

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

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First Special Session

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Second Regular Session

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Pages 777-1562

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
SECOND SPECIAL SESSION
17th Legislative Day
Thursday, March 11, 2004

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

Prayer by Reverend Nancy L. Moore, St. Augustine's, Dover-Foxcroft.

National Anthem by Renee Goodwin, Augusta and Emily Harradon, Portland.

Pledge of Allegiance.

Doctor of the day, Jennifer Hartman, M.D., Waterville.

The Journal of yesterday was read and approved.

COMMUNICATIONS

The Following Communication: (H.C. 349)

STATE OF MAINE

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

March 10, 2004

The Honorable Beverly C. Daggett

President of the Senate

The Honorable Patrick Colwell

Speaker of the House of Representatives

121st Legislature

State House

Augusta, ME 04333

Dear Madam President and Mr. Speaker:

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on Judiciary from the review and evaluation of the Office of the Attorney General under the State Government Evaluation Act. In its review, the committee found that the Office of the Attorney General is operating in accordance with its statutory authority and is meeting its statutory and administrative mandate.

Sincerely,

S/Senator Peggy A. Pendleton

Chair

S/Rep. William S. Norbert

Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.P. 762)

121ST LEGISLATURE

SENATE OF MAINE

OFFICE OF THE PRESIDENT

March 9, 2004

Honorable Joy J. O'Brien

Secretary of the Senate

3 State House Station

Augusta, ME 04333

Dear Secretary O'Brien:

Please be advised that I have appointed to the Committee of Conference on the disagreeing action between the two branches of the Legislature on Resolve, Authorizing Germaine Bell to Sue the State (S.P. 567) (L.D. 1613) the following conferees on the part of the Senate:

Senator Kenneth Gagnon of Kennebec

Senator Kenneth Lemont of York

Senator Arthur Mayo of Sagadahoc

Please let me know if you have any questions regarding these appointments.

Sincerely,
S/Sharon Anglin Treat
President Pro Tempore

Came from the Senate, **READ and ORDERED PLACED ON FILE.**

READ and ORDERED PLACED ON FILE in concurrence.

The Following Communication: (S.C. 492)

MAINE SENATE

121ST LEGISLATURE

OFFICE OF THE SECRETARY

March 10, 2004

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 nominations:

Upon the recommendation of the Joint Standing Committee on Agriculture, Conservation and Forestry, the nominations of Daniel Simonds of Rangeley, for appointment to the Board of Pesticides Control; James Nadeau of Winterville Plantation, Carol Murtaugh of Lubec, Jeffrey (Steve) Kahl of Old Town, and Rebecca Kurtz of Rangeley, for appointment to the Land Use Regulation Commission.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

ORDERS

On motion of Speaker COLWELL of Gardiner, the following Joint Resolution: (H.P. 1423) (Under suspension of the rules, cosponsored by Representatives: ADAMS of Portland, ANDREWS of York, ANNIS of Dover-Foxcroft, ASH of Belfast, AUSTIN of Gray, BARSTOW of Gorham, BEAUDETTE of Biddeford, BENNETT of Caribou, BERRY of Belmont, BERUBE of Lisbon, BIERMAN of Sorrento, BLANCHETTE of Bangor, BLISS of South Portland, BOWEN of Rockport, BOWLES of Sanford, BRANNIGAN of Portland, BREault of Buxton, BROWN of South Berwick, BROWNE of Vassalboro, BRUNO of Raymond, BRYANT-DESCHENES of Turner, BULL of Freeport, BUNKER of Kossuth Township, CAMPBELL of Newfield, CANAVAN of Waterville, CARR of Lincoln, CHURCHILL of Orland, CHURCHILL of Washburn, CLARK of Millinocket, CLOUGH of Scarborough, COLLINS of Wells, COURTNEY of Sanford, COWGER of Hallowell, CRAVEN of Lewiston, CRESSEY of Baldwin, CROSTHWAITE of Ellsworth, CUMMINGS of Portland, CURLEY of Scarborough, DAIGLE of Arundel, DAVIS of Falmouth, DUDLEY of Portland, DUGAY of Cherryfield, DUNLAP of Old Town, DUPLESSIE of Westbrook, DUPREY of Hampden, DUPREY of Medway, EARLE of Damariscotta, EDER of Portland, FAIRCLOTH of Bangor, FINCH of Fairfield, FISCHER of Presque Isle, FLETCHER of Winslow, GAGNE-FRIEL of Buckfield, GERZOFKY of Brunswick, GLYNN of South Portland, GOODWIN of Pembroke, GREELEY of Levant, GROSE of Woolwich, HATCH of Skowhegan, HEIDRICH of Oxford, HONEY of Boothbay, HOTHAM of Dixfield, HUTTON of Bowdoinham, JACKSON of Fort Kent, JACOBSEN of Waterboro, JENNINGS of Leeds, JODREY of Bethel, JOY of Crystal, KAELIN of Winterport, KANE of Saco, KETTERER of

Madison, KOFFMAN of Bar Harbor, LANDRY of Sanford, LEDWIN of Holden, LEMOINE of Old Orchard Beach, LERMAN of Augusta, LESSARD of Topsham, LEWIN of Eliot, LORING of the Penobscot Nation, LUNDEEN of Mars Hill, MAIETTA of South Portland, MAILHOT of Lewiston, MAKAS of Lewiston, MARLEY of Portland, MARRACHÉ of Waterville, McCORMICK of West Gardiner, McGLOCKLIN of Embden, McGOWAN of Pittsfield, McKEE of Wayne, McKENNEY of Cumberland, McLAUGHLIN of Cape Elizabeth, McNEIL of Rockland, MILLETT of Waterford, MILLS of Farmington, MILLS of Cornville, MOODY of Manchester, MOORE of the Passamaquoddy Tribe, MOORE of Standish, MURPHY of Kennebunk, MUSE of Fryeburg, NORBERT of Portland, NORTON of Bangor, NUTTING of Oakland, O'BRIEN of Augusta, O'BRIEN of Lewiston, O'NEIL of Saco, PARADIS of Frenchville, PATRICK of Rumford, PEAVEY-HASKELL of Greenbush, PELLON of Machias, PERCY of Phippsburg, PERRY of Calais, PERRY of Bangor, PINEAU of Jay, PINGREE of North Haven, PIOTTI of Unity, RECTOR of Thomaston, RICHARDSON of Greenville, RICHARDSON of Brunswick, RICHARDSON of Skowhegan, RINES of Wiscasset, ROGERS of Brewer, ROSEN of Bucksport, SAMPSON of Auburn, SAVIELLO of Wilton, SHERMAN of Hodgdon, SHIELDS of Auburn, SIMPSON of Auburn, SMITH of Monmouth, SMITH of Van Buren, SNOWE-MELLO of Poland, STONE of Berwick, SUKEFORTH of Union, SULLIVAN of Biddeford, SUSLOVIC of Portland, SYKES of Harrison, TARDY of Newport, THOMAS of Orono, THOMPSON of China, TOBIN of Windham, TOBIN of Dexter, TRAHAN of Waldoboro, TREADWELL of Carmel, TWOMEY of Biddeford, USHER of Westbrook, VAUGHAN of Durham, WALCOTT of Lewiston, WATSON of Bath, WHEELER of Kittery, WOODBURY of Yarmouth, WOTTON of Littleton, YOUNG of Limestone, Senators: BENNETT of Oxford, BLAIS of Kennebec, BRENNAN of Cumberland, BROMLEY of Cumberland, BRYANT of Oxford, CARPENTER of York, CATHCART of Penobscot, President DAGGETT of Kennebec, DAMON of Hancock, DAVIS of Piscataquis, DOUGLASS of Androscoggin, EDMONDS of Cumberland, GAGNON of Kennebec, GILMAN of Cumberland, HALL of Lincoln, HATCH of Somerset, KNEELAND of Aroostook, LAFOUNTAIN of York, LEMONT of York, MARTIN of Aroostook, MAYO of Sagadahoc, MITCHELL of Penobscot, NASS of York, PENDLETON of Cumberland, ROTUNDO of Androscoggin, SAVAGE of Knox, SAWYER of Penobscot, SHOREY of Washington, STANLEY of Penobscot, STRIMLING of Cumberland, President Pro Tem TREAT of Kennebec, TURNER of Cumberland, WESTON of Waldo, WOODCOCK of Franklin, YOUNGBLOOD of Penobscot)

JOINT RESOLUTION COMMEMORATING THE HOLOCAUST HUMAN RIGHTS CENTER OF MAINE'S LEGISLATIVE AWARENESS DAY AND YOM HASHOAH, THE DAY OF REMEMBRANCE OF THOSE WHO SUFFERED AS VICTIMS OF THE HOLOCAUST

WHEREAS, from 1933 to 1945, 6,000,000 Jews were murdered in the Holocaust as part of a systematic program of genocide, and millions of other people suffered as victims of Nazism; and

WHEREAS, the people of the State of Maine should always remember the atrocities committed by the Nazis so that such horrors are never repeated; and

WHEREAS, the people of the State of Maine should always remember those who liberated the Nazi concentration camps, some at the cost of their lives and others with lifelong emotional suffering, as holding an honored place in our history; and

WHEREAS, the people of the State of Maine should continually rededicate themselves to the principle of equal justice for all people, remain eternally vigilant against all tyranny and

recognize that bigotry provides a breeding ground for tyranny to flourish; and

WHEREAS, March 11, 2004 has been designated as the Holocaust Human Rights Center of Maine's Legislative Awareness Day; and

WHEREAS, April 18, 2004 has been designated internationally as a Day of Remembrance of the Victims of the Holocaust, and is known as Yom HaShoah; and

WHEREAS, the national community, pursuant to an Act of Congress, will be commemorating the week of April 18th to April 25th as the Days of Remembrance of the Victims of the Holocaust, with the theme of "For Justice and Humanity"; and

WHEREAS, it is appropriate for the people of the State of Maine to join in the national and international commemorations; now, therefore, be it

RESOLVED: That, We, the Members of the One Hundred and Twenty-first Legislature now assembled in the Second Special Session, on behalf of the people we represent, pause in solemn memory of the victims of the Holocaust, urge one and all to recommit themselves to the lessons of the Holocaust through the Holocaust Human Rights Center of Maine's Legislative Awareness Day and the national week of commemoration and express our common desire to continually strive to overcome prejudice and inhumanity through education, vigilance and resistance; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the United States Holocaust Memorial Council in Washington, D.C., and the Holocaust Human Rights Center of Maine, on behalf of the people of the State of Maine.

READ and ADOPTED.

Sent for concurrence.

On motion of Representative DUNLAP of Old Town, the following Joint Resolution: (H.P. 1424) (Under suspension of the rules, cosponsored by Representatives: ADAMS of Portland, ANDREWS of York, ANNIS of Dover-Foxcroft, ASH of Belfast, AUSTIN of Gray, BARSTOW of Gorham, BEAUDETTE of Biddeford, BENNETT of Caribou, BERRY of Belmont, BERUBE of Lisbon, BIERMAN of Sorrento, BLANCHETTE of Bangor, BLISS of South Portland, BOWEN of Rockport, BOWLES of Sanford, BRANNIGAN of Portland, BREAULT of Buxton, BROWN of South Berwick, BROWNE of Vassalboro, BRUNO of Raymond, BRYANT-DESCHENES of Turner, BULL of Freeport, BUNKER of Kossuth Township, CAMPBELL of Newfield, CANAVAN of Waterville, CARR of Lincoln, CHURCHILL of Orland, CHURCHILL of Washburn, CLARK of Millinocket, CLOUGH of Scarborough, COLLINS of Wells, Speaker COLWELL of Gardiner, COURTNEY of Sanford, COWGER of Hallowell, CRAVEN of Lewiston, CRESSEY of Baldwin, CROSTHWAITE of Ellsworth, CUMMINGS of Portland, CURLEY of Scarborough, DAIGLE of Arundel, DAVIS of Falmouth, DUDLEY of Portland, DUGAY of Cherryfield, DUPLESSIE of Westbrook, DUPREY of Hampden, DUPREY of Medway, EARLE of Damariscotta, EDER of Portland, FAIRCLOTH of Bangor, FINCH of Fairfield, FISCHER of Presque Isle, FLETCHER of Winslow, GAGNE-FRIEL of Buckfield, GERZOFSKY of Brunswick, GLYNN of South Portland, GOODWIN of Pembroke, GREELEY of Levant, GROSE of Woolwich, HATCH of Skowhegan, HEIDRICH of Oxford, HONEY of Boothbay, HOTHAM of Dixfield, HUTTON of Bowdoinham, JACKSON of Fort Kent, JACOBSEN of Waterboro, JENNINGS of Leeds, JODREY of Bethel, JOY of Crystal, KAELIN of Winterport, KANE of Saco, KETTERER of Madison, KOFFMAN of Bar Harbor,

LANDRY of Sanford, LEDWIN of Holden, LEMOINE of Old Orchard Beach, LERMAN of Augusta, LESSARD of Topsham, LEWIN of Eliot, LORING of the Penobscot Nation, LUNDEEN of Mars Hill, MAIETTA of South Portland, MAILHOT of Lewiston, MAKAS of Lewiston, MARLEY of Portland, MARRACHÉ of Waterville, McCORMICK of West Gardiner, McGLOCKLIN of Embden, McGOWAN of Pittsfield, McKEE of Wayne, McKENNEY of Cumberland, McLAUGHLIN of Cape Elizabeth, McNEIL of Rockland, MILLETT of Waterford, MILLS of Farmington, MILLS of Cornville, MOODY of Manchester, MOORE of the Passamaquoddy Tribe, MOORE of Standish, MURPHY of Kennebunk, MUSE of Fryeburg, NORBERT of Portland, NORTON of Bangor, NUTTING of Oakland, O'BRIEN of Augusta, O'BRIEN of Lewiston, O'NEIL of Saco, PARADIS of Frenchville, PATRICK of Rumford, PEAVEY-HASKELL of Greenbush, PELLON of Machias, PERCY of Phippsburg, PERRY of Calais, PERRY of Bangor, PINEAU of Jay, PINGREE of North Haven, PIOTTI of Unity, RECTOR of Thomaston, RICHARDSON of Greenville, RICHARDSON of Brunswick, RICHARDSON of Skowhegan, RINES of Wiscasset, ROGERS of Brewer, ROSEN of Bucksport, SAMPSON of Auburn, SAVIELLO of Wilton, SHERMAN of Hodgdon, SHIELDS of Auburn, SIMPSON of Auburn, SMITH of Monmouth, SMITH of Van Buren, SNOWMELLO of Poland, STONE of Berwick, SUKEFORTH of Union, SULLIVAN of Biddeford, SUSLOVIC of Portland, SYKES of Harrison, TARDY of Newport, THOMAS of Orono, THOMPSON of China, TOBIN of Windham, TOBIN of Dexter, TRAHAN of Waldoboro, TREADWELL of Carmel, TWOMEY of Biddeford, USHER of Westbrook, VAUGHAN of Durham, WALCOTT of Lewiston, WATSON of Bath, WHEELER of Kittery, WOODBURY of Yarmouth, WOTTON of Littleton, YOUNG of Limestone, Senators: BENNETT of Oxford, BLAIS of Kennebec, BRENNAN of Cumberland, BROMLEY of Cumberland, BRYANT of Oxford, CARPENTER of York, CATHCART of Penobscot, President DAGGETT of Kennebec, DAMON of Hancock, DAVIS of Piscataquis, DOUGLASS of Androscoggin, EDMONDS of Cumberland, GAGNON of Kennebec, GILMAN of Cumberland, HALL of Lincoln, HATCH of Somerset, KNEELAND of Aroostook, LAFOUNTAIN of York, LEMONT of York, MARTIN of Aroostook, MAYO of Sagadahoc, MITCHELL of Penobscot, NASS of York, PENDLETON of Cumberland, ROTUNDO of Androscoggin, SAVAGE of Knox, SAWYER of Penobscot, SHOREY of Washington, STANLEY of Penobscot, STRIMLING of Cumberland, President Pro Tem TREAT of Kennebec, TURNER of Cumberland, WESTON of Waldo, WOODCOCK of Franklin, YOUNGBLOOD of Penobscot)

JOINT RESOLUTION ENDORSING OPERATION COMMUNITY SUPPORT

WHEREAS, the President of the United States has activated and deployed thousands of men and women from throughout the nation to assignments and missions related to the ongoing global war on terror and in support of Operation Iraqi Freedom; and

WHEREAS, the State of Maine now ranks 2nd highest in the nation in percentage of National Guard personnel deployed in Iraq; and

WHEREAS, citizens throughout the State support and appreciate the brave men and women serving in the United States military and wish them well in their dangerous missions and a safe return to their families and friends; and

WHEREAS, we gratefully acknowledge that we live in freedom today because of the many sacrifices that have been made by the valiant servicemen and servicewomen in the Armed Forces and their families; and

WHEREAS, a statewide movement, Operation Community Support, has been established with the mission of easing

burdens of the families of our citizen soldiers serving overseas with community resources from those wishing to express their support to the families by extending complimentary admissions to selected community cultural and sporting events, museums, camps, schools and other events and programs; now, therefore, be it

RESOLVED: That We, the Members of the Senate and House of Representatives of the 121st Legislature now assembled in the Second Special Session, urge communities throughout the State to become a "Battle Buddy" and join Operation Community Support; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Department of Defense, Veterans and Emergency Management to be given to military family assistance programs throughout the State.

READ.

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

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. I am very pleased to rise to present this Joint Resolution endorsing Operation Community Support. Operation Community Support is not an organization per say. It is really more of a movement. It began in recent months in the Bangor area. It was the brainchild of a distinguished citizen of that fair city, a man named Skip Shappell, you may remember him as the famous basketball coach at the University of Maine. He got it into his head that maybe we should do something to help the families of those serving overseas. That is where Operation Community Support began. It was a very small idea, but people have flocked to it. It has enjoyed tremendous support across the state and outside the state as well.

We have had a lot of debates over the years on policies within this state. Some of us have debated foreign policy within this chamber. I think we all support the troops overseas and this is the easiest material way to support those troops. In my studies as a student, of course, we read the tale of Odysseus where he is trying to get home from a long war not knowing how his family was fairing and they not knowing how he was fairing. People in my district, neighbors of mine, who have sons and daughters overseas and can communicate with those people in real time with cell phones and e-mail. It doesn't make the separation really any easier. For families who are left behind while their sons and daughters and husbands, wives, fathers and mothers are serving overseas, it can be a real hardship, not only emotionally, but materially as well.

Operation Community Support has tried to address that with just special things that otherwise could not be done for those families, including, but not limited to, tickets to hockey games in the skyboxes at Alford, the Boston Celtics have stepped up to the plate and offered 100 tickets for people to come and see those games. I think it makes it so much easier for those troops overseas who are serving to know that their families are being watched over by their neighbors and it makes them sleep a little bit easier under those desert skies. I urge you to support this Resolution. Thank you very much.

Subsequently, was **ADOPTED**.

Sent for concurrence.

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

On motion of Representative WHEELER of Kittery, the following House Order: (H.O. 49)

ORDERED, that Representative Robert A. Berube of Lisbon be excused Wednesday, March 3rd and Thursday, March 4th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Harold A. Clough of Scarborough be excused Tuesday, March 9th for health reasons.

AND BE IT FURTHER ORDERED, that Representative John F. Piotti of Unity be excused Thursday, March 4th for legislative business.

AND BE IT FURTHER ORDERED, that Representative Edward J. Suslovic of Portland be excused Wednesday, March 3rd and Thursday, March 4th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Joanne T. Twomey of Biddeford be excused Tuesday, March 2nd, Wednesday, March 3rd and Thursday, March 4th for health reasons.

READ and PASSED.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-417)** on Bill "An Act To Ensure Uniform Code Compliance and Efficient Oversight of Construction in the State"

(S.P. 356) (L.D. 1025)

Signed:

Senators:

BROMLEY of Cumberland

HALL of Lincoln

SHOREY of Washington

Representatives:

SULLIVAN of Biddeford

ROGERS of Brewer

SMITH of Monmouth

PELLON of Machias

JACOBSEN of Waterboro

BERUBE of Lisbon

AUSTIN of Gray

RECTOR of Thomaston

O'BRIEN of Lewiston

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

Signed:

Representative:

DUPREY of Medway

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-417).**

READ.

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

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

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended**

by **Committee Amendment "A" (H-750)** on Bill "An Act Regarding the Sale of Weapons at Gun Shows"

(H.P. 674) (L.D. 917)

Signed:

Senators:

STRIMLING of Cumberland

CARPENTER of York

Representatives:

BLANCHETTE of Bangor

MAIETTA of South Portland

GROSE of Woolwich

GREELEY of Levant

GERZOFISKY of Brunswick

CHURCHILL of Washburn

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

Signed:

Senator:

HATCH of Somerset

Representatives:

SYKES of Harrison

SNOWE-MELLO of Poland

MILLS of Farmington

LESSARD of Topsham

READ.

On motion of Representative DUPLESSIE of Westbrook, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act To Exempt Unemployment Benefits from State Income Tax" (EMERGENCY)

(H.P. 1267) (L.D. 1745)

Signed:

Senator:

NASS of York

Representatives:

McGOWAN of Pittsfield

TARDY of Newport

McCORMICK of West Gardiner

SIMPSON of Auburn

CLOUGH of Scarborough

COURTNEY of Sanford

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-755)** on same Bill.

Signed:

Senators:

STANLEY of Penobscot

STRIMLING of Cumberland

Representatives:

LEMOINE of Old Orchard Beach

SUSLOVIC of Portland

PERRY of Bangor

LERMAN of Augusta

READ.

Representative DUPLESSIE of Westbrook moved that the House **ACCEPT** the Minority **Ought to Pass as Amended** Report.

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

Majority Report of the Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-756)** on Bill "An Act To Conform the Maine Tax Laws for 2003 to the United States Internal Revenue Code" (EMERGENCY) (H.P. 1229) (L.D. 1651)

Signed:

Senators:

STANLEY of Penobscot
STRIMLING of Cumberland

Representatives:

LEMOINE of Old Orchard Beach
McGOWAN of Pittsfield
SUSLOVIC of Portland
SIMPSON of Auburn
PERRY of Bangor
LERMAN of Augusta

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-757)** on same Bill.

Signed:

Senator:

NASS of York

Representatives:

TARDY of Newport
McCORMICK of West Gardiner
CLOUGH of Scarborough
COURTNEY of Sanford

READ.

Representative DUPLESSIE of Westbrook 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.

(S.P. 685) (L.D. 1842) Bill "An Act To Remove the Designation of the Lake Christopher Wildlife Management Area as a Wildlife Management Area" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass**

On motion of Representative DUNLAP of Old Town, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ** and **ACCEPTED**. The Bill was **READ ONCE**.

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

Representative DUNLAP of Old Town **PRESENTED House Amendment "A" (H-760)**, which was **READ** by the Clerk.

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

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. It is a very simple amendment, but it is a very complicated issue. We basically have two pieces of legislation out of two different committees that deal with wildlife management areas. The Committee on Agriculture, Conservation and Forestry have been entertaining legislation that would transfer a parcel of land to a land trust. It is partially designated as a land trust. It is partially designated as a wildlife management area. They are dealing with this in a Resolve. They cannot make such a designation to remove this wildlife management area from the statute with a Resolve, so we are doing it in this bill. It is a germane amendment. It is sort of technical, but I will be happy to answer any question people have about it. It is perfectly acceptable to do this. We have members on both committees who have been watching this very carefully. This is A okay. Thank you Mr. Speaker.

House Amendment "A" (H-760) was ADOPTED.

The Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-760) in NON-CONCURRENCE** and sent for concurrence.

CONSENT CALENDAR

First Day

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

(S.P. 617) (L.D. 1685) Bill "An Act To Improve Awareness of Meningococcal Disease" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-418)**

(S.P. 694) (L.D. 1854) Bill "An Act To Delay the Implementation of Restrictions on Information on Electronically Printed Receipts" (EMERGENCY) Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-420)**

(H.P. 1354) (L.D. 1831) Resolve, Regarding Legislative Review of Portions of Chapter 360: Responsibilities of Manufacturers, Distributors, Dealers and Redemption Centers under the Returnable Beverage Container Law, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources (EMERGENCY) Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-758)**

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

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

CONSENT CALENDAR

Second Day

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

(S.P. 214) (L.D. 605) Bill "An Act To Increase the Bond Limit of the Maine Turnpike Authority" (C. "A" S-411)

(H.P. 1274) (L.D. 1752) Bill "An Act To Update Laws Affecting the Military" (C. "A" H-752)

(H.P. 1277) (L.D. 1755) Bill "An Act To Amend the Election Laws" (C. "A" H-753)

(H.P. 1286) (L.D. 1764) Bill "An Act To Improve the Operations of the Department of Corrections and the Safety of State Correctional Facilities" (C. "A" H-749)

(H.P. 1338) (L.D. 1816) Bill "An Act Concerning Technical Changes to the Tax Laws" (C. "A" H-754)

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

BILLS IN THE SECOND READING
House as Amended

Bill "An Act to Establish Instant Run-off Voting"
(H.P. 171) (L.D. 212)
(C. "A" H-751)

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

ENACTORS
Emergency Measure

Resolve, Regarding Legislative Review of Chapter 25.20: Protected Resources, a Major Substantive Rule of the Department of Marine Resources

(H.P. 1359) (L.D. 1834)

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. 121 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.

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

Acts

An Act To Make Polling Places More Convenient
(H.P. 1216) (L.D. 1639)

An Act To Amend Transportation Laws
(S.P. 605) (L.D. 1654)
(C. "A" S-406)

An Act To Promote Responsible Pet Ownership
(H.P. 1285) (L.D. 1763)
(C. "A" H-727)

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. **ORDERED SENT FORTHWITH.**

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

UNFINISHED BUSINESS

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

An Act To Revise the Minimum Firefighter Safety Standards (MANDATE)

(H.P. 1311) (L.D. 1789)
(C. "A" H-691)

TABLED - March 2, 2004 (Till Later Today) by Representative DUPLESSIE of Westbrook.

PENDING - **PASSAGE TO BE ENACTED.**

Was 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. 102 voted in favor of the same and 27 against, and

accordingly the Mandate was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

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

Representative **BOWLES**: Thank you Mr. Speaker. I was trying to vote on that and my voting button was not working. I wish to be recorded as nay.

The SPEAKER: The Chair has already closed the vote. We will record in the Record the Representative's wish.

THE SPEAKER: The Chair recognizes the Representative from Newfield, Representative Campbell who wishes to address the House on the record.

Representative **CAMPBELL**: Mr. Speaker, my button didn't work either when I pushed it. I would vote yes.

The SPEAKER: The vote has been closed, as I said, but the Record will reflect the Representative's wish.

THE SPEAKER: The Chair recognizes the Representative from Carmel, Representative Treadwell who wishes to address the House on the record.

Representative **TREADWELL**: Thank you Mr. Speaker. There seems to be something wrong with all these voting switches, because mine didn't work either, nor my seatmate who was trying to vote as well before you called for the close of the vote.

The SPEAKER: It is indeed unusual that the switches were only not functional on that side of the aisle. The Record will so reflect that the Representative from Carmel, Representative Treadwell, wishes to be recorded as yes.

THE SPEAKER: The Chair recognizes the Representative from Sanford, Representative Bowles who wishes to address the House on the record.

Representative **BOWLES**: Thank you Mr. Speaker. I wish to object to the actions by the Chair in this matter.

The SPEAKER: The Representative may object, but there is nothing the Chair can do. The Chair sent these bills forthwith. The vote was closed. It was duly recorded. I wish that I could help, but there is really nothing the Chair can do. The bill was sent forthwith.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno who wishes to address the House on the Record.

Representative **BRUNO**: Thank you Mr. Speaker. What the Chair can do is apologize for an uncalled for remark.

The SPEAKER: The Chair was just commenting on the unusual nature of the malfunctioning of the voting machine. If there was any offense taken, certainly the Chair would.

SENATE DIVIDED REPORT - Majority (9) **Ought to Pass as Amended by Committee Amendment "A" (S-407)** - Minority (3) **Ought to Pass as Amended by Committee Amendment "B" (S-408)** - Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Facilitate the Recovery of Stolen Property"

(S.P. 647) (L.D. 1715)

- In Senate, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-407)**.

TABLED - March 9, 2004 (Till Later Today) by Representative SULLIVAN of Biddeford.

PENDING - **ACCEPTANCE OF EITHER REPORT.**

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

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

Representative SULLIVAN: Mr. Speaker, Men and Women of the House. I hope you recall the words that started this session today. It seems to me, in my humble opinion, it might have not gotten off to the best start. I ask you to consider the Ought to Pass as Amended report. All this does, the committee looked at this bill, there were some good aspects to it, but it also had a real problem for small businesses and so this amended report simply moves this piece of language from one law into another law on public safety. It is simply a movement. No law is changed. Nothing is added. That is the reason for it. The Majority Report is what I am asking you to move. Thank you.

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

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

The SPEAKER: The Representative may pose her question.

Representative MILLS: Mr. Speaker, Ladies and Gentlemen of the House. The question is, because I don't have my statutes in front of me, does this Majority Report create a new Class E Crime when a dealer and used personal property, a junk dealer or pawn shop owner, violates any of the requirements of this section or the seller providing false identification to a dealer in Paragraph 4 of this new subchapter is that a new crime or was that on the books in Title 15 already?

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

Representative SULLIVAN: Mr. Speaker, Men and Women of the House. I certainly can appreciate your having a hard time hearing, because I am also having a hard time hearing. However, as I earlier stated, this does not change anything in the law. It simply moves it to a different chapter where the analyst is a lawyer has said it best fits into our laws. Nothing has changed. We have not made anything an E Class, a G Class or Z Class. We simply are changing this to a different place. This is why it is Ought to Pass as Amended. The amendment being a moving of one of it in law. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative CARR: Mr. Speaker, Men and Women of the House. If I read correctly, (S-407) is a Majority Report. If that is

what is being moved, and I understand that it is, records are required for every dealer in used personal property, would that apply to people who sell antiques, other used property, other than people who are actually running a pawn shop?

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

Representative SULLIVAN: Mr. Speaker, Ladies and Gentlemen of the House. I moved the Majority Report, the report that I am not on, because we had questions. The Maine Merchant's Association and the Automobile Dealers had questions as to what this law would do. I have in front of me a letter from Jim McGuire, which is the Maine Merchant's Association. It starts out, "Nancy, the Majority Report on LD 1715, stolen property, is okay and doesn't really change anything. It just moves existing law to another chapter. Would like to see the Majority Report accepted. It would reflect the Senate's action". I read that simply because it is in it and knowing that the laws do not let us say what has gone on in another chamber. However, that is from Jim McGuire representing the small business and I am simply doing what we have been asked to do and it does not affect any change in law. Thank you.

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

Representative CARR: Mr. Speaker, Men and Women of the House. As I read this, I have to confess that I just began to read this, I think it may have some problems that we don't expect as it relates to small business. It doesn't differentiate the difference between a pawnshop and someone who is selling antiques out of their home or other place. It looks to me like anybody who is dealing in used personal property must keep a record, which I don't think is required at this time. That would certainly be a change in law. There are some other issues in there as well. I think it would be wise to take a little harder look at that. I am not sure exactly what Representative Mills was speaking to, but it may be along the same lines as what I am alluding to at this time. I think that used personal property has far reaching definition. Even though small business organizations may represent a lot of businesses, I doubt very much that they took a survey of all of those businesses to see how they feel about it. Those businesses if they have to keep a record of every small item that comes in, we have a small antique shop in my town that constantly has people coming and going. There is a used clothing store in town that deals in used clothing. I think as this is written, unless somebody can correct me on this, they would have to keep a record of all of those items. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Austin.

Representative AUSTIN: Mr. Speaker, Ladies and Gentlemen of the House. I believe that what we are looking at is the Senate majority amendment, not the minority position from the Senate. I think that should clarify it.

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

A vote of the House was taken. 74 voted in favor of the same and 49 against, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-407)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Tuesday, March 16, 2004.

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

HOUSE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (6) **Ought to Pass as Amended by Committee Amendment "A" (H-755)** - Committee on **TAXATION** on Bill "An Act To Exempt Unemployment Benefits from State Income Tax" (EMERGENCY)

(H.P. 1267) (L.D. 1745)

Which was **TABLED** by Representative DUPLESSIE of Westbrook pending his motion to **ACCEPT** the Minority **Ought to Pass as Amended Report**.

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

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. I would speak in support of the Minority Ought to Pass as Amended Report. I would ask for a roll call.

Representative **LEMOINE** of Old Orchard Beach **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought to Pass as Amended Report**.

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

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

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. There are thousands of Maine working men and women who are without their jobs as we sit here this morning. That is an increasingly common reality in this state. All of those men and women, as they have worked to support themselves and their families, have also paid an insurance premium. That insurance premium goes to the unemployment fund and they are able to draw down upon that when they are involuntarily let go. Anybody who quits is not eligible for unemployment. This covers only people who have been let go from their jobs through no choice or action of their own. Many of them take very substantial pay cuts. In the economy we have in this state at the moment, it is very difficult to find new jobs, let alone jobs that pay what they were earning before.

With that as background, Representative Clark, brought forward this bill earlier this year and what it does is say that if you have been involuntarily let go and while you are unable to find new employment and acknowledging the fact that you have worked to support yourself, your family and indeed your community, we should not tax the income on those unemployment benefits. I think that is good policy. I think it supports the working men and women of this state. It is a change that we should say is correct. We should adopt it and we should pass it through this House today. I urge you to vote yes and follow my light.

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

Representative **COURTNEY**: Mr. Speaker, Ladies and Gentlemen of the House. The good Chair, Representative Lemoine, brings up some good points. However, some of us on the majority side of the report felt that these benefits are not taxed anyway. If you earn the maximum unemployment benefit, which is approximately \$300 a week, you are at the \$15,000 a year limit. That would not be taxed. I guess what we are doing, essentially, is to create a tax break for incomes above the minimum when we already tax people at \$16,800 at the highest rate allowable in the state. I just want to let everybody know the other side of the story here.

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

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. Over the last year or so, up in my area, the Katahdin region, I have had a lot of constituents come to me to ask to put this bill in. Congressman Michaud has also put the same bill in in the federal level. Of course, the political differences between one party to the other, that bill will probably not make it to the floor.

I heard from my constituents loud and clear that the reason they don't want unemployment benefits to be taxed is that they are losing some money to help pay for their family's fuel, food, health care and so on and so forth.

You have an option to check a box when you start up for unemployment, to see if you want to pay income tax to the state. You can withhold that, which is about 5 percent, and at the end of the year when you start to collect your income tax, you would have to pay into the Maine income tax system. A lot of my constituents decided that that would not be the best thing to do. They did not want to take away from their families more money for their families to survive on. They checked the box to pay the extra \$20 to \$25 a week out of the checks.

When I presented this bill in front of the Taxation Committee, a lot of people said, you mill workers, you make \$50,000 or \$60,000 or \$70,000 a year. Let me tell you something, ladies and gentlemen, I didn't make \$50,000 or \$60,000 or \$70,000 a year. In order to make that type of money, you would have to live there day and night, work immense overtime to reach that plateau of wages. When you take out taxes and when you take out health insurance and when you take out benefits, 401K to help save for the future for your children and also for your spouse and your retirement, you are losing close to half that money when you pay taxes at the end of the year.

Up and down the street, now we have layoffs in Lincoln and Brewer. We have more layoffs day in and day out throughout the State of Maine. This just gives them another tool or another \$20 to help put food on the table for the families or fuel in the tank for heating oil.

I know that there is a big fiscal note, \$2.5 million. Let's help out some of these people that need it the most that are unemployed. The numbers that came out last, Tuesday, say the Maine unemployment rate is 4.9 percent. It is down. The reason it is down ladies and gentlemen, is because so many people have been unemployed that their unemployment has run out. They drop off the rolls and that number decreases.

We have 1,300 people in my area and only about 300 went back to work. We have 750 in the Lincoln/Brewer area. We have more people down in Sanford a couple years ago with DJ Sprague. We have them all over the State of Maine. SCI laid off a big number of people here in Augusta. I can go on and on and on with all the layoffs here in the State of Maine. These people collect unemployment. They are not on the system to get their \$265 a week maximum payout. They are out there day in and day out trying to find jobs. As everybody in this chamber knows, it is hard to find a job now, very hard. If you live in my region of Millinocket, Maine, a house is going for \$21,000. In order for you to make a living, since there are not jobs in that area, because we are looking at regionalization, ladies and gentlemen, let's take that money out of regionalization and put in job creation where we need it. Put the jobs back in these areas so these people don't have to travel to Portland. I have 25 people I represent that traveled to Massachusetts week in and week out to get on a plane in Boston to fly to Kentucky, California, Chile, to put paint machines back together, tear them apart and move them all over the United States and in foreign countries. They didn't want to collect unemployment. They went out. They are leaving the families back home. This issue hits very close to home. I have a

lot of constituents back home that give me calls day in and day out. I had one just this morning, when is that bill going to come to the floor? I can't stand it anymore. The government is just suppressing me. It has me right by the neck with no jobs. I hope you follow my light along with the good Chair from Taxation. Thank you ladies and gentlemen.

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

Representative **CLOUGH**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to clear up a couple of things. First, my good friend from Old Orchard, Representative Lemoine, I believe I heard him say that the insurance premiums were paid by these workers. Of course, the premiums on the insurance are paid by the employer. The other thing Representative Courtney mentioned, the fact that extended unemployment would most likely be subject to tax or very little tax because of the amount that they receive from this insurance is not a great deal. They would not have their income reduced during the time they were receiving it if they elected not to have the income tax removed when they receive it. That is a choice that you make when you sign up for unemployment. You do not have to have tax deducted if you do not choose to do so. 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. I would urge that we oppose the pending motion, which as I understand it would adopt the proposed bill. One of the most prominent features of our income tax system, at least as it was designed back in 1969 is that it would conform as closely as possible to our rather complex federal statute. There are many, many reasons why that is a good idea. One of the biggest reasons is when the federals do an audit, we get the indirect benefit of their administrative management of the income tax system. Unfortunately in the last 35 years that our income tax has been in effect, we have by one means or another drifted away from conformity to the federal model and as a result our lives are becoming increasingly more complicated and it has been increasingly more necessary for people of even ordinary means to have to hire a CPA or at the very least H & R Block in order to get through this season of the year.

It needs also to be pointed out that unemployment benefits as I understand it are not subject to social security or Medicare taxes. There is already a significant tax benefit accruing to those who are having to rely on unemployment compensation.

The final thing I would like to point out is this, the only reason someone who is on unemployment would have to pay income taxes to the State of Maine would be if he has income in addition to unemployment benefits. The minimum threshold necessary to pay income taxes in Maine for a family of four this year is \$19,550 or approximately \$20,000. When you add up the standard deduction and four personal exemptions, before you pay \$1 of income taxes to the State of Maine, that family has to earn at least just shy of \$20,000. The people who are paying this tax are, for the most part, people who have picked up some unemployment compensation during the year, but whose incomes, whose family incomes have been significantly supported by ordinary wages that they have earned during the rest of the year. It is no secret that we have many industries in Maine, the construction industry in Maine notoriously among them, who simply rely on unemployment compensation as winter wages. They go to work right after mud season in May or June. They remain employed until the last day you can do any paving, sometime in November or December. Boom, you are out on unemployment every single winter from Christmas until May.

This is a pattern that repeats itself over and over again and adds greatly, frankly, to the expense of the unemployment security system.

These folks should be paying, I'm sorry, income taxes to the state and they do pay it to the feds on their winter incomes, which is unemployment compensation. For that reason, I urge that we vote against the pending motion. Thank you.

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

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. I would remind everybody that in order to qualify for unemployment compensation you must be involuntarily unemployed. This is not a worker's choice. You have found yourself without a job. You are required to continue to look for a new job. I think to lay an industry practice on the feet of working men and women of this state is not right and should not be supported.

I would add to that that we have heard a number of comments this morning about how anybody receiving unemployment benefits throughout the year would not be subject to Maine taxation. Let me remind the members that that assumes that all you have done for the year has been unemployed and that you haven't worked and that you are not working anywhere at any time during the year. As soon as you start working, the odds get very high that you are going to earn enough that combined with your unemployment income, even if you have maxed that out, you will be paying Maine income taxes. As we have heard, that number is very low. It is too low to support a family in this state. We ought to give Maine working men and women who are involuntarily unemployed an income tax break and that is how I will be voting this morning.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I was reading over this particular bill and also the corresponding fiscal note. During the debate the good Representative from Millinocket had stated that the bill had a \$2.5 million fiscal note. Upon reading the fiscal note, that is accurate for the first year. However, after that, the fiscal note is an additional \$6.3 million a year thereafter. My concern and my question, if I may, we are currently dealing with a shortfall of \$150 million and the Executive, Governor Baldacci, has proposed several draconian cuts to Medicaid, Maine Care, hospital tax increases, etc. If we compound this problem by passing this bill with another \$2.5 million fiscal reduction for 2003/2004 and then an addition \$6.3 million thereafter, where is the money coming from?

The SPEAKER: The Representative from South Portland, Representative Glynn has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Old Orchard Beach, Representative Lemoine.

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. In answer to the question, as the members of this body know, if this bill is passed here and indeed passes in the other body, it will go onto the Appropriations Table where it will fight for space with all of the other priorities that we set as a state. If we wish to disable potential tax changes because they must go onto the Appropriations Table, I think that is a debate that we can see a lot of in the next few weeks. This is a debate about what is right by way of tax policy for Maine's working men and women. My vote remains the same.

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

Representative **SIMPSON**: Mr. Speaker, Men and Women of the House. It is with great discomfort that I stand up to oppose the good Chair from Old Orchard Beach. As a working person all my life, working in my adult life for low wages, relatively speaking, half the minimum wage, I understand that it is hard to be unemployed and for people who are unemployed their incomes have dropped dramatically. I can't say that it is okay for them to not pay income taxes on their unemployment benefits if their annual income puts them in a tax bracket where they should be paying income taxes when their neighbors who could be working every single day at a low wage job will be paying those income taxes. That is the reason I oppose the pending motion. I hope you will consider that there needs to be equity in taxes. Thank you.

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

Representative **COURTNEY**: Mr. Speaker, Ladies and Gentlemen of the House. It is a very emotional issue. You can say that this is providing relief for misplaced workers. I certainly agree with that. We have people that work all year round and they don't earn anywhere near what this benefit would provide for some people. They are forced to pay for it and thus subsidize it. My good friend, the Representative from Auburn, makes a terrific point. I think if you look at the fiscal note, the way to understand this is you follow the money. If you are providing relief for families earning under \$20,000, I think it is actually a little higher than that, then there would be no money, no fiscal note on that. Where the fiscal note comes in and it grows tremendously in the next year is for workers earning above that. If you just follow the money, it shows you that we are providing a benefit because someone was laid off. That is a terrible thing to go through. I have gone through it. It is nothing that anyone ever wants to go through. There are people that end up working all year long that end up making less than that and those are the ones that are going to be called on to subsidize it. I would ask you to defeat the pending motion. Thank you.

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

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. While we debate today about the maximum payout of unemployment, which is about \$265 a week. That is if you work your seven quarters in a row and you have the maximum benefit allotment for unemployment. Some of these jobs that people are getting laid off from, yes, I know there are a lot in the paper products industry that are getting laid off, but also you have to look at these other industries. I am just going to pick a few. You might be a switchboard operator. You might be some type of clerical. You don't make the maximum allotment for that unemployment. You don't make \$265 a week. You will probably only bring home \$187 or \$165. It is not the amount of money that comes in on the weekly check. That varies from the type of job and the amount of weeks that you have worked there. Yes, the Representative from Scarborough is correct. The employers pay this as a tax. I get a kick when we talk about double dipping. This is double dipping. You are taxing the businesses to pay for that as an unemployment benefit and when the unemployed worker gets it, it is taxed again to be put back into the state coffers. That is what is called double dipping.

Just remember that it is not the maximum allotment of \$265 for everybody here in the State of Maine. It might be \$187 or \$150. Yes, the good Representative from Cornville, Representative Mills, who I respect a lot, there are abuses in the

unemployment system, but there are abuses in every system in state government, even in the Legislature there are abuses. We have to put that aside. We have to think about your constituents here on the floor of the House today, the people that put you here, Democrats, Republicans, Independents, Greens, everybody. I hope you follow my light. Thank you.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Lerman.

Representative **LERMAN**: Mr. Speaker, Men and Women of the House. Simply stated, what this bill does is it provides a very modest amount of support for middle classed families who get laid off. This is what this bill is about. These are the folks who contribute day in and day out to our economy and to our tax base. This is the group of individuals and families in our state who get very little benefit from the multiple programs that we enact in this Legislature. These are the families who need our support at this time. We all have constituents in the middle class who have been laid off. We learned as recently as yesterday that there are another 350 jobs that may be relocated, but probably some of those jobs will be lost in the mid-coast area. Those are not low paying jobs. Some of those are excellent paying jobs. We also all know that we have a tendency to make financial commitments based on our income. We have mortgages. We have car payments. We pay for our children to go to college. Those are commitments that we make on the basis of the income that we have become comfortable with. When you lose your job, you do not have that financial base. You struggle to make ends meet. There are many, many families in all our districts that struggle to make ends meet as a result of being laid off. As Representative Mills has pointed out, this is not going to amount to a lot of support and a lot of relief for those families, but if you are in that position, every little bit helps. I urge you to vote in support of this motion. Thank you.

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

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

The SPEAKER: The Representative may pose his question.
Representative **MOODY**: Thank you Mr. Speaker. To anyone who can answer, if you have unearned income in excess of \$20,000 a year, can you draw unemployment benefits?

The SPEAKER: The Representative from Manchester, Representative Moody has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Cornville, Representative Mills.

Representative **MILLS**: Mr. Speaker, Men and Women of the House. If I understand the question, unearned income would be income from interest on savings accounts, rental properties, investments or anything that is not wages. Of course, unearned income has no bearing under entitlement to unemployment benefits. Neither does income that you might earn during other parts of the year, nor other household incomes. If you have a spouse who is regularly employed and supporting the family and you lose your job, you are still entitled to full unemployment benefits even though your household has income from another source. It is, of course, these other forms of income that add in to unemployment that render it taxable at rates that are somewhat higher than the minimum often times.

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

Representative **DUPLESSIE**: Mr. Speaker, Ladies and Gentlemen of the House. I find it interesting that we have gotten into a little bit of a wage debate in this chamber this morning. About minimum wage and wages for unemployment, unemployment, the people who have been so fortunate as the

good Representative from Millinocket mentioned to maybe have a good papermaking job making \$60,000 a year and get involuntarily laid off. Unemployment is \$265 a week, which is what some of those \$60,000 workers are collecting. It is just barely above the minimum wage. It figures out to just about \$6.60 an hour. Minimum wage is \$6.25. Because, through no fault of their own, the layoff, they can collect a maximum of 26 weeks and jobs are very, very scarce. Many of those employees, the spouse was also laid off that worked in the same facilities. It is not just Millinocket. It is across this state in many communities. The combined income is very low. If it is just one, it is less than \$7,000 a year for the unemployment. If there were two of them that were laid off, it was \$14,000. That is still under that threshold that had two children, as the good Representative from Cornville said, \$19,000. It wouldn't take much, 26 weeks unemployment is out. That is thanks to the lack of action in Washington, the failure to extend a basic benefit, just barely above minimum wage, the people across this nation that have been laid off. That is 26 weeks, six months. If they should find employment, if they are fortunate in the next six months, then over the course of a year they may get up over that \$19,000 threshold and then they would be paying taxes on all of it. This is a basic fairness tax break. It is a minor tax break for people that are definitely in need of some fairness in the tax system. I am not seeing that come out of Washington. I would hope that we have some compassion here in this state and try to do a basic fairness for these people. It is in every one of our communities that we have had this happen. Thank you.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Courtney. 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 COURTNEY: Mr. Speaker, Ladies and Gentlemen of the House. I will be real quick and then I will sit down and we will get to vote. I just want to comment that the good Representative from Westbrook is making the point on this here. It is if you are going to get 26 weeks, then you are talking approximately \$7,500. If there is \$7,500, they are not going to get to the level. If that is their only income, then they aren't going to get to the level of being taxed. Again, if you follow the fiscal note and you look at where that money is coming from, that money is not going to come from people earning less than \$20,000 a year. More than likely, if they have a large family, the big mortgage and all the deductions that go along with that, whether it be health care expenses or tax on their property, they are not going to be taxed. It is a true fairness issue. If we want to provide tax relief for someone who is earning \$50,000 or \$60,000, then let's do it the right way. Let's do it for everybody. I would ask that you would defeat this motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Lerman.

Representative LERMAN: Mr. Speaker, Men and Women of the House. Just one last note from me, just think about yourself. You lose your job and you end up collecting \$300 a week from unemployment, just in round numbers. How are you going to make ends meet? How long can you go? Can you go 26 weeks at \$300 a week and meet your current financial obligations? How long are you going to be able to go if you find yourself in that position? That is what this is all about. Again, I would just point out as Representative Mills noted, there is not a lot of additional benefits associated with it. If you are in that position and you are struggling to make ends meet, everything makes a difference. For that reason, I urge you to vote in support of this motion. Thank you.

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

ROLL CALL NO. 325

YEA - Adams, Ash, Barstow, Beaudette, Bennett, Blanchette, Bliss, Brannigan, Brown R, Bull, Campbell, Canavan, Carr, Clark, Craven, Cresse, Cummings, Dudley, Dunlap, Duplessie, Earle, Eder, Gerzofsky, Goodwin, Grose, Hatch, Hotham, Jackson, Jennings, Ketterer, Koffman, Lemoine, Lerman, Lessard, Mailhot, Makas, Marley, McGlocklin, McKee, McLaughlin, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry J, Pineau, Pingree, Smith N, Smith W, Suslovic, Thomas, Twomey, Walcott, Watson, Wheeler, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Austin, Berry, Berube, Bierman, Bowen, Bowles, Breault, Browne W, Bruno, Bryant-Deschenes, Churchill E, Churchill J, Clough, Collins, Courtney, Crosthwaite, Curley, Daigle, Davis, Dugay, Duprey B, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Glynn, Greeley, Heidrich, Honey, Jacobsen, Jodrey, Joy, Landry, Ledwin, Lewin, Lundeen, Maietta, Marraché, McCormick, McGowan, McKenney, Millett, Mills J, Mills S, Moody, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Perry A, Piotti, Rector, Richardson E, Richardson M, Rogers, Rosen, Saviello, Sherman, Shields, Simpson, Snowe-Mello, Stone, Sukeforth, Sullivan, Sykes, Tardy, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Woodbury, Young.

ABSENT - Bunker, Cowger, Duprey G, Hutton, Kaelin, Kane, McNeil, Moore, Richardson J, Rines, Sampson, Usher.

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

61 having voted in the affirmative and 78 voted in the negative, with 12 being absent, and accordingly the Minority **Ought to Pass as Amended Report was NOT ACCEPTED.**

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

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-759)** on Bill "An Act To Amend the Laws Governing Growth Management"

(H.P. 1244) (L.D. 1668)

Signed:

Senators:

MARTIN of Aroostook
EDMONDS of Cumberland
SAWYER of Penobscot

Representatives:

KOFFMAN of Bar Harbor
HUTTON of Bowdoinham
MAKAS of Lewiston
THOMPSON of China
TOBIN of Windham
ANNIS of Dover-Foxcroft

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

Signed:

Representatives:

TWOMEY of Biddeford
SAVIELLO of Wilton

DAIGLE of Arundel
JOY of Crystal

READ.

Representative KOFFMAN of Bar Harbor moved that the House **ACCEPT** the Majority Ought to Pass as Amended Report.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. The essence of this bill is we are very frustrated in our attempts to get communities to develop comprehensive plans, not only to develop these plans, but also to develop the ordinances in the municipalities that reflect the policy these plans are intended to develop. In our frustration, we continually look for ways to make that job easier and to make the consequences attached to a community that does not perform this job. That is the essence of this bill. I am on the opposing side of this because the solution devised here by our committee was to say that a community that has a comprehensive plan must also have its ordinances consistent with a comprehensive plan. By that, I mean they have sent them to Augusta and Augusta has looked at them on high and decided that that was the case and then that community would step forward in the bidding process for various drafts and other government funds.

The problem I have with this is two fold. First, it continues to perpetuate the concept of here in Augusta the powers to be at the State Planning Office know and are in a position to judge what we ask to do in our own communities. The overall tone of oppressive oversight from Augusta, I think is chilling to our communities and frankly I find it somewhat offensive.

The second tangible point I have to this is if there are consequences between having a comprehensive plan and ordinances, then the result, I believe, will be a dumbing down of the entire process. Let me give you an example, in my community I worked on the comprehensive plan in committee. We looked at getting very progressive ideas into our comprehensive plan, knowing they were controversial, knowing there may be some in the community that would be opposed to it or consistently say that the nuts and bolts and fine detail of the ordinance was a fight to put the vote off to another day. Let's go ahead and put this objective goal, progressive goal into the comprehensive plan and when the ordinance came down the road, we may back off that a little bit, but at least we will have reached out and tried our best. There was no consequence when we were thinking of that to not having that ordinance passed consistent. This will do that. If I were to have that meeting tomorrow, if this bill were to pass, when we started thinking of progressive things to put into our comprehensive plan, we would know that if we don't get the ordinance passed, there will be a consequence. We may not get the next state grant. What do you do? You put in a comprehensive plan that is easy to achieve. You can't afford to not get ordinances. There is a dumbing down of the whole process. Instead of asking to go 10 miles down the road, we dare only ask to go two, because if we don't get all the way, then we won't be in line to get those grants. For that reason, I think it is well intentioned to try to get the community to do a better job, but the result, again, I think is two fold. First it perpetuates the oppressive oversight of the State Planning Office in Augusta is going to tell my town what to have for ordinances and the second point is since I need them to bless me, I will not ask that I go very far. Thank you.

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

Representative **KOFFMAN**: Mr. Speaker, Ladies and Gentlemen of the House. This bill essentially amends current statute. Current statute provides for discretion on the part of the State Planning Office in awarding discretionary grants and making investments in municipalities. That tiered system of preferences, which begins with municipalities that have a certified management plan moves down to another tier that allows municipalities who have just adopted a comprehensive plan, but have not taken any further steps and moves further down in a set of tiers to those that have not even begun a comprehensive plan. That tiered system does not exclude any community from applying for grants and state investments, but it does in a tie, at least give the State Planning Office some bearing, some guidance as to where those investments, the state tax dollars should go.

In this case, the committee bill suggests that those towns that have a comprehensive plan and land use ordinances that are consistent with it, that doesn't seem like a high bar to reach. It is a reasonable step to take. It should be rewarded. This is a modest incentive to communities. It is not a stick. It is a carrot. We don't have a lot of carrots to offer our municipalities, unfortunately, but this is a carrot. If I have seen a bill this session, a pro-business bill, then it is this bill. We have seen too many train wrecks with good developers trying to do the right thing in a community who were confronted by a comprehensive plans that say one thing and land use ordinances that contradict the comprehensive plan. That is just not good business. It is not good business at the local level. It is not good business in terms of attracting good development in solving the kinds of problems that we have in the State of Maine, particularly the affordable housing problem for working families. Some of the projects that have been foiled by this misfortune of disconnect between comp plans and land use ordinances are projects that involve building housing for middle-income people, closer into the cores of our town.

This is about trying to do the right thing, trying to provide a modest incentive. It is not revolutionary by any means. It has been supported by the business community. I think the municipalities will find it to be helpful, not discouraging.

My final comment is that in my community, or communities that I represent, there are no incentives that would encourage them to dumb down anything. They have very intelligent capable selectmen and planning board members and comp plan members who are doing the right thing and are revising the ordinances from year to year to have them be consistent with the vision they have for their community. I urge you to support this bill.

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

Representative **TOBIN**: Mr. Speaker, Ladies and Gentlemen of the House. As you know, I don't very often rise to speak on the floor. When I came up here I had three rules on how I was going to vote, what was good for my district, what was good for the State of Maine and what I could live with, personally.

I know I am not going to change any votes on this floor, but I have to clear my conscience. I am on the prevailing side on this bill. This bill is good for my district. I will tell you why it is good for my district. Our planning office has a community development director. It has three code enforcement officers. It has a town planner. It has an economic development director. It has three secretaries. What the previous speakers have said is right, if you have a comprehensive plan that is consistent, you have a growth management plan, you are going to get priorities as far as state grants go.

I guess the reason I am voting for this is after almost six years, I am getting a little tired of voting for the little town over what is good for my town. My thinking is, if the people that are representing small communities that don't have the financial wherewithal to have an office the size that my community has, if you want to vote for this and you want to give me a grant for my community, so be it. I will thank you for it.

I couldn't in good conscience tell you that this is good for your communities. If you are in a small community that doesn't have town planners, doesn't have people that are trained in writing grants, you are just not going to have the advantage that a town of my size will have. Thank you very much Mr. Speaker.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House. This is a bill that puts everything in here all backward. It is the carrot and the stick bill. It is also one where big brother knows best. We assume that the people in the State Planning Office know what is best for all of the 400 plus communities that are out there in the state. As you are probably well aware, each of you had differences with them at one time or another. This rewards those who are willing to jump through the hoops that are imposed upon us by the State Planning Office. It severely penalizes those towns that do not do this or that do not have the resources to hire people to come under compliance with what the State Planning Office is asking them to do.

First of all, the State Planning Office has no authority to approve anyone's comprehensive plan. Their purpose is to determine whether it is consistent and to help keep you from running into trouble in law courts and that nature. Let me ask you a question. If grants are put out there to assist towns to comply with the comprehensive plan, the ordinances that go with them and the funding that goes with them, then why are we rewarding those towns that already have those in place, that have the resources able to do that and penalizing the small towns because they can't keep up with the pace.

I ask you to reject this motion and go on and pass the Ought Not to Pass. Thank you.

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

Representative SUSLOVIC: Mr. Speaker, Men and Women of the House. Very briefly, I think this is a very simple bill. What this bill does is it encourages and, frankly, rewards those communities that do the difficult hard work of comprehensive planning and taking it that next step of actually implementing their comprehensive plan that was written by local folks, that was enacted by local folks. It is hard work. Many of us in this body, I believe, have served on various comprehensive-planning committees. I know I have. It is hard work getting that consensus in the community. This bill encourages communities to take it the next step so that it is not just a plan gathering dust on a shelf. I think we all see too much of that. What this bill does is it encourages communities to take it to the next step and implement the plan.

One of my heroes, General Dwight D. Eisenhower said, "Plans are nothing. Planning is everything". Writing the plan itself doesn't get you anywhere. Implementing the plan does. I would urge your support of this bill. Thank you.

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

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

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House. I am sure there are a lot of people in here who have worked on planning agencies. Probably most of them come from towns that have some resources that can help them get through this process. If they are already through this process, I again ask the question, what do they need the grants for? I urge you to defeat this motion.

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

Representative KOFFMAN: Mr. Speaker, Ladies and Gentlemen of the House. Communities when they complete a comprehensive plan and when they have aligned their land use ordinances, which implement that plan, much like we design a home and hire a contractor to build the home according to the plan, we want those who develop in our community, whether it is commercial development or residential development, to develop it consistent with our plan. Surely we wouldn't want to put ordinances in place that make it difficult for them to comply with that plan or to cost the town in lawsuits because they haven't developed ordinances consistent with that plan. That is just not good government. When you have done that work, you may apply to the State Planning Office and other state agencies for support. For instance, you may want a sewer line to help connect a proposed residential development to the town sewer. That makes a lot of sense for the community. Well, this puts in statute, the existing statute, the opportunity for a town to get that favored attention when they have a need for an extension of the sewer system or improvement in roads or other infrastructure.

I am always disappointed in the House in my limited life here when we use a bill to get at the agency that we least favor, the agency that we don't like. This bill is about trying to help communities develop in thoughtful practical reasonable ways and to help developers do the right thing in their communities. It is not about advocating for or against the State Planning Office. I am glad that the Representative from Crystal has called for a roll call. I hope that the developers and builders in the State of Maine are paying attention to this one. Thank you Mr. Speaker.

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

Representative TOBIN: Mr. Speaker, Ladies and Gentlemen of the House. I personally have been involved with writing three comprehensive plans for the Town of Windham. We do have the resources as much as we hate to admit it, but I wonder how many other communities do? I wonder how many of you realize how expensive a comprehensive plan can be? The comprehensive plan that we are writing now, we hired a consultant to help us, even though we do have professional staff that wrote it too. We paid that contractor \$115,000. How many of your communities that you represent would have \$115,000 that you could put into a comprehensive plan? How many of your communities, rather than put that money into it, would write a plan that might not meet the standards of the State Planning Office? How many of your towns that don't have the resources would apply for a grant? The town that I represent does have the resources, I would get a priority over you. I guess I am trying to cut my own throat here, ladies and gentlemen, but I would appreciate it if you would help me and vote against this amendment.

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

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

The SPEAKER: The Representative may pose his question.

Representative **CURLEY**: Thank you Mr. Speaker. In Scarborough we had a comprehensive plan and the town council and many members of the community worked hard on it. Part of it was to have more dense housing, anti-sprawl, as you will. There was a plan proposed by the town council, working with the State Planning Office and a developer. The Department of Transportation was also involved and made a commitment of \$1.8 million to upgrade some intersections so that we could have much more denser housing in one area of town. It all sounded great, but the people of Scarborough didn't like it. They had a citizen's referendum and overturned the development. Lo and behold the Department of Transportation pulled their financial commitment to upgrade the intersection so we still have the traffic problem. The developer is now suing the town because we are in violation of our comprehensive plan.

My question for the committee is, will the Town of Scarborough still be able to get grants when a citizen referendum has totally taken away the comprehensive plan?

The SPEAKER: The Representative from Scarborough, Representative Curley has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bar Harbor, Representative Koffman.

Representative **KOFFMAN**: Mr. Speaker, Men and Women of the House. Fools rush in where wise men fear to tread. I don't wish to speak in too many specifics about the affairs of the Town of Scarborough. Had this bill been in place, I don't know if any different circumstances would have occurred there. As I understand the stories, in fact, we had the developers who were involved in the project in Scarborough come to the committee and talk about their experience. It was actually the inspiration of this bill. Their experience, the Town of Scarborough, had an excellent comprehensive plan, developed some 10 or 14 years before this development was proposed, but they never updated their land use ordinances to say that, yes, our plan says build it here, build it like this. Our plan says that, but our ordinances say, no, it has to be two or three acres or whatever the ordinance was from the old days. That is fine. Whatever Scarborough wants to do is fine, but when you have 180 degree disconnect between the comprehensive plan, which is well developed and ordinances that never caught up with it in a 14 or whatever year window that was, you are bound to have a train wreck at some point, a legal train wreck.

Should the lawyer working for the interests, the developer, notice that there are no ordinances in support of that comprehensive plan? I suppose so. The developers put \$400,000 into that project and they are now in court. It is a regrettable situation. I hope we can avoid those situations in the future by better investment on all fronts in better planning and land use ordinance development. Thank you Mr. Speaker.

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

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. I am very concerned about what affect this proposed law will have upon the communities of the state who don't have a growth problem, the communities that are trying to keep from shrinking and trying to keep their resources together. What this amendment clearly provides for is a preference for those municipalities who have a growth problem, that are growing and have plans to control their growth. They are the first

preference. I tend to believe that the communities that aren't growing need state help just as much, if not more, than those who are growing.

The SPEAKER: The Chair recognizes the Representative from Unity, Representative Piotti.

Representative **PIOTTI**: Mr. Speaker, Men and Women of the House. I want to respond to some of the comments that this is a bill that doesn't work for rural towns or smaller towns or poor towns. I have been involved with comprehensive planning quite actively since 1989, 15 years now. I have gone on to be a member of a comp plan committee and chair of that committee for 12 years and the chair of a planning board for 10 years. I have been involved in two comprehensive plans and numerous revisions of a land use ordinance.

I don't come from a large community. I don't come from a rich community. Sixty-four percent of the citizens in my town are low or moderate income. I don't come from a community with a lot of resources. We have one part-time town clerk. I do come from a community that has put a lot of volunteer community effort over 15 years into good community planning. It has not cost us a lot of money. We received one initial State Planning Office grant 14 years ago for \$7,000. We have done everything since then, including two revisions to our comp plan and three or four revisions to our land use ordinance, entirely with local volunteer energy. This does not need to be an expensive proposition. What it does do is it builds a constituency for good planning and good economic development in your town. I would take exception to the remarks of the Representative from Van Buren, Representative Smith. I don't think that good growth management or land use planning is only for communities that are seeing high development. It is also a way to reflect on what you want your community to be and help move proactively to bring development or to bring activities that would benefit that community. Good planning benefits your town, benefits your state, benefits all the people of Maine. I would urge you support it wherever you can. I urge you to support this bill. Thank you.

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

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

The SPEAKER: The Representative may pose her question.

Representative **PINGREE**: Mr. Speaker, Men and Women of the House. This is an honest question to anybody who might care to answer, I have looked at the bill, but don't completely understand it. My question is, for communities that have failed yet to complete their comprehensive plan or communities whose comprehensive plans have been rejected by the State Planning Office or communities who have been waiting for acceptance by the State Planning Office, how does this legally, if in any way, affect them in their status? Would it allow developers to use the fact that their plan has not been approved against them?

The SPEAKER: The Representative from North Haven, Representative Pingree has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bar Harbor, Representative Koffman.

Representative **KOFFMAN**: Mr. Speaker, Ladies and Gentlemen of the House. The Chair from Bar Harbor appreciates the question. I want to clarify two points. The first point from the good Representative from Van Buren. This bill adds one very small dimension to existing statute. There is already a tiered preference system to guide the State Planning Office and other agencies in their investments in state funds and municipalities. It doesn't have a bias toward communities that are rapidly developing or communities that are actually shrinking in population. All of the things being equal when a program is

evaluated or an application is evaluated, these considerations as to how far along in the planning and development and capital planning process you are will have some influence on the State Planning Office's investment. They just are essentially hoping, we should all hope too, to preserve wasteful state spending that a community has a plan for how they are going to spend those millions of dollars in development of a sewer line and not flip a coin.

The statute is there already. It does not limit state investments to only those communities that have comp plans. The state agencies are investing all the time in all sorts of ways, different agencies and municipalities that have no comp plan or in the midst of a comp plan or have had a rejected comp plan. Every town is different. Every set of towns is different. They are treated for the issues that they have in their own community. In some cases where we are making significant state investments in a community, I think it is reasonable that there be a plan and a capital plan in ordinances that support the state's investment. I will just give a quick example. I don't expect this to happen, but it could. A town that has a comp plan that calls for denser development, perhaps modeling a neighborhood right adjacent to the development that is going to be on half-acre lots. It is close to the downtown. It doesn't have any sewer yet connecting it to the downtown. Imagine that and the developer wants to build those half acre lots. If the town wants a sewer extension to allow that development and the state were to give them millions of dollars for the development of that sewer line and it turns out that the town's ordinances call for five acre lots, then that would be a wasteful investment of state tax dollars. It is important that the ordinance and the comp plan are consistent before you go and ask for a major investment in a community. I think that is just reasonable. This does not restrict other towns from getting state grants. They have been getting them all the time. It is not an invention of new statute. It is a revision of current statute. It is intended to be an incentive for communities who were trying to do the right thing. Thank you.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. There is very little difference between my House Chair from Bar Harbor and myself in terms of what we want and in terms of how we feel the state should have a strong State Planning Office in the towns that have good comprehensive plans. It was with that intent that I think this session we just tried to find something that we could do that would make the situation better. The opposition between us is because I think the solution is not going to help matters and could, in fact, hurt. Let me give you a brief, perhaps overly simplistic, analogy of what I mean by this. If the state would look down and say the people of Maine are overweight. It was in the public interest to get them to all lose weight. We would look for a way to encourage you to do that. Perhaps we would say to you that for each of you to pick your own weight loss goals. You pick your own and that would be your comprehensive plan. If you achieve those weight loss goals, which means you do your ordinances, we will give you the keys to the executive washroom. There are two types of people who will succeed under my analogy. There will be those who are wealthy and hire personal trainers and join health clubs and get the equipment and so forth and they will work diligently. Because of their resources and their energies and so forth, they will achieve their weight loss goals and get those keys. The other group that will succeed will be the group that says that I will promise to lose one pound and that is it because I want to win. I won't even ask to do anything. They will win just the same way because their comprehensive plan will reach for nothing, but will

meet the goal. Left out of that will be that group in the middle that says I want to set a goal that is healthy for me and that is important and I will try to achieve it, but I don't quite get there. Now when it is time to hand out the benefits, the prize, you are going to be in the back of the line. How many times are you going to be in the back of the line before the next time it comes for you to set a goal you say that you are not going to lose this time? I will not set a good goal. I will not be aggressive. I will not lose the next time that town gets and grant and I don't. That is why we both are trying to do something good, but we are on different sides of this and with your vote, we will ask what you think. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **BOWEN**: Mr. Speaker, Men and Women of the House. I have some questions on sheer numbers. I have a great report that I got in rural caucus this morning about the status of comprehensive plans. As I look at this amendment, it has a list of the lineup of who gets these grants. It doesn't specify which grants here. I guess it is any state grant. It starts off by saying the first in line is a municipality that has received a certificate of consistency for its growth management program. I don't have any statistics on that. I would like to know how many towns that is. The second person in line are municipalities that have adopted a comprehensive plan that the office has determined as consistent with what the office wants. By this count, there are 198 towns that have adopted comprehensive plans that the state says are okay and then it says and has adopted zoning ordinances that the offices have determined are consistent with the comprehensive plan. By the count of this document, which is dated March 4th from the State Planning Office, there are only 30 towns in the whole state that have adopted zoning ordinances that the State Planning Office has determined are consistent with the comprehensive plan. There are 393 towns who either have not adopted a zoning ordinance or it is unknown whether they have or not and the State Planning Office doesn't know whether they are consistent or not. It would appear to me as though, I am partial to this as well, we have growth problems where I am from. I am not opposed to what we are trying to do here, but it seems to me that we are giving preference to an extraordinarily small group of towns. By my count, I don't know how many towns are in the first position there, but in the second by my count there is only about 30. You move down to municipalities without a comprehensive plan that is consistent with the state and that is only about 200 and then the municipalities that have adopted comprehensive plans outright. I don't know how many that is, but I know according to this there is at least 198 towns that have adopted comprehensive plans that the state has determined are inconsistent. The state has refused to acknowledge what they want. I guess I need to know numerically what we are talking about here. It seems to me like I don't see a whole lot of towns getting grants the way this is written. Thank you.

The SPEAKER: The Representative from Rockport, Representative Bowen has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bar Harbor, Representative Koffman.

Representative **KOFFMAN**: Mr. Speaker, Men and Women of the House. As I understand it from committee hearing and work session, there are five communities that have consistent comp plans, land use ordinances and certified capital improvement plans that implement their land use ordinances and

comp plans. Those five communities happen to be located in Aroostook County, all five of them. I guess they had an extraordinary planning director at the planning council in Aroostook County. They did a very fine job. It is true that there are about 30 communities that have comprehensive plans and consistent land use ordinances right now. That number continues to grow. There are a number, 198, seems like a reasonable number who have comp plans and are in the midst of working on ordinances.

From my point of view and this raises good questions, when I went through the hearing with my committee members, I was really quite astonished with the number of communities that are not getting the resources and support to develop into ways that they would like to see their communities developed and to get the kind of investment they would like to see come to their communities and to hold onto their young people and have affordable housing. I am astonished. It almost feels like a failure of our ability to help communities grow in a graceful way and in a thoughtful and practical way.

All of that said, the statute is what it is. This is a very small revision to it to try, I think, encourage wise state investment. It does not prohibit any other community from applying for grants. This isn't about who gets the grants and who doesn't in a sort of black and white sense. All other things being equal, these considerations will be brought to bear. They certainly were put in statute long before I became a member of this body. Thank you.

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

ROLL CALL NO. 326

YEA - Adams, Ash, Barstow, Beaudette, Bennett, Bliss, Brannigan, Breault, Bull, Canavan, Craven, Cummings, Davis, Dudley, Dunlap, Duprey G, Earle, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McKee, McLaughlin, Mills S, Moody, Norbert, Norton, O'Brien L, O'Neil, Patrick, Pellon, Perry A, Perry J, Pineau, Piotti, Rector, Shields, Simpson, Smith N, Sullivan, Suslovic, Thomas, Thompson, Walcott, Watson, Wheeler, Woodbury, Mr. Speaker.

NAY - Andrews, Annis, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Clark, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Dugay, Duplessie, Duprey B, Eder, Fletcher, Glynn, Goodwin, Greeley, Heidrich, Honey, Hotham, Jackson, Jacobsen, Jennings, Jodrey, Joy, Landry, Ledwin, Lewin, Maietta, McCormick, McGlocklin, McGowan, McKenney, McNeil, Millett, Mills J, Murphy, Muse, Nutting, O'Brien J, Paradis, Peavey-Haskell, Percy, Pingree, Richardson E, Richardson M, Rogers, Rosen, Saviello, Sherman, Shields, Snowe-Mello, Stone, Smith W, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Vaughan, Young.

ABSENT - Blanchette, Bunker, Churchill J, Cowger, Hatch, Hutton, Kaelin, Kane, Marraché, Moore, Richardson J, Rines, Sampson, Usher, Wotton.

Yes, 59; No, 77; Absent, 15; Excused, 0.

59 having voted in the affirmative and 77 voted in the negative, with 15 being absent, and accordingly the Majority Ought to Pass as Amended Report was **NOT ACCEPTED**.

Representative DUPLESSIE of Westbrook moved that the House **RECONSIDER** its action whereby the Majority Ought to Pass as Amended Report was **NOT ACCEPTED**.

The same Representative moved that the Bill be **TABLED** until later in today's session pending his motion to **RECONSIDER**

whereby the Majority Ought to Pass as Amended Report was **NOT ACCEPTED**.

Representative JOY of Crystal **REQUESTED** a roll call on the motion to **TABLE**.

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 to Table. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 327

YEA - Adams, Ash, Barstow, Beaudette, Bennett, Bliss, Bowles, Brannigan, Breault, Bruno, Bull, Campbell, Canavan, Clark, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Goodwin, Jackson, Jennings, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McGlocklin, McGowan, McKee, Mills J, Mills S, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Rector, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Walcott, Watson, Wheeler, Woodbury, Mr. Speaker.

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

ABSENT - Blanchette, Bunker, Cowger, Hatch, Hutton, Kaelin, Kane, Marraché, McLaughlin, Moore, Richardson J, Rines, Sampson, Usher, Wotton.

Yes, 70; No, 66; Absent, 15; Excused, 0.

70 having voted in the affirmative and 66 voted in the negative, with 15 being absent, and accordingly the Bill was **TABLED** until later in today's session pending the motion of Representative DUPLESSIE of Westbrook to **RECONSIDER** whereby the Majority Ought to Pass as Amended Report was **NOT ACCEPTED**.

Divided Report

Majority Report of the Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-761)** on Bill "An Act To Create the Position of Director of Energy Programs at the Public Utilities Commission"

(H.P. 1252) (L.D. 1730)

Signed:

Senators:

HALL of Lincoln

YOUNGBLOOD of Penobscot

Representatives:

RINES of Wiscasset

LUNDEEN of Mars Hill

MOODY of Manchester

ADAMS of Portland

BERRY of Belmont

BLISS of South Portland

RICHARDSON of Skowhegan

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

Signed:

Representatives:

FLETCHER of Winslow

GOODWIN of Pembroke

CRESSEY of Baldwin

READ.

On motion of Representative BLISS of South Portland, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-761)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Tuesday, March 16, 2004.

SENATE PAPERS

The following Joint Order: (S.P. 763)

ORDERED, the House concurring, that when the House stands Adjourned it does so until Tuesday, March 16, 2004, at 9:00 in the morning and the Senate Adjourns until Tuesday, March 16, 2004, at 10:00 in the morning.

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

READ and **PASSED** in concurrence.

Representative BRUNO of Raymond **OBJECTED** to sending all matters **FORTHWITH**.

On motion of Representative TRAHAN of Waldoboro, the House adjourned at 12:17 p.m., until 9:00 a.m., Tuesday, March 16, 2004 pursuant to the Joint Order (S.P. 763) and in honor and lasting tribute to Gerald R. Silva, of Jefferson.