of Belmont
GOODWIN of Pembroke
CRESSEY of Baldwin
RICHARDSON of Skowhegan

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-131)** on same Bill.

Signed:

Senators:

HALL of Lincoln
BROMLEY of Cumberland
YOUNGBLOOD of Penobscot

Representatives:

LUNDEEN of Mars Hill
MOODY of Manchester
BLISS of South Portland

Came from the Senate with the Reports **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED**.

READ.

On motion of Representative BLISS of South Portland, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** in concurrence.

On motion of Representative O'BRIEN of Augusta, the House **RECONSIDERED** its action whereby the Bill and all accompanying papers were **INDEFINITELY POSTPONED**.

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

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

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

ROLL CALL NO. 215

YEA - Adams, Andrews, Annis, Ash, Austin, Barstow, Bennett, Berry, Berube, Blanchette, Bliss, Bowen, Bowles, Breault, Brown R, Bruno, Bryant-Deschenes, Bull, Bunker, Campbell, Canavan, Carr, Churchill E, Churchill J, Clark, Collins, Courtney, Cowger, Craven, Cressey, Crosthwaite, Daigle, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Goodwin, Greeley, Grose, Hatch, Heidrich, Honey, Hotham, Jackson, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Kane, Ketterer, Landry, Ledwin, Lemoine, Lessard, Lewin, Lundeen, Mailhot, Makas, Marley, Marraché, McCormick, McGlocklin, McGowan, McKenney, McNeil, Mills J, Mills S, Moody, Moore, Norbert, Norton, Nutting, O'Brien L, O'Neil, Patrick, Peavey-Haskell, Pellon, Perry A, Perry J, Pineau, Piotti, Rector, Richardson E, Richardson J, Richardson M, Rines, Rosen, Sampson, Saviello, Simpson, Smith N, Stone, Sullivan, Sykes, Tardy, Thomas, Tobin D, Tobin J, Twomey, Vaughan, Walcott, Watson, Wheeler, Woodbury, Young, Mr. Speaker.

NAY - Bierman, Browne W, Clough, Cummings, Davis, Glynn, Koffman, Laverriere-Boucher, Lerman, Maietta, McLaughlin, Murphy, Muse, O'Brien J, Paradis, Percy, Pingree, Rogers, Sherman, Shields, Smith W, Snowe-Mello, Sukeforth, Suslovic, Trahan, Treadwell, Wotton.

ABSENT - Brannigan, Curley, Dugay, Duprey B, Fletcher, Hutton, McKee, Millett, Thompson, Usher.

Yes, 114; No, 27; Absent, 10; Excused, 0.

114 having voted in the affirmative and 27 voted in the negative, with 10 being absent, and accordingly the Bill and all accompanying papers were **INDEFINITELY POSTPONED** in 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 **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-217)** on Bill "An Act To Improve the State's Returnable Bottle Law and Adjust Handling Fees" (S.P. 326) (L.D. 985)

Signed:

Senators:

BROMLEY of Cumberland
HALL of Lincoln

Representatives:

SULLIVAN of Biddeford
O'BRIEN of Lewiston
DUPREY of Medway
PELLON of Machias
SMITH of Monmouth
JACOBSEN of Waterboro

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-218)** on same Bill.

Signed:

Senator:

SHOREY of Washington

Representatives:

AUSTIN of Gray
BERUBE of Lisbon
RECTOR of Thomaston
ROGERS of Brewer

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-217) AS AMENDED BY SENATE AMENDMENT "B" (S-250)** thereto.

READ.

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

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

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. Truly I do not want to stand before you, lunch and adjournment. Believe me, I don't want to stand before me, lunch and adjournment. This is the famous bottle bill that you have heard so much about. The report in front of you really is not the true report. Since that time there have been several meetings

and it is not a unanimous report, but very close to a compromise that every side can live with. Nobody comes away happy. Certainly I am not happy with what I had wanted. Both sides of the aisle are not necessarily happy. Redemption centers are not necessarily happy nor are the distributors, but there is movement and the most important thing about this bottle bill is it moves us in the way of public policy to what everybody has said they want and to what the people who have worked on the last two study committees have worked and worked for and that was commingling. Commingling will cut down sorts from about 300 to, we have firm commitment because there is an incentive to commingle to probably less than 50. It is a real move for our redemption centers. It is a move for our distributors. Everybody has signed on and been at the table, unlike other times. There is not a side missing. Political, business, both the redemption side and the supplier side, everybody has been there and the winner, the real winner, is the fact that it moves our environmental message forward. It moves public policy forward to a place where we can say, yes, Maine's bottle bill is doing what they had originally decided that this bottle bill should do.

I am pleased to be able to offer this. We are ready to go. This is the compromise and I would like you to vote on it. Now that I am sure it is on the bill, we are all set. I would ask you to support this and move us forward.

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

Representative MCKENNEY: Point of Order Mr. Speaker. I believe that the chair moved the Majority Report with Committee Amendment (S-217) on it. I think she may be talking about Senate Amendment (S-250).

The SPEAKER: What is before the body is the Majority Ought to Pass as Amended Report as amended by Committee Amendment "A" (S-217) as amended by Senate Amendment "B" (S-250) thereto. That is what is before the body.

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

Representative CLOUGH: Mr. Speaker, Men and Women of the House. I just wanted to comment that I served on the Business and Economic Development Committee in the last two terms and on this study commission on the bottle bill for the last two years. I want to compliment the committee and those that worked on this final amendment for the work that they have done. Given all the things that come into play with this situation, we are at probably the best place we could be at this particular time to accomplish the long-term goal of ultimately getting everything commingled and really bringing the cost of managing these businesses down to a lower level. The problem we have at the present time is that with 200 sorts plus and the space that is required and the man power that is required, it is difficult for these people to make a good living. This bill gets us headed in the right direction. I think along with the rule changes that have been made by the Department of Agriculture to enable them to collect the information needed for the next step. It is a great move and I support the bill as presented.

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

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

The SPEAKER: The Representative may pose his question.

Representative KAELIN: Mr. Speaker, Ladies and Gentlemen of the House. To anyone, I have a small bottler of wine in Winterport, I have been trying to follow this issue for the last two or three weeks working with that bottler, and it is my understanding that there was a broad 50,000 gallon exemption that affected vintners in all the aspects. When I look, however,

on Senate Amendment (S-250), I don't see wineries specifically discussed in the exemptions that extend to brewers. My question is are vintners handled the same way that brewers are throughout the bill in all aspects, handing, commingling and everything else as was my understanding? Thank you.

The SPEAKER: The Representative from Winterport, Representative Kaelin has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Biddeford, Representative Sullivan.

Representative SULLIVAN: Mr. Speaker, Men and Women of the House. The good Representative from Winterport, Representative Kaelin, asked an excellent question. We handle anybody that does not produce a certain amount of volume, 50,000 gallons, I believe, all our small breweries, wineries are exempt from any future commingling because they don't have 50 percent. They also would not pay that half penny increase. We have exempted them and we have exempted small water companies also that produce in gallon jugs by numbers. That is the piece that was added on in the other chamber. I believe they are taking care of. It is the intent of the committee to have it defined that way. It was actually the appearance of many small microbreweries that led the committee to do this. I think we have taken care of your constituent.

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

A vote of the House was taken. 119 voted in favor of the same and 4 against, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-217)** was **READ** by the Clerk.

Senate Amendment "B" (S-250) to **Committee Amendment "A" (S-217)** was **READ** by the Clerk and **ADOPTED**.

Committee Amendment "A" (S-217) as Amended by Senate Amendment "B" (S-250) thereto was **ADOPTED**.

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

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-217) as Amended by Senate Amendment "B" (S-250)** thereto in concurrence. **ORDERED SENT FORTHWITH**.

Reference was made to Bill "An Act to Revise the Reimbursement by the County Jail Prisoner Support and Community Corrections Fund and To Provide Additional Support to County Jails"

(S.P. 390) (L.D. 1186)

In reference to the action of the House on May 29, 2003, whereby it Insisted and Joined in a Committee of Conference, the Chair appointed the following members on the part of the House as Conferees:

Representative BUNKER of Kossuth Township
 Representative BLANCHETTE of Bangor
 Representative RECTOR of Thomaston

ENACTORS
Resolves

Resolve, Regarding the Operation of the Maine Registry of Certified Nursing Assistants

(H.P. 224) (L.D. 281)
 (C. "A" H-542)

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

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

On motion of Representative LORING of the Penobscot Nation, the House adjourned at 2:08 p.m., until 9:00 a.m., Wednesday, June 4, 2003 in honor and lasting tribute to Private First Class Lori Ann Piestewa, of Arizona, Ruth D. Byrne, of Kittery, Charles A. Greer, of Portland and John N. Reed, of Gorham.