

# MAINE STATE LEGISLATURE

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**Legislative Record**  
**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**

August 21, 2003 – August 23, 2003

**Second Regular Session**

January 7, 2004 - January 30, 2004

**Second Special Session**

February 3, 2004 - April 7, 2004

Pages 777-1562

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE  
FIRST REGULAR SESSION  
69th Legislative Day  
Thursday, June 12, 2003

The Speaker resumed the Chair.

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

Prayer by Pastor Mark D. Wilson, Popham Chapel, Phippsburg.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

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**COMMUNICATIONS**

The Following Communication: (H.C. 237)

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

June 11, 2003

Honorable Beverly C. Daggett, President of the Senate

Honorable Patrick Colwell, Speaker of the House

121st Maine Legislature

State House

Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

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

L.D. 264            An Act to Stimulate Small Business  
Development and Job Creation among Women  
and Rural Entrepreneurs through Training and  
Technical Support

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

Sincerely,

S/Sen. Mary R. Cathcart

Senate Chair

S/Rep. Joseph C. Brannigan

House Chair

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (H.C. 236)

**EXECUTIVE DEPARTMENT  
STATE PLANNING OFFICE  
38 STATE HOUSE STATION  
AUGUSTA, MAINE 04333**

May 29, 2003

Hon. Patrick Colwell,

Speaker of the House

2 State House Station

Augusta, Maine 04333

Dear Speaker Colwell:

Pursuant to "A Resolve to Implement the Recommendations of the Commission to Study Poverty among Working Parents with Regard to an Annual Report Card on Poverty" I am pleased to submit the enclosed 2002 Report Card on Poverty in Maine to you. Also included is a supplement updating the basic needs budget as requested pursuant to "A Resolve to Require the Development of a Basic Needs Budget."

The attached reports are arriving somewhat later this year. A number of the data items typically used in the annual series were delayed this year due to the federal budget process and the resulting changes in normal release dates by federal agencies. I hope you find the information contained therein of use to you. If you have questions or would like further information, please feel free to contact Joyce Benson at this office. (tel. 287-1461 or e-mail joyce.benson@maine.gov)

Sincerely,

S/David Keeley

Acting Director

**READ and with accompanying papers ORDERED PLACED ON FILE.**

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The Following Communication: (S.C. 278)

**MAINE SENATE  
121ST LEGISLATURE  
OFFICE OF THE SECRETARY  
3 STATE HOUSE STATION  
AUGUSTA, ME 04333-0003**

June 9, 2003

Honorable Patrick Colwell

Speaker of the House

2 State House Station

Augusta, ME 04333

Dear Speaker Colwell:

In accordance with Joint Rule 506 of the 121st Maine Legislature, please be advised that the Senate today confirmed the following nomination:

Upon the recommendation of the Joint Standing Committee on Judiciary, the nomination of Charles C. LaVerdiere of Wilton, for appointment as a District Court Judge.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

**READ and ORDERED PLACED ON FILE.**

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**SPECIAL SENTIMENT CALENDAR**

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

**Recognizing:**

William M. Nugent, of Yarmouth, on the occasion of his retirement as Commissioner of the Maine Public Utilities Commission. Nominated for the office by Governors John R. McKernan, Jr. and Angus S. King, Jr., he has served 2 full terms at the commission, spanning 12 years. Determined that utility regulation devise solutions that best fit the State's economy and bring better service at fair prices, he traveled extensively throughout the State to listen to residential and business consumers. Shortly after joining the commission, Mr. Nugent began a series of informal public hearings, "PUC on the Road," in which he met with members of the public throughout the State to listen to their concerns. He belonged to numerous professional organizations and served as the President of the National Association of Regulatory Utility Commissioners and as a member of its Executive Committee. He also co chaired the association's Working Group on Public Benefits, was a member of the Committee on Energy Resources and the Environment and chair of its Regulatory Strategies Subcommittee, participated in the governance and administration of the association and represented the organization in discussions with both the Department of Energy and the Nuclear Regulatory Commission.

Mr. Nugent also testified before Congress on electric restructuring issues. We send our appreciation to Mr. Nugent for his years of dedicated service and commitment to the citizens of Maine and extend our congratulations and best wishes to him on his retirement;

(HLS 657)

Presented by Representative BLISS of South Portland.

Cosponsored by Senator HALL of Lincoln, Senator TREAT of Kennebec, Speaker COLWELL of Gardiner, Representative WOODBURY of Yarmouth, Senator EDMONDS of Cumberland, Senator BROMLEY of Cumberland, Senator YOUNGBLOOD of Penobscot, Representative ADAMS of Portland, Representative GOODWIN of Pembroke, Representative RINES of Wiscasset, Representative LUNDEEN of Mars Hill, Representative BERRY of Belmont, Representative CRESSEY of Baldwin, Representative FLETCHER of Winslow, Representative MOODY of Manchester, Representative RICHARDSON of Skowhegan.

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

**READ.**

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

Representative **BLISS**: Mr. Speaker, Men and Women of the House. As I came in today, I noticed the Secretary of State was out in the hall. I was actually worried that I was going to be here late this morning, because I started the day presenting one of the Secretary of State's eighth grade citizenship awards at Cape Elizabeth Middle School this morning. On my drive up here it occurred to me that I have the honor and fortune of acknowledging two outstanding citizens today, not only the outstanding young man who was to receive the outstanding citizenship award at Cape Elizabeth Middle School, but also an amazing and outstanding citizen and public servant here today.

You have heard a little bit about Bill Nugent's work already in the sentiment. I just want to mention some of those highlights. He is concluding his second full term, 12 years as a member of the Maine Public Utilities Commission. He has been president of the National Association of Regulatory Utility Commissioners. He is still a member of its executive committee. He has been co chair of its working group on public benefits. He has testified before Congress on electric restructuring issues. He is indeed an expert on issues of electricity restructuring. He has also held discussions on nuclear issues with the Department of Energy and the Nuclear Regulatory Commission. When he began his term as a commissioner, he decided that he needed to hear what the people felt and he instituted his program of PUC on the road and has four or five times every year in all 12 of his years, traveled around the state to just listen to people, listen to their ideas, listen to their concerns and then come back and act on them as a commissioner. Prior to joining the Public Utilities Commissioner, Bill was the president and CEO of the Greater Portland Chamber of Commerce. He was Executive Vice President and Chief Operating Officer of a Portland environmental consulting firm. He has been director of the National Regulatory Research Institute at the Ohio State University. He was Deputy Director of Management and Budget for the State of Michigan, Commissioner of the Michigan State Lottery, a staff member in the White House and also in the Office of the Secretary of Defense.

As this term's House Chair of the Joint Legislative Committee on Utilities and Energy, I am very pleased on behalf of myself and all of my colleagues on that committee to publicly congratulate Commissioner Nugent on his lifetime of public service and particularly his work here in the State of Maine. He has been quite an excellent member of the Maine Public Utilities

Commission. From my perspective, he will indeed be sorely missed. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Belmont, Representative Berry.

Representative **BERRY**: Mr. Speaker, Men and Women of the House. I, too, rise today to speak for just a few moments about the work of Bill Nugent for the committee, the Utilities and Energy, since the 118th when we passed the legislation that you and the Speaker also worked on, in restructuring. It has been his input and the other's commissioner's input that have been a major asset to the people of the State of Maine. Not only in just the area of the restructuring of the electric industry, but in the telephone industry, all of the communications, the water industry in the State of Maine. These are all parts of our committee and part of the PUC's work. It has indeed been an honor to work with him. He has always had information when we needed it. We have great respect and I personally have great respect and understand how lucky, honestly, the people of Maine are to attract the people we have that serve at the PUC. Bill, thank you for your work.

The SPEAKER: The Chair would also take this unusual opportunity to speak from the rostrum to Mr. Nugent. I did serve with the good Representative from Belmont two terms on the Utilities Committee. I was proud to do that and was never more proud than when I was able to speak and deal with Commissioner Nugent. He is a man of intelligence, integrity and commitment to public service and commitment to the public and to the consumers of our state.

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

**Recognizing:**

the Honorable Theodore H. Heidrich and Eleanor R. Heidrich, of Oxford, on the occasion of their 50th Wedding Anniversary. They were married in Lakeview, New York at the Church of the Good Shepard on June 13, 1953. They are both very active in their family, community and church. We extend our congratulations and best wishes to them on this very special occasion;

(HLS 731)

Presented by Representative BRUNO of Raymond.

Cosponsored by Senator BENNETT of Oxford, Representative BERUBE of Lisbon, Representative BRYANT-DESCHENES of Turner, Representative CRAVEN of Lewiston, Representative JENNINGS of Leeds, Representative MAILHOT of Lewiston, Representative MAKAS of Lewiston, Representative O'BRIEN of Lewiston, Representative SAMPSON of Auburn, Representative SHIELDS of Auburn, Representative SIMPSON of Auburn, Representative SMITH of Monmouth, Representative SNOWE-MELLO of Poland, Representative VAUGHAN of Durham, Representative WALCOTT of Lewiston, Senator BLAIS of Kennebec, Senator DOUGLASS of Androscoggin, Senator ROTUNDO of Androscoggin.

On **OBJECTION** of Representative BRUNO of Raymond, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

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

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. I am in my fifth term up here and I have never spoken on a sentiment. Let that be a lesson. I will make an exception on this one. Ted Heidrich, we have a little joke going, every time Ted stands up and gives a war story, I start crying. I can't imagine what it was like to be 18 and serving in a war. I know the country was in good hands at that time. The other jok

I had with Ted is he always brings these pretty girls up here with him. I just don't know how he does it at his age. I think he has the prettiest girl in the world with him right now, his wife, Eleanor. They are two of the nicest people you will ever want to meet. They will do anything for you and they are really sweet and honorable people. I think they are a real role model for all of us. My parents just went through their 50th Anniversary back in February. I know how old Ted is. He is old enough to be my father. I really want to give a heart-felt congratulations on their 50th Wedding Anniversary.

The SPEAKER: The Chair recognizes the Representative from Oxford, Representative Heidrich.

Representative **HEIDRICH**: Mr. Speaker, Ladies and Gentlemen of the House. Thank you for those kind words. All I can say is God has been very good to me. It seems from the day of birth, he has looked over me. On the day after Christmas in 1949, I walked into my home on Long Island and Eleanor was sitting on the couch. My first reaction was, boy, she has great legs. She still has great legs. Sometimes you are blessed. We became very, very good friends and we still are. She is my best friend. She is the mother of my four children. We have 13 grandchildren and one great grandchild. All I can say is, thank you, Eleanor, I appreciate it.

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

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**Recognizing:**

Alton Hawk II, of China, member of the 2003 graduating class at Erskine Academy, who has had a perfect attendance record throughout his school years. In addition to his unblemished attendance record, Alton has been a member of the Latin and German clubs and the choir and is a member of the Destination Imagination Team. He is also a martial arts student and works part-time at a local furniture store. We send him our congratulations on this achievement and extend our best wishes to him in his future endeavors;

(HLS 733)

Presented by Representative THOMPSON of China.

Cosponsored by President DAGGETT of Kennebec.

On **OBJECTION** of Representative THOMPSON of China, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

The SPEAKER: The Chair recognizes the Representative from China, Representative Thompson.

Representative **THOMPSON**: Mr. Speaker, Ladies and Gentlemen of the House. Tomorrow perhaps or not until Monday you will wake up and remember Alton Hawk's name. You will remember it because you will be thinking about just taking a day off. You will begin to rationalize why it is a good idea to take a day and relax. That is when you will remember Alton Hawk. Alton graduated last week from Erskine Academy. Before that, he graduated from China Middle School and before that he graduated from China Primary School. It is not so remarkable in itself, except that he did it without missing a single day, no mental health days, no extra days in Hawaii, no I just don't feel up to it days. There were no missed days. I would like to welcome Alton Hawk and his family today and congratulate him on his remarkable achievement for 13 years, starting at age 5, Alton has risen with determination, opened the door and embraced the day. That determination shows a leadership and a dedication that has served Alton well and will, I am sure, serve him in the future. He is here today. He is a good man doing what needs to get done. I suspect Alton will go far in this world. Thank you.

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

**REPORTS OF COMMITTEE**

**Divided Report**

Majority Report of the Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-563)** on Resolve, To Authorize the State To Purchase a Landfill in the City of Old Town (H.P. 1205) (L.D. 1626)

Signed:

Senators:

MARTIN of Aroostook  
EDMUNDS of Cumberland  
SAWYER of Penobscot

Representatives:

SAVIELLO of Wilton  
TOBIN of Windham  
ANNIS of Dover-Foxcroft  
JOY of Crystal  
DAIGLE of Arundel  
THOMPSON of China  
HUTTON of Bowdoinham  
KOFFMAN of Bar Harbor

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

Signed:

Representatives:

TWOMEY of Biddeford  
MAKAS of Lewiston

**READ.**

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

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

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**BILLS IN THE SECOND READING**

**Senate**

Bill "An Act To Improve the Maine Rx Program"

(S.P. 590) (L.D. 1634)

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

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

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

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**Senate as Amended**

Bill "An Act To Implement School Funding Based on Essential Programs and Services"

(S.P. 575) (L.D. 1623)

(C. "A" S-258)

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

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

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

**ENACTORS  
Mandate**

An Act To Improve Conditions for Inmates with Mental Illness  
(H.P. 367) (L.D. 475)  
(S. "A" S-260 to C. "A" H-548)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, 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 Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

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

**UNFINISHED BUSINESS**

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

An Act to Amend Certain Provisions of the Program Evaluation and Government Accountability Laws

(H.P. 59) (L.D. 51)  
(C. "A" H-361)

TABLED - June 9, 2003 (Till Later Today) by Representative RICHARDSON of Brunswick.

PENDING - **PASSAGE TO BE ENACTED.**

On motion of Representative TRAHAN of Waldoboro, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION.**

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

The same Representative **PRESENTED** House Amendment "A" (H-558) which was **READ** by the Clerk.

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

**Representative TRAHAN:** Mr. Speaker, Ladies and Gentlemen of the House. What this amendment would do is it would place into the OPEGA statutes the same language as other nonpartisan offices within the Legislature, like the Revisor's Office, OPLA and Fiscal. That language is the director must be appointed based upon the director's ability to perform the duties of the position without consideration of political party affiliation. This language or the absence of this language was brought to my attention by one of the directors of another program and that suggestion was to place this in the statute to make it very clear that this was a bipartisan office. I believe that was the intent of all those involved. I hope this would be a friendly amendment. Thank you Mr. Speaker.

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

**Representative DUNLAP:** Mr. Speaker, Ladies and Gentlemen of the House. This is a friendly amendment. I hope that members will vote to adopt it. Thank you.

Subsequently, House Amendment "A" (H-558) was **ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED** as Amended by Committee Amendment "A" (H-361) and House Amendment "A" (H-558) in **NON-CONCURRENCE** and sent for concurrence.

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

On motion of Representative RICHARDSON of Brunswick, the following item was **REMOVED** from the Special Study Table:

An Act To Strengthen the Energy Resources Council (EMERGENCY)

(S.P. 233) (L.D. 669)  
(C. "A" S-200)

Which was **TABLED** on May 28, 2003 by Representative DUPLESSIE of Westbrook pending **PASSAGE TO BE ENACTED** pursuant to Joint Rule 353.

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

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

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby Committee Amendment "A" (S-200) was **ADOPTED.**

The same Representative **PRESENTED** House Amendment "A" (H-567) to Committee Amendment "A" (S-200) which was **READ** by the Clerk and **ADOPTED.**

Committee Amendment "A" (S-200) as Amended by House Amendment "A" (H-567) thereto was **ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED** as Amended by Committee Amendment "A" (S-200) as Amended by House Amendment "A" (H-567) thereto in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH.**

On motion of Representative RICHARDSON of Brunswick, the following item was **REMOVED** from the Special Study Table:

An Act To Improve the Fairness of the Health Care Provider Tax and To Ensure Fair Implementation of Health Care Reimbursement Reforms

(S.P. 424) (L.D. 1293)  
(C. "A" S-220)

Which was **TABLED** on May 28, 2003 by Representative DUPLESSIE of Westbrook pending **PASSAGE TO BE ENACTED** pursuant to Joint Rule 353.

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

The House recessed until the Sound of the Bell.

(After Recess)

The House was called to order by the Speaker.

(S.P. 446) (L.D. 1358)  
(H. "A" H-97)

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

**CONSENT CALENDAR**

**First Day**

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

(H.P. 1187) (L.D. 1611) Bill "An Act To Provide Affordable Health Insurance to Small Businesses and Individuals and To Control Health Care Costs" Joint Select Committee on **HEALTH CARE REFORM** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-565)**

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

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

**ENACTORS**

**Mandate**

An Act To Implement Recommendations of the MCJUSTIS Policy Board Concerning the Drafting of Crimes and Civil Violations Pursuant to Resolve 1997, Chapter 105, as Amended (H.P. 1149) (L.D. 1567)  
(C. "A" H-557)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

**Acts**

An Act to Increase Funding for the Maine Dental Education Loan Program (H.P. 152) (L.D. 193)

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

**Resolves**

Resolve, Directing the Community Preservation Advisory Committee To Study Issues Pertaining to Barriers to Affordable Housing in the State (H.P. 364) (L.D. 472)

(H. "A" H-273 and S. "A" S-265 to C. "A" H-145)

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.**

**SENATE PAPERS**

**Non-Concurrent Matter**

Resolve, To Reestablish the Commission To Study the Needs and Opportunities Associated with the Production of Salmonid Sport Fish in Maine (EMERGENCY)

**FINALLY PASSED** in the House on April 15, 2003.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-97) AS AMENDED BY SENATE AMENDMENT "B" (S-271)** thereto in **NON-CONCURRENCE.**

On motion of Representative DUNLAP of Old Town, the House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH.**

**REPORTS OF COMMITTEE**

**Divided Report**

Eleven Members of the Joint Select Committee on **HEALTH CARE REFORM** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (H-568)** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Preserve the Fund for a Healthy Maine (H.P. 1188) (L.D. 1612)

Signed:

Senators:

BRENNAN of Cumberland  
MAYO of Sagadahoc  
LaFOUNTAIN of York

Representatives:

O'NEIL of Saco  
KANE of Saco  
CANAVAN of Waterville  
MAILHOT of Lewiston  
DUDLEY of Portland  
EARLE of Damariscotta  
MILLETT of Waterford  
PERRY of Calais

Two Members of the same Committee report in Report "B" **Ought to Pass as Amended by Committee Amendment "B" (H-569)** on same RESOLUTION.

Signed:

Senator:

TURNER of Cumberland

Representative:

YOUNG of Limestone

Two Members of the same Committee report in Report "C" **Ought Not to Pass** on same RESOLUTION.

Signed:

Representatives:

GLYNN of South Portland  
SHIELDS of Auburn

**READ.**

Representative O'NEIL of Saco moved that the House **ACCEPT** Report "A" **Ought to Pass as Amended.**

Representative BRUNO of Raymond **REQUESTED** a roll call on the motion to **ACCEPT** Report "A" **Ought to Pass as Amended.**

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

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

Representative **O'NEIL**: Mr. Speaker, Ladies and Gentlemen of the House. The bill before us is the constitutional amendment that would lock up the Fund for a Healthy Maine. The Committee on Health Care Reform, which spent considerable time over the last month engaged in another matter took care of this one in the past week in a fashion that I think was pretty easy to do. We all know the circumstances under which we acquired the Fund for a

Healthy Maine. We know the considerable efforts that have been put forth by this Legislature and by previous Legislatures to protect and to use that fund for the purposes for which it was created.

When the decision came for me as to how to vote, I just said that if we really mean it when we say we want to use this for one particular purpose, let's lock it up. Let's give the people of Maine a chance to ratify that legislative decision. That is the report in Report "A." I hope that folks will support it. Thank you.

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

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. I hope you will vote not to support this. These funds are not there for in perpetuity. I do not believe they rise to the level of acquiring a constitutional amendment. I hope this will not be supported.

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Representative **RICHARDSON** of Brunswick assumed the Chair.

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

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The SPEAKER PRO TEM: The Chair recognizes the Representative from Gardiner, Representative Colwell.

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. It feels nice to be over in this corner once again. It is a familiar and comfortable spot. I have not come down from the rostrum to speak on any issues this year, not because I didn't think they were important. Certainly every issue we bring before this fine institution is important. This particular issue, I think, is particularly important. I ask you today to support the pending motion and to support and protect the Fund for a Healthy Maine.

Today has been a historic day and will continue to be. We just sent forth to the other body a bold health care reform measure, one that will benefit all Mainers. In this bill, we have a chance, again, to make history. This Legislature's creation of the Fund for a Healthy Maine, I believe, is one of our most significant accomplishments. Let's remember what this money in the Fund for a Healthy Maine is and let's remember what it is not. This money is not taxpayer's dollars. This money results from a lawsuit settlement paid by the tobacco manufacturers to help the state deal with the high costs of the treatment of smoking related illnesses paid by the states. Today, as we fight to lower health care costs in the legislation that we just sent to the other body, as we try to stop young people from smoking and as we try to provide greater access to health care services, I believe, that this fund, the Fund for a Healthy Maine, is one of our greatest tools.

Maine has been a proud leader nationally in using this money mostly for health related purposes. You know as well as I do that it has been tough this year. It was tough last session. Budget times have been tough. When they have been tough here, the pressure to use this very precious money, this precious fund, to permanently improve the health of their citizens. They have used this money to fix one-time budget holes. They have used it to repair roads, build bridges and in North Carolina they have even used it to subsidize tobacco farms. We, in this great state, have mostly resisted those temptations, but who knows what lies ahead. This tobacco settlement money has been seen as low hanging fruits by legislators and Legislatures across this country and even here in Maine. As committed as we have been to protecting this Fund for a Healthy Maine, we have taken over \$70 million of this fund to bring our budgets into balance. I think it is time to stop going to that well before it goes dry. I think it is time to going to that well before we lose this unique opportunity before

this body today to permanently protect this fund and our citizen's health. That is why we need this constitutional amendment. I don't think I have ever voted for a constitutional amendment. The voters of our state have 17 times in this state's proud history.

This amendment is specific to health care, but it is flexible enough to ensure that tobacco money can be used for a wide, wide range of health purposes and ones that will change over time. We don't live in a static country. Our country does change and our needs change.

There are two other vital considerations that I want to point out to this fine body. Number one, these funds in the Fund for a Healthy Maine are key to lowering health care costs. The cornerstone of any health care reform, and specifically of Dirigo health, is to bring down costs. Cost containment measures are fine. We need to do them, but the best way to bring down costs are to make people healthier. That is what these funds do. These are the key health prevention dollars that we have in this state. They are the funds that help us leverage millions of federal dollars towards that same goal. Cost containment measures are important, but every dollar in prevention saves us \$7 down the road in future health care costs. This proposal makes economic sense. This proposal is key to lowering the cost of health care and to lowering the cost of insurance premiums in our state.

The second point, every organization that has been working on health care reform, those who from the beginning have supported Dirigo health and those who initially opposed it, every organization, no matter which end of the debate they were on Dirigo health has been united in their support for the protection of this fund from the very beginning, the hospitals, the docks, the chambers of commerce, all of them. The advocates for consumers agreed from the get go that this is the right thing to do. All those other interests agreed this was the right thing to do. More importantly, the people of the State of Maine want and expect us to do this. In poll after poll after poll, not that I am a creature of politics, but I have read numerous polls upwards of 80 percent of Maine people support this fund being used for only health related purposes. Eighty percent of the people of the State of Maine support protecting this fund. We can do it here today with this constitutional amendment.

Today, let's vote to send this out and let's give the citizens of our state the opportunity to make it a guarantee. Let the voters decide because after all that is what we are voting on here today, to let the voters of our state decide once and for all to permanently protect this fund.

Ladies and gentlemen of the House, this is a historic opportunity. It is an opportunity to protect the health of the people of Maine. Let's take it. Let's grasp it. I urge you to support the pending motion to adopt Committee Report "A." Thank you Mr. Speaker.

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

**ROLL CALL NO. 233**

YEA - Adams, Bennett, Blanchette, Bliss, Breault, Brown R, Browne W, Bull, Bunker, Canavan, Churchill E, Churchill J, Cowger, Craven, Cummings, Dudley, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fletcher, Gagne-Friel, Gerzofsky, Grose, Hatch, Hotham, Hutton, Jackson, Jodrey, Kaelin, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Lemoine, Lerman, Lessard, Mailhot, Makas, Marley, Marraché, McGowan, McKee, McLaughlin, McNeil, Millett, Mills J, Moody, Moore, Murphy, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Pineau, Pingree, Piotti, Rector, Richardson J, Rines, Rogers, Sampson, Saviello, Simpson,



Smith N, Smith W, Sukeforth, Sullivan, Suslovic, Thomas, Thompson, Trahan, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Austin, Berry, Bierman, Bowen, Bowles, Bruno, Bryant-Deschenes, Campbell, Carr, Clark, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Dunlap, Duprey B, Glynn, Heidrich, Honey, Jacobsen, Joy, Ledwin, Lewin, McCormick, McKenney, Mills S, Muse, Nutting, O'Brien J, Peavey-Haskell, Richardson E, Richardson M, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sykes, Tardy, Tobin D, Tobin J, Treadwell, Young.

ABSENT - Ash, Barstow, Berube, Brannigan, Davis, Dugay, Fischer, Goodwin, Greeley, Jennings, Lundeen, Maietta, McGlocklin, Perry J, Twomey, Usher, Vaughan.

Yes, 86; No, 48; Absent, 17; Excused, 0.

86 having voted in the affirmative and 48 voted in the negative, with 17 being absent, and accordingly Report "A" **Ought to Pass as Amended was ACCEPTED.**

The RESOLUTION was **READ ONCE**. **Committee Amendment "A" (H-568)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the RESOLUTION was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-568)** and sent for concurrence. **ORDERED SENT FORTHWITH.**

#### Divided Report

Majority Report of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act To Establish a New Method of Determining the State Budget"

(H.P. 796) (L.D. 1078)

Signed:

Senators:

CATHCART of Penobscot  
ROTUNDO of Androscoggin

Representatives:

BRANNIGAN of Portland  
MAILHOT of Lewiston  
COWGER of Hallowell  
DUDLEY of Portland  
PINGREE of North Haven  
FAIRCLOTH of Bangor

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

Signed:

Senator:

TURNER of Cumberland

Representatives:

ROSEN of Bucksport  
MILLS of Cornville  
O'BRIEN of Augusta  
MILLETT of Waterford

**READ.**

Representative PINGREE of North Haven moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative ROSEN: Mr. Speaker, Men and Women of the House. I hope the members of the House reject the motion that is before you and move onto the Minority Report. This is a

bill, "An Act to Establish a New Method of Determining the State Budget." It is a very simple and straightforward bill. The proposition in the bill would be to move the enactment of the biennial budget to the second session of the legislative cycle. The purpose for that is fairly straightforward. For many of you, particularly for first-time members, I am sure when you came into the session this year you found that you are immediately immersed into many budget issues. You are learning. You have policies that are before you that you are perhaps not familiar with. Familiarizing yourself with the operations of state government and before you know it, you are dealing with a biennial budget. The proposition here is to introduce and conduct hearings and ultimately pass the biennial budget in the second year of the session. For those of us who are particularly interested in the performance budgeting mechanism, performance standards, I think this will help facilitate the full implementation of performance budgeting. To familiarize yourself with that again, to help bring you up to date, when you have been sitting in your policy committees and you have had copies of the state budget before you and you read down through beyond the spending line, you will see goals and objectives established. That is all part of the implementation of the new performance budget standards.

The difficulty for many of the policy committees to be able to sink their teeth into a healthy discussion with the departments and the bureaus that you have oversight for in regards to those policy standards is a cycle that we find ourselves in now. If we delay the implementation to the second year, then you will have the opportunity in the first year of the session to spend more time with those policy committee decisions establishing the goals, the standards, the measures and the objectives around performance budgeting. In effect, I think you will find you will have a much more effective product and a more satisfactory way of reviewing the policy areas in the budget that you control over. I would ask that you reject the Ought Not to Pass and move onto the Minority Report. Mr. Speaker, I would request a roll call.

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

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

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

Representative BRANNIGAN: Mr. Speaker, Men and Women of the House. Under the present way of doing business we have just had a new Governor come to the State House with a huge burden, a huge deficit. We have had new legislators come to the State House and to the Appropriations Committee and to the committees of oversight and we have had four unanimous reports. We have passed four budgets. The situation is working at this time. There may be better ways. Those ways should be not shoved into a bill and put before us. If there are new ways that would work better than those ways, then those ways would certainly need a lot more study, a lot more thought than just a bill appearing on our desks. I ask you to vote Ought Not to Pass. Thank you.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House. Having been down here a number of terms, I find it interesting that we don't have an opportunity when we get down here to really be able to dig into the budget for the departments for which we have oversight. We come in and within the first three weeks a budget proposal is thrown at us. We are scheduled for a meeting with the Appropriations Committee and we usually will have one or two meetings scheduled with the

department in order to overlook their proposal and pretty much have to accept their proposal without being able to really dig it apart, tear it apart and put it into operation.

This proposal would give you that whole first year to study the budget of the departments that are under your jurisdiction and then vote on that budget in either January or February of the second year and also it will prevent any new Chief Executive from coming into office and having to develop a budget within the first two months of his term.

Yes, we have had budgets gone through and they have been successful, but on those three or four budgets that we have had that were passed, we have to remember that each time we went back to those departments to develop supplemental budgets as stop gap measures. Each time departments found dollars and moved them in to cover the short falls that were discovered and required the supplemental budgets. By being able to take a whole year to take a look at department's budgets, you would not be running into those particular shortfalls.

I think the good Representative from Portland, Representative Brannigan, is right in that this probably should not come to you in a bill in one term. It was my hope that this bill would have been carried by the committee, studied and have a chance to really put some teeth into the bill so that it would be a workable document.

It is unfortunate that it is on your desk on right now, but the provisions for developing that type of a budget still exists. Ladies and gentlemen, I wonder how many of you can honestly say that you understand every aspect of the departments budgets that are under your jurisdiction as a committee of oversight. I ask you to defeat the pending motion and move on to accept the Minority Report. Thank you.

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

Representative **DUDLEY**: Mr. Speaker, Men and Women of the House. We all know that the single most important thing we do every session, the bill that reflects our priorities more than any other bill, is the budget bill. It represents what we are going to do with the \$5 billion of state revenues. We also know that last year we elected a Governor. That Governor spoke to the people of Maine about what his priorities were. The Chief Executive came into office and presented a budget pretty close to his inauguration. Under this proposal it would be another year before the priorities that the Chief Executive offered to the Maine people in his election, it would be more than a year before those ideas that the Maine people said that they approved of by electing the Chief Executive, it would be more than a year before we could even begin the discussion on them and then months after that before these ideas were implemented.

The people of Maine expressed their priorities in a statewide election for one individual to lead the state, the Chief Executive. The Maine people shouldn't have to wait a year or a year and half before those priorities that they voiced could take affect.

Further, I would add that under this proposal the Chief Executive would have the opportunity to offer one budget. It is one budget under which he would have authority to manage state departments. That doesn't make me feel terribly comfortable that after a statewide election the Chief Executive only gets one shot at enacting the priorities of the people of Maine said that they wanted by electing him. I urge you to join me in supporting the Majority Ought Not to Pass Report.

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

Representative **BRYANT-DESCHENES**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to address the remarks made by the good Representative from Portland, Representative Brannigan. Being a freshman I would certainly

defer to his knowledge of the system, but when I arrived here this appeared on my desk very shortly thereafter. I didn't have much time to study that. This is the proposal that we are talking about today. I really find it hard to say that I would agree we need to do a lot more study on this, but this was here and we had no time to look at it at all hardly.

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

#### ROLL CALL NO. 234

YE - Adams, Ash, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Clark, Cowger, Craven, 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, McGowan, McKee, McLaughlin, Mills J, Norbert, Norton, O'Brien L, O'Neil, Paradis, Pellon, Percy, Perry A, Pineau, Pingree, Piotti, Richardson J, Rines, Sampson, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Walcott, Watson, Wheeler, Wotton, Mr. Speaker.

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

ABSENT - Barstow, Berube, Cummings, Davis, Greeley, Marraché, McGlocklin, Patrick, Perry J, Usher.

Yes, 71; No, 70; Absent, 10; Excused, 0.

71 having voted in the affirmative and 70 voted in the negative, with 10 being absent, and accordingly the Majority **Ought Not to Pass Report was ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

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The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

#### UNFINISHED BUSINESS

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

An Act To Simplify Calculation of Legal Interest (EMERGENCY)

(H.P. 835) (L.D. 1132)

(S. "A" S-261)

TABLED - June 11, 2003 (Till Later Today) by Representative DUPLESSIE of Westbrook.

PENDING - **PASSAGE TO BE ENACTED.**

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

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

The same Representative **PRESENTED House Amendment "B" (H-571)** which was **READ** by the Clerk and **ADOPTED**.

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Senate Amendment "A" (S-261)** was **ADOPTED**.

On further motion of the same Representative, **Senate Amendment "A" (S-261)** was **INDEFINITELY POSTPONED**

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

**Representative MILLS**: Mr. Speaker, Men and Women of the House. This has been an extended drafting exercise for the Revisor's Office. I want to thank them for their patience and their indulgence. OPLA has been involved as well and several members of the bar. This is an extraordinarily complex mess that arose from a series of statutory changes that precede this Legislature. The way in which interest was calculated back along used to depend on whether the action was filed in the district court or if it was filed in the superior court and then when the jurisdictional limits of the district court were eliminated and the old \$30,000 cap on actions that could be brought under district court was removed, it left an irresolvable conflict or ambiguity in the existing statutes in regard to how you calculate interest. This may not seem very important to many of you, but in larger cases the interest that is accrued during the two or three year time that a case has been pending can amount to a great deal of money and in any confusion or ambiguity in the law can result in appeals and a lot of needless legal work. We don't want to put lawyers to much trouble or too much work. This bill was amended finally by House Amendment "B." It represents at least a dozen drafts or redrafts of an effort to reconcile some of these points of confusion and ambiguity and if any of you would care to know the details, I am available at my usual hourly rate for consultation. In any case, I appreciate the indulgence of the body. This bill did make it all the way to the Governor's desk and then we saw a flaw in it, brought it back and found another flaw and still another. I hope we have managed to clear them up by now. Thank you Mr. Speaker.

The Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "B" (H-571)** in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH**.

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

Bill "An Act To Improve the Maine Rx Program"  
(S.P. 590) (L.D. 1634)

Which was **TABLED** by Representative RICHARDSON of Brunswick pending **PASSAGE TO BE ENGROSSED**.

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

**Representative KANE**: Mr. Speaker, Men and Women of the House. I would like to say a few words at the outset about the unusual path of this bill. It is a critically important piece of legislation in its own right, which bypassed the normal committee process, public hearing and work session. I, too, regret that because our committee has worked extremely well together in probably a half a dozen partisan votes on 140 bills that we passed up. However our presiding officers were faced with a

unique set of circumstances. The lateness of the Supreme Court decision in May, the time required by the Attorney General's staff to analyze the ruling, the time required by DHS staff to prepare legislation to implement the decision and to change the existing RX statute in conformity with the Supreme Court ruling. Therefore, they exercised their authority according to the rules and assigned it directly to the floor.

The bill came out of the Revisor's Office only two days ago with no time to advertise for public hearing or hold it before adjourning. However, it was essential or is essential for us to act in this session in order to get the prescription drugs out to our vulnerable senior citizens. We did our best by convening a briefing by DHS yesterday and allowed representatives of opponents and proponents to speak briefly to the committee. There was absolutely no intent to subvert the usual legislative process.

I hope the issue does not get in the way of objectively dealing with the merits of the bill itself. This bill is so essentially linked to the original RX legislation currently in statute. It may be helpful to recount a little history so that those who may not have been aware of its remarkable course in its body to be better informed. I would like to tell you a little bit about it.

LD 2959, "An Act to Establish Fair Price for Prescription Drugs" was the original in the Maine RX Program. It was enacted during the Second Session of the 119th Legislature. Many of us were here then and a great many of us were not. Men and women of the House, the bill before us today, LD 1634, is "An Act to Improve the Maine RX Program." It is precisely that. It is improving a bill already in statute and can be best understood in the context of the Maine RX and its history.

I submit that LD 1634 builds on those aspects of the Maine RX Program that were unchallenged by the Supreme Court and attempts to implement the courts findings, consensus and direction. Men and women of the House, LD 1634 is not really a new bill as we consider new bills, but rather the latest legislative step in a process that began three years ago. This bill has had impressive bipartisan support from the outset and has been subjected to one of the longest, most extensive and most publicly supported pieces of legislation in the history of this body beginning on a snowy day in February in the year 2000 when over 200 people, many of them sick and elderly told us their heartbreaking stories of having to choose between food and medicines, medicines for themselves and medicines for their ailing spouses, many of whom did not survive. Actually this bill was most dramatically presented to this body, not so much by traditional legislator generated interest, but rather was thrust on us by the public display of the desperation of low-income elderly who took those long torturous trips to Canada to purchase their drugs for 50 percent off.

Men and women of the House, these seniors embarrassed the Legislature into action. They have not stopped and they will not stop. They have been the ones that have given us the motivation and the courage to be relentless in our perseverance despite the formidable opposition of the pharmaceutical industry right up to today. That industry by all standards, the most profitable in the world, has attempted to thwart our efforts at every turn as we attempt to carry out our responsibility for the most vulnerable people of Maine, our low-income elderly.

This has truly been the story of David and Goliath from the first hearing of the Maine RX bill sponsored by Senator Chellie Pingree in the 118th Legislature. I have had the privilege of being a cosponsor then and a participant in the ensuing battle through the 119th, 120th and now the 121st Legislature. With a strong advocacy of the Maine Council of Senior Citizens whose strong public and editorial support and the pleadings of our

constituents and the continued pilgrimage of the low-income elderly to Canada, we will prevail. Beginning with the strong support of leadership on both sides of the aisle, the journey of the Maine RX Program began its rocky trip through the minefield laid by the pharmaceutical industry. Every victory in the body was confronted by a court challenge by the industry. First in the Federal District Court where they prevailed and then to the Federal Appeals Court where we prevailed and finally to the highest court of the land where we prevailed only a month ago.

Has this bill been given public scrutiny over the past three years? Have the people of Maine spoken their will eloquently and forcefully? Has the opposition been given every opportunity to exert their obstructionism? The answer is a resounding yes. Did you hear a lot about the issues as you went door to door during your campaign? Probably yes. The final obstacle has been cleared with the Supreme Court ruling, which not only clarified that the State of Maine had the right to use legitimate power in the free market to negotiate in the best interests of the people of Maine and said to the State of Maine and to the Legislature in particular that we have not only a legal right to set terms that will best reduce drug prices for our citizens, but we have as their publicly elected Representatives the moral responsibility to pursue the good of our people. The legal provisions of this bill have been reviewed by the Attorney General for compliance with the Supreme Court directives.

I submit that this legislative session today constitutes a public hearing and a work session with this House at this time serving as a committee of the whole who will debate the bill and will vote. The public may not be sitting in the audience or physically testifying, but they are participating as surely as if they were physically present. They have made their will known on countless occasions and they are watching and waiting to see what we do with the power that has been reaffirmed in us by the highest court of the land. There is no place to hide from our responsibility today. Our constituents will know whether we have the courage to ease their pain, to protect their health, to avoid medical indigence, to strengthen their safety net. Yes, the opportunity to save hundreds of millions of precious tax dollars in these financially difficult times and to improve their quality of life.

They will watch TV tonight and read tomorrow's newspapers to get the full story on our performance today. We have the opportunity today to display the courage that the public expects by passing LD 1634, which is essentially an amendment to the original Maine RX Program, which is still in statute. It is an amendment that makes the modifications to bring the Maine RX statute into compliance with the Supreme Court ruling. Specifically LD 1634 changes the name of the program. It defines the covered drugs. It defines qualified residents and participants. It changes the definition of initial discounted price. It directs DHS to conduct ongoing quality assurance activities similar to those in the Maine Care Program. In doing so it complies with the Supreme Court directives to limit target populations to be covered and to specify approved linkages between the Maine RX Program and the Maine Care Program.

This bill does not attempt to set prices for all drugs for all Maine residents. This bill does attempt to compare best drug prices in Maine to assure that process of covered drugs and the prices of the covered drugs that we pay for qualified participants are the best possible.

What we do here today is being watched by every state legislature in the country who are ready to follow us and who are waiting to see if we have the wisdom and will to capitalize on the great opportunity presented to us by the Supreme Court of the United States. Let us not falter or fail to do the will of the people as we know it. Mr. Speaker, I request a roll call.

Representative KANE of Saco **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED**.

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 Damariscotta, Representative Earle.

Representative **EARLE**: Mr. Speaker, Ladies and Gentlemen of the House. I was present for a two-hour briefing by the Department of Human Services yesterday regarding this proposed legislation. The presentation was very thorough. The committee was able to ask and have questions answered. Comments were accepted from Pharma, a representative of pharmacies and consumers. The proposed legislation is a response to the Supreme Court decision in favor of the program. It clearly addresses issues raised by the court decision in favor of the program. Maine RX has already been passed by the Legislature. The proposed legislation only deals with issues brought up in the court decision. We have been waiting for nearly three years to implement. Now that we have the okay from the Supreme Court, we should implement the program as soon as possible.

This will provide approximately 275,000 Maine people, many of them elderly, who are without prescription drug coverage with a very needed discount on prescription drugs. Maine people have waited long enough for relief. Finally, the program is completely voluntary. Maine people and the pharmacies are not required to participate. It is anticipated that they will participate however, based on past experiences in other prescription drug programs such as Healthy Maine Prescriptions and Drugs for the Elderly Programs. I urge you to vote to support LD 1634. Thank you Mr. Speaker.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. I did not attend the public hearing, but for the last five years the public hearings that I have attended has been in Mr. and Mrs. Jonkas's home. Mrs. Jonkas has had to take the bus to Canada because she cannot afford her prescription drugs. I have heard Mr. and Mrs. Cody where Mr. Cody is doing without his drugs in order for his wife to have her heart medicine because they both cannot afford to pay for their medications. I have heard from Mr. and Mrs. John Donovan, my neighbors, who say, Joanne, you must do something to help us. That is the only public hearing I need to attend. That is the cry of my community and my seniors and I am telling you this is the best thing we can do for them. They have waited too long already. Thank you.

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

Representative **CAMPBELL**: Mr. Speaker, Ladies and Gentlemen of the House. I supported the RX bill and I probably still will. I don't like the way it was done. Yesterday they had a meeting. I was told the night before by someone that was not on Health and Human Services. It was just a friend. I showed up and sat there for 45 minutes and watched people come and go with no meeting taking place. I left. My colleague to my right stood up and spoke yesterday. None of us were invited to a public hearing. We had no workshop. For my colleague Representative Twomey, there was no public hearing. I got sent up here to represent my constituents too. We turn around and we have no public hearing. We were not notified there was going to be meeting yesterday. Someone else had to tell me. We don't get a chance to vote on it and have a workshop. I hope the people when they read the papers in the morning about this drug bill, they are told how it was rammed through and nobody that was sent up here to sit on the Committee of Health and Human

Services was given the courtesy to have the public hearing and vote on it and have a workshop. I hope the people when they pick up the papers find out how up in Augusta it is business as usual. Thank you Mr. Speaker.

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

Representative **CRAVEN**: Mr. Speaker, Men and Women of the House. Last fall when I was walking door to door the major concern that my constituents had, and I doubt it anybody else's constituents are any different, was their concern about health care and the affordability of prescription drugs.

I would really like to tell you a story about my neighbor who has diabetes. He went to his doctor and he had an ulcer on his leg from his diabetes. He has worked in shoe shops all his life and he lives on social security. When he got his prescription and brought it to the drug store, he came staggering out of the drug store and sat in the car and said, "Can you believe how much my prescription costs?" He got ointment for his leg. I said, "I don't know, \$50." He said, "No, it was \$500 and that is almost my whole month's income." He spent his whole month's income on his medication. I have no idea how he afforded food.

Everybody has a friend or a relative who is a senior citizen. We all know they pay higher prices for their prescription drugs. The courts stopped the State of Maine from proceeding with the Maine RX in 2000 and recently the Supreme Court cleared the way for Maine RX to proceed. People are waiting for the benefits of the Maine RX. Insurers negotiate rates for participants and Maine Care negotiates rates for their participants. It seems to me that the only group who has nobody to negotiate rates for them are people who pay cash for their medications. Most of the people are senior citizens who have to pay cash and have no medication benefits. American taxpayers and consumers have been subsidizing Canadian consumers and Europeans for decades. I say that it is time for Maine people to have a break. We are now on the verge of launching this program and it should work. Let us honor our elders, many of whom struggle on fixed incomes. Let us finally enact this legislation and provide meaningful relief towards the high cost of prescription drugs. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative Lewin.

Representative **LEWIN**: Mr. Speaker, Men and Women of the House. My mom told me when I was a kid and I left the house to take a dime in case I needed an emergency phone call and not to forget where I had my common sense. It should always be with me. My common sense is with me today in this hall and I rise today not to debate the merits of the bill so much as I rise to debate the process. Yesterday there was a briefing and it was a lengthy briefing. I sat here this morning and listened to this bill referred to as having a committee report. It had no committee report. There was none. It didn't have a workshop. It didn't have a public hearing. The reason that we had some conversation from Pharma was because my colleague from Scarborough, Representative Curley, insisted that someone be permitted to speak. I think that is unconscious able in this body to permit those things to happen in committee. I am embarrassed by it. I am ashamed of that process. We are not being true to process in this body. That deeply disturbs me and I hope each and every one of you will take to heart that this is not the first time this committee has overlooked the process and skirted it at best. This is not the only committee where it is happening. I urge each and every one of you to look into your heart and your conscience and do the right thing here. This is a symptom of a larger problem. I hope you will all take a very long look at that. Thank you.

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

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. I am amazed that we are talking process on the next to the last day, month, week or wherever we are in the session. They tell me there is a light at the end of the tunnel for the session. Somebody that is the train coming, not the end. However, for those of us that have been here before, there has been a public hearing over and over again. I resent, personally, the implication that this is business as usual. Every day we come in here we have public hearings, then we have a work session with all the bills and all the commits we sit on. Certain people become experts in their particular committee. We sit here and debate after that hearing, after the experts, after the work session and we come up with compromises, amendments from the other body, amendments from wherever and things change. This legislative body, not this one sitting here, those who have gone before us, had a public hearing and boy did the people come.

We just talked about doing business differently for a budget and we said, do we want to wait a year? Let me tell you that our constituents have been waiting two, three and four years for this while justice worked its way. Democracy works slowly, it sure does. For some people it works so slowly they die. At times process stands in the way of life. The Supreme Court has spoken. We had a hearing several times. I realized for many of you you weren't here for those public hearings. You hadn't been elected. What we have put forth is law at the time and we continued to work and work and work for it. We waited for America's process to work, America's process. There has been an amendment added. Later today I will stand up and add an amendment to something our committee reported out. Somebody out in the hall comes up and says, do you realize if you do this you will hurt that one? We apply an amendment without a public hearing and they are not life and death. We came here to set policy. The only process that really matters is a process of a free election. That is the process that we should really be fighting for. If we were only worried about process, then we wouldn't be debating consent items. We would follow the process of committees. When it is a unanimous report, the process says it is good and let's just put it under the hammer. That is process.

This process started years ago. We waited for the process of the court. I say let's enact this as quickly as we can and make sure our constituents that don't give a dime about process that they sure care about the medication for their loved ones, their parents, their children, their spouse, their fellow human beings. That is process people. We were elected to make sure that process works. If we are worried about process, I am hoping that every time in the next session of this 121st if there is 100 percent unanimous report, let's not debate it. We are going to debate a unanimous report shortly. We are going against process. Thank you.

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

Representative **WALCOTT**: Mr. Speaker, Men and Women of the House. I am going to say a few words and then I will discuss process a little bit. The Maine RX Plus Program is a very important step for us to take today. Firstly, we need this as a continuing part of our overall effort to bring down the cost of health care and increase access to the need of prescription drugs for our senior citizens and many other citizens who can't afford them now. We have had other bills before us this year that will help us in this effort. This is the first one that expands benefits and it does so at a lower cost than the original Maine RX Program and with better discounts. Maine RX Plus also works

well with Dirigo by lowering costs to health care overall. When you have people who are taking their medications that they should be, they stay healthier. This will help lower costs for all of us. We need to make prescriptions more affordable to people. It is good that we have groups that will help organize bus trips to Canada so people can afford medications. Now, as we have heard, the drug companies are trying to make this difficult and to limit their ability to do that.

Beyond that, while it is good that these groups will organize those trips, it is disgraceful that they need to do so. This bill will help lower costs and it will reduce the need for those trips. As I went around door to door, like my good friend from Lewiston, Representative Craven, this past fall, this was the issue. I told many people that I had wished I had been here to be part of the original Maine RX bill and law. Speaking particularly to my fellow freshman, this is our opportunity to be part of that important measure. Today we have that opportunity and to say we supported this important and needed bill, a bill I might add that if the Representative from Saco, Representative Kane, has stated, has been under more scrutiny over the last three years than any other bill we have heard or voted on this year. This is the process. I agree with the Representative from Biddeford, Representative Sullivan, that this is no more than a simple amendment. We don't have public hearings for every little amendment. An amendment that makes this a better bill and it makes it more palatable to the court.

I would urge you all to support Maine RX Plus. Thank you.

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

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. If this is an amendment, then why is it called LD 1634. I don't agree with the statement from the good Representative from Lewiston. There is no disrespect intended that I should ask for a report from the Clerk or the Speaker, because one doesn't exist. The committee vote wasn't taken and the bill was only introduced yesterday afternoon as an introduction to the committee. There was an opportunity to ask some questions. There was no public hearing and there was no notice that this bill was coming to this committee. I echo the good Representative from Eliot in saying this was somewhat shameful and embarrassing way of doing things.

Civilization works on system of laws and people obeying the laws and procedures. If that doesn't work, then we are back to the jungle again where the mighty will enforce their will on the minority.

Looking at this bill, this improved RX Program, it is a vast improvement over the previous one. There are only two things in it that I would find objectionable. One is it still allows the commissioner to establish maximum retail prices for any and all prescription drugs sold in the state. That is a very oppressive type situation. Should the Commissioner of Agriculture do the same thing for farm products? Should the Commissioner of Transportation do the same thing for automobile and gas prices? This is very oppressive language.

Secondly, there is an upward creep of eligibility here of 350 percent of poverty level. I haven't seen much of that before. Looking on the table here to mom and dad with two little children and make \$64,000 a year and still qualify for Maine RX. Congress is on the verge of enacting a Medicare prescription benefit. I think we need to keep our eyes open for that. Many of our elderly need these prescriptions and I don't doubt that a bit. However, a lot of them won't access all of the freebies and programs that are available. They don't know about them in many instances.

Again, Mr. Speaker, I would just bring to the body's attention the lack of due process on this bill.

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

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

The SPEAKER: The Representative may pose her question.

Representative **BRYANT-DESCHENES**: Mr. Speaker, Men and Women of the House. I received on my desk some tables about the federal poverty guidelines. I am looking at the bill that says 350 percent of the federal poverty level. I have heard some conversation here about people that make \$500 or \$600 a month, which comes to \$7,200 a year. Someone with an income of \$1,000 a month, that looks to me like \$12,000 to \$14,400 a month. In reading these tables and looking at the bill it looks to me like two seniors would be able to have an income of \$42,000 a year and still qualify. Is that true?

The SPEAKER: The Representative from Turner, Representative Bryant-Deschenes 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. It is important to keep in mind that as we reference the federal poverty level, this bill applies to the Maine RX Program, not the Maine Care Program. The Maine RX Program does provide for co pays and people at higher levels are eligible to participate, but they may have a co pay depending upon their income level.

I would like to make a brief comment regarding my colleague from Auburn, Representative Shields. The question he raised about the power of the Commissioner. If you look at the bill, then you look at the language about what the commissioner can do. All that language is qualified by the qualified participants of the program. It only applies to qualified participants. It only applies to covered drugs. Drugs that are covered. This does not give the commissioner wholesale authority over setting drug prices in Maine. It is very limited to the program and those eligible for it. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Oakland, Representative Nutting.

Representative **NUTTING**: Mr. Speaker, Men and Women of the House. I rise this afternoon not so much to change any hearts or minds because I have been here long enough to realize that that is a very infrequent thing here. I rise because from time to time I have the opportunity to talk to other pharmacists around the state. I don't know how many of them have come to me since the Maine RX Program was passed three years ago and said, you know I talked to Representative so and so and told them how that would impact my small business, how it immediately instituted a 6 percent discount off from my pricing. They said the Representatives and members of the other body that they spoke to said, gee I didn't know that. We were really trying to get discounts from the big drug companies. We didn't know it would impact you. I am up here today to tell you how it will impact your local pharmacy. Not so much to change your mind or get you to be opposed to the passage, which I intend to do, but so that next time when I see a pharmacist in Presque Isle or Mars Hill or Rangeley or Kennebunk, they won't say to me that they spoke to my Representative and they didn't know it would affect pharmacies in Maine. We thought it was just about the drug companies. I am here today to tell you it does impact them. The change between the Maine RX Program that we passed three years ago with a 6 percent discount has been changed a little bit, tweaked a little bit, not in a public hearing, but tweaked a little bit in a hearing yesterday that I didn't know anything about until I

saw on my desk the bill that was coming through. People on the Labor Committee don't get invited to all the bills that deal with Health and Human Services, but you would think one of the two pharmacists in the room would have had some knowledge of that without hearing about it today.

Enough about that. The discount that was 6 percent three years ago has been tweaked a little bit. That tweaking has made that discount 13 percent. That is quite a tweak if you own a small business. If you took a product and you had it on sale and you gave a 6 percent discount and all of a sudden someone in state government and DHS tweaked it a little bit and said, now we think you should give 13 percent. There has been talk of changing that 13 percent to 14 percent, 15 percent or 16 percent. That talk has been going on for some time.

In truth the process for this amendment, as we are told, to the Maine RX Program is not much different from Maine RX Program itself. Those of you who were here in the 119th in the second session on the last day after the sun went down, remember that Maine RX started the same way. It was overwhelming support. There was overwhelming support in this body for that piece of legislation. The main reason there was overwhelming support was that both sides, people who were kind of leaning towards and people who were kind of leaning away from, were told, don't worry, this will never go into affect. They drug companies are going to go ahead and give us these discounts. They are going to give it to us anyway. We don't have to worry. On the other side, the people who thought this wasn't such a good idea said that this is going to be unconstitutional anyway. We all kind of at the end of the session, late one night, said that this isn't such a bad thing. This looks okay. It probably will never happen. It turns out that both sides were right. It has never happened. The Maine RX Plan for three years which has been touted as the savior of the senior citizens in the State of Maine has never saved a person a solitary dime, nor will it here.

The Supreme Court ruling that said this could go forward said this could go forward if certain things were done and has sent it back to a lower court. What we have attempted to do here is address those concerns. I heard that in the other body the other day the discussion centered around the fact that this will not impact the local pharmacists. I am here to tell you that it will. The 13 percent off the price that pharmacies charge is like a death march, particularly to independent pharmacists. Independent pharmacies make their money to pay their employees, to pay their insurance and their overhead from the sale of prescriptions. The big box stores, the Wal-Mart's, the CVSs, the Rite Aides make their money not so much from the sale of prescriptions, but from the sale of sundry merchandise, motor oil, suntan lotion, beer and milk. It is the independent pharmacy in the State of Maine in the four towns that I just mentioned, there are about 80 in the state, this is a death march for them. This is just the beginning of the discounts.

I told you that before it was a 6 percent and now it 13 percent. There is no input from the Bureau of Medical Services from pharmacists on staff. There were two pharmacists on staff in that department back when Maine RX was launched. Those two pharmacists have since resigned. I don't believe they have been replaced, to the best of my knowledge.

Finally, to wrap up in the bill when it talks about two types of discounted prices, one is the initial discounted price. That initial discounted price is 100 percent totally right out of the pocket of the pharmacists, the owner of that store. The secondary discounted price is from the drug company, if we ever get the drug companies to agree to send the money back. When I see my colleagues around the state at conferences and what have you, I hope that they will have a clear idea of what we voted for

today. I know they will and I hope you will. No matter which side of the issue you are on, I hope that you could present to them the reason you had for doing it, not that you didn't know. Thank you Mr. Speaker.

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

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. I have to admit that I have absolutely nothing to add to this debate, but I do agree with the prior speaker that we all probably know exactly how we are going to vote on this subject. I want to thank you because you reminded me to take my 2:00 medication so I really want to thank everybody here. I am sitting in my seat ready to do as he suggested. I already know what I am going to do.

The SPEAKER: The Chair recognizes the Representative from Machias, Representative Pellon.

Representative **PELLON**: Mr. Speaker, Ladies and Gentlemen of the House. I am one of those new freshmen and I didn't plan to speak on this. I do happen to own 84 units of elderly housing with one hundred some odd people in them. If you don't think this bill shouldn't be passed and they don't need this reduced medical costs, you are welcome to come to Machias and talk to them. I have had my wife go up there sometimes to take food when all they have is ice cubes in their refrigerator because they spent the money on medication. As far as costs, I am lucky I don't have to spend much for medication. Since the Representative named names, they go to Rite Aide because they do buy it much cheaper than they do at the two local pharmacies. We do need the bill. They need it. Like Representative Twomey said, I only need to listen to them and not go to hearing on it.

Representative **BRANNIGAN** of Portland **PRESENTED House Amendment "A" (H-570)**, which was **READ** by the Clerk and **ADOPTED**.

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

Representative **BRANNIGAN**: Mr. Speaker, Men and Women of the House. It is a technical amendment that deals with the fiscal note in a more efficient way.

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

Representative **BRUNO** of Raymond asked leave of the House to be excused from voting on L.D. 1634 pursuant to House Rule 401.12.

The Chair granted the request.

#### **ROLL CALL NO. 235**

YEA - Adams, Andrews, Ash, Barstow, Bennett, Bierman, Blanchette, Bliss, Brannigan, Breault, Brown R, Bull, Bunker, Campbell, Canavan, Carr, Churchill E, Clark, Collins, Courtney, Cowger, Craven, Cummings, Daigle, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Glynn, Grose, Hatch, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McCormick, McKee, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Moore, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Rines, Sampson, Saviello, Sherman, Simpson, Smith N, Smith W, Sukeforth, Sullivan, Suslovic, Thomas, Thompson, Tobin D, Tobin J, Trahan, Twomey, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Annis, Austin, Berry, Bowen, Bowles, Browne W, Bryant-Deschenes, Churchill J, Clough, Cressey, Crosthwaite,

Curley, Duprey B, Fletcher, Heidrich, Honey, Joy, Kaelin, Lewin, Maietta, McKenney, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Richardson M, Rogers, Rosen, Shields, Snowe-Mello, Stone, Sykes, Tardy, Treadwell, Vaughan, Young.

ABSENT - Berube, Davis, Goodwin, Greeley, McGlocklin, McGowan, Usher.

Yes, 106; No, 37; Absent, 7; Excused, 1.

106 having voted in the affirmative and 37 voted in the negative, with 7 being absent and 1 excused, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-570) in NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH.**

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

Bill "An Act To Implement School Funding Based on Essential Programs and Services"

(S.P. 575) (L.D. 1623)  
(C. "A" S-258)

Which was **TABLED** by Representative RICHARDSON of Brunswick pending **PASSAGE TO BE ENGROSSED as Amended.**

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative MURPHY: Mr. Speaker, Men and Women of the House. I think, first of all as an aside, Mr. Speaker, I drive through your district twice a day as a commuter and I think going home late last night everything was quiet in your district, but there was one of those Maine moments on the way in. As I came down the steep hill and was starting up the hill toward the Irving, there were two 11 year old boys walking along. The first thing as a teacher I knew was school is out in Gardiner. They were carrying their fishing polls. One had a little bait bag. They were optimists because they had a big bucket and they knew they were going to catch something. There was a very subtle message to me and to this body that it is time for this institution to go home.

Last night we had two choices before us. One, to return this bill back to committee or to begin the process of moving toward enactment. Today we really only have one choice. An Ought Not to Pass would kill the issue for the next two years and that would be a very serious error, I think, on our part. I do take offense in terms of comments made on the floor last night as to my possible making misrepresentation of special ed and transportation. I think the comment was made that you would lose it. I picked my words very carefully and very clearly last night had said that there was a hybrid before you and part of that was the old law dealing with special ed and transportation. I made it very clear that once the index has been set, it will probably not match the printout that you have been given today. You might get more. You might get less or you might get just the same. I did not imply or say that you would not be getting the money for special ed and transportation.

I was very pleased to hear last night in the debate that on the other side of the issue from the Majority Report that there was an agreement between the two sides on this issue. One, the bill that is before us is incomplete. It is not a full mosaic. I also heard, it gave me a little reassurance last night, that this is long term. You were told to put it into the statutes because this will not happen for another two or two and a half years. It will be years before it will be implemented. During these last two days of this session or if we return for a special session, if this does appear on the ballot as a competing issue or if a reference is made to this

essential services on the ballot, then it will not match with what we were told last night.

Even though there were two divided reports on this committee, every member of that committee is unanimous in finding the best way of getting more resources to our children. I first came to this Legislature in January 1981. The reason for running was to get those resources to Maine school children. I returned in December 1988 for that same reason and for the last three years I have been a thorn in the side of leadership on both sides of the aisle for us not meeting our partnership obligations at the state level when it comes to funding education. I think as we move into the closing days we will look to see, is this a long-term implementation or is there a separate agenda to enact this fall. You will not have an opportunity to attend a hearing or a work session in your region to find out how this matches up with what is at home.

About a week after this session ends and after you go through your decompression and you return to a normal mental state, I will have delivered to you in the mail a worksheet and it will take the current ratios that are in this bill, the ones that are in there already, and it will be a simple one page worksheet that you can take to your superintendent and ask, how does this ratio match with what is happening in our school unit? In that way you will be able to find, are these indexes correct or are they too light? What impact will it have on children before we come back in January to finish up this essential programs and services?

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

A vote of the House was taken. 97 voted in favor of the same and 18 against, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-258) in concurrence. ORDERED SENT FORTHWITH.**

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

**ENACTORS**  
**Constitutional Amendment**

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Preserve the Fund for a Healthy Maine

(H.P. 1188) (L.D. 1612)  
(C. "A" H-568)

The SPEAKER: The Chair recognizes the Representative from Belmont, Representative Berry.

Representative BERRY: Mr. Speaker, Men and Women of the House. I received on my desk after our last vote a document and one of the statements on it is the coalition will be very disappointed. I would just like to explain something here. Over a year ago I chose to support protecting the Fund for a Healthy Maine. I chose to support making sure that the funds for that were used for a single purpose and that was the health care and those programs related to what I determined to be legitimate use of funds. I have in my hand the document and in that document also highlighted is a statement that says, "In these tough times it isn't every day that you see a leader standing up for health programs. Here in Maine our Governor and 129 members of our Legislature are making Maine a national leader in health care issues by protecting Maine's tobacco settlement dollars for the Fund for a Healthy Maine." They know that preventing kids from smoking, helping adults quit and keeping healthier in general is a smart choice that will save a lot of state money and protect generations to come.

Ladies and gentlemen of the House, nowhere in this document does it say that I had to or I ever approved the use of a Constitutional Amendment to achieve this. I look at this



statement as an absolute attack upon my integrity and the integrity of other people here who chose to protect the Fund for a Healthy Maine.

I have spent my entire career working with young people. I spent my entire career as a coach working with young people and encouraging that their lives be clean and that they be a clean individual. I will continue to doing that.

I am offended that the use of a document like this to myself and others questions our support for the Fund for a Healthy Maine. I wanted to be on the record of this chamber that I have always supported legitimate use of the Fund for a Healthy Maine. I will not consider voting for this Constitutional Amendment because I do not believe that is what this is about. It does not require any of us in this chamber to have a Constitutional Amendment to protect the young people and adults of the State of Maine. Thank you Mr. Speaker.

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

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. For those of you who are on the fence, be assured that the Fund for a Healthy Maine is already protected by statute. This is admirable. For those of you who weren't around earlier, the Fund for a Healthy Maine came from tobacco settlements and compensation for state expenses of those who suffered from tobacco related problems.

Currently bankruptcy has been threatened by the tobacco businesses. There is some question as to how long those businesses will last. However, if they continue on eventually that money is going to dry up in ensuing years. If this Constitutional Amendment passes, we will have an empty constitutional area. There has been refusal by those in power to put any part of these funds into any sort of protected trust like entity to generate funds for the future and into perpetuity. In other words, the current intentions are that they spend every dollar every year. If these funds are put into the Constitution, they can only be spent for the purposes listed, which takes away options to meet unforeseen emergencies as noted in recent years. Approximately half of the funds have been used for emergencies and for other purposes. I urge you to support the Fund for a Healthy Maine, but not bind it up in the Constitution where it can't be useful for everyone.

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

Representative **RICHARDSON**: Mr. Speaker, Ladies and Gentlemen of the House. I, too, got one of those little notes from the coalition, as the good Representative from Belmont did. I take umbrage at that particular little notice. I support the Fund for a Healthy Maine. I believe that requiring a Constitutional Amendment is questioning whether we have the backbone not to raid a fund that is set up here on a specific basis. I will tell you what. If we aren't trustworthy enough to not do that in the future without having to be prohibited by a Constitutional Amendment, then we need to do something about the House of Representatives. Thank you.

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

Representative **DUDLEY**: Mr. Speaker, Men and Women of the House. This year in our last budget, the Part I budget, we took \$6.6 million out of the Fund for a Healthy Maine. I am not singling any one of us out. I voted for it too. I also signed the pledge to protect the Fund for a Healthy Maine. The fact of the nature of all the demands upon us naturally lead us to places where there are money, including the Fund for a Healthy Maine. This wasn't the first time that we went after the Fund for a Healthy Maine. Since its inception, we have gone after the Fund for a Healthy Maine eight different times. We have taken almost \$90

million out of the Fund for a Healthy Maine. I understand that about 40 percent of the total proceeds of the Fund for a Healthy Maine have been taken out and devoted to non-Fund for a Healthy Maine purposes. We did that with two-thirds support. We all did it. It wasn't one side of the aisle or the other. It was all of us.

The fact is the demands upon us are so great that naturally it is difficult for us to find the restraint to protect the Fund for a Healthy Maine. This, ladies and gentlemen of the House, is the only proposal that will truly protect the Fund for a Healthy Maine. Again, \$6.6 million this session, we have already raised from the Fund for a Healthy Maine. I urge you to join me and make our pledges mean something. Let's pass this amendment and let's let the voters decide what they think is the best thing to do with the Fund for a Healthy Maine. Thank you.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Barstow.

Representative **BARSTOW**: Mr. Speaker, Men and Women of the House. I understand the good Representative from Belmont and his perspective in regards to the document that is on his desk. In regards to other issues that we have dealt with and being in my first term, the multiple pieces of paper that I have gotten on my desk on many issues, some of them could be called distorted. I think it is up to us to sift through that information and use it as we must as we make our decisions. I further understand that we have statute in place that ensures that this money is spent only for health purposes. What I am thinking of in supporting this Constitutional Amendment is that we are forming a pact with our fellow citizens and allowing them to come into agreement with us to ensure that this funding will be secured even more so than it is right now. I hope that you will join me in supporting this endeavor, giving the voters an opportunity to form a pact with us and making sure that this funding is preserved for the future. Thank you Mr. Speaker.

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

Representative **SHERMAN**: Mr. Speaker, Ladies and Gentlemen of the House. I would be more than happy to vote for this Constitutional Amendment if we had approved amendments on the other side to limit spending. We had several bills in that would limit our spending constitutionally as 25 or 30 other states have done and maybe we wouldn't be in this financial problem where we are chasing every dollar around the countryside.

The second point is, it is interesting when that little document came across our desk and it was unsigned. We don't know who passed it out. If that is the type of individual we have lobbying out there, maybe they should learn to put a signature on those documents. Thank you.

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

Representative **MILLS**: Mr. Speaker, Men and Women of the House. I dislike the kind of deal making that was alluded to a few minutes ago, one Constitutional Amendment for another. There is one Constitutional Amendment proposal before us and only one. I am concerned about the possible misuses of the money that we got almost fortuitously. This money came to us, not from the general fund, not from the taxpayers, but because of the damage to people's health caused by the use of tobacco products. It is a special fund. It is a special sort of money. While ordinarily I am not in favor of tampering with the Constitution, I am in favor of preserving this fund for the special uses to which it should be put because of the source of funding that it represents.

The majority of the people polled by whatever polling mechanism have indicated that they would like to vote on such proposals. I think we need to give them that opportunity. By

standing here and voting in the affirmative on this enactment measure. We are not necessarily saying that we individually want to amend the Constitution, but that we want to give the people the right to say yea or nay. I ask you to vote in favor of this enactment.

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

Representative **MOODY**: Mr. Speaker, Ladies and Gentlemen of the House. I am one of the House sponsors of this piece of legislation. I feel so strongly about removing these funds for projects that have nothing to do with their purpose, that I would like to see eventually a Constitutional Amendment protecting the funds of ratepayers who pay with regular monthly payments into a variety of funds that have been raided over the years.

Some of us have been accused of cutting a deal too early in the game. My conviction has become stronger as time has gone on with this package. I think an apology is definitely owed to those members of our institution who received this piece this afternoon. I am sorry for that. I believe that everyone here is doing his or her best to vote their conscience. Last week I was asked by a constituent if there was a deal being brokered in trade for votes on this amendment. My response was absolutely not. There is far too much integrity in this body to be cutting deals of this nature. I will explain why.

I believe that if you vote against this bill, you are in favor of raiding the funds for other purposes. That may be an overstatement, but I think that is the net affect. They will be raided. We have laws against corporate raiding, but we have no laws against government raiding. The minute you raid these funds, they are no longer funds. They become taxes. I don't know of many folks here today who are interested in raising taxes. I would ask for your vote in favor of LD 1612.

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

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. I would like to remind this chamber why you call it raiding funds from the Fund for a Healthy Maine, that money went to funding Maine Care shortages, which is health care. Everyone says that is what they want to use the Fund for a Healthy Maine for. If you are taking the money out of a Fund for a Healthy Maine and you put it into the Maine Care Program that is health care for the poor, isn't that an appropriate use of that money?

I heard about how we raided \$90 million out of the fund over the last session. I can tell you that last session they were all majority budgets and Republicans are not in the majority. The Chief Executive said that as long as he is in office you don't have to worry about a constitutional spending cap, because he is there to stop it. Why is this fund any different? Not only should he be making that pledge, but you ought to be making that same pledge. You have every right to stop the money from going to Public Works projects, building a park or whatever you don't think is health care. You have every right to say that if that money is going to health care, then that is an appropriate use.

Ladies and gentlemen, I don't see a need for protecting the Fund for a Healthy Maine in a Constitutional Amendment, which is something we don't do for any fund around here. Why would you tie your hands that way? If you weren't able to get in the Fund for a Healthy Maine, what would you have done with all the shortages around here?

Ladies and gentlemen, I urge you to do the right thing and not support this bill.

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

Representative **RICHARDSON**: Mr. Speaker, Men and Women of the House. During the past couple of years there were many pledges that went around to different people who asked to have you sign a pledge. I didn't sign that pledge. I didn't like to see the fact that the Fund for a Healthy Maine had been raided from time to time if people want to call it that or used for other health care purposes. I never felt it was appropriate to sign a pledge because I never knew exactly what would happen here. I didn't know if we would have to use it for other purposes. I thought for a time there it would be foolish on my part to sign some pledge, which everyone in this room who did sign a pledge broke the promise. Unfortunately now we have gotten down to the point where we have spent 40 percent of the fund. Forty percent was diverted off into other areas and so the fund continues and continues to shrink and shrink and shrink to a smaller point to where if we don't do something soon, like enacting a Constitutional Amendment, then we are going to find ourselves at a point where we don't have a Fund for a Healthy Maine any longer. It will be gone.

Yes, it will be used for a good purpose somewhere else, here or there, but it won't be used for the purposes to which we received it and to which the people believe, in fact, we received it. These aren't tax dollars. These aren't people's money per say that we collected through revenue. This is through a court settlement. It was to be used for a specific purpose. We are down now to where there is no more meat on the bone. It is just the bone we are trying to save. I ask you to join me in supporting the Constitutional Amendment. Take it out. Not only today if you vote against this, you are voting against the fact that we are not even allowing the people to decide. Your vote today won't be whether or not we have a Constitutional Amendment. Your vote will be whether we allow the people to decide. I am for letting people decide things like the Fund for a Healthy Maine, letting them decide whether it is the right purpose to which we first received it. It is the same purpose to which we should not use it. If we miss this opportunity today, then that Fund for a Healthy Maine won't be 40 percent diverted, it will be 60 percent diverted and we will be back in the 122nd arguing that we ought to have a Constitutional Amendment to save the little bit that is left.

Today this isn't a vote about whether you agree or disagree in adding a Constitutional Amendment, it is a vote to let those people decide whether or not they want to support it. I would ask you to let this go out to the people. That is all we are doing here. Thank you very much.

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

Representative **BRYANT-DESCHENES**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to have on record that my motive for not voting for this is not because I want to raid these funds. My motive for not voting for this is because I, again, believe that it is not going to make the difference that we are told it will. We had a bill come before the Judiciary Committee this year trying to take \$81 million from the program when the insurance companies left the state, which was put into a trust fund. The only reason that didn't go to the general fund along with everything else is because it was in a trust fund and it couldn't be touched. I would only support this amendment if the money were to be put into a trust fund, not into a fund for the Fund for a Healthy Maine and there would be some protection on where the spending would be done. Thank you.

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

Representative **GLYNN**: Mr. Speaker, Colleagues of the House. I rise in opposition to this Constitutional Amendment and I would like to explain a little bit of my rationale why. I was on the

joint standing committee that dealt with this issue, the Health Care Reform Committee, who voted out the recommendation and I was on the Ought Not to Pass report. I was quite troubled by our work session when we discussed the issue when I learned that this Constitutional Amendment will bind the hands of future legislators from protecting health care in Maine.

One of the concerns that was raised to me by a constituent and I asked the question in committee was, what would happen after this Constitutional Amendment passed, if due to all these budget shortfalls, we were to have a very harmful cut to Medicaid that affected the mental health patients that are served throughout the State of Maine and they were to lose their coverage? They would lose the money that was to go to very basic and needed services. The question was then asked, could we, after this amendment passed, would we be able to take funds from a Fund for a Healthy Maine and transfer them for medical purposes over to make sure that these clients continue to receive services? The answer I received was a resounding no.

This Constitutional Amendment binds our hands to new programs, new spending and prevention. While I think those are admirable and lofty goals and things that I support, I do realize that in a time of financial hardship, such as the times we are going through now, the Legislature needs to reserve the right and it is our obligation and our charge to make sure that basic services are rendered for our constituents. I would hate to be a member of the Legislature dealing with the types of budget shortfalls that I believe are going to be looming and have my hands tied and watch brochures printed for prevention programs and watch new programs started at the expense of people who lost their services as a result of financial hard times in Maine. I urge a no vote. Thank you Mr. Speaker.

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

Representative MILLS: Mr. Speaker, Men and Women of the House. This proposal for a Constitutional Amendment sort of has me on a razor's edge. I may wind up voting both ways on it before I am done this afternoon. I am not sure. Something needs to be said about the history of how this money came into our hands and how it continues to come into our hands and what was the genesis of the lawsuit among the 46 states that brought one? Understand the source of this money before we decide how to dispose of it or to arrange for its disposal within the Constitution. The theory upon which the lawsuit was brought by the State of Maine in 1997 was that we had within the statute of limitations, which is six years in Maine, for a period of six years before 1997 we had accumulated a certain number of costs within the Medicaid account that could be attributed to smoking. Smoking people who are Medicaid run up certain health care costs, which could be aggregated and made the subject of a damage claim against the tobacco companies that were purveying those products in Maine.

When it came time to settle these cases across the United States, they were all somewhat similar, the tobacco companies made a rather astonishing deal with the states' Attorney General by proposing not only to settle the claims that had accrued down through the date of the settlement, but they also said that we will pay you even more money, in fact, a great deal more money on a perpetual basis if you sign a settlement agreement that gives the manufacturers a perpetual immunity to suing for Medicaid expenses relating to tobacco consumption. That indeed was the substance of this 145 page settlement document that came about some time in 1998 or 1999. All of the money that we receive then has a Medicaid genesis. The only reason we are getting the money is because of the theory and the fact that we, as a state, have been spending a lot more money than we probably should

have been spending because of the number of habitual smokers who were covered under Medicaid and who will be covered under Medicaid almost in perpetuity, perhaps beyond the life span of anybody in this room. The money has a Medicaid genesis. It comes from Medicaid. It rises out of Medicaid expenditures and quite frankly it seems to me that the way in which this amendment was originally drafted, the terms of the amendment could very easily be complied with simply by allocating the \$50 or \$60 million a year that we get right into the Medicaid account, which is around \$400 million. We could very easily comply with this amendment as it was originally drafted by contributing the entire fund into the Medicaid account sub-planting that effort and calling it a day.

I think that was the temptation back in 1999 when we first got our hands on these funds in a number of very interesting and very fine interest groups came forward, people that were concerned about child care, prenatal care, providing prescription drugs, dental care, substance abuse. All of these folks that were more concerned about more general public health issues came forward and formed a coalition and lobbied very intently and very successfully for the passage of the law that we are now considering drafting into the Constitution.

One of my criticisms of this proposed Constitutional Amendment is that it is perhaps so easily evaded. We have taught ourselves how to evade these things as we have with the fish and game restrictions, that is the restrictions on license money from fish and game, as we have on the restrictions on gas tax revenues. We have ways of making sure that that money when we need it in times of distress that that money is used to assist the general fund in a variety of different ways in order to get through a given crisis.

I have mixed feelings about this proposal. I think it is more window dressing than anything. It is certainly a noble cause. Who can quarrel with the nine proposed purposes? We should certainly be spending more than \$50 million a year on these purposes and, in fact, we do. My own view is it is an amendment that may not have the affect that its sponsors intend. It is certainly worthy of our consideration, but it is not what anybody thinks it is cracked up to be. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rockport, Representative Bowen.

Representative BOWEN: Mr. Speaker, Men and Women of the House. There is a scene in the Godfather Part II, which for my money is the best of the Godfather movies, by the way, in which Michael Corleone is throwing this party at the beginning of the movie. His sister, Connie, shows up with this deadbeat she picked up someplace. They are going to get married. She comes looking for money. She comes in begging Michael Corleone to give her some money. She tells him to keep out of her life and all this. He says something to the effect of, I don't know this Merle. I don't know what he does. I don't know where he gets his money. Tell him that you don't want to be married to him and you never want to see him again and he will understand, I can promise you. She fusses some more and he says, "Connie, if you disobey me and marry this man, you will disappoint me." Needless to say, she doesn't marry the man.

I was reminded of this because, like some of our colleagues in here, I got a note as well. It said, Representative Bowen what happened? The coalition is very disappointed. It is unsigned by the way. It doesn't say who amongst this coalition sent this to me. I feel the need to do as the Representative from Turner did and go on record and say that my opposition to this Constitutional Amendment does not mean that I don't support this fund. I have to disagree with my colleague from Manchester that my

opposition to this amendment means that I am supporting raiding funds.

What I support is self-control. When these budgets come around we sit down and we are a little more careful. When we are told that we need this amendment because we don't have any self-control, as apparently has been evidenced by the number of times we have looted this fund, it reminds me of dieters who paddle lock the fridge and then they try and hide the key on themselves so they can't get back into it. They just don't have the control to stay out of there.

I hold this body in higher regard and I hold the Constitution in higher regard. I think we can exercise self-control. When we are working on budgets, we can look at where this money comes from and be more careful about it. We did try, several of us, a Constitutional Amendment to put some spending controls in. We were told that a statute was good enough. We didn't need a Constitutional Amendment. The statutes were enough to put a spending cap in that would do what we wanted it to do. I don't see any reason why it isn't good enough that we can just promise ourselves to exercise a little more self-control when this doesn't quite rise, in my opinion, to the level of Constitutional Amendment. Thank you.

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

Representative **RINES**: Mr. Speaker, Men and Women of the House. When we started this session one of the first things that we did was balance the budget. We balanced the budget by raising all of the funds that we could get our hands on. We can pat ourselves on the back and be very proud that we didn't raid tobacco funds like many other states have done. Shortly after that happened, the Utilities Committee asked the Attorney General for his opinion. I quote, "Unless funds are held in trust or are specifically protected by the terms of the Constitution, the Legislature has discretion in making allocations for any designated governmental purpose, including allocation to the general fund." This question was asked of the Attorney General because in Utilities we handle money through the PUC that is collected on water rates, telephone bills, light bills and the like in the tunes of millions of dollars. Our attempt was to try to protect those funds. The Attorney also informed us that the Legislature could not create a trust fund for funds that were created through a tax because they were funds that we had created and didn't come from an outside source. The only alternative we have if we want to protect the funds is the Constitution.

I won't read what the rest of it says. It is basically immaterial. The only way that we can protect the funds from now and into the future and for the purpose it was intended for is with a Constitutional Amendment, which in this case, will act as a Constitutional Amendment backed up by a referendum. Everybody in this body knows how we feel about referendums and word that comes from the voter. I would urge you to vote in favor of it. Thank you.

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

Representative **O'NEIL**: Mr. Speaker, Ladies and Gentlemen of the House. I support the pending motion. For many of you have served on committees with me, you know often times I agonize over the gray area. I slow down when everybody is ready to move and I say that we have to look at this detail or that detail. Mr. Speaker, you yourself have told me on numerous occasions, don't sweat the details. I am a big picture guy. That is why we are a good match. On this one, I can declare myself a minimalist. It is just black and white to me. I, like the Representative from Brunswick, refused to sign that pledge back last year. I don't like signing pledges. I recognize the various

situations that might befall us and I recognize that eventually we may regret the fact that we had signed the pledge and done what we had considered to be inevitable or unavoidable.

In the spirit of Representative Bowen's cinema experience, I don't remember which Clint Eastwood movie it was with Dirty Harry, but that famous line about a man's gotta know his limitations. He is right. I think many of us, while we know our limitations, sometimes are faced with situations that force us to exceed those limitations. For me, if, indeed, I want to put my money where my mouth is and I want to lock up the Fund for a Healthy Maine, it is not sufficient to tie my hands, because maybe my other hand can get out or maybe I can get at it elsewhere. I can get it right out of the way. It is not even there to tempt me. I can't tell my dog to keep away from that steak that I put on the floor and walk away and trust that he is going to do it. Why put ourselves into that position. If, indeed, we feel that the purposes of the Fund for a Healthy Maine are as worthwhile as we have declared, let's lock them up. It is black and white for me. Please support the motion.

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

Representative **PARADIS**: Mr. Speaker, Ladies and Gentlemen of the House. It is time for a short one. History teaches us valuable lessons. We had a Governor in the '70s, I will leave him unnamed, you can figure it out, who raided the Maine State Retirement System, big time. He set people back for years. Ultimately special legislation was need to protect the fund. We have a similar situation here. Those funds are very tempting indeed. We cannot trust future chief executives and legislators. We cannot fully trust ourselves to keep their hands off and to squander these precious funds on anything but the health of our citizens. We need this vote also to make Dirigo Health take off properly. I would encourage you to vote for final passage of LD 1612. Thank you.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. When you get to my age sometimes you will hear things on the floor and you will experience a flashback. When the good Representative from Cornville was speaking, I had a flashback. Let me take you back. He was talking about the history of about how all this came about and when you serve in leadership a lot of things happen behind closed doors while you are at dinner or lunch or twitting your thumbs and saying this place isn't going forward. Things are happening. Back at that time with the previous Attorney General, Attorney General Ketterer, had to make a decision involving those lawsuits brought by all the states. He had a very short window of time. I think he made the proper decision that it was best to take that offer, that settlement and be able to stop the process at that point rather than going on for another two or three years. During that 48 hour period that he had to make that final decision, he had gone and visited with the 10 members of leadership individually letting them know what his decision was and what did they think. I think he got a unanimous answer back. The following day down in the Governor's Cabinet Room, the members of leadership at that point and Governor King and that Attorney General met, held a press conference and there were two themes of where the money was going to go, young people in the area of prevention in an effort to try to repair the damage that had been done to our older citizens. It was very substantial, costly medical damage. That was the theme. Both parties, supporting that Attorney General's decision, which I believe to this day was the proper decision. When we left that room, we felt we had a focus. That was where the money was going to go.

There is a thing around this place called feeding frenzy. When you see the money and you have this drive that you have to spend it. We had a fight in this Legislature because there was an effort to spend the money, commit the money, before it even got here. We knew it was nine months or 12 months away and there was an effort to put into place programs without money in the bank. That had to be slowed down. What happens behind closed doors when you get a peek at the frenzy, the spending frenzy, and I don't know if it was Senator Bruno or Senator Kneeland that was with me and was Speaker of the House Rowe that pointed out that they had made up a list of how they wanted to spend that new money. You gotta remember at that time that without the money we did have either a \$4 or \$5 million program aimed at young people and prevention. There was a very limited program in place with money that had been put there well before any possible settlement of those dollars. The two of us arrived at the outer Speaker's Office, the Appropriations Committee was in there, leadership was in there and we were given a list. It was, this is how we would like to spend the money. The two of us stood there and looked at the list and looked at each other and handed it back to then Speaker Rowe and said we think something is missing. Are you sure you don't want to take a look at this list before you release it to the press? Not only had a decision been made to take that money and start brand new programs, but in the process they had taken the \$5 million that was already in place for youth prevention that when we went down, we thought that was the area that was going to be reinforced. Faces turned red. The door slammed and then three to four hours later a new list came out and young people and prevention went back in there. When the Majority Leader says basically that we can't help ourselves when it comes to this money, two of us got to look through that door and see that helplessness in terms of that call of the money and how easy it is to get diverted.

I am going to be voting both ways today. I originally had voted for a Constitutional Amendment. I signed the pledge. I am going to keep that pledge. It doesn't involve a Constitutional Amendment. When I stood up in front of the press that day, I said my principles are such that that money will go to young people for prevention and to repair the damage of tobacco to the citizens of the State of Maine and I cast my votes accordingly. That is why as some of these raids have come in, I have voted for my first budget today in the last two years because of the raids. When we hear about a Constitutional Amendment to protect money, take a look at the section dealing with the Department of Transportation and the gas tax dollars. It says clearly that you cannot take that money collected and use it for any other purpose than roads and bridges and transportation. How well did that Constitutional Amendment protect those dollars? It was taken to the general fund this year. That is how strong a Constitutional Amendment is.

The protection for those dollars is for you to say individually that my principles are such that that money is going to be used to protect young people so they don't go through the misery that their elders have and to repair that damage. That is how you keep the promise. That is how you keep the pledge. It is your basic core principles that will do it.

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

Representative **COURTNEY**: Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to this motion. I realize this has gone on for a while and I will be brief. My concern is not setting the fund aside. I think that makes sense for all of us. I think we all want to do that. Doing it in the

Constitution and looking at how it has been administered since it was set aside, it raises some great concerns. We use it on cross country ski trails, bike paths, race car sponsorships, TV commercials that tell people's children that they shouldn't be drinking soda. I think that that might not be the best use of that money when we have people at home that are trying to afford their drugs, trying to get medical care. I think that we are going down the wrong road with some of that. My concern is who is administering the fund and some of the checks and balances on that. Therefore, I would ask you to join me and not support this Constitutional Amendment. 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. I rise in support of this motion. What is before us right now is not if we agree that the Constitution be amended, but rather that it goes out to referendum and our constituents vote on that. I don't have a problem with allowing them to voice their decision on this particular amendment. I support this and I hope that you follow me. Thank you.

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

Representative **DUDLEY**: Mr. Speaker, Men and Women of the House. I don't think there are very many of us here who have trouble exercising self-restraint. The point isn't our personal willingness to be resolute relative to the Fund for a Healthy Maine. The point is the way this institution works, the fact that it is built on compromise and finding ways to work together. I don't think there is a single person in this room who has gotten everything that they have wanted to accomplish this session. I don't think there is anybody that anyone of us can point to in this chamber, anybody else that we can point to and say that I agree with every single thing that person believes in. We don't agree on everything. That is what makes us strong. That is what makes us able to do our jobs.

The point here is that our budgets and our use for the Fund for a Healthy Maine and every other issue that we deal with here is built to some degree on compromise, recognizing that there are other interests at play and finding ways to work together. Unfortunately at times that has led to each of us having to compromise on the Fund for a Healthy Maine, despite how we personally feel about it, despite how strongly we feel that it ought to be protected. We recognize that we have a job to do and part of that job means recognizing the interests of other members. We are left with having gone to the Fund for a Healthy Maine eight times or more or maybe fewer to take money to apply to other interests. I don't think that impugns any single one of our resoluteness in trying to protect the Fund for a Healthy Maine, but just the nature of this institution and I think we ought to recognize the nature of this institution, not to denigrate it, but to understand it and to support this type of control on the Fund for a Healthy Maine, a unique source of revenue that we have wisely invested in health promotion and prevention. This Constitutional Amendment, while not perfect, is a solid step in the direction of preserving the Fund for a Healthy Maine forever.

I am sorry if some of you have felt offended by notes that have gone out. Maybe whoever sent them out wasn't exercising the best strategy, but let's look a little beyond it to the greater goal in protecting the Fund for a Healthy Maine. Thank you.

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being a Constitutional Amendment, a two-thirds vote of the House being necessary, a total was taken. 90 voted in favor of the same and 55 against, and accordingly the Resolution **FAILED FINAL PASSAGE**.

Representative RICHARDSON of Brunswick moved that the House **RECONSIDER** its action whereby the Resolution **FAILED FINAL PASSAGE**.

On further motion of the same Representative, **TABLED** pending his motion to **RECONSIDER** whereby the Resolution **FAILED FINAL PASSAGE** and later today assigned.

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**Acts**

An Act To Implement School Funding Based on Essential Programs and Services

(S.P. 575) (L.D. 1623)  
(C. "A" S-258)

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.

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

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**Emergency Measure**

An Act To Strengthen the Energy Resources Council

(S.P. 233) (L.D. 669)  
(H. "A" H-567 to C. "A" S-200)

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. 101 voted in favor of the same and 31 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

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**Emergency Measure**

An Act To Simplify Calculation of Legal Interest

(H.P. 835) (L.D. 1132)  
(H. "B" H-571)

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

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**SENATE PAPERS**

**Non-Concurrent Matter**

Bill "An Act to Amend Certain Provisions of the Program Evaluation and Government Accountability Laws"

(H.P. 59) (L.D. 51)

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-361) AND HOUSE AMENDMENT "A" (H-558)** in the House on June 12, 2003.

Came from the Senate with that Body having **ADHERED** to its former action whereby **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-361) in NON-CONCURRENCE**.

Representative DUNLAP of Old Town moved the House **RECEDE AND CONCUR**.

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

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. I will not make reference to any action by the other body or any member thereof because that would be against the rules. However, I do still believe in the amendment that was offered in the House. You have the action of the other body before you. Mr. Speaker, in order to keep this thing alive, I move that the House Recede and Concur.

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

Representative **TRAHAN**: Mr. Speaker, Ladies and Gentlemen of the House. Like usual, the Representative from Old Town has cleverly worded his statement on the floor. I admire his approach. I also support the Recede and Concur motion and ask you to do so. We can take care of this issue at a later date. Thank you Mr. Speaker.

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

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

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The House recessed until the Sound of the Bell.

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(After Recess)

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The House was called to order by the Speaker.

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

**SENATE PAPERS**

**Non-Concurrent Matter**

Resolve, Directing the Department of Human Services To Establish an Advisory Task Force to Examine Staff-child Ratios and Maximum Group Size in Child Care Facilities

(H.P. 538) (L.D. 732)  
(C. "A" H-168)

**FINALLY PASSED** in the House on May 5, 2003.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-168) AS AMENDED BY SENATE AMENDMENT "A" (S-277)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH**.

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**Non-Concurrent Matter**

Resolve, To Create the Task Force To Study Parity and Portability of Retirement Benefits for State Law Enforcement Officers, Municipal Law Enforcement Officers and Firefighters (EMERGENCY)

(H.P. 989) (L.D. 1343)  
(C. "A" H-190)

**FINALLY PASSED** in the House on May 8, 2003.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-190) AND SENATE AMENDMENT "A" (S-275)** in **NON-CONCURRENCE. ORDERED SENT FORTHWITH**.

The House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH**.

**Non-Concurrent Matter**

Resolve, To Establish the Committee To Study Compliance with Maine's Freedom of Access Laws (EMERGENCY)

(H.P. 797) (L.D. 1079)  
(C. "A" H-326)

**FINALLY PASSED** in the House on May 16, 2003.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-326) AS AMENDED BY SENATE AMENDMENT "A" (S-280)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH.**

**Non-Concurrent Matter**

An Act To Establish the Long-term Care Oversight Committee (EMERGENCY)

(H.P. 65) (L.D. 57)  
(C. "A" H-443)

**PASSED TO BE ENACTED** in the House on May 22, 2003.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-443) AS AMENDED BY SENATE AMENDMENT "A" (S-276)** thereto in **NON-CONCURRENCE**.

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

**ENACTORS**

**Acts**

An Act To Improve the Maine Rx Program

(S.P. 590) (L.D. 1634)  
(H. "A" H-570)

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

On motion of Representative KAELIN of Winterport, 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.

Representative BRUNO of Raymond asked leave of the House to be excused from voting on L.D. 1634 pursuant to House Rule 401.12.

The Chair granted the request.

**ROLL CALL NO. 236**

YEA - Adams, Andrews, Ash, Barstow, Bennett, Bierman, Blanchette, Bliss, Brannigan, Breault, Brown R, Browne W, Bull, Bunker, Campbell, Canavan, Carr, Churchill E, Churchill J, Clark, Collins, Courtney, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Eder, Faircloth, Fischer, Gagne-Friel, Gerzofsky, Glynn, Greeley, Grose, Hatch, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McGlocklin, McKee, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Muse, Norbert, Norton, O'Brien L, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Rector, Richardson J, Richardson M, Rines, Sampson, Saviello, Simpson, Smith N, Sukeforth, Sullivan, Suslovic, Tardy, Thomas, Thompson, Tobin D, Tobin J, Trahan, Twomey, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Annis, Austin, Berry, Berube, Bowen, Bowles, Bryant-Deschenes, Clough, Cressey, Crosthwaite, Curley, Daigle, Duprey B, Fletcher, Heidrich, Honey, Kaelin, Lewin, Maietta, McCormick, McKenney, Moore, Murphy, Nutting, O'Brien J, Peavey-Haskell, Richardson E, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sykes, Treadwell, Vaughan.

ABSENT - Davis, Dugay, Earle, Finch, Goodwin, Joy, McGowan, O'Neil, Smith W, Usher.

Yes, 104; No, 36; Absent, 10; Excused, 1.

104 having voted in the affirmative and 36 voted in the negative, with 10 being absent and 1 excused, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

**Acts**

An Act to Amend Certain Provisions of the Program Evaluation and Government Accountability Laws

(H.P. 59) (L.D. 51)  
(C. "A" H-361)

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.**

**ORDERS**

On motion of Representative BRANNIGAN of Portland, the following Joint Order: (H.P. 1211)

**ORDERED**, the Senate concurring, that the joint rules be amended by amending Joint Rule 371 to read as follows:

**Rule 371. Government Oversight Committee.**

The Government Oversight Committee, referred to in this Rule as "the committee," is established. The committee consists of 2 6 members of the Senate and 6 members of the House of Representatives and must be evenly divided between the 2 largest political parties represented in each chamber. The President of the Senate shall appoint 2 6 Senators, 0 3 from the political party holding the majority of seats in the Senate and 0 3 from the political party holding the majority of the remainder of the seats in the Senate. The first-named Senator is the Senate chair. The Speaker shall appoint 6 members, 3 from the political party holding the majority of seats in the House and 3 from the political party holding the majority of the remainder of the seats in the House. The first-named member of the House is the House chair.

**READ.**

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

Representative **TRAHAN**: Mr. Speaker, Ladies and Gentlemen of the House. Just to give you a brief description of this for those who have been looking at me wondering how to go on this. This rule change allows for six members of the Oversight Committee in the Senate and in the House. I believe it is a good proposal that was worked out over five or six long dragged out evenings. It is part of that agreement that was made during the budget process. I encourage you to vote for it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Woodbury.

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

The SPEAKER: The Representative may pose his question.

Representative **WOODBURY**: Mr. Speaker, Ladies and Gentlemen of the House. Are the Unenrolled and Green Independent members of this body less qualified to be on this committee than the other members of this body?

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

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. The answer to the Representative's question is, obviously not. However, all of our documents, rules and the Constitution referred to these types of divisions being made between the party having the most number of seats in the body and the party having the next most number of seats in the body. It does not reflect in the qualifications of any other party member or non-party member.

Pursuant to Joint Rule 102, this Joint Order required the affirmative vote of two-thirds of those present for **PASSAGE**. 103 having voted in the affirmative and 12 in the negative, 103 being more than two-thirds of the membership present, the Joint Order was **PASSED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

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

**UNFINISHED BUSINESS**

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

**SENATE REPORT - Ought to Pass as Amended by Committee Amendment "A" (S-158) - Committee on BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT on Bill "An Act To Make Minor Technical Changes to the Maine Biomedical Research Program"**

(S.P. 436) (L.D. 1345)

- In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-158) AS AMENDED BY SENATE AMENDMENT "A" (S-269)** thereto.

**TABLED - June 11, 2003 (Till Later Today)** by Representative **SULLIVAN** of Biddeford.

**PENDING - ACCEPTANCE OF COMMITTEE REPORT.**

The Committee Report was **ACCEPTED**. The Bill was **READ ONCE**. **Committee Amendment "A" (S-158)** was **READ** by the Clerk.

**Senate Amendment "A" (S-269) to Committee Amendment "A" (S-158)** was **READ** by the Clerk.

Representative **SULLIVAN** of Biddeford **PRESENTED House Amendment "A" (H-579) to Committee Amendment "A" (S-158)**, which was **READ** by the Clerk.

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

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. This has been a long process in getting this up. It is a bill that came from Business, Research and Economic Development. There were minor technical changes to the Maine Biomedical Research Program. However, when it reached the other body, it was a unanimous report, they added an

amendment that we knew nothing about so I asked that it be tabled until we could find out what it was. After we tabled it, we did find a technical mistake within that so it had to go back down to the Revisor's Office. In a nutshell, the Maine Biomedical Research Program when they get money from the general fund they have to give a .08 allocation, an obligation to the general fund. With the passage of the bond issue yesterday, if we do not pass this amendment, we will have a situation where that .08 would actually come out of the bond money rather than out of the agency's program general fund. It is not the intention to take that .08 out of the bond money. That is for actual planning to go to build jobs in the biomedical field. We are asking you to please accept this amendment so that we can be sure that the private and nonprofit organizations that are involved in the biomedical program can be taken from the right fund rather than the bond money itself. I would ask you to please accept that.

Subsequently, **House Amendment "A" (H-579) to Committee Amendment "A" (S-158)** was **ADOPTED**.

**Senate Amendment "A" (S-269) to Committee Amendment "A" (S-158)** was **INDEFINITELY POSTPONED**.

**Committee Amendment "A" (S-158) as Amended by House Amendment "A" (H-579)** 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-158) as Amended by House Amendment "A" (H-579)** thereto in **NON-CONCURRENCE** and sent for concurrence.

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

The House recessed until the Sound of the Bell.

(After Recess)

The House was called to order by the Speaker.

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

**ENACTORS  
Emergency Measure**

An Act To Provide Affordable Health Insurance to Small Businesses and Individuals and To Control Health Care Costs  
(H.P. 1187) (L.D. 1611)  
(C. "A" H-565)

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

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-565)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "B" (H-573) to Committee Amendment "A" (H-565)** which was **READ** by the Clerk.



The SPEAKER: The Chair recognizes the Representative from Ellsworth, Representative Crosthwaite.

Representative **CROSTHWAITE**: Mr. Speaker, Men and Women of the House. Thank you for the honor of being the first Representative in the 121<sup>st</sup> Legislature to speak and be preceded by the William Tell Overture.

I rise this evening as one who lived in a system of socialized medicine for 38 years to express very deep concern over what I see as a headlong rush to pass the Dirigo Health Plan at any cost. As of today, the cost will be an immediate drain of \$53 million from the state treasury and the new tax on premium payments. Many of us have heard, I am sure, in phone calls, e-mails, letters and faxes a resounding call from ordinary Mainers to slow down and give everyone a chance to participate in this important process. The amendment that I am offering takes a measured step-by-step approach to the every present crisis. We do need health care reform, no doubt, but I recall the words tonight of a wise old sage who said reformation or reform often comes as a by-product of catastrophe. I, for one, believe it is possible to correct the imbalances in our health care system rather than forcing upon the system more regulation, millions of dollars of new spending and ultimately new taxes.

Mr. Speaker, I present to the body tonight House Amendment "B," which is an evidence based health reform proposal. It is not secret that health insurance in Maine is too high, but other states in the union have less expensive health insurance. Rather than subject 1.3 million Mainers to the Dirigo health experiment, let's enact something that has been proven and proven effective in other states to reduce health insurance and to reduce the rates of the uninsured.

Please allow me to address a few provisions of the ongoing debate. These provisions are contained in this amendment that I present and in essence strip and replace most of the original committee bill language. The first provision is access. It proposes a creation of a high-risk pool and repeals guaranteed issuance in the individual market. It broadens community rating in the individual and small group market to a 4 to 1 ratio for age and at one point a 5 to 1 ratio for smoking and health status modeled after the successful New Hampshire reforms passed in the year 2000. Dirigo health does little for the individuals paying the highest health insurance premiums, those self-employed individuals or those working for companies not offering health insurance and who must purchase it in the individual market. By contrast when both New Hampshire and Kentucky enacted such community rating and high risk pool reforms, health premiums in the individual market dropped by up to 40 percent for some individuals while not increasing cost for older or sicker individuals. The maximum subsidy through Dirigo is 20 percent for an individual. Therefore, this Legislature can adopt these proven reforms and reduce premiums for every one in the individual group by up to 40 percent or we can support Dirigo health and reduce certain people premiums by up to 20 percent paid for by one-time federal money, which is, by the way, still taxpayer money.

Additionally, states adopting these reforms have increased competition in their health care markets, several new carriers have returned to their markets and the number of their residents with private health insurance has increased. The second provision that I would allude to is cost. The amendment says let's correct the geographic access standards for specialty care in hospital services. Geographic access standards prevent hospitals from competing based on price and quality. Removing this restriction will increase competition and reduce health care

costs while not burying providers in increased government regulation.

The Rule 850 language in LD 1611 allows for incentives for lower cost hospitals only if the quality is greater. Therefore, under LD 1611 an insurance carrier cannot encourage low-cost health care if the patient will receive the same quality from the less expensive hospital. This access standard, the only one of its kind in this nation should be repealed outright.

Ladies and gentlemen of the House, competition among health care providers reduces costs and encourages higher quality services. The geographic access standards of Rule 850 squelch competition. Further, this amendment places a \$250,000 cap on non-economic damages in medical liability actions. Maine's liability insurance premiums increase the cost of health care. Reasonable caps will reduce liability insurance and therefore health care costs while also protecting the consumers. This is real cost containment, not some questionable voluntary one such as those found in Dirigo health.

The heart of this matter, once again, is personal responsibility. The third area that I would touch on is that the basic business model behind Dirigo is a flawed one. Dirigo health will expand Medicaid to 6,000 Maine adults with the promise that this would be paid for completely by small employers. Voluntarily joining Dirigo health and paying 60 percent of the cost of health care for their lower income workers to go on Medicaid. These same employers could pay nothing and have these same workers join Medicaid cost free. Why would they join Dirigo? If not enough small businesses join, then there will be a huge hole in the general fund from which to pay for this large Medicaid expansion.

The latest Medicaid expansion is already 400 percent over budget. This is a gamble we cannot afford to make. Dirigo's health budget only includes \$50,000 in marketing and outreach to sign up 30,000 new employees working at small businesses in Maine. Does anyone here really seriously think that this is possible? Dirigo health is a \$53 million gamble on a very flawed business model that makes a promise to Maine's small businesses and lower income individuals with no funding beyond promised savings to health insurance in future years. Let's consider the tax on health insurance premiums or on health care providers or on someone somewhere that ball is still bouncing with no place certain to land.

None of the past Medicaid expansions have resulted in reduced charity care and bad debt for Maine health care providers. The majority of charity care, bad debt, is from individuals with health insurance. In fact, putting more Mainers on Medicaid which significantly underpays for services, will result in even greater cost shifting to private health insurance. This will further increase the cost of health insurance in Maine. Case in point, one rural Maine hospital had its Medicaid claims increased 25 percent last year due to the recent Medicaid expansions. However, the Medicaid losses increased 300 percent and their charity care and bad debt remained unchanged.

Finally, Mr. Speaker, this amendment, a clear and practical alternative addresses changes to Maine's CON law, the Certificate of Need. The Certificate of Need is rejected and failed regulation from the 1970s. It does not make health care less expensive. It actually drives up the cost of health care. States that have CONs spend 11 percent more per capita than states that do not have CON. The LD 1611 action makes changes to CON which will further discourage quality health care professions from moving to Maine. Doctors can join practices in other states or they can come to Maine and have to obtain permission from the state to open a new office. Maine will be the only state in the nation with this regulation of private physicians. This is flawed, I

believe. This is regressive and this will have a chilling affect on physician recruitment and retention.

This amendment offered in good faith believes to be a workable solution to a very serious crisis. It embodies provisions, which are tried and tested. Lowering costs, improving delivery and increasing access to the citizens of Maine. In offering this amendment, I urge my colleagues in this chamber to approve real reform, reform that will work, rather than take a blind gamble that the people of Maine can ill afford to lose.

Ladies and gentlemen of the House, I respectfully urge you to support House Amendment "B" with a filing number of (H-573) and when the vote is taken, Mr. Speaker, I request a roll call vote be ordered. Thank you Mr. Speaker.

The same Representative **REQUESTED** a roll call on the motion to **ADOPT House Amendment "B" (H-573) to Committee Amendment "A" (H-565)**.

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

Representative O'NEIL of Saco moved that the **House Amendment "B" (H-573) to Committee Amendment "A" (H-565)** be **INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "B" (H-573) to Committee Amendment "A" (H-565)**.

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

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

Representative **O'NEIL**: Mr. Speaker, Colleagues of the House. The good Representative from Ellsworth, Representative Crosthwaite brought up several points, all of which have been covered in the beginning of January with the health action team through my committee and the Insurance and Financial Services Committee and most recently in the Health Care Reform Committee. These are very good substantive policy matters, which should be on the table, have been on the table and have been considered. They did not make it into the consensus agreement that you have before you, hence, we really cannot allow the consensus agreement to be pulled apart by adopting this amendment. I urge you to follow my light and Indefinitely Postpone this amendment. Thank you.

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

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. My nephew got married over the weekend and he was a really nervous young man. I stand today before you really nervous. Usually I am very comfortable and quite at ease at speaking to you. This means so much to me, this whole issue. I stand here today to ask your support of the alternative plan, the evidence based health reform.

Last summer I was introduced to the high-risk pool. I really educated myself and what it was all about. I became very, very interested in it. As I was going door to door there were three things, low-cost insurance, lower taxes and fixing the economy. I decided I had to learn as much as I could to see how I could step forth to help my constituents. When I got to understand the high-risk pool and how it worked, I said this would be great for this state. I asked if I could be a sponsor of the legislation. Senator LaFountain, he was the primary sponsor so I had put the same bill in just so I could get on that piece of legislation. That is how much it means to me. That is how important I felt that a high-risk pool would be for this state.

Ladies and gentlemen, high-risk pools are successful in 31 states. The states that I believe the State of Maine should mirror are the states of Kentucky, New Hampshire and North Dakota. In

recent years both Kentucky and New Hampshire have passed high-risk pools along with broadening their community rating bands. Rates lowered in New Hampshire and Kentucky. Let me give you a few examples that the good Representative Crosthwaite from Ellsworth gave you on the savings that a high-risk pool will provide. A 50 year old male now pays 20 percent less than he did before the risk pool was enacted. In Kentucky, he pays 24 percent less. That is a great savings folks.

According to the US Census Bureau people are most likely to be uninsured when they are between the ages of 18 and 34 years of age. In Maine, we penalize these young people through community rating. Many of you might not know that Maine has some of the highest health insurance rates in this country. Don't you think it is time to put a stop to this?

I am afraid the Dirigo plan will not do that. There are many things that the Dirigo plan does that are very good. The one thing it doesn't do folks is lower the cost of health insurance. It is time to stop experimenting and start looking at what actually works in other states. Don't we all say that when we are in our committee? What is working in other states? How can we duplicate what is happening in other states? Well folks, we have it right in front of our eyes, the high-risk pool. It is just part of the evidence based health reform proposal. This is the part that is extremely important.

I ask you please to support House Amendment "B." I ask you to do so for the people of this state. You would be doing them a tremendous favor. You will finally be able to provide for them the low-cost health insurance that they are asking you to do. Please support House Amendment "B." Thank you.

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

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. The aims of Dirigo are admirable, however, it was so rushed that there is no time for thorough research and investigation of this plan. There was no trial period in the bill for it and no pilot program was initiated. I am almost positive that Dirigo is set up fiscally to fail. I have been told the actuaries have thoroughly examined this and that it can't fail. However, those who don't know history are doomed to repeat it. I was in practice in July 1, 1966 when Medicare started. You won't believe what happened after that date and the utilization of that plan and people came forward to get things taken care of that they never had had insurance for before and they suddenly had insurance to cover it and they are going to get their 25 year old problem taken care of.

The government actuaries, of course, were very smart down in Washington and they estimated how much this was going to cost. They woefully underestimated this and it cost twice as much as they thought. The same thing for Medicaid the next year. The actuaries could not anticipate the demand for services that was going to take place when Medicaid started.

You see, Dirigo has no restraint on utilization. Anybody who is insured by Dirigo can go get anything they want anytime. There is nothing to stop them. The number of participants in this plan is going to be only through assumptions. There is no concrete idea in this plan of the fees that are going to be paid to providers, only assumptions. The number of businesses has not been established. The actual market has not been tested. I cannot accept the Dirigo Plan as anything that is going to be successful at all and I urge you to vote against the pending motion and to support House Amendment "B" (H-573).

The **SPEAKER**: The Chair recognizes the Representative from Waterville, Representative Marrache.

Representative **MARRACHE**: Mr. Speaker, Men and Women of the House. I feel I have to stand up and let everybody know

that I probably will be going with this amendment, not to indefinitely postpone it. I ran on the premise that I was going to try to fix health care. I see a lot of good things Dirigo, and, in fact, I wavered back and forth over the last few days whether I should go with it because I had a lot of concerns and some of them were addressed. It wasn't until last night that I actually kind of put my thoughts together. I made a list of the good things and the bad things and I had too many in the bad column. I was too worried. Because I do provide health care outside of this other job, I can see that I would not be servicing my constituents well if I voted for something that I felt was not good for them.

I want to share just a couple of concerns that I have that I just could not get around. One of them was the Certificate of Need. I don't feel that it should be put on physicians. I really don't like it period. I don't think it should be on hospitals. If somebody is willing to go out on a limb and put a million dollars into a facility that would provide x-rays for their practice, maybe they are an orthopedic surgeon or whatever. That only helps the patient. You have the doctor who is going to determine whether he needs to provide a surgery because of a fracture. He can diagnose it right then and there in his office, schedule the surgery and then move on instead of having to send the patient to the hospital who will then have an x-ray done, who will then have to wait until the reading comes through and then will have to wait until the doctor can review it and then maybe schedule it. It just doesn't make sense. To now expand it upon physicians, I don't see where that is cost savings. I can only see it actually increasing costs because now you have to utilize what is existing and nobody can try to make it better by adding more at a lower cost.

I will give you an example. My husband is an internist. He practices internal medicine in Waterville. In an area near us there is an ambulatory unit that provides services for physicians. They do stress testing for people who are having chest pain and may need to go to having a cath done. This is one of those tests that you have done to see whether anything else needs to be done. My husband can do those. He is certified to do those. He does them in the hospital, but there are a lot of other doctors that do it as well and he has to wait until he can schedule his patients, but at this facility if a patient comes in, which clearly happened just the other day when I was not here, but I was practicing in the morning. I had a patient that needed to be treated and taken care of. That person could go directly to this place, my husband who is a practicing doctor could do the stress test right then and there, read it and then send him right off to where needs to go. Will that happen in a hospital? Maybe, but not always. This was a service that prevented the care that he was providing to his patient from being interrupted. He was able to do it all. He was also able to help the VA who was backed up over a year on stress testing. Imagine that? Waiting a year to get a stress test. He was able to utilize this facility to help them catch up. Will that happen without this? No.

The other thing is recruitment. We already have doctors leaving the state. We have had quite a number in my own area. If we do not provide services that will attract them to our state, they will not come. Not only that, but I recently heard that one person who was considering coming here, having heard about Dirigo, decided that they were not even going to interview here. We lost them before they even considered coming here. That will continue to happen. Retention, what about the ones that are already here? Are they going to stay? They may not. We have already heard quite a few physicians say that if it goes through and it fails and destroys my practice, I am out of here. Why go through this? I worry about that.

Quality of care, how can you provide quality of care if you have more and more Medicaid reimbursed patients that don't pay

you enough to meet your overhead, don't give you enough to make your payroll? That means you have to increase the number of patients you are seeing and instead of seeing people every 20 minutes like we try and do in our practice, which is longer than most, you are going to have to see them every 10 or 15 minutes and get 30 to 40 people in to make enough money to actually earn a living here and cover your overhead. These are issues that I have to deal with all the time outside of here. I just cannot feel comfortable enough to vote for what else we have here. I will be voting to not indefinitely postpone. Thank you.

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

Representative VAUGHN: Mr. Speaker, Ladies and Gentlemen of the House. When I was knocking on doors people were not complaining about the high cost of what hospitals were charging for appendectomies. They weren't aware of what is going on on the provider's side of things. What they were talking to me about was the high cost of health insurance. They weren't asking me to have them put on welfare either. The reason we have a problem in this state is it is not a health care crisis, it is a health insurance regulation crisis. The reason we have a health insurance regulation crisis is because the state caused it. We aren't the only ones that did that. Back in the early '90s as you have noticed, the Kentucky situation happened in 1994. I went down into the Law Library and looked a few things up and in 1993 I pulled a file of a state health plan that was attempted to be enacted at that time. That failed, but another bill was put through which enacted community rating. Before these laws were enacted, by the way, we had fairly average insurance rates compared to the other states, but we wanted to make things better. They were good intentioned actions. The community rating law more or less says you will insure everybody at the same cost, regardless of who they are.

If this was car insurance, your average jacked up '57 Chevy hot wheels car driven by a 17 year old driver, would get the same insurance as a commercial tractor trailer and anything in between. That is not the way that is, because that wouldn't be right.

Another provision is called guaranteed issue. That means you have to sell insurance to the tractor trailer and the '57 Chevy and everything in between, even if it is about to crash. That is how our health insurance is set up.

The other thing would be if you didn't have to have auto insurance. If your rates became astronomically high for you in the middle that didn't have either one of those high-risk automobiles or tractor trailers, you would still have to pay the high cost or you can opt to go without. That is where we are at. The other states that have high insurance rates, I believe there are five of them that still have these same laws, community rating and guaranteed issue. We are the second highest after New Jersey. The other states have had reforms, some as few three years after they enacted community rating and guaranteed issue saw what was going on and fixed the problem. You may have seen the flyer I sent out about the Kentucky tariff program having failed. I would like to not see that happen. I believe it we follow tried examples, the most successful ones that have been enacted, the ones that are most applicable to the people in the state we can do the citizens and the workers of this state a great favor by lowering their health insurance costs right away. That is something that has been proven in the other states. I don't understand why we can't follow that lead. I urge you to vote for Amendment "B." Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "B" (H-573) to Committee Amendment "A" (H-565). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 237**

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

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

ABSENT - Davis, Finch, Goodwin, Joy, McGowan, Smith W, Usher.

Yes, 81; No, 63; Absent, 7; Excused, 0.

81 having voted in the affirmative and 63 voted in the negative, with 7 being absent, and accordingly **House Amendment "B" (H-573) to Committee Amendment "A" (H-565) was INDEFINITELY POSTPONED.**

Representative KAELIN of Winterport **PRESENTED House Amendment "C" (H-574) to Committee Amendment "A" (H-565)**, which was **READ** by the Clerk.

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

Representative KAELIN: Mr. Speaker, Ladies and Gentlemen of the House. I am a little disappointed with the last vote, but here we are focusing on the Dirigo plan and I wanted to say first that I am not rising in opposition to the Dirigo plan. I think before the end of the evening here, I will probably end up voting for it. I am offering an amendment that I think will significantly strengthen the bill, particularly as it affects Maine businesses. I will explain my amendment in a moment, but I wanted also to commend the members of the Select Committee who have worked so hard over the last two or three weeks to bring the Dirigo plan to us. I don't think it is perfect. I think there is probably as many questions in the minds of everyone in this room as there are in my own about whether it will work. I think there are a lot of questions around the process, but I think it is something that we probably should move ahead as imperfect as it may be.

During the last couple of weeks I think all of us have gone to school on the issue of health care. Certainly I am much more informed than I was when this process began. Like Representative Vaughn said a minute ago, we have to keep in mind that we don't have a health care crisis in this state. We have a health insurance problem in this state. In fact, Maine health care is probably some of the best in the region, if not the best in New England certainly. It has improved tremendously in

our lifetimes here in this state. We have a tremendous amount of health care that is provided to many, many people for free. I think there is a real question in my mind and possibly in the minds of some of you about whether or not people who have enjoyed free health care are going to find themselves in a position of wanting to purchase the Dirigo coverage. We will have to see if that actually happens. The amendment that I am offering speaks directly to the concerns of many Maine businesses and Maine business associations, including the Maine Merchants Association, the Maine Forest Products Council, the Associated Builders and Contractors, the National Federation of Independent Businesses, the Maine Motor Transport Association, the Maine Restaurant Association, the Maine Insurance Agents Association, the Maine Software and Information Technology Industry Association, the Maine Metals Products Association and the Maine Oil Dealers Association.

In addition to the Portland Chamber of Commerce piece that is on your desk projects and presents some of the same concerns that the groups I just mentioned has. In the last day or two in the halls people have said that they are with these guys. How come they are coming out of the woodwork now with an opposition to this plan that has been discussed upstairs for the last two or three weeks? My observation on this process is that it reminds me of a place where I used to go with my brother and sister when I was a kid to go see the bumper cars. In the bumper cars you go in and everybody gets into their car and they rush back and forth and they try to avoid each other or they try to hit each other. At the end it is the people who are left standing. It is similar also to musical chairs where the music changes and stops and all of a sudden there is one fewer chair. First it was the Hospital Association. We ran around in circles about the Hospital Association's concerns. People in Waldo County where I live and work, there were women who were literally crying in fear that they were going to lose their rural hospital. That problem got solved. The Hospital Association is happy now. They are not as happy as others, but they are going along with this. I think what we have found is now that the music has stopped the guy that doesn't have the chair is the business people in the State of Maine who were buying insurance in the private market and will probably stay there, many of them, for some period of time.

In fact, Dirigo depends on the fact that businesses and individuals will stay in the private market and, in fact, restricts the potential for businesses to join Dirigo health. It gives the board of directors' specific authority to limit the number of businesses that can be in the program. I think we have to accept the fact that the private market is going to be there for our businesses.

The concerns that these companies and these business people have can be summarized simply this way. While the Dirigo Health Insurance Program promises to produce savings in Maine's health care delivery system from reductions in the state's health care spending and bad debt and charity care, employers who elect not to purchase Dirigo insurance face the potential for their insurance rates to actually increase by up to 4 percent for private market insurance purchased after July 2005.

LD 1611 does not call this premium tax a tax. The bill calls this a premium increase a savings offset and SOP, but to Maine businesses SOP equals TAX. The bill directs the board of directors of Dirigo health to offer a health insurance product by 2004. People are saying we have got to do this. People want us to do something, but we have to remember that the plan isn't even going to be offered until 2004, October 2004. On an annual basis following that offer, the board of Dirigo health is further directed to calculate a savings offset. That is to represent the saving realized from reductions and bad debt and charity care costs. The savings amount, whatever it may be, certainly a

question in my mind and the minds of many of us in this building in the gallery and on the floor. We don't know if there is going to be a savings or not. We are hoping that there will be. That savings amount is then levied against Maine health insurance carriers and employee benefit excess insurance carriers and third party administrators in the form of a savings offset payment. That is the SOP or the TAX, your choice, to fund the Dirigo subsidy pool.

The amendment that I am presenting to these Maine businesses restricts the amount of savings offset to no more than 75 percent of the savings project by the board. The purpose of this limitation is to send the balance of the savings in Maine's health care spending, whatever that amount is going to be back to Maine businesses in the form of reduced premium costs. If there are going to be health care cost savings, it will be realized by the Dirigo plan. A significant portion should go back to employers who remain in the private insurance market. This is a simple amendment that will help cushion Maine businesses impacts from the real potential that premium costs will actually rise under the Dirigo plan for many people who will remain in the private market.

Ladies and gentlemen of the House, the amendment that I am offering carries a fiscal note. I would encourage you to take a look at it. It is really quite a remarkable fiscal note. It is a \$17 million fiscal note. Apparently that represents 25 percent of the projected savings by someone over at Fiscal and Program Review. In other words, there is going to be \$68 million in potential savings that would be represented as the savings offset payment.

Take a look at this number, \$17 million. This amendment would send that \$17 million back to the businesses in the State of Maine who are buying health care today keeping their health insurance costs down if there is a savings in the cost of health care delivery in the State of Maine. We owe it to those businesses to do that, to give them a break. They were the guys who didn't get the chair at the end of the musical chairs that we just finished up here with in the last couple of days. They are the odd man out. We need to fix this problem for them. Ladies and gentlemen, I encourage you to adopt this amendment. I thank you for the time Mr. Speaker.

Representative MAILHOT of Lewiston moved that **House Amendment "C" (H-574) to Committee Amendment "A" (H-565) be INDEFINITELY POSTPONED.**

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "C" (H-574) to Committee Amendment "A" (H-565).**

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 and will be supporting the Indefinite Postponement of this amendment, but I did want to explain a little bit about the savings offset premium payments work and how the assessment is going to be made. Essentially the way the offset payments are going to be assessed is that when folks sign up for Dirigo it is anticipated that there is going to be a reduction in bad debt and charity care at doctor's offices and hospitals. Those savings are expected to be in a large amount of money. Those savings are expected to be reflected in reductions and rates at hospitals and at doctor's offices. It is then expected that because the savings are reduced at doctor's offices and hospitals that that savings in turn is going to be passed onto the insurance carriers, which, in turn, will ultimately be passed on to the businesses and also passed onto the consumer.

This was an area that was substantially negotiated and one that helped earn the support for the Majority Report that we are debating this evening. Why this is important is the tax that is going to be assessed, it is a tax, can only be assessed to a maximum of whatever the savings is actually going to be realized. This first year we are going to have the Bush/Collins money. It is coming to the State of Maine. Because of the Republicans in Washington, we are going to have enough money to fund Dirigo and during the first year of funding Dirigo, we are going to get an experience rating on how much savings can actually be realized. The language in the bill is intended to set a maximum amount that this tax can ever be assessed at 4 percent. However, which is important, is the tax that will be assessed up to that maximum cap will never be greater than the bad debt and charity care that are actually going to be realized by both the hospitals and doctor's offices, that is then realized by the insurance carriers, which then will offset that tax. The amendment that has been proposed, I think is an admirable one. It is saying we ought to give a quarter of every dollar that we are able to reduce premiums from bad debt and charity care, we should be able to give that to reduce the cost of health care to both the businesses and to the insured. It is a very lofty goal and a very admirable goal.

I won't be supporting it based on the fact that we were able to negotiate and tie the fact that the tax increase will not be passed on to businesses and passed on to consumers because of this trigger that is in the bill. I did want to explain that. Thank you.

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

Representative **SNOWE-MELLO:** Mr. Speaker, Ladies and Gentlemen of the House. The Hippocratic Oath that all physicians take says, do no harm. The Dirigo health plan does that harm, in my belief. I ask that you support House Amendment "C" to minimize the harm of Dirigo. Thank you.

The **SPEAKER:** A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "C" (H-574) to Committee Amendment "A" (H-565). All those in favor will vote yes, those opposed will vote no.

#### **ROLL CALL NO. 238**

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

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

**ABSENT** - Davis, Finch, Goodwin, Joy, McGowan, Nutting, Smith W, Usher.

Yes, 82; No, 61; Absent, 8; Excused, 0.

82 having voted in the affirmative and 61 voted in the negative, with 8 being absent, and accordingly **House Amendment "C" (H-574) to Committee Amendment "A" (H-565) was INDEFINITELY POSTPONED.**

Representative BOWEN of Rockport **PRESENTED House Amendment "A" (H-572) to Committee Amendment "A" (H-565)**, which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Rockport, Representative Bowen.

Representative BOWEN: Mr. Speaker, Men and Women of the House. I rise today to ask you to adopt a very minor change to this bill. If you will look at the amendment it is three lines. I think I get the record for the smallest possible amendment to be offered this evening. This is a change for me, at least, that would add a kind of contingency plan, which would make me more comfortable and more willing to vote to enact the plan and give it a chance to work.

I submitted only a handful of bills this session. Nearly all of which met with an untimely end. The one whose defeat disappointed me the most was the bill that I put in to create tax advantage savings accounts for medical expenses, commonly known as medical savings accounts. As health insurance premiums have skyrocketed in recent years, more and more Mainers, particularly working class folks and young families have raised the deductibles on their health insurance policies in order to make those policies more affordable. Today policies with \$3,000 or \$5,000 or even \$10,000 deductibles or more are not uncommon.

My MSA bill would have allowed those policy holders to deposit money for medical expenses in a tax free account as much as we have IRAs for retirement and 529 plans for college tuition and in some small way, at least, help working families to meet the rising costs of their care. Besides providing much needed relief to working families medical savings accounts when combined to high deductible insurance policies have other advantages as well. Many employers nationwide are moving to this combination because they find that buying a high deductible plan and making a contribution to a medical saving account on behalf of their employee is often less expensive than buying that employee a more typical low or no deductible insurance policy. Because MSA account holders pay most medical expenses directly out of their medical saving account by writing a check, using a debit card, their insurance companies, their paperwork and their bureaucracy needed to do their business are removed from most medical transactions, saving money for both insurers and providers and driving down costs.

More importantly, because insurers are removed from the system except in instances where yearly medical expenses exceed the deductible and standard insurance kicks in, MSAs put people back in charge of their own medical spending. People have the power, which encourages them to make more reasonable spending decisions and to become more invested in their own health. MSAs reintroduce the power of the market place and to health care because those with MSAs have a financial incentive to spend their health care dollars wisely. While the plan before us does a lot to add transparency to the system and make prices more readily available, it does little to encourage people to use that information to make more prudent decisions about their care.

My bill never made it out of Taxation I am sorry to say. The fiscal situation in the state being unkind to tax breaks, but I remain convinced that we have an obligation in the current climate to help every Mainer pay for their health care, especially if we can do so in such a way as to cut down overhead and simplify

billing and payment and encourage consumers to spend more wisely. I come before you today to present an amendment that I encourage you to enact that would put you on a path in the event that Dirigo fails to deliver lower premium prices to enact the MSAs here in Maine. Let me be clear about what this amendment would do and would not do.

This amendment does not change the current Dirigo plan, its funding or benefits and does not mandate the enactment of MSAs immediately. The amendment is structured much like the provision on high risk pools adopted by the Health Care Reform Committee. Three years after Dirigo is enacted a study will be done to see what has been accomplished in the way of lowering premium costs. In the event that Dirigo has failed to contain those rising costs relative to premium prices and other comparable states, then Dirigo health will be obligated, under the bill that we are voting on tonight to draft a bill to come before the Legislature that will offer it a high risk pool. This amendment would allow it also to offer a high deductible MSA product in addition to its existing package. It would not replace the existing benefit package and it would require the passage by the Legislature of a separate piece of legislation to actually enact MSAs. Nothing is done automatically and nothing is required of Dirigo health for three years and even then only if it has failed to deliver the cost savings that it promises. It might be helpful then to think of this as a simple insurance policy on Dirigo. It is putting in place a just in case provision so that we have options to turn to in the event that Dirigo needs some tweaking down the road.

This is needed, I think, because for me and I know for others in this body with whom I have spoken, I have struggled with whether or not to support this bill. There is some philosophical approaches in the plan around central planning and some top down things that I am not particularly comfortable with. I still don't know, for instance, how the Dirigo plan will encourage me, as a patient, to live with the \$20 generic drug instead of the \$100 drug I saw on TV. I don't quite see the level of cost containment in the plan, particularly market based cost containment that I would like to see. That being said, I am prepared if we can make this small change to support the bill and give the plan a chance. The plan has some good features. It is certainly creative. The boldness of the Chief Executive and his people bringing forward something that has never been tried before, I think to a certain extent, merit us giving it a try. To be honest, I am skeptical that it will work. I am hopeful that it will.

If we can see our way to ensure that provisions are in place to provide some options and to have other things ready to go in the event that the plan doesn't quite do what we want it to do, then, I, for one, will feel more comfortable that we should move forward and give it a try and sleep better about my decision to support it. I ask for your support. This is a very minor change. It is one that will have no affect on the Dirigo plan if it works as it is designed to, even if these MSAs were enacted. In the event that Dirigo stumbles it would still require that a separate piece of legislation be enacted by the body to make MSAs happen. I think this is a small balance change. It does nothing to harm the existing bill. I ask for your support. For what it is worth, if you don't support it, I, for one, will be very disappointed. Thank you Mr. Speaker.

Representative DUDLEY of Portland moved that **House Amendment "A" (H-572) to Committee Amendment "A" (H-565) be INDEFINITELY POSTPONED.**

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

Representative DUDLEY: Mr. Speaker, Men and Women of the House. I would like to remind the chamber that this is a unanimous report, a bipartisan report. Every single member of the committee, both parties, supported the Committee

Amendment. We worked many hours to ensure that we could come out with a bipartisan report. We struck a very delicate balance. To place amendments on the floor onto the Committee Amendment has the potential risk of calling into jeopardy the entire Dirigo health bill.

I have more to add about MSAs than just the threat they pose of imbalancing the Dirigo health plan. Medical savings accounts are already available. Health carriers in Maine are free to bring them into their plans and to offer them in Maine. Unfortunately they have determined that there isn't a market for medical savings accounts in the State of Maine. Further, medical savings accounts result in a cost shift toward low and middle-income people from more wealthy consumers of health care. That is because to fund a medical savings account enough to give you enough money to fund a high deductible insurance policy really puts them beyond the reach of low and middle income people in the State of Maine. By going forward with this amendment we are saying that the costs are too high on upper income people and the costs are too low on low and middle income people and we are shifting those costs. That is why I move Indefinite Postponement. I urge you to join me and remind you again that they are available already. Should insurance carriers wish to offer medical savings accounts, they are available for them to offer and they currently do not because a market for them do not exist. Thank you Mr. Speaker.

Representative MAILHOT of Lewiston **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-572) to Committee Amendment "A" (H-565)**.

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 Yarmouth, Representative Woodbury.

Representative **WOODBURY**: Mr. Speaker, Men and Women of the House. LD 1611 is an exciting health reform initiative. I have high hopes that it will have a positive impact in reducing the number of uninsured in our state in containing the cost of health insurance and health care. I have one disappointment in the bill that this amendment takes one small step to address. My disappointment in the bill is the lack of incentives for patients to participate in making cost effective health care decisions. I believe serious cost containment requires that when we are patients we have some financial stake in the health care that we buy. When it costs us little or nothing out of pocket to use health care, we treat it as if it is free. We are sometimes buying care that we just wouldn't choose if we had to consider its cost. Patient cost sharing through deductibles and coinsurance induces more cost effective health care decision making. It is, in my mind, a critical component of serious cost containment.

The critique of high deductible plans is that deductibles and co-payments aren't affordable for many families. They prevent some people from getting the care they need. This is a legitimate concern. How do you make patient cost sharing affordable? The Health Reform Committee Chair, the Representative from Saco, Representative O'Neil, had some really creative ideas about providing for different deductibles for people at different income levels. I really liked this idea in theory because it adjusts the patient cost sharing to people's ability to pay it. Everyone would have incentive for cost effective health care decision-making, but adjusted to their means.

This idea was probably too innovative and radical for this session, but I hope we will continue to explore innovative ideas along these lines in the future. The amendment from the Representative from Rockport, however, is an idea that has been

around longer, medical savings accounts, and it gets at the same issue. Medical savings accounts also provide a mechanism for people of all means to afford out of pocket costs and have a financial stake in their health care decisions. Medical savings accounts also provide additional retirement savings, which will be increasingly important as the population ages and as we need to find new ways to support the growing older population.

I wish medical savings accounts or other more serious patient cost sharing were directly and explicitly in the Dirigo plan. This amendment, however, is much, much more modest. This amendment just requires a medical savings account option after three years and only if other cost containment has not been effective in the Dirigo plan as it has been put forward already. I think this is an excellent modification of the bill and I encourage you to adopt this modest amendment and defeat the Indefinite Postponement. I think we should give Dirigo a chance to do what we all hope it will do in extending coverage and lowering costs for Maine people. Thank you.

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

Representative **O'NEIL**: Mr. Speaker, Ladies and Gentlemen of the House. My name was invoked so I beg to rise. The good Representative from Yarmouth, Representative Woodbury, my good friend on the Insurance and Financial Services Committee and the Representative from Rockport, Representative Bowen, are in simpatico I think. I do agree. However, absent universal coverage, the remarks from Portland, Representative Dudley, I think are most appropriate. I tried this session to get that sort of idea, as the Representative from Yarmouth, Representative Woodbury, mentioned onto the table, but was not able to do so. The deal that we have before us does not contain it as such. However, if, and when, we get to the point where Dirigo has the ability to accommodate this, I will be the first one to propose it. Support the Indefinite Postponement please.

The SPEAKER: The Chair recognizes the Representative from Rockport, Representative Bowen.

Representative **BOWEN**: Mr. Speaker, Men and Women of the House. To respond to a couple of comments from my colleague from Portland, Representative Dudley, with regard to the question of them being legal in Maine. Yes, they are legal. They are not illegal, but there is no tax protection for deposits from State of Maine taxes. You get no State of Maine tax shelter for deposits in a MSA account. Putting money into that account isn't a whole lot different than putting money in your bank account right now. The trick, what we need to change in Maine is we need to create the tax shelter just like we have for IRAs and other things. On the question of comprehensive coverage, understand how this works. Instead of spending umpteen thousand dollars, for instance, my policy through my school system for me and my family cost my school system about \$12,000. Instead of \$12,000 what they could do is they could buy a high deductible policy with a \$3,000 deductible on it or \$4,000 for a fraction of that price. They could give me the \$4,000 to pay the difference between nothing and the deductible and it would still be less expensive. The beauty of it is that that \$4,000 that they put in that MSA account for me is my money from that point out. I can spend it however I wish to spend it on any medical thing you want, no more arguments about what is covered and what is not covered. You can spend it for whatever you want. In years that you have some kind of catastrophic illness, car accident, pregnancy or something, not that a pregnancy is a catastrophic illness, but high medical expense I guess you should say. That insurance, you would use up your MSA account, the balance up to that \$4,000 limit and then the insurance would kick in and cover the rest. Your out of pocket, nothing. In years when you don't spend it, it

can roll over. You can build a pile of money in there. You can use it to buy long-term care insurance and at retirement you can take it out with no penalty. You can be building a nest egg with this money for the years that you don't have high expenses. This does not just apply to people who have money to afford to put into one of these accounts. This package that I would ask Dirigo to put into place would cover people from the first dollar.

Thank you Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-562) to Committee Amendment "A" (H-565). All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 239

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

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

ABSENT - Davis, Finch, Goodwin, Joy, McGowan, McLaughlin, Smith W, Usher.

Yes, 80; No, 63; Absent, 8; Excused, 0.

80 having voted in the affirmative and 63 voted in the negative, with 8 being absent, and accordingly **House Amendment "A" (H-572) to Committee Amendment "A" (H-565) was INDEFINITELY POSTPONED.**

Representative CURLEY of Scarborough **PRESENTED House Amendment "D" (H-575) to Committee Amendment "A" (H-565),** which was **READ** by the Clerk.

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

Representative CURLEY: Mr. Speaker, Men and Women of the House. Most of the communication that I have had from my constituents on Dirigo health has been negative. They have had many more questions than I have had answers. They wonder when they are driving in their car to work why members of the select committee say that there are a lot of questions about this plan, we are not sure if it will work, but it has momentum. They wonder why they read in the newspaper that the special interests are happy. They say, "Darlene, aren't we the special interests? Who is standing up for us?" I don't just want to vote no on Dirigo health. We need reform. Out of respect for the Chief Executive and the select committee and the work that they have done, I have proposed a very simple amendment. I suggest we pilot test the Dirigo health insurance plan for one year and one county of the state. The board of directors can select that county. At the end of the year we will evaluate access, cost and quality. Are the uninsured really covered by this plan? Are costs decreased?

Has quality improved and will it be financially sound? Will Medicaid really fund this insurance product? I think it is worth a try. I ask for your support. Thank you.

Representative PERRY of Calais moved that **House Amendment "D" (H-575) to Committee Amendment "A" (H-565) be INDEFINITELY POSTPONED.**

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "D" (H-575) to Committee Amendment "A" (H-565).**

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 Calais, Representative Perry.

Representative PERRY: Mr. Speaker, Ladies and Gentlemen of the House. Dirigo health is trying to address a statewide problem. There are many different areas of the state that have many different types of problems. As an aggregate, it is a statewide problem. The difficulty with picking one county is you would have to develop a plan that will cover the state. When we talk about access and quality, we are talking about many different areas with many different problems. They, as an aggregate, may take a look at our solution. We have insurances that get looked at in terms of how they are developed statewide. Our statistics on premiums are done on a statewide basis. As a state problem, we need to look at this as a statewide solution. I ask you to vote for Indefinite Postponement on this amendment.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinitely Postpone House Amendment "D" (H-575) to Committee Amendment "A" (H-565). All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 240

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

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

ABSENT - Daigle, Davis, Dugay, Finch, Goodwin, Joy, McGowan, Muse, Nutting, Smith W, Sullivan, Usher.

Yes, 81; No, 58; Absent, 12; Excused, 0.

81 having voted in the affirmative and 58 voted in the negative, with 12 being absent, and accordingly **House Amendment "D" (H-575) to Committee Amendment "A" (H-565) was INDEFINITELY POSTPONED.**

Representative CRESSEY of Baldwin **PRESENTED House Amendment "E" (H-577) to Committee Amendment "A" (H-565),** which was **READ** by the Clerk.



The SPEAKER: The Chair recognizes the Representative from Baldwin, Representative Cressey.

Representative **CRESSEY**: Mr. Speaker, Men and Women of the House. I was taught in the Army Reserve as a noncommissioned officer to lead by example. You cannot lead you troops if you are not willing to do the task or the assignment that is given before you. When you jump out of your foxhole or climbing out of a trench into enemy fire, you need to lead by example, otherwise no one will follow.

Men and women of the House, follow me and be an example to those who come under the Dirigo health plan whereby we, as legislators, and the Executive be members and partakers of this plan in which we pay for a portion of our health care and lead by example.

Representative **KANE** of Saco moved that **House Amendment "E" (H-577) to Committee Amendment "A" (H-565) be INDEFINITELY POSTPONED.**

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "E" (H-577) to Committee Amendment "A" (H-565).**

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

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. It is important to note that the priority for Dirigo health is to provide coverage to help people who cannot afford or who do not have health insurance. Dirigo in its first phase would cover individuals in small groups. As we all know, the Executive and legislators already have insurance. I move Indefinite Postponement and ask for your support.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "E" (H-577) to Committee Amendment "A" (H-565). All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 241

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

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

ABSENT - Davis, Dugay, Finch, Gagne-Friel, Goodwin, Joy, McGowan, Muse, Norton, Nutting, Smith W, Sullivan, Usher.

Yes, 81; No, 57; Absent, 13; Excused, 0.

81 having voted in the affirmative and 57 voted in the negative, with 13 being absent, and accordingly **House**

**Amendment "E" (H-577) to Committee Amendment "A" (H-565) was INDEFINITELY POSTPONED.**

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I would be remiss without mentioning a few things about this legislation before we took our final vote. Before I do that, I did want to say as a member of the Joint select committee that it was an honor and a privilege to serve with my colleagues and put forward this legislation, this compromise legislation. One thing that I have learned about a compromise is if there are things that people hate on both sides of the aisle about a bill, probably we did a good job of compromise. There are certainly items in this that all parties did compromise on. I would like to thank very much the efforts of my fellow committee members in working to find some middle ground on several issues. Some of the issues that were addressed in this legislation and were actually talked about in the amendments that I think we should highlight this evening.

One of them was the area of Certificate of Need and the investment fund. Under this Dirigo plan there are going to be two categories that will exist under the CON or the Certificate of Need Investment Funds. That will be for both hospitals and for non-hospitals. The non-hospitals or the ASU, the Ambulatory Surgical Units, are going to have a floor that was negotiated at 12.5 percent of the Capital Investment Fund. I think that that is going to be important as we transition into Dirigo. The doctor's offices that have these day surgery facilities have been a tremendous asset to our state and to the cost of health care and lowering the cost of health care. It is a very cost effective alternative to hospitals. I felt that this amendment that was negotiated, put in a fair compromise and an acknowledgement of the fact that these ambulatory surgical units are very important.

The issue of Rule 850 or the rule access to hospitals was one that was also very hotly debated in our committee. One of the terms that has been set forth in this amendment deals with the issue of quality. There has been a commitment by both the administration and by the joint select committee that by January 2004 when we come back into session next year, the Insurance and Financial Services Committee are going to have rules that are going to be major substantive approved by that committee that are going to define quality. What was charged and what was sent out was that in order to reduce the cost of health care facilities that are a little bit further than most people are used to traveling, there can be financial incentives offered by the health care provider, which includes Dirigo that they can give financial incentive to go to that hospital a little bit further down the road, maybe down in the Portland area. Those costs, because they do the specialty procedures more frequently and because their quality is going to be higher because they do it more frequently, there is a cost savings that is associated with that. This will help decrease the cost of health care for Maine.

That rulemaking is important because this financial incentive is going to be allowed if the facility is of equal or greater quality. It is really producing a financial incentive so people get serious about saving money and those costs can be passed on to the consumers.

One of the other issues that was addressed in these amendments early on was the issue of high-risk pools. This is an issue that I know the Republican caucus feels very strongly about as a solution, in part, to our health care dilemma. I think up front our committee realizes that Dirigo is a risky proposition. There are a lot of assumptions that are made in Dirigo that if our assumptions are wrong, Dirigo will not be successful. All of us are hoping that Dirigo is going to be successful and we are going

to work to make sure it is successful. As part of the negotiations, what was established in it was a plan B. I think that the fact that we were able to come to agreement on a plan B speaks a lot of the committee process. In the plan B we put in a provision to provide for an assessment of Dirigo. Dirigo is on trial. It has three years after operation and after these phases it is going to be assessed. If Dirigo trends of keeping premiums low, the average premiums and the average rates, if they are not decreasing as other states with risk pools have and do and if our uninsured numbers don't decline and should increase as states with risk pools that have declined, then, in fact, the Dirigo Board is charged under this pending legislation to propose a statewide high-risk pool that is going to be consistent with the characteristics of other high-risk pools in other states, which would repeal the guaranteed issuance and expanding of the community rating bands and have a full fledged risk pool provision here in Maine.

I draw a lot of comfort in knowing that is a piece of this Dirigo legislation. While I think it is important that we lead with our best foot saying what we think the solution to health care in Maine is, I think it is very prudent that we have provided in this legislation a plan B and we realize that if, in fact, Dirigo fails, then risk pools is the next most viable option that we should look to.

One of the other issues that was discussed and debated in our committee dealt with the issue of medical malpractice. I think that has been a serious issue in a number of different pieces of legislation we have considered over the last few sessions dealing with those non-economic damages and how, in fact, they get passed onto the consumers. We currently have a very high exposure rate for doctors and people in the medical profession of \$400,000. While our committee could not agree to reduce it to \$250,000, they did agree to do a study of that. That study and that information about the cost impact of this high cap for damages that we have in Maine is going to be coming back to the Legislature and we are going to take a look at it.

One of the other things that was put into the bill, which I also thought was very prudent is the requirement of monthly reports of budgeted and actual expenditures of the non-categorical and that deals with the expansion of Maine Care that is in this legislation. A Representative earlier had referenced the fact, it is a fact, that every time we increase Maine Care eligibility in the State of Maine, what happens is doctor's offices and hospitals have a rise in their bad debt and charity care. They lose money. They lose a lot of money. The reason why is Maine doesn't reimburse with Maine Care at a rate that pays for these expenses. So, in fact, every time they sign more folks up for the rolls, we end up making the problem worse for the doctors and the hospitals, which mean they raise their rates, which, in turn, get passed onto all of us that have health insurance. Because of that recognition, we are going to be receiving reports, the policy committees, the Health and Human Services Committee, the Insurance and Financial Services Committee and the Appropriations Committee, we are going to be receiving monthly reports on these actual expenditures of these people so that we understand and realize what it is doing to us budgetary so that we don't get another hole in the budget like the \$30 million hole we are dealing with in the current fiscal budget. Likewise with that, the expansion of those categories has been tied now in this amendment that we are considering, Committee Amendment "A" has been tied to the enrollment of Dirigo. Originally when the bill was first presented, they weren't tied together. Those expansions were going to take place first and then maybe a year later we were going to start enrolling folks in the Dirigo and they have now been tied together so that those expansions in Maine Care benefits aren't going to transpire until enrollment begins, which will probably be around

July 1, 2004. I think that is also an important safety valve and a trigger that is in the bill because what we are saying is that Dirigo is going to decrease the cost of health care and because of that we shouldn't decrease the cost to the providers until such time as those cost relief measures are in place.

For these reasons and a number of others that I won't get into this evening, I did sign onto the Majority Report and I will be supporting it this evening. I thank you for your consideration of these thoughts.

Representative SNOWE-MELLO of Poland **PRESENTED House Amendment "G" (H-583) to Committee Amendment "A" (H-565)**, which was **READ** by the Clerk.

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

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. Unfortunately I am fighting myself not able to support the Dirigo health plan unless we adopt House Amendment "G." This is your chance folks. For those of you who really feel that a high-risk pool is essential to bring down costs for the people of the State of Maine. What this amendment does is it would create a comprehensive health insurance risk pool association to spread the cost of high-risk individuals among all health insurers. The high-risk pool is funded through an assessment on insurers. This amendment requires the state to submit an application to the federal government for federal funds, federal assistance to create a high-risk pool. That is in the amount of \$1 million. This amendment also removes a guaranteed issuance requirement for individual health plans effective July 1, 2005.

I don't know about other folks, I guess I am extremely impatient. I simply don't want to wait. I believe the facts are in front of us. I believe the proof is in the pudding and I think there are 31 states in our nation who have successful high-risk pools. Three of them are Kentucky, New Hampshire and North Dakota. I hope that many of you have read some of the flyers that I have passed out to each and every one of you and it explains to you what Kentucky did. Kentucky went through a similar situation that we are about to embark on.

Unfortunately it was a failure. It was a failure. They put in a lot of money. They had a lot more resources than the State of Maine did. Because of their infrastructure and the way their system was set up, it wasn't as delicate as our system is now. It wasn't as fractured as our system in Maine is now. They were able to recover. They were able to implement the high-risk pool. New Hampshire has been so successful in their high-risk pool, they are actually looking to increase their benefits. Their benefits now are comparable to the ones that we have on our state plan.

Folks, I ask you to support and adopt House Amendment "G." I believe this is a beautiful compliment to the Dirigo plan. It will strengthen it. It will make it a better plan. It will actually do what we really want it to do. I know all of us want to provide low-cost health insurance to the people of this state. Please support Amendment "G." Thank you.

Representative CANAVAN of Waterville moved that **House Amendment "G" (H-583) to Committee Amendment "A" (H-565) be INDEFINITELY POSTPONED.**

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "G" (H-583) to Committee Amendment "A" (H-565).**

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 House Amendment "G" (H-583) to Committee Amendment "A" (H-565). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 242**

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

NAY - Andrews, Annis, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Churchill J, Clough, Courtney, Cressey, Crosthwaite, Curley, Duprey B, Fletcher, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Kaelin, Ledwin, Lewin, Maietta, Marraché, McCormick, McKenney, McNeil, Moody, Moore, Murphy, Nutting, Peavey-Haskell, Rector, Richardson M, Rogers, Rosen, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan.

ABSENT - Collins, Davis, Dugay, Finch, Goodwin, Joy, McGowan, Muse, Smith W, Usher.

Yes, 84; No, 57; Absent, 10; Excused, 0.

84 having voted in the affirmative and 57 voted in the negative, with 10 being absent, and accordingly **House Amendment "G" (H-583) to Committee Amendment "A" (H-565) was INDEFINITELY POSTPONED.**

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

Representative **BOWLES**: Mr. Speaker, Ladies and Gentlemen of the House. Tonight was a night that held great promise, a night that held great hope for the people of Maine. I notice by looking at the clock that we are about an hour away from Friday the 13th. I think there is some symbolism there. I think it has to do with illusion and with promises not fulfilled. I am afraid that this bill that we are about to pass and there is no doubt that we are about to pass it, unfortunately is an illusion and it is a promise that is not going to be fulfilled. It has been interesting to watch the evolution of this from the date that it was first rolled out and the promise that it offered and the excitement that was attached and the people who contacted me almost immediately and were very enthusiastic and very helpful. That euphoria lasted for about a week. The other calls then started coming. The calls that said, I used the last week to read the bill. I am starting to understand what it is that is here. I have concerns. There were a number of groups that had concerns. They started being very vocal. They got very organized and started the phone calls to the Chief Executive, phone calls to us and I am operating under the premise, and I believe it is true, that there is 151 people in this chamber who want to do the right thing. We want to make life better for our constituents and the people of Maine. I believe that of all of you. I believe that of our colleagues down the hall. I believe that of the gentleman who occupies the second floor office. He wanted to do the right thing. We want to do the right thing. This bill is not the right thing.

When the Chief Executive was out campaigning just as we were all out campaigning last year, this has been said many times earlier tonight, one of the chief issues, if not the chief issue of people that we talked to was concern about the cost of health

care and health care insurance. It is a legitimate concern for everyone regardless of their social economic status, regardless of the amount of money that they have, regardless of their health. It is a concern for every American.

We owe them. We owe them our best attempt to do something about it. I know the committee worked very hard and very diligently. I know that sacrifices were made along the way, compromises were made, but along that evolution after all those concerns started to be expressed, those changes and compromises started to be made. Lo and behold some groups went away with their concerns addressed. What happened then? New concerns arose. It was like putting a finger in a dyke. Every time you put a finger in a dyke another hole seemed to open up. Another concern seemed to rise to the top and that concern had to be addressed. We have gotten to the point where we have addressed lots of concerns. We have plugged lots of holes in the dyke and now we are starting to hear from people, real people, the people who pay the premiums, the people who now realize that of all the holes that were filled in the dyke, their hole wasn't plugged.

What we heard from the Chief Executive, what we sincerely heard from him was that he wanted to offer a plan that was going to address three major concerns: quality of health care, access to health care and affordability of health care. That was a huge undertaking. When I look at this bill and I look at the way it has finally ended up and the part we are at right now, it seems to me that it fails on two of those three accounts. I don't understand how this bill is going to improve quality of health care. In fact, I have concerns that it may do just the opposite. I don't understand at all how it is going to improve affordability. In fact, I am sure it going to do just the opposite for individual policyholders and for small businesses. I believe it is going to address access. We are going to put more people on to the Maine Care roles and perhaps enroll some people in Dirigo and that is a good thing.

Two of the three legs of the stool are shorter than the third leg. As a result, I don't think we are going to be able to stand or sit on this stool for very long. I think it is going to collapse under its own weight. We are going to fail, I am afraid, to fulfill the promise that we have made to our constituents and the promise that the Chief Executive sincerely and with good intentions and a good heart made to the people of Maine. We have made the promise that we were going to accomplish certain things and this bill is not going to accomplish those things, despite the good efforts of everyone involved. Reluctantly I am not going to be able to support this bill. Do I wish it ill? Not at all. Do I hope it works and I am wrong? Absolutely. From my perspective at the present time, I just can't see that. If I stand here a year and a half or two years from now and this bill has succeeded, nothing would make me happier than to stand up and say that I was wrong. I hope that is the case, but I can't see it right now. I just cannot support the bill.

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

Representative **RICHARDSON**: Mr. Speaker, Men and Women of the House. We stand here tonight on a historic moment at 5 or 10 after 11, a historic moment for the people of Maine. We have come together and after four years that I have been here with a lot of talk about health care reform, we are talking about implementing the Dirigo health. I couldn't be more proud of this institution. I couldn't be more proud of our Chief Executive and I couldn't be more proud of the fact that I thought he was bold and innovative and also dogged about his approach towards health care reform. We stand tonight as a party here of hope. This Legislature is here with some hope, not fear. What I

mean by that is we are offering to Maine people hope of some sort of health care reform, not the fear of failure, but the hope of success. I think that is important. It is an important distinction. We ought to remember that as we move forward here. We ought to be very proud of that step that we are now taking. As I mentioned, four years ago as I walked in this institution, all we did was talk about this kind of reform. Now it is here. Don't fear change. We all say we embrace change, but we don't. We fear it. Don't fear this kind of change, which will move Maine forward. We have today 190,000 Mainers without health insurance and that is a crisis. It is a crisis that demands immediate action, not more talk, but immediate action.

We have a unanimous report, don't forget that, a bipartisan report. This Legislature for Maine people is a Legislature of hope, not the Legislature of fear and this unanimous report demonstrates the fact that when we put our hearts and our minds together, we can come out with a product that we can all be very proud of. Let's not wait any longer.

Let's talk for just a moment about quality, access and cost so that you are sure you are making the right decision with respect to quality. There is no doubt in my mind that quality will continue. We have some of the finest health care in the nation. The doctors, the hospitals, the other providers do a fabulous job for us. We are going to review that kind of quality to make sure we keep high standards as we move forward to lower the costs. That is what some of the programs and studies will do in this health care plan. We also look to the issue of cost. We are putting our arms around the costs and hospitals are looking to come forward with their plan to reduce costs. They voluntarily agreed to contain costs. We are looking to leverage money from the federal money with our waivers to allow a two to one match so that access can improve and the eligibility with respect to Cub Care and many other programs can improve as well. We are doing something about quality. We are doing something obviously about the access with allowing more people into the program and then ultimately the cost. Is there anyone in this room that thinks that doing nothing will drive down the costs? I think that as someone explained to me just yesterday, you need to do something. If you don't do something, then we are going to fail in health care delivery in the State of Maine. If you fail that is okay, at least you tried. You will get back up and you will try something else and move forward. I am asking you tonight to take the very first step. Let's be the Legislature of hope for Maine people that we take the first step towards health care reform. If we do that, the people will thank us and we will have done the things that we wanted to do when we came here and that is to make Maine a better place. Please join me in adopting Committee Amendment "A." Thank you for your time.

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

Representative SYKES: Mr. Speaker, Ladies and Gentlemen of the House. I have tried to be a good listener. I have read the information that has been provided to me. I have listened to all sides of this issue. I have asked questions to clarify some of the questions that I had. To me it boils down to the identification of five key components that helped me make my decision as to how I am going to vote on this proposal. The first component is timing. The issue presented to us late in the session, a joint select committee was appointed, able people did an excellent job. My compliments to them. They worked under pressure. They did the best job possible with the time available to them, but they had limited time available to them. In fact, it was interesting to read a description in one of the newspapers after they had presented a document to us. I will quote to you. "Agreement was reached after a night of frenzied deal making."

The second component for me is cost. Start up costs of \$53 million is an awful lot of money. The third component for me is attractiveness. Will someone who has been receiving charitable medical care now decide to pay \$40, \$50 or \$100 a month for health care or will they decide to make a payment on their ATV? The fourth component for me is the biggest component and I have heard it here tonight so many times and that is the lack of confidence. I have heard members of the joint select committee tonight say that if Dirigo fails. I have heard other say, I hope it doesn't. I don't think it is going to work. I heard on the public radio recently a member of the joint select committee quoted, he said it right there on the radio, I don't know if it is going to work. The fifth component for me is, is there a need for immediate action? I see no good reason to rush to judgment and the inherent mistakes that come with a hurried up decision.

Those are the five components for me. I honestly wonder if Dirigo health care was a new prescription drug would the FDA allow the distribution of a new drug with such limited review and lack of confidence. Would you take that pill?

In closing, I think I just took my vehicle into the automotive dealer for a major service. I am leaving on a cross-country trip tomorrow. I don't need my car. In fact, I have another vehicle that I can use. I want that service done now, immediately. The service manager, he is a nice person. He means well. He attaches a fiscal note for my repair indicating that the cost is going to be at least \$1,200. The service manager also states that the repair manual to do this type of repair was just completed after a night of frenzied deal making with the manufacturer. The service manager also states, he is a nice man and he means well, but he will be glad to take my car in, but when the work is done, he doesn't know if it is going to work. Thank you.

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

Representative GERZOFSKY: Mr. Speaker, Ladies and Gentlemen of the House. Most of you know that I needed health care recently. Without my health care plan here at the State House, I wouldn't have been able to afford what the hospitals did for me. All session I have sat here and heard that we can't afford this and we can't afford that. We can't afford mental health for our patients. We can't afford mental health for our kids. We can't afford new highways and bridges. I have come to the conclusion that there is one thing in this state we truly can't afford and that is to waste any more time in coming up with health care for the people of Maine that don't have the same benefit that we have of a good health care plan. I think it is a shame that we are going to stand here and sit here tonight and debate this. We need this. It is time we had this. We can afford this. If we don't get it right the first time, I have worked on many pieces of legislation that we have had to fine tune the next year. We will be able to do that with this, but we need to get something done because we can't afford not to. No longer should we wait. I hope everybody will vote to pass this. Thank you very much.

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

Representative CARR: Mr. Speaker, Men and Women of the House. I rise tonight to speak in support of LD 1611. I would like to take just a minute to explain to you why I have come to that conclusion. Early on the rural caucus and its members met with different people. We met with Trish Riley, members of the Hospital Association and we also held a weekend rural caucus meeting in Brewer and that was hosted by a family business center at Husson College. We had about 60 people who attended that meeting. They shared with us many of the concerns that they had. Many people traveled as far away as Caribou and Presque Isle to come down and share with us their

concerns. We listened to those concerns. We were fortunate to have a good turnout by legislators there. The concerns that we heard were carried back down to the Chief Executive. Myself and Senator Stanley and Representative Mills from Cornville met with the Chief Executive and shared with him the concerns that we heard. I don't know if it was a result of our meeting or many of the other things that were being said at that time, but there were negotiations that were started and as a result of that, the health care committee came to an agreement. Many of the things that have been said tonight, the concerns that have been shared, I share those same concerns. I am pretty sure that when the people started working on the Declaration of Independence there was concerns. Many of those people didn't think it would work, but we still work under the same things that was started with the Declaration of Independence. Our country was founded upon it and we still live by it today.

My position on this is we have to start somewhere. This may or may not work, but we will never know unless we try it. I encourage you to vote for this. Thank you Mr. Speaker.

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

Representative **RICHARDSON**: Mr. Speaker, Ladies and Gentlemen of the House. It is getting late, but the good Representative from Brunswick said we could afford what we are trying to do. I would like to pose a question to the chair. According to the fiscal note that is attached to the bill, it is going to cost a half a billion dollars annually after you get beyond '05. My question is, if we can afford it, how come we have to depend on federal expenditures and other special revenue funds? Are we sure that we are going to get them?

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

Representative **O'NEIL**: Mr. Speaker, Colleagues of the House. In answer to the question, the fiscal note is reflective of the potential growth of Dirigo. While that is a very big number, it is comprised mostly of employer payments and employee payments towards the actual health insurance product. If it is big, that is an optimistic view that the plan will be successful in gaining membership.

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

Representative **HOTHAM**: Mr. Speaker, Men and Women of the House. I rise this evening to briefly talk to you about my support to adopt Committee Amendment "A." First of all I wish to compliment the Chief Executive and the special select committee on their work on behalf of this effort. I think it was a Herculean task at the least. It is a task that we have before us as was expected when this was started. I support adoption of Committee Amendment "A" with some concerns. I wanted those concerns on the record so that we could be aware of them and be watchful for them as we work through this important piece of legislation. I feel it is, in fact, a work in progress. I am concerned about the funding mechanism. I think it is built on assumptions that may not come to fruition. We need to be prepared to deal with that. We need to be determined to make this work. I am concerned about opening up membership to Medicaid. It is not possible to be married to someone who works in the health care industry, to go home and talk to these people. They will tell you there are flaws in the Medicaid system that need to be fixed that contribute to the cost of health care in the State of Maine. We need to address those issues.

I have another concern and it is a concern regarding access. Whether we want to admit this to ourselves or not, we have

people coming to Maine to take advantage of our benevolence. We should be proud of the work that we do on behalf of those who are the most needy in the State of Maine. We do have a certain percentage of people coming here, as I said, to take advantage of that benevolence. We may be adding another package, another attraction to those folks coming to this state. I know there are certain provisions in this that would provide a deterrent for that. We need to be watchful and mindful of these situations and correct them. What we have here is what I would consider to be a prototype. To use the good Representative from Harrison's analogy of his car being repaired under the conditions by which we have drawn up this piece of legislation, we are going to have to come back and fix that car again. I hope that we are more receptive than we were tonight in dealing with the amendments that were offered. We are going to be talking about high-risk pools. We are going to be talking about medical savings accounts. We will be back addressing these issues, I believe.

Thank you for listening to my concerns. I urge adoption of Committee Amendment "A." Thank you very much.

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

Representative **O'NEIL**: Mr. Speaker, Ladies and Gentlemen of the House. For the first time in about a month I feel pretty good. It is no secret, I think, that a lot of you recognized that I had considerable anxiety over this bill. If I had my druthers, I would have done it differently. I would have done it right, to paraphrase my friend from Sanford, Representative Bowles. To the question of whether we are doing the right thing, I think it is premature to ask and certainly premature to answer. I do thank the committee, the staff, the administration, the interested parties who did come together. Whether we did the right thing or whether we engaged in frenzied negotiations, I call it a process that gave us appreciative inquiry. We took the best of what is in hopes of achieving the best of what could be.

What Dirigo presents tonight, I believe, is a break through. It is universal coverage? No. Will it be? No. It is not single-payer. Up until a few days ago, I could have been giving the speech that I don't want to do this. Some of you have probably cited some of my remarks without actually giving me attribution, but I will take the credit for them or the blame. I am there now, because I asked those questions. No, it isn't perfect. It isn't the way I would have done it, but it is a cohesive unit at this point. Just to illustrate that, there is one big component that jumps out at me. We have significant cost containment, health planning, CON provisions within the bill that providers, especially hospitals, would consider pretty heavy handed. Had they gone to the Representative from Saco, Representative Kane's committee on their own six months ago, they would have been DOA. By linking them in this three-legged stool to the promise, at least the belief, that their bad debt and charity care would be reduced, they are on board. The insurance carriers are on board with the assurance that these costs won't cascade down stream to yet another payer.

As I sit and I listen to people either speak in favor or against or just reservedly in favor or reservedly against, I know what they are going through. My fellow committee members will vouch for the fact that I was a tough sell on this. Even Mr. Speaker can vouch for that. Imagine how I felt when I walked in a month ago and Mr. Speaker said, by the way, you are the sponsor of the Executive's bill. I signed it for you and it is in. Oops!

I came around and it wasn't because I rolled over. It was because I went through the process and I think the process worked. The first year we anticipate that Dirigo has the capacity to accommodate 30,000 folks. They might not be all uninsured

currently. Let's take worse case scenario. Let's say it only insures 5,000 folks. We can guarantee with this new funding mechanism, which was a seat change for me, we can guarantee that this product will be a competitive product. Once it has run through its first year of experience, we will be able to judge whether it has the legs to stand on its own. If it does, I think we will be able to look back and say we did break through back on June 12, 2003. This is hard work. I think while it was frenzied and harried and hurried, we did the work. While I wasn't ready to say I was proud of it a few days ago, I feel pretty darn comfortable right now that it is going to be okay and we will continue to work it. Continue to visit these issues as time goes on.

If I could please ask the indulgence of the House for the last word, let's all move an vote on this thing and adopt Committee Amendment "A." Thank you Mr. Speaker.

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

Representative **DUPREY**: Mr. Speaker, Ladies and Gentlemen of the House. I will be brief. I know it is late. First, I want to thank the Chief Executive for bringing this bold initiative forward. It really is a bold initiative. If you read the title, "An Act to Provide Affordable Health Insurance to Small Business and Individuals to Control Health Care Costs." You see this bill was written for me and my business. I have 25 employees and I can't afford health insurance for them. That is why this bill was written so the 25 employees that I have can get health insurance. None of them have health insurance right now, not a single one of them. My 65-year-old employee doesn't have it and my 18-year-old employee doesn't have it. None of them have it. Dirigo needs me to sign up in this program for it to succeed because it is predicated on business owners signing up.

Let me give you a quick little background of how businesses grow. Last year I had five employees. This year I have 25 employees. I am really growing. I have a medium sized company now. By the end of the year, I hope to offer health insurance. As a business starts to grow, they start investing back in business and they want to invest in people. They want to keep quality employees. Employees are the business. I was thinking of starting with a small health insurance package, just to give my employees something. They are the reason I am in business. We provide a valuable service. Maybe it would have been a 50/50. I pay 50 percent of the cost, maybe a high deductible, maybe a high co-pay, but it something. It is better than nothing. I wanted to give them something. I couldn't afford to give them the whole package. The problem I see with Dirigo is right from the start an employer has to pay 60 percent of not only the employee, I could be wrong on this, and the dependent. I probably couldn't afford to pay for dependent coverage or any portion thereof for another year or two. This may keep me from supporting this bill. The bill is predicated on businesses signing up and it doesn't happen, then insurance rates will have to go up to cover the Medicare extra rolls. This bill is very complex. I don't understand everything. I think we are going in the right direction, but I just have a big concern about business people really jumping aboard something because if they can't afford it now, even if it is a little bit cheaper, I just don't see them jumping on board.

Unless somebody can explain to me why I am wrong in what I am saying, I can't support this as read. I think it is a gamble and I am not willing to roll the dice with the citizens of Maine's health insurance. I remember when we passed the Healthy Maine Prescription Plan, we made a promise that we would lower prescription drug prices, but yet we pulled that promise away because it was unconstitutional and the court said we couldn't do

it. I am afraid if we pass this, we are promising people this free health care and then a year later we are going to say, sorry, we are going to take it away if we make that mistake. I agree with the Representative from Brunswick, Representative Richardson, when he says we can't be afraid to fail. I am just not willing to gamble with Mainer's health care. I am not willing to gamble for that. Mr. Speaker, when the vote is taken, I request the yeas and nays.

Representative **DUPREY** of Hampden **REQUESTED** a roll call on the motion to **ADOPT Committee Amendment "A" (H-565)**.

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 Poland, Representative Snowe-Mello.

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to take the opportunity to thank my fellow colleagues who so diligently spent many hours working on the Dirigo Committee to find a solution to our health care crisis. They certainly had a daunting task in such a short time. I truly do appreciate that. I also have respect for the Chief Executive that has made health reform a priority although I cannot in good faith show support for their drag out plan. I have to tell you why. I have got to get my concerns in the record.

Dirigo plan, ladies and gentlemen, simply will not work as far as I am concerned. For small business it is nothing more than a purchasing alliance, the very concept that the folks who wrote this plan said they do not support. Maine has already passed many purchasing alliance bills that have done nothing and have gone nowhere. Let me tell you a little bit more about the Kentucky care. I really believe, ladies and gentlemen, that we are heading down that pass, the same path that the Kentucky care went down. Kentucky tried a similar plan as the Dirigo plan and they put far more resources and funding into it. It died in a matter of 20 months, less that two years. Maine has far less resources than Kentucky had at the time they put their plan forth. Our State of Maine is on shaky ground in regard to a health insurance delivery system. If the Dirigo plan passes, it will only die sooner than the Kentucky plan did. It is, ladies and gentlemen, a very strong possibility that Maine will not recover as Kentucky did because we have a far more unhealthy health insurance delivery system and a very costly one at that. It will probably be too late for an alternative plan to be implemented. Where is the model in other states that suggest that Dirigo will do nothing for Maine's workers and Maine families and small businesses? There are none. We need to spare money like I mentioned before with Maine families in this grand State of Maine. I do not want folks in our state to wait a moment longer than they have to to have affordable health insurance. What really troubles me is that the Dirigo Insurance Planning Board in the bill will set the percentage of the employee premiums to what our business and folks back home will pay if they choose to opt in and purchase Dirigo for themselves and their employees. I would rather see the Dirigo plan and would like to see what they would be charged now. I cannot vote on blind faith. This is far too serious and far too important to do that. It does sadden me that I simply cannot support the health insurance portion of the Dirigo plan, which, in my mind, doesn't exist.

You may notice that I said the Dirigo insurance plan. I agree with the Portland Chamber of Commerce's position that to provide a portion should be enacted because it simply seems to suit most everyone. The portion of health insurance plan is truly, like I have said before, troubling to me. One of the reasons I came back to Maine and came back to serve my constituents was to put all my efforts into finding a better solution to a health

insurance dilemma. I know that our folks back home are demanding affordable health care insurance. They have access, but they do not have enough choices. They do not, and will not, under the Dirigo plan have the affordable insurance that they are begging us to provide for them.

It is truly hard for me to stand here today and not be able to support this plan. I really truly feel in all my heart that this state can do better.

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

Representative DUDLEY: Mr. Speaker, Men and Women of the House. I just couldn't let this moment go by without noting that we are on the verge of making history in Maine. What we are talking about tonight is a positive development. It isn't one that is so deserving of such dire predictions. We should be celebrating tonight. All eyes in the country are upon Maine and watching what we are doing. Maine is no different than most states, if not all states, in the union in facing very, very difficult budget times. Maine is not shirking its duty to its citizens and we are making a strong effort toward providing affordable quality universal access to health care for all Maine citizens. I, for one, am very proud of that. I would like to thank the Governor's team, very able experts both in the state and from all over the country, as well as my colleagues on the select committee who acted unanimously in favor of this plan and certainly the Chief Executive.

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

Representative O'NEIL: Mr. Speaker, Men and Women of the House. In answer to the question posed by the Representative from Hampden, Representative Duprey, the 60 percent is actually a ceiling over which he would not be forced to go. I had not planned to speak on this matter tomorrow, so I won't.

The SPEAKER: A roll call has been ordered. The pending question before the House is Adoption of Committee Amendment "A" (H-565). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 243**

YEA - Adams, Annis, Ash, Barstow, Bennett, Blanchette, Bliss, Brannigan, Breault, Brown R, Browne W, Bruno, Bull, Bunker, Campbell, Canavan, Carr, Clark, Collins, Cowger, Craven, Cummings, Daigle, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Fischer, Gagne-Friel, Gerzofsky, Glynn, Grose, Hatch, Hotham, Hutton, Jackson, Jennings, Kaelin, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McGlocklin, McKee, McLaughlin, Millett, Mills J, Mills S, Moody, Moore, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson J, Rines, Rosen, Sampson, Saviello, Simpson, Smith N, Sullivan, Suslovic, Tardy, Thomas, Thompson, Trahan, Twomey, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Andrews, Austin, Berry, Berube, Bierman, Bowen, Bowles, Bryant-Deschenes, Churchill E, Churchill J, Clough, Courtney, Cressey, Crosthwaite, Curley, Duprey B, Fletcher, Greeley, Heidrich, Honey, Jacobsen, Jodrey, Ledwin, Lewin, Maietta, McCormick, McKenney, McNeil, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tobin D, Tobin J, Treadwell, Vaughan.

ABSENT - Davis, Finch, Goodwin, Joy, McGowan, Sherman, Smith W, Usher.

Yes, 96; No, 47; Absent, 8; Excused, 0.

96 having voted in the affirmative and 47 voted in the negative, with 8 being absent, and accordingly **Committee Amendment "A" (H-565) was ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-565)** in concurrence.

Representative GLYNN of South Portland **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.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken.

**ROLL CALL NO. 244**

YEA - Adams, Annis, Ash, Barstow, Bennett, Blanchette, Bliss, Brannigan, Breault, Brown R, Browne W, Bruno, Bull, Bunker, Campbell, Canavan, Carr, Clark, Cowger, Craven, Cummings, Daigle, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Fischer, Gagne-Friel, Gerzofsky, Glynn, Greeley, Grose, Hatch, Hotham, Hutton, Jackson, Jennings, Kaelin, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McGlocklin, McKee, McLaughlin, Millett, Mills J, Mills S, Moody, Moore, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Pineau, Pingree, Piotti, Richardson J, Rines, Rosen, Sampson, Saviello, Simpson, Smith N, Suslovic, Tardy, Thomas, Thompson, Trahan, Twomey, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Andrews, Austin, Berry, Berube, Bierman, Bowen, Bowles, Bryant-Deschenes, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Duprey B, Fletcher, Heidrich, Honey, Jacobsen, Jodrey, Ledwin, Lewin, Maietta, McCormick, McKenney, McNeil, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tobin D, Tobin J, Treadwell, Vaughan.

ABSENT - Davis, Finch, Goodwin, Joy, McGowan, Perry J, Sherman, Smith W, Sullivan, Usher.

Yes, 95; No, 46; Absent, 10; Excused, 0.

95 having voted in the affirmative and 46 voted in the negative, with 10 being absent, and accordingly the Bill **FAILED PASSAGE TO BE ENACTED** and was sent to the Senate.

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

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**ENACTORS  
Emergency Measure**

Resolve, Directing the Department of Human Services To Establish an Advisory Task Force to Examine Staff-child Ratios and Maximum Group Size in Child Care Facilities

(H.P. 538) (L.D. 732)  
(S. "A" S-277 to C. "A" H-168)

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. 122 voted in favor of the same and 12 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

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**Emergency Measure**

Resolve, To Create the Task Force To Study Parity and Portability of Retirement Benefits for State Law Enforcement Officers, Municipal and County Law Enforcement Officers and Firefighters

(H.P. 989) (L.D. 1343)  
(C. "A" H-190; S. "A" S-275)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 130 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

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**Emergency Measure**

Resolve, To Establish the Committee To Study Compliance with Maine's Freedom of Access Laws

(H.P. 797) (L.D. 1079)  
(S. "A" S-280 to C. "A" H-326)

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

Representative RICHARDSON of Brunswick **REQUESTED** a roll call on **FINAL PASSAGE.**

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

On motion of Representative RICHARDSON of Brunswick, **TABLED** pending **FINAL PASSAGE** and later today assigned. (Roll Call Ordered)

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After Midnight

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**ENACTORS**  
**Emergency Measure**

An Act To Establish the Long-term Care Oversight Committee  
(H.P. 65) (L.D. 57)  
(S. "A" S-276 to C. "A" H-443)

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

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

HOUSE DIVIDED REPORT - Majority (10) **Ought to Pass as Amended by Committee Amendment "A" (H-563)** - Minority (2) **Ought Not to Pass** - Committee on **NATURAL RESOURCES** on Resolve, To Authorize the State To Purchase a Landfill in the City of Old Town

(H.P. 1205) (L.D. 1626)

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

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

The Resolve was **READ ONCE**. **Committee Amendment "A" (H-563)** was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Lewiston, Representative Makas.

Representative **MAKAS**: Mr. Speaker, Men and Women of the House. I had no intention of speaking this late at night. I do wish to speak in opposition as one of the people who voted **Ought Not to Pass** on this committee. I would like to explain briefly why I have done so.

First, to summarize what the LD does. This particular LD allows the state to purchase the landfill from Georgia Pacific in Old Town and also allows the state to solicit bids for somebody to operate this landfill. At our public hearing on this LD, Georgia Pacific assured us that if the state, in fact, bought this landfill, they would be able to make improvements to their equipment to allow jobs to stay at Old Town. With this in mind, it is critical to remember that should this LD become law, the contract between the state and Georgia Pacific needs to include a guarantee that the purchase money will, in fact, be spent in state. Obviously this plan would benefit Georgia Pacific.

During our hearings it was also explained to us that this is a good risk free deal for the state in that the operator who had bid on this would assume all costs and all liabilities. In other words, the state would have no cost or liability associated with the transfer of this land. Since the costs are rather extensive, both the development, the purchase and even for the bid, this is a tremendous responsibility for the operator. My question is, what is in it for operator? Why would someone bid on this opportunity assuming all costs and all liabilities in exchange for what initially should be a very modest profit, if any, for providing waste management for Georgia Pacific.

The reason that an operator would bid was explained during a hearing and is listed as items two and three on the Divided Report that all of you have gotten. The operator will attempt to get an expanded license to handle waste from other sources, not just Georgia Pacific and to handle other types of waste, which I

have been told is classified as special waste by some and toxic or potentially hazardous waste by others, including incinerator ash. We were told that this expanded license would also benefit the state in that we could develop the Old Town Landfill at a lesser cost than developing the Carpenter Ridge Landfill. The people of Old Town would have a landfill usable for approximately 20 years. We were told that this LD deals only with the purchase of the land and solicitation of bids for the operator. We were also told that prior to the granting of this expanded license that there would be opportunity for public input on this issue.

My concern is if we, in fact, pass this LD, we are predetermining the granting of the expanded license. The LD specifically negates the regulation of waste facilities which are granted to any municipality under the Maine Constitution under home rule authority. If we start this ball rolling down hill by agreeing to the purchase of the land by the state and agreeing to put this out to bid, then logic tells us that the operator of this landfill will go ahead and get a license, which will provide a major landfill in Old Town. The people of Old Town have not voted on this. They have not had an opportunity for a public hearing on this particular issue. They may be aware, as some have suggested, that the state is talking about purchasing the landfill from Georgia Pacific, however, they are not aware that part of the plan is to turn this into a major landfill.

I live more than 100 miles away from Old Town. It is not in my back yard, which is why I cannot in good conscience vote to support something that would place a major landfill in the backyards of the people of Old Town and Alton. I believe it is up to them to determine their own long-term future. I encourage you to consider seriously not supporting this particular amendment. I also ask for a roll call on this issue. Thank you.

Representative **MAKAS** of Lewiston **REQUESTED** a roll call on the motion to **ADOPT Committee Amendment "A" (H-563)**.

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

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. It is so late and I am really tired. I know you all are so I am just going to do this in a minute. The bottom line is we heard a lot of testimony from Georgia Pacific. The state is going to buy the landfill in order to keep 150 jobs. That is a good thing. It is union jobs. What I object to is the process. In the newspaper it only stated that the state is going to buy a landfill to keep 150 jobs. What they didn't tell people is it is going to be relicensed to accept toxic waste. I vowed that if this would ever happen again to another community, I would at least try to tell the people what is going on. That is the simple, easy thing to tell you and I don't feel the people that are going to have this dump know about it. I wrote a letter to the editor, which I read in caucus, the Representative did not get any feedback from it, but the newspaper is not coming out until tonight. I don't know you could possibly have gotten feedback. Secondly, I truly believe that when you know about dioxin, the same thing as Agent Orange, you couldn't site this toxic dump in my area. I am not a NIMBY. I care about northern Maine. I care about the people that live there. I vowed that at the very least I would try to get the information out. I feel a public hearing should be held and you will hear that once this relicensing happens, there will be a process. Once you buy the landfill and the state has committed to it, it is going to go out to bid. They are going to run it. Those people will never stop this toxic ash landfill. I don't care if I am the only light on that board. I have done my job. I can sleep

tonight. I needed to get that information out to those people who have no clue a toxic dump is coming near them. Thank you.

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

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. This is actually a pretty simple premise that we are dealing with here. The entire resolve deals with the acquisition of an already permitted and cited landfill owned and operated by the Georgia Pacific Corporation. This was established by the predecessor of Georgia Pacific, the James River Corporation through a lengthy permitting process, which included two or three days of public hearings in the City of Bangor, through the Board of Environmental Protection, as well as a very, very large and well attended public hearing conducted by the Old Town Planning Board. This was over 15 years ago. This landfill has been an owner-operated landfill now since about 1996. The situation at Georgia Pacific has been pretty grim. The day after I finally took a sigh of relief when we finished the apportionment process, I was home thinking now my legislative session can get back to normal. I got a phone call and I was told that Georgia Pacific was closing its Old Town facility. It is stopping its paper machines and converting operations and laying off 300 people, essentially shutting down a mill that has been in operation since some time in the 1880s.

It was pretty quiet all around town that weekend. We pledged as a delegation, a legislative delegation as well as a congressional delegation and the office of the Chief Executive to do everything we could and we didn't know what that was going to be. Georgia Pacific in good faith came to the table to talk. We talked about what their problems were and their problems really had nothing to do with what is in this resolve. They are problems with transportation costs, electrical costs and the Chief Executive said, let's see what we can do to help.

The cost of running the landfill was one of those costs that Georgia Pacific really could do without, although they still needed a place to put their waste. Everybody got an idea, you have two state owned commercially run landfills in Hampden and Norridgewock, which are about in six years of being maxed out of their capacity. The state has acquired the property at Carpenter Ridge in Lincoln and if you think if we just kill this resolve tonight that we solve this problem, then in a couple of years you are looking at probably a minimum of somewhere around \$30 million to develop that property.

This resolve, what the net affect of it is, is that the state will actually act as a broker. It will issue revenue bonds, which then an RFP will be issued and an operator will pay those bonds off. Who gets what? The state gets a landfill that it desperately needs. Georgia Pacific gets revenue to do some upgrades at the mill and the City of Old Town as a host community will get royalties and the tipping fees, which will offset the lost tax revenues and the shutdown paper mill which Georgia Pacific will not restart because of its age. It is our hope that eventually these upgrades that the mill will be doing will lead to another paper machine being put in some time in the next few years. It has brought me to my feet time and time again. What are the guarantees? Who is to say that Georgia Pacific isn't going to take this money and run and shut down the mill anyway? You know something, ladies and gentlemen, April 4th they did just that. They shut the mill down. I think they have shown good faith in coming forward on this. That is what this resolve is all about. Getting something for everyone and moving some things forward. This is a state of the art landfill. I have heard a lot about toxic waste. Once we do this it is a done deal. These public hearings on the upgrades to the licenses don't really mean anything. If that is true, then we probably should go back and revise the laws

and get rid of that whole process. If you talk to the Wide Waters Group that tried to build the Super Wal-Mart in Bangor, they will tell you these public hearings mean something.

Today we debated at length LD 1634, "An Act to Improve the Maine RX Program." It seems that the theme of that debate was we did not have a public hearing on that bill. What I am hearing tonight is that we need to have public hearings on this issue in Old Town. Old Town knows about this. You know, the third week of December winter is going to come and everybody knows it. We don't need to have a public hearing on that. During that debate on the Maine RX Program my good friend from Biddeford, Representative Twomey, talked about the people in her district and how she sat in their living room and heard their concerns and that was the only public hearing that she needed to hear. Ladies and gentlemen of the House, I have 450 families that are affected by this mill. If it shuts down, that is the only public hearing I need to hear. Please vote to support this resolve. Thank you.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. State of the art is what they told us our incinerator was until it spewed toxic ash all over our community and when the DEP was supposed to be there to protect us, they weren't. I had to collect the samples, which proved to be unacceptable levels of lead of dioxin. Second of all, I asked Georgia Pacific if they could put in writing and guarantee that they would stay in Maine and they could not. Thirdly, this landfill is in Representative Haskell's district also and I think that the people should know that also. The fact that I talked about my constituents had to do with a public hearing about the RX Program. The public hearings that you have been hearing about and the licensing is not to accept toxic waste. It was to accept Georgia Pacific waste. Thank you.

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

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

The SPEAKER: The Representative may pose her question.

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. I am certainly sympathetic to the situation and certainly don't want Georgia Pacific to close and certainly support our state trying to do whatever it can. I am also sympathetic to citizens who will have this in their backyard. When you use the word Norridgewock or any of the other places where we have landfills, Sawyer Mountain, we know it is not just the waste from a paper mill. The question that I have to ask is when those hearings were held in Old Town for the permitting of the paper mill to have the landfill, were the people, in fact, at that point aware that that landfill would reach the proportions or the magnitude of Norridgewock or of Sawyer Mountain in the future or did they think that it would be a paper mill landfill only?

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

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. I am going to be very brief because it is Friday the 13th and I think our luck is about to run out on us. The difference I think between this landfill that is going in the Old Town area is that this is going to be state run and state governed. Unlike Hampden Landfill or Sawyer Mountain as we lovingly call it or the other ones, they have been private enterprise landfills. The toxic waste that has come into these landfills have come across the border from Massachusetts and New Hampshire because this was a for profit operation. I have talked to the Chief Executive about this, because I have had some concerns about it. He has indicated and I will never say he has assured me,

because that is not his domain to do that. We will be controlling the waste that goes into that landfill because this is a landfill that Maine residents' need. This is a landfill that the paper company needed in order to survive and to keep the jobs and the economy flowing, not only through Old Town and Alton, but Howland, Madawaska or wherever down into Bangor, but for the whole State of Maine. I am going to urge you to adopt this landfill zone. We are in the driver's seat. When I say we, I mean the State of Maine is in the driver's seat in this. We need this. Our people need this. Our economy needs this and wherever we go and whatever we do, dioxin is something we have to live with. We are trying to control it, but until we can put scrubbers and pollution controls on every plant in the mid west of the United States of America, we are going to breathe more poison in the air that they pump into than we are going to breathe out of this landfill. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Twomey. 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 **TWOMEY**: Mr. Speaker, Men and Women of the House. I apologize for rising yet one more time, but this will be an RFP that will be run privately and I do think the Casello Waste will be the only ones that could come in and bid on it and run it. We have no control because I asked that question from the DEP and once that waste is incinerated it becomes Maine waste. That ash is now Maine ash and there will only be 5 percent that we can control from out of state and it is not ash. The dioxin, whether you have scrubbers on the plant or not, comes into the ash because the trash is incinerated and it becomes more toxic. All those plastic bottles get burnt and the ash is more toxic. It is about 200 trucks going into Old Town with that ash, those 16 wheelers. Somebody must live around those roads. Thank you Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Adoption of Committee Amendment "A" (H-563). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 245**

YEA - Annis, Austin, Barstow, Berry, Bierman, Blanchette, Bliss, Bowles, Brannigan, Breault, Browne W, Bruno, Bryant-Deschenes, Bull, Bunker, Campbell, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cowger, Cressey, Crosthwaite, Cummings, Daigle, Dudley, Dunlap, Duplessie, Duprey B, Duprey G, Earle, Faircloth, Fischer, Fletcher, Gerzofsky, Glynn, Greeley, Grose, Hatch, Heidrich, Honey,

Hutton, Jackson, Jacobsen, Jennings, Jodrey, Kaelin, Kane, Ketterer, Koffman, Landry, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Maietta, Mailhot, Marley, Marraché, McCormick, McGlocklin, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Murphy, Muse, Norbert, Norton, Nutting, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Peavey-Haskell, Pellon, Pineau, Pingree, Piotti, Rector, Richardson E, Rines, Rogers, Rosen, Saviello, Shields, Snowe-Mello, Sukeforth, Suslovic, Sykes, Tardy, Thompson, Tobin D, Tobin J, Trahan, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Adams, Ash, Canavan, Eder, Gagne-Friel, Laverriere-Boucher, Makas, McKee, Percy, Richardson J, Richardson M, Sampson, Smith N, Stone, Twomey, Vaughan, Walcott.

ABSENT - Andrews, Bennett, Berube, Bowen, Brown R, Craven, Curley, Davis, Dugay, Finch, Goodwin, Hotham, Joy, McGowan, Moore, Perry A, Perry J, Sherman, Simpson, Smith W, Sullivan, Thomas, Treadwell, Usher.

Yes, 110; No, 17; Absent, 24; Excused, 0.

110 having voted in the affirmative and 17 voted in the negative, with 24 being absent, and accordingly **Committee Amendment "A" (H-563) was ADOPTED.**

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

Under further suspension of the rules the Resolve was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-563)** and sent for concurrence.

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

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

Representative **EARLE**: Mr. Speaker, Ladies and Gentlemen of the House. On Supplement 17, (4-1) had I been present, I would have voted yes. On the Enactors, (10-1), Supplement 19, LD 1634, had I been present, I would have voted yes.

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On motion of Representative PERRY of Bangor, the House adjourned at 12:32 a.m., until 10:00 a.m., Friday, June 13, 2003 in honor and lasting tribute to the Honorable Ian MacInnes, of Bangor and Germaine DeGruttla, of Lewiston.