

MAINE STATE LEGISLATURE

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Legislative Record
House of Representatives
One Hundred and Twenty-Second Legislature
State of Maine

Volume III

Second Regular Session

April 7, 2006 - May 24, 2006

Appendix
House Legislative Sentiments
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Pages 1488-2248

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
SECOND REGULAR SESSION
41st Legislative Day
Thursday, April 13, 2006

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

Prayer by Pastor Clifford Gall, Searsport Full Gospel Church.
National Anthem by Brett Cowallis, Bath.

Pledge of Allegiance.

Doctor of the day, Peter Bernhard, M.D., Bangor.

The Journal of yesterday was read and approved.

COMMUNICATIONS

The Following Communication: (S.P. 848)

**STATE OF MAINE
122ND MAINE LEGISLATURE**

April 10, 2006

Sen. Kenneth T. Gagnon

Senate Chair, Joint Standing Committee on Legal and Veterans Affairs

Rep. John L. Patrick

House Chair, Joint Standing Committee on Legal and Veterans Affairs

122nd Legislature

Augusta, ME 04333

Dear Senator Gagnon and Representative Patrick:

Please be advised that Governor John E. Baldacci has nominated A. Mavourneen Thompson of Peaks Island for appointment to the Commission on Governmental Ethics and Election Practices.

Pursuant to Title 1 M.R.S.A. §1002, this nomination will require review by the Joint Standing Committee on Legal and Veterans Affairs and confirmation by the Senate.

Sincerely,

S/Beth Edmonds

President of the Senate

S/John Richardson

Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS**.

READ and **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** in concurrence.

The Following Communication: (S.P. 850)

**STATE OF MAINE
122ND MAINE LEGISLATURE**

April 10, 2006

Sen. Nancy B. Sullivan

Senate Chair, Joint Standing Committee on Insurance and Financial Services

Rep. Anne C. Perry

House Chair, Joint Standing Committee on Insurance and Financial Services

122nd Legislature

Augusta, ME 04333

Dear Senator Sullivan and Representative Perry:

Please be advised that Governor John E. Baldacci has nominated Jonathan Beal of Portland and Edmund McCann of Hallowell for appointment to the Board of Directors of Dirigo Health.

Pursuant to Title 24-A M.R.S.A. §6904, these nominations will require review by the Joint Standing Committee on Insurance and Financial Services and confirmation by the Senate.

Sincerely,

S/Beth Edmonds

President of the Senate

S/John Richardson

Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES**.

READ and **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** in concurrence.

The Following Communication: (S.C. 637)

**MAINE SENATE
122ND LEGISLATURE
OFFICE OF THE SECRETARY**

April 12, 2006

Honorable John Richardson

Speaker of the House

2 State House Station

Augusta, ME 04333-0002

Dear Speaker Richardson:

In accordance with Joint Rule 506 of the 122nd Maine Legislature, please be advised that the Senate today confirmed the following:

Upon the recommendation of the Committee on Business, Research and Economic Development, the nominations of:

Robert Tyler of Princeton for appointment to the Washington County Development Authority

James R. Porter of Calais for appointment to the Washington County Development Authority

David C. Burns of Whiting for appointment to the Washington County Development Authority

James W. Parker of Veazie for appointment to the Washington County Development Authority

Eric G. Robinson of Alexander for appointment to the Washington County Development Authority

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and **ORDERED PLACED ON FILE**.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

the Airline Community School Chess Team, of Aurora, on its winning the K-3 division at the State Chess Championships. The team scored 11 of a possible 12 points. We congratulate the players and coaches of the Airline Community School Chess Team on this impressive achievement;

(SLS 1077)

On **OBJECTION** of Representative PINGREE of North Haven, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Recognizing:

Beka Bryer, of Bowdoinham, an eighth-grade student at Mt. Ararat Middle School. For the third year in a row, Beka was one of the top 100 students qualifying for the Maine National Geographic Bee. As a sixth-grader, she was the first student to win the school championship in her first year of competing, and she is the first student at her school to win three years in a row. We congratulate her on this remarkable accomplishment and we send our best wishes for her future endeavors;

(HLS 1843)

Presented by Representative HUTTON of Bowdoinham.

Cosponsored by Senator MAYO of Sagadahoc, President EDMONDS of Cumberland, Representative CROSBY of Topsham, Representative GROSE of Woolwich, Representative PERCY of Phippsburg.

On **OBJECTION** of Representative HUTTON of Bowdoinham, was **REMOVED** from the Special Sentiment Calendar.

READ.

The SPEAKER: The Chair recognizes the Representative from Bowdoinham, Representative Hutton.

Representative **HUTTON**: Thank you Mr. Speaker. Mr. Speaker, Women and Men of the House. I'm always grateful for the fact that we can actually take time out of our day to recognize those citizens of our state who've had accomplishments that are great and small. This one is particularly dear to my heart because I had Beka when she was a kindergartener in my after-school kindergarten program. Even back then she showed leadership and curiosity and I remember one day, and she's probably going to get upset with me for saying this, where it was a particularly bad afternoon with kindergarteners who were very, very tired and we were trying to do a project. No one was particularly paying attention. Beka got up and put her hands on her hips and said, "You all need to pay attention to Deb." I felt like, at that point, I knew she was going to do great things. She was taking control and I really admired her for that. This, to me, is very important. To win the National Geographic Bee in sixth grade, beating out seventh and eighth graders and then to go on in seventh grade and win it again and eighth grade and win it again is just great. She represented our district very well in the State Bee. I just wanted to send her my congratulations and ask you, since she is one of our honorary pages, as she comes around, to give her your personal congratulations. Beka, congratulations. Thank you.

Subsequently, the Sentiment was **PASSED** and sent for concurrence.

Recognizing:

the Deer Isle-Stonington Elementary School Chess Team, on its winning 3 awards at the Maine State Chess Championship. The K-3 team was runner-up in its division, the K-6 team was State Champion for the 8th year in a row in its division and the K-8 team won its 3rd State Championship in its division. We congratulate the players and coaches of the Deer Isle-Stonington Elementary School Chess Team on these impressive achievements;

(HLS 1844)

Presented by Representative PINGREE of North Haven.

Cosponsored by Senator DAMON of Hancock.

On **OBJECTION** of Representative PINGREE of North Haven, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Recognizing:

the Deer Isle-Stonington High School Chess Team, which shared the 2006 Maine State High School Chess Championship. This is the 4th state title for the school. The reserve team won 3rd place. We congratulate the players and coaches of the Deer Isle-Stonington High School Chess Team on these impressive achievements;

(HLS 1845)

Presented by Representative PINGREE of North Haven.

Cosponsored by Senator DAMON of Hancock.

On **OBJECTION** of Representative PINGREE of North Haven, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Recognizing:

the Oxford Federal Credit Union, of Mexico, on the occasion of its receiving the Louise Herring Philosophy in Action Award for its Financial Fitness Fair. The award recognizes credit unions that do an extraordinary job incorporating credit union philosophy into daily operations. The Oxford Federal Credit Union's Financial Fitness Fair teaches local students the importance of managing their money through hands-on, real-life experiences. We acknowledge the credit union's innovative approach to an important learning exercise which helps the youth of Oxford County. We send our congratulations to the staff and management of Oxford Federal Credit Union on their receiving this well-deserved national honor;

(HLS 1846)

Presented by Representative HOTHAM of Dixfield.

Cosponsored by Senator BRYANT of Oxford, Representative BRYANT-DESCHENES of Turner, Representative CRESSEY of Cornish, Representative HAMPER of Oxford, Representative HANLEY of Paris, Representative JODREY of Bethel, Representative MILLETT of Waterford, Representative MUSE of Fryeburg, Representative PATRICK of Rumford, Representative SYKES of Harrison, Senator HASTINGS of Oxford.

On **OBJECTION** of Representative HOTHAM of Dixfield, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **HOTHAM**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Today I proudly rise to acknowledge the effort of one of Maine's credit union family who has gained national recognition for one of their special community projects. Oxford Federal Credit Union, of Mexico and a branch office in Oxford, Maine recently received the Louise Herring Philosophy in Action Award from the Credit Union National Association. This award is presented annually to recognize credit unions that actually practice the philosophy of people helping people. The award is named for Louise Herring, who is one of the original signers of the 1934 constitution that created the Credit Union National Association. Ms. Herring also started several credit unions and believed strongly in applying credit union philosophy as an operating principle. The first place Louise Herring Award was presented to Oxford Federal Credit Union for their innovative approach to educating our High School students about managing their money. Nearly 70 students, from

Region 9 School of Applied Technology, attended the Credit Union's Financial Fitness Fair and spent two hours buying vehicles, homes, insurance, furniture, cell phones, show tickets and putting together a food plan, research cable plans and set aside money for a rainy day. The students were loaned money and were then charged with fitting all of the necessities into a budget and they did a terrific job. Future legislators, no doubt. Like every effective learning experience, in addition to the hands-on practical experience, there was more than a little fun and motivation. The students' names were entered to visit the cash booth, which was kind of an innovative area where there was money floating around and they could grab it as it went by them. Their names were also entered to win an iPod Shuffle grand prize. As you can imagine, this effort took a considerable amount of planning and effort. The entire staff at Oxford Federal Credit Union worked very hard to put this all together and help assure its success. They show, every day by their actions, that the credit union philosophy of people helping people is a guiding influence in their lives, both personally and professionally. I am truly proud to not only be a twenty-plus year member of the Oxford Federal Credit Union, but also a volunteer member of the Board of Directors. I offer them my heart-felt congratulations on their national honor, but especially being people helping people. Thank you very much.

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

Representative PATRICK: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would like to also echo the sentiments from the good Representative from Dixfield, for I also am a member of the Oxford Federal Credit Union. I've been a member of the credit union for 34 years. I've also been a member of two or three other credit unions. I'm a member of the State Credit Union here in Augusta and a former member of the Five County Credit Union. I've always thought that our credit union in Rumford, actually in Mexico, has been one of the best consumer oriented credit unions you ever could ask for. The thing that I really like the most about their national award is when you take a look at what they did, one of the aspects of having financial education for high school students is something I thought is one of the most important things. I hope, someday, we get financial education right down into the early grades because the things that I know about finances is that probably 60% or 70% of every American is in hawk up to their head in debt. They don't know how to use credit cards. They don't know how to use proper loans and stuff. Through their process and through their people the educational opportunities that they offer is second to none. I will agree with Representative Hotham, when you walk in there it is a warm friendly place. They're very professional. We've had a CEO for the last four, five or six years, Matt Kaubris, who actually happens to be another one of those Rumford High School State New England Basketball Champions, who stayed home to work in Maine. I will put in that plug for Matt. I'm extremely proud. They always come down here and offer their services during Credit Union Day. They represent their community well. The River Valley has seen growth throughout the years in the credit union size. We went from a little tiny building right across from the mill to a great big huge plush building with many offices and many employees. I'm just so proud of them and I want to thank each and every one of them for all that they do. Thank you very much Mr. Speaker.

Subsequently, the Sentiment was **PASSED** and sent for concurrence.

Recognizing:

Jayne M. Flaherty, of Old Orchard Beach, on the occasion of her retirement as a teacher at the Loranger Middle School. Mrs. Flaherty and her husband, Peter, both started teaching in the same year and are retiring at the same time as well. We send our appreciation to Mrs. Flaherty for her 36 years of dedicated service and commitment to the youth of this State and extend our congratulations and best wishes to her in her future endeavors;

(HLS 1847)

Presented by Representative HOGAN of Old Orchard Beach.

Cosponsored by Senator HOBBS of York.

On **OBJECTION** of Representative HOGAN of Old Orchard Beach, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative HOGAN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. It is indeed an honor to welcome two constituents of mine from Old Orchard Beach. I've known them for my entire life. They are committed people to their professions. Jayne and Peter Flaherty have dedicated their entire working life to teaching and providing a model for youth in my area. Both have worked in the same respective school system for 36 years. They started their careers in the same year and are now ending it in the same year. They are devoted to their family and to each other. In a time when a teacher might move for one reason or another, they remained with their respective school system throughout those 36 years providing consistency and continuity for their students and their administration. They are known for always being upbeat and positive, always seeing the glass half full rather than half empty. We wish them the best on their retirement and I might add, you community is very, very proud of you. I also might add, this may be the only blemish on their distinguished career, they both played hooky today. Thank you Mr. Speaker.

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

Representative VALENTINO: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today to also extend my gratitude to Mr. Peter Flaherty for his 36 years of dedicated service to teaching at CK Burns in Saco. I first met Peter when my daughter was a student at Burns and remember him very fondly walking in the halls as the Assistant Principal. As a fifth grade teacher, Mr. Flaherty was well loved and respected by his students. Mr. Flaherty is the type of teacher students still remember fondly today. As one recent college graduate told me, she still remembers reading *Indian in the Cupboard* over 15 years ago in his class. As the Assistant Principal, he always dealt calmly and fairly with all of the students. I know the staff at CK Burns will be extremely sad to see him leave, but luckily, even with the retirement of the two Flaherty teachers in one year, we are glad to know that another generation of Flaherty's has entered into the teaching profession since their son is carrying on their proud tradition of teaching our young children. Thank you Jayne and Peter Flaherty.

Subsequently, the Sentiment was **PASSED** and sent for concurrence.

Recognizing:

Peter L. Flaherty, of Old Orchard Beach, on the occasion of his retirement as Assistant Principal at the C.K. Burns School in Saco. Mr. Flaherty and his wife, Jayne, both started teaching in the same year and are retiring at the same time as well. We send our appreciation to Mr. Flaherty for his 36 years of dedicated service and commitment to the youth of this State and

extend our congratulations and best wishes to him in his future endeavors;

(HLS 1848)

Presented by Representative HOGAN of Old Orchard Beach.

Cosponsored by Senator HOBBS of York, Representative PILON of Saco, Representative VALENTINO of Saco.

On **OBJECTION** of Representative HOGAN of Old Orchard Beach, was **REMOVED** from the Special Sentiment Calendar.

READ and **PASSED** and sent for concurrence.

Recognizing:

Jym St. Pierre, of Readfield, founder and longest serving director of the Maine League of Conservation Voters, on his retirement from the board of directors after twenty years of service. We acknowledge his dedicated service to his community and to the State of Maine, and we send him our congratulations and best wishes;

(HLS 1849)

Presented by Representative EDER of Portland.

Cosponsored by Senator WOODCOCK of Franklin, Representative FLOOD of Winthrop.

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

READ.

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

Recognizing:

Elmhurst, Inc., of Bath, a 45-year-old nonprofit organization whose mission is to provide services for children and adults with developmental disabilities, on the groundbreaking for a new building on Centre Street in Bath. The building is expected to be completed in October 2006. In conjunction with the City of Bath, Elmhurst, Inc. has been awarded a \$300,000 Community Development Block Grant in addition to money generated from private fundraising, private foundation grants and borrowing. There has been a lot of community support for this project from the United Way of Mid Coast Maine, the Bath Police Department and the Department of Health and Human Services. We extend our congratulations on the groundbreaking of the new building for Elmhurst, Inc. and we send our best wishes for many years to come;

(HLS 1850)

Presented by Representative GROSE of Woolwich.

Cosponsored by Representative WATSON of Bath, Senator MAYO of Sagadahoc.

On **OBJECTION** of Representative GROSE of Woolwich, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Woolwich, Representative Grose.

Representative **GROSE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm very honored, today, to stand and help Elmhurst, Inc. celebrate their new building at a time that it's really needed. Last year I worked, when I was not in session, for Elmhurst. In my long years of life, I've had many jobs, but I've never had one where I actually wanted to get up early in the morning and was excited to go to work. The staff at Elmhurst. The consumers are like people I've never met before in my life. They're very honest, they're very open and they're special people. I'm very, very honored and pleased that they are getting their new building, finally. Thank you.

Subsequently, the Sentiment was **PASSED** and sent for concurrence.

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

ENACTORS

Acts

An Act To Make Adjustments to the Allagash Wilderness Waterway

(S.P. 811) (L.D. 2077)

(C. "A" S-559)

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

On motion of Representative KOFFMAN of Bar Harbor, was **SET ASIDE**.

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

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

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

ROLL CALL NO. 499

YEA - Annis, Austin, Barstow, Beaudette, Berube, Bierman, Bishop, Blanchard, Blanchette, Bowles, Brown R, Browne W, Bryant-Deschenes, Carr, Cebra, Churchill, Clark, Clough, Collins, Cressey, Crosthwaite, Curtis, Daigle, Davis K, Duplessie, Duprey, Edgecomb, Emery, Fischer, Fisher, Fitts, Fletcher, Flood, Glynn, Grose, Hall, Hamper, Hanley B, Hanley S, Hogan, Hotham, Jackson, Jacobsen, Jodrey, Joy, Lansley, Lewin, Lindell, Lundeen, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moulton, Nass, Nutting, Paradis, Patrick, Perry, Pilon, Pineau, Piotti, Plummer, Richardson D, Richardson M, Richardson W, Robinson, Rosen, Sampson, Saviello, Schatz, Seavey, Sherman, Shields, Smith W, Sykes, Tardy, Thomas, Trahan, Tuttle, Valentino, Vaughan, Wheeler, Mr. Speaker.

NAY - Adams, Ash, Babbidge, Bliss, Bowen, Brannigan, Brautigam, Cain, Campbell, Canavan, Craven, Curley, Davis G, Driscoll, Duchesne, Eberle, Eder, Faircloth, Finch, Gerzofsky, Goldman, Harlow, Hutton, Kaelin, Koffman, Lerman, Makas, Marley, Muse, Norton, O'Brien, Percy, Pingree, Pinkham, Rector, Richardson E, Rines, Simpson, Smith N, Thompson, Twomey, Walcott, Watson, Webster, Woodbury.

ABSENT - Bryant, Burns, Crosby, Cummings, Dudley, Dugay, Dunn, Farrington, Greeley, Jennings, Marean, Moody, Moore G, Ott, Stedman.

Yes, 91; No, 45; Absent, 15; Excused, 0.

91 having voted in the affirmative and 45 voted in the negative, with 15 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-588)** on Bill "An Act To Strengthen Maine's Craft Brewers"

(S.P. 792) (L.D. 2048)

Signed:

Senators:

PERRY of Penobscot

COURTNEY of York

STRIMLING of Cumberland

Representatives:

CLARK of Millinocket
 McCORMICK of West Gardiner
 PINEAU of Jay
 SEAVEY of Kennebunkport
 WATSON of Bath

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

Signed:

Representatives:

HANLEY of Paris
 WOODBURY of Yarmouth
 CLOUGH of Scarborough
 BIERMAN of Sorrento
 HUTTON of Bowdoinham

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-588).**

READ.

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

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

Representative **CLOUGH:** Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would ask you to vote against the pending motion. Let me give you my reasons. This bill originally came to us based on the need to change the taxation on exports for Maine brewers because our tax was one of the highest, if not the highest in the nation and they were at a disadvantage when exporting to other states. Of course, they depend on their exports to keep their business going on a year-around basis, as it is rather seasonal in the State. The fact of the matter is that when they export their product, it is taxed by the State to which it is exported. The Maine tax never is a factor. The question also came up as to the constitutionality of this bill. It was noted that the Supreme Court has previously indicated that a state could not implement excise tax policy that favors a brewery located in that state. Don't think that we have a definitive answer on that but it sounds like that should be a factor to consider. Another factor was that if we pass this legislation, this tax incentive would apply to all shipments made, not on a perspective basis, but from day one, it would cost us tax money even if it did not achieve its objective. Finally, my question is, why not implement a fair tax policy for all Maine businesses and stop carving out special exemptions for certain special interest groups? I would, again, ask you to vote against the pending motion and Mr. Speaker, I would request a roll call.

Representative CLOUGH of Scarborough **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 Millinocket, Representative Clark.

Representative **CLARK:** Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I think the Representative made a lot of good arguments as to why we should have this bill. It's a very small business. I think it is going to help small business in Maine to develop even further and put

more people to work. I think it is a good alternative that we can do. Just the other day we voted on a bill, or a lot of you voted on a bill, to give a tax exemption to lobster traps. You know, we cannot pick and choose. If we want to help small business do business in the State of Maine, we cannot pick and choose. I think this is the right method we're doing with the majority report. I hope when you vote, you vote with us on the majority as amended. Thank you Mr. Speaker.

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

ROLL CALL NO. 500

YEA - Adams, Austin, Barstow, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Burns, Cain, Clark, Daigle, Eberle, Finch, Fischer, Fitts, Fletcher, Glynn, Hall, Hamper, Hanley S, Hogan, Jackson, Koffman, Lindell, Makas, Marley, Marraché, McCormick, Merrill, Miller, Mills, Muse, Norton, Paradis, Percy, Pilon, Pineau, Pingree, Rines, Robinson, Saviello, Schatz, Seavey, Shields, Smith N, Tuttle, Vaughan, Watson, Webster, Wheeler, Mr. Speaker.

NAY - Annis, Ash, Babbidge, Beaudette, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Canavan, Carr, Churchill, Clough, Collins, Craven, Cressey, Crosby, Crosthwaite, Curley, Curtis, Davis G, Davis K, Driscoll, Duchesne, Duplessie, Duprey, Eder, Edgecomb, Emery, Faircloth, Fisher, Flood, Gerzofsky, Grose, Hanley B, Harlow, Hotham, Hutton, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lerman, Lewin, Lundeen, Marean, Mazurek, McFadden, McKane, McKenney, McLeod, Millett, Moulton, Nass, Nutting, O'Brien, Patrick, Perry, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Rosen, Sampson, Sherman, Simpson, Smith W, Sykes, Tardy, Thomas, Thompson, Trahan, Twomey, Valentino, Walcott, Woodbury.

ABSENT - Bryant, Cebra, Cummings, Dudley, Dugay, Dunn, Farrington, Goldman, Greeley, Jennings, Moody, Moore G, Ott, Piotti, Stedman.

Yes, 52; No, 84; Absent, 15; Excused, 0.

52 having voted in the affirmative and 84 voted in the negative, with 15 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **NOT ACCEPTED**.

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

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

Ten Members of the Committee on **EDUCATION AND CULTURAL AFFAIRS** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (S-566)** on Bill "An Act To Further the Implementation of the Essential Programs and Services Funding Model"

(S.P. 683) (L.D. 1766)

Signed:

Senators:

MITCHELL of Kennebec
 SCHNEIDER of Penobscot
 TURNER of Cumberland

Representatives:

DAVIS of Falmouth

FINCH of Fairfield
 NORTON of Bangor
 GOLDMAN of Cape Elizabeth
 MAKAS of Lewiston
 LANSLEY of Sabattus
 CAIN of Orono

Two Members of the same Committee report in Report "B" **Ought to Pass as Amended by Committee Amendment "B" (S-567)** on same Bill.

Signed:

Representatives:

EDGECOMB of Caribou
 MERRILL of Appleton

One Member of the same Committee reports in Report "C" **Ought Not to Pass** on same Bill.

Signed:

Representative:

STEDMAN of Hartland

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

Representative NORTON of Bangor moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

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

Representative NORTON: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Since everything in this bill is totally within the budget, I move indefinite postponement of this bill and all accompanying papers.

The SPEAKER: The Chair recognizes the Representative from Appleton, Representative Merrill.

Representative MERRILL: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise to oppose the pending motion. I'd like to discuss the difference between the two reports, actually there were three reports. There was an ought to pass which was committee report A, there was an ought to pass which was committee report B and then there was an ought not to pass which was committee report C. My seatmate, the good Representative from Bangor is absolutely correct, that the contents of committee report A were absorbed into the budget that was passed several weeks ago. However, the contents of committee report B were not included in the budget. I'd like to tell you the difference. Both reports made adjustments to EPS, Essential Programs and Services, our school funding formula. The difference is that committee report B did everything that committee report A did plus it addressed the inadequacy in teacher pay that is currently part of the school funding formula. Simply put, committee report B evened out the amount of money the State recognizes for teacher pay. If you believe that the current State policy of paying a State employee in Caribou, Greenville, Calais, Farmington or Thorndike the same as a State employee in Cumberland or Bangor is a good policy then you must vote against the pending motion so that we can go on to pass committee report B. If you think that it's important to raise up the pay of our lowest paid teachers, then this is your chance to change the State policy that locks into place those lower wages. If you believe that a child in rural Maine deserves just as good a teacher as a child in the more prosperous parts of the State, then you must vote against the pending motion so that we can go on to accept committee report B. Ladies and Gentlemen of the House, there was a rush last year to pass LD 1. Many of

us expressed great reservations because LD 1 implemented the funding for Essential Programs and Services. A lot of us were very concerned because we knew that there were pieces of LD 1 that were really going to fundamentally harm rural Maine. We were told, "Don't worry, it will be fixed. Go ahead and vote for it now, it will be fixed." Well, I'm here to tell you that one of the most significant problems in LD 1 and EPS was never fixed, and that's the labor market piece for teacher pay. Mr. Speaker, I ask for a roll call.

Representative MERRILL of Appleton **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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

The SPEAKER: The Chair recognizes the Representative from Appleton, Representative Merrill.

Representative MERRILL: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Thank you for the opportunity, Mr. Speaker, to refresh the body with my plea to reject the pending motion. If this motion passes, we will have lost our opportunity to begin to make progress on one of the most important adjustments to EPS. If you vote for this motion, you will be voting to scuttle our only opportunity, this session, to start to insure that the teachers who teach our children in the poorest and most rural parts of the State are valued as much as the teacher in the urban and suburban areas. Some may rise to point out to us that another bill is on its way, the bill that raises teachers pay to \$30,000 as the answer to the inequities found in the EPS formula. If I believed that that bill would really do the job, I'd be its chief advocate. Even if it passes, and is funded, it only addresses the bottom. The EPS labor market formula will still continue to recognize and lock into place lower wages in the poorest parts of the State. Mr. Speaker, this morning I asked if anyone thought it was fair for the State to recognize a lower salary for teachers in Caribou, Farmington, Thorndike and Greenville than teachers in Bangor and Cumberland. I realized, after I spoke, that Greenville is actually doing okay because they are a service center. So, I'll substitute the town of Greenville for almost every school district in Washington County, or Millinocket or you name it around the state. The proponents of this approach point out that it simply recognizes reality. Everyone in these towns earn less and frankly it costs less to live in those areas, so lets recognize a lower wage for them. Here's my answer to that. True, their housing costs may be lower, but that's exactly where the comparison ends. If you live in Washington County, it still costs just as much to send you children to college and to buy fuel oil for your furnace. Frankly, if you live in Aroostook County, you probably find their heating bills are higher. I think that they have a longer winter than we experience in Southern Maine. I'll leave you with this last reiteration of my remarks this morning. We do not distinguish, by area, for State Employees. If you work for a State Park in Washington County or Piscataquis County, you are not paid less than if you work for a State Park down in Southern Maine. I ask you, how could we ever justify recognizing a lower salary for the teachers who teach the highest proportion of poor children in this State? Thank you Mr. Speaker.

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

Representative NORTON: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. At least I did hear one thing I agreed with, the idea of defeating the motion. The only way any inequity, or perceived inequity, will ever be dealt with in EPS is if we keep EPS. This amendment would totally destroy your funding mechanism. You need to understand that.

It has grave consequences. People can talk about the costs and what happens, but I'm just going to make a couple points. I don't think you need to have tremendous litany on this. The Education Committee has charged the Department of Education to complete work on the labor market index, teacher salaries, transportation and gifted and talented. There are many, many things that we are still working on. We will be getting reports back. We will be continuing. I have always said EPS is a work in progress and I ask you, did our last funding formula ever not become a work in progress? I think we had that one for decades and we were still tweaking it. What I need to remind you of is we had the old formula for decades. Frankly, when you try to talk about it in a body like this, people's eyes glazed over. People never understood the old formula. I would venture to say you do not understand this formula either because we're just starting. This formula is, at least, based on what we need, to provide equity for kids to learn in this state. We need to keep working this thing and tweaking it. I want you know that if you did in the labor market percentage, those people who are above the labor market would still have to raise the money that their budget is. It would then become outside the formula and those people would have to raise that money locally from property taxes. Those people below one in the labor market would have an artificially infused money into their budget and they would end up having to raise that local portion of their budget locally. The money that they get the first year would help defer that expense. In the out years, years after that, it would not. So, it essentially would have the effect of raising property taxes everywhere. I think you will be getting a sheet on your desk. These are figures that I worked with MEPRI, the Department and other people who care so much about education in this State. I do notice that my seatmate, the good Representative from Appleton, mentioned a bill to come, although it's not there. She talked about teacher minimum salary. That is probably the way to go to help the schools that can't afford to pay their teachers. It is part of the recruitment and retention money. It doesn't artificially change anything or raise anything. It doesn't throw the funding mechanism into disarray. It pumps the money into those systems who need it to support the minimum teacher salary. It gives it directly to those schools that need that money. In fact, that's why we're watching carefully to see what we have to do. I have implored people who have been concerned about that labor market. Please get involved. Please help us find the real thing that will fix this, but throwing your funding formula into disarray now and forever because I notice that the proposed language says a 1 not for the next year out, but forever. People will then lose the incentive, there won't be movement in the formula because we'll all be at 100%. I think I've said enough. I think I see a few eyes glazing over. I will sit down, but please think very carefully about this. Your education funding is probably the biggest thing you come here for, money wise.

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

Representative SHERMAN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I don't know about throwing the funding formula into array, but I've had long talks with Jim Ryer about my school district at .88% of whatever the so-called labor market is. All I know is we're \$6,000 to \$7,000 less, that average teacher salaries in our area, than they are in other areas of the State. If we want to use that as a fairness issue, I don't think it's very fair. Jim Ryer, who's a wonderful user of numbers, you talk to him for an hour, frankly, and not be sure what car you're buying when he's done, and I apologized for that ahead of time, but, I asked him how are we going to raise teachers salary in rural areas, and he said, "Well, if

you pay them more, we'll reimburse you more." So, that's a chicken and an egg issue. You dig up the money to pay them more and, theoretically, you'll reimburse them more. I think the funding for the old funding formula, those who have understood it, we negotiated under it, and what it needed was a little more money and it would have worked quite well. Thank you.

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

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

Representative GOLDMAN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As we go over this issue, I think a lot has been expressed already that I certainly do not want to repeat, I would like to address an issue that, since this did come up in our committee and I would like to repeat some of that, this is, in fact, a very serious issue. EPS, with its supposed inequities, frankly, is only reflecting inequities that have existed in Maine for a long time. That is, if you negotiate teacher salaries, custodian salaries or bus driver salaries, you always start by saying, "What is it going to take to get somebody to do that job in this particular area." EPS is not the perpetrator of these differences, it is simply reflecting them. To me, the real policy issue here is of course, as a teacher, myself, I would love to see all teachers, wherever they are working in whatever part of our State or anybody else's state receiving far more in compensation for what they are doing. That is really important. However, I have also worked with the previous funding formula as well as this funding formula and I know how difficult it makes things if you try to make policy by fiddling with the formula. Pretty quick, your formula doesn't do what you think it's supposed to do. This is a serious policy issue. It deserves to come to the Education Committee in a serious bill. It deserves to have a realistic fiscal note on it and we need to be sure that we have public hearings that allow everybody on any side of this issue to be heard. To put this through in this way at this time means that the impact, as the little green sheet points out to you, 50% of the teachers in the State of Maine are working in areas where there is a higher labor market cost. If, in fact, we were to throw the EPS formula into a tizzy by doing this, going directly to 1, what we would be saying to those teachers is, "Well, let's hope that the district that you happen to be working in is going to be willing to add to their local tax burden by continuing to pay you at your contracted, negotiated salary rate. Many of us, in the southern part of the State, are what we call low-receivers or minimal-receivers. We're already paying most of the freight for our particular local school districts. What we put into the State pot for income tax and for sales tax or corporate tax that goes to the State pot, we're getting very little back. I get, for instance, in our district, we get 12% of our budget. Many of the districts that would like to have, and definitely, in my mind, deserve attention, are districts that are already receiving 70%, 80% even 90% of their budget. They are high receivers. So, we have in all of these differing issues, we already are a State that has an equity funding formula where we are trying to help those who do not have it. This, however, would actually add an additional burden and would put in jeopardy the 50% of those teachers who are receiving higher salaries because I am not convinced that all districts would continue to put in that extra money. I am raising that issue because I hope you understand this is not a simple issue. It deserves serious policy consideration. It should be

brought in with a bill and it should have public hearing. Thank you very much.

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

The **SPEAKER**: The Chair recognizes the Representative from Caribou, Representative Edgcomb.

Representative **EDGEComb**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is the most unfair and inequitable part of EPS. In January, I had an opportunity to attend the World Junior Biathlon Championship held in Presque Isle. The racers left the starting gate at 30 second intervals and then their order of finish was recorded with their time. The next day, the racers left the starting line in the order that they finished, and also, if you finished 10 seconds behind the winning racer, then you waited 10 seconds before you left. There were racers that left more than seven minutes later. Could you imagine trying to win a race that you're seven minutes behind the person that's been out there skiing for seven minutes. This is a position that you're putting these schools in, that are in a low labor market area. I respectfully request that you vote to defeat the indefinitely postponement so that we can really discuss the issue of labor market. Thank you Mr. Speaker.

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

Representative **DAVIS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Very briefly, I agree with the Representative from Cape Elizabeth and Bangor. I represent Falmouth, of course, and it was estimated that Falmouth would lose \$1 million next year if this went through. I think it's late in the game and the Representative from Cape Elizabeth said we didn't have a public hearing on this. We didn't. So, if you wanted to try this in another Legislature, that's the time to try it, not now. I do respect my colleague from Caribou and I think he's a very good legislator. I just disagree with him. Thank you Mr. Chairman.

The **SPEAKER**: The Chair recognizes the Representative from Appleton, Representative Merrill.

Representative **MERRILL**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I just have one response to a couple of statements that have been made, in particular the statements made by my good friend the Representative from Falmouth as well as my other good friend and committee colleague, the good Representative from Cape Elizabeth. This is a serious issue. It's such a serious issue that many of us were promised, when LD 1 passed, that it would be addressed. Our committee looked at it, we looked at it after LD 1 passed. Did you see a fix come through? No, because the committee decided it was just kind of too big and we'd have to ask for other folks to look at it and come back with recommendations. We didn't get those recommendations this year. Again, this is too big of an issue; we'll have to put it off until next year. I respectfully submit that this is going to get put off year after year after year. That wasn't what the promise was. Thank you.

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

ROLL CALL NO. 501

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant,

Burns, Cain, Campbell, Canavan, Clough, Collins, Craven, Davis G, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Eberle, Eder, Farrington, Finch, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Koffman, Lerman, Makas, Marley, Mazurek, McCormick, Miller, Moody, Norton, O'Brien, Paradis, Patrick, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Richardson M, Richardson W, Rines, Sampson, Seavey, Simpson, Smith N, Smith W, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Carr, Cebra, Churchill, Clark, Cressey, Crosby, Crosthwaite, Curley, Curtis, Daigle, Davis K, Dugay, Duprey, Edgcomb, Emery, Faircloth, Fischer, Fisher, Fitts, Fletcher, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Lundeen, Marean, McFadden, McKane, McKenney, McLeod, Merrill, Millett, Mills, Moulton, Muse, Nass, Nutting, Ott, Plummer, Rector, Richardson D, Richardson E, Robinson, Rosen, Saviello, Schatz, Sherman, Shields, Sykes, Tardy, Thomas, Trahan, Vaughan.

ABSENT - Cummings, Jennings, Marraché, Moore G, Stedman.

Yes, 76; No, 70; Absent, 5; Excused, 0.

76 having voted in the affirmative and 70 voted in the negative, with 5 being absent, and accordingly the Bill and all accompanying papers were **INDEFINITELY POSTPONED**.

The **SPEAKER**: The Chair recognizes the Representative from Bangor, Representative Faircloth who wishes to address the House on the Record.

Representative **FAIRCLOTH**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. When I went to press the button, I pressed the wrong button. I wish to be recorded as green.

Seven Members of the Committee on **LABOR** report in Report "A" **Ought to Pass as Amended by Committee Amendment "B" (H-1007)** on Bill "An Act To Implement Task Force Recommendations Relating to Parity and Portability of Benefits for Law Enforcement Officers and Firefighters"

(H.P. 706) (L.D. 1021)

Signed:

Senators:

STRIMLING of Cumberland
BARTLETT of Cumberland

Representatives:

DRISCOLL of Westbrook
JACKSON of Allagash
HUTTON of Bowdoinham
TUTTLE of Sanford
CLARK of Millinocket

Five Members of the same Committee report in Report "B" **Ought to Pass as Amended by Committee Amendment "C" (H-1008)** on same Bill.

Signed:

Senator:

SNOWE-MELLO of Androscoggin

Representatives:

HALL of Holden
DUPREY of Hampden

CRESSEY of Cornish
HAMPER of Oxford

One Member of the same Committee reports in Report "C" **Ought Not to Pass** on same Bill.

Signed:
Representative:
SMITH of Van Buren

READ.

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

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

CONSENT CALENDAR

First Day

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

1477) (L.D. 2089) Bill "An Act To Require Registration by Residential Construction Contractors" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1006)**

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

CONSENT CALENDAR

Second Day

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

(S.P. 751) (L.D. 1954) Bill "An Act To Invest in the Future of Maine Citizens" (C. "A" S-586)

(S.P. 838) (L.D. 2096) Resolve, To Reduce State Valuation as a Result of the Closure of Georgia-Pacific Facilities (EMERGENCY) (C. "A" S-590)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were **PASSED TO BE ENGROSSED AS AMENDED** in concurrence.

BILLS IN THE SECOND READING

Senate as Amended

Bill "An Act To Ensure Proper Disposal of Debris and Protection of the Environment"

(S.P. 47) (L.D. 141)
(C. "C" S-573)

Bill "An Act To Improve Early Childhood Special Education" (EMERGENCY)

(S.P. 689) (L.D. 1772)
(C. "A" S-585)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the Senate Papers were **PASSED TO BE ENGROSSED AS AMENDED** in concurrence. **ORDERED SENT FORTHWITH.**

Bill "An Act To Strengthen the Collection of the Tax on Tobacco Products"

(H.P. 1485) (L.D. 2093)
(C. "A" H-1009)

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

On motion of Representative BIERMAN of Sorrento, was **SET ASIDE.**

The same Representative **PRESENTED** House Amendment "**B" (H-1022)**, which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Sorrento, Representative Bierman.

Representative **BIERMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. "An Act To Strengthen the Collection of the Tax on Tobacco Products" LD 2093 is a very good attempt to stop a group of individuals, referred to as "trunk slammers." This is a group of people who bring large quantities of tobacco products into the State and sell them at a very reduced rate and without tax. They do this often out of the trunk of their car, hence "trunk slammers." My amendment would allow for the importation of cigars for personal use by non-distributors and limit that amount to 125 cigars. Current law allows that you can bring as many cigars across State lines as you like right now. This proposed legislation limits the amount of all tobacco products coming into the State. I've had several discussions with all parties involved and we've all come to a conclusion that this amount works for everyone. I would encourage its passage. Thank you.

Subsequently, **House Amendment "B" (H-1022)** was **ADOPTED.**

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-1009)** and **House Amendment "B" (H-1022)** and sent for concurrence. **ORDERED SENT FORTHWITH.**

ENACTORS

Acts

An Act To Support the Efficient Implementation of Maine's Learning Results

(H.P. 989) (L.D. 1425)
(C. "A" H-913)

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

On motion of Representative DAVIS of Falmouth, was **SET ASIDE.**

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

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

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

ROLL CALL NO. 502

YEA - Adams, Ash, Austin, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Bowen, Brannigan, Brautigam, Brown R, Browne W, Bryant, Burns, Cain, Campbell, Canavan, Carr, Churchill, Clark, Collins, Craven, Cressey, Crosby, Curley, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Emery, Faircloth, Farrington, Finch, Fischer, Fisher, Fitts, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hanley B, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jacobsen, Jodrey, Koffman, Lerman, Lundeen, Makas, Marean, Marley, Mazurek, McCormick, McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Muse, Nass, Norton, Nutting, O'Brien, Patrick, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Plummer, Rector, Richardson E,

Richardson W, Rines, Rosen, Sampson, Saviello, Schatz, Seavey, Sherman, Shields, Simpson, Smith N, Smith W, Sykes, Tardy, Thompson, Trahan, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Berube, Bierman, Bishop, Bowles, Bryant-Deschenes, Cebra, Clough, Crosthwaite, Curtis, Duprey, Edgecomb, Fletcher, Hall, Hamper, Joy, Kaelin, Lansley, Lewin, Lindell, McFadden, Moulton, Ott, Paradis, Pinkham, Richardson D, Richardson M, Robinson, Thomas, Vaughan.

ABSENT - Cummings, Jennings, Marraché, Moore G, Stedman.

Yes, 116; No, 30; Absent, 5; Excused, 0.

116 having voted in the affirmative and 30 voted in the negative, with 5 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

An Act Making Improvements to the Laws Regarding Local Land Use Ordinances

(H.P. 1080) (L.D. 1535)
(C. "A" H-832)

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

On motion of Representative MOULTON of York, was **SET ASIDE.**

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

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

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

ROLL CALL NO. 503

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Berube, Bierman, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Browne W, Bryant, Burns, Cain, Campbell, Canavan, Carr, Churchill, Clark, Collins, Craven, Crosby, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Edgecomb, Emery, Faircloth, Farrington, Finch, Fischer, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jodrey, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, McCormick, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Nass, Norton, Nutting, O'Brien, Paradis, Patrick, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Plummer, Rector, Richardson W, Rines, Rosen, Sampson, Saviello, Schatz, Seavey, Sherman, Shields, Simpson, Smith N, Smith W, Sykes, Tardy, Thompson, Trahan, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Bishop, Brown R, Bryant-Deschenes, Cebra, Clough, Cressey, Crosthwaite, Curley, Curtis, Duprey, Fitts, Hall, Jacobsen, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McFadden, McKane, Moulton, Muse, Ott, Pinkham, Richardson D, Richardson E, Richardson M, Robinson, Thomas, Vaughan.

ABSENT - Cummings, Fisher, Jennings, Moore G, Stedman.

Yes, 113; No, 33; Absent, 5; Excused, 0.

113 having voted in the affirmative and 33 voted in the negative, with 5 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

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

Expression of Legislative Sentiment recognizing Airline Community School Chess Team, of Aurora.

(SLS 1077)

Which was **TABLED** by Representative PINGREE of North Haven pending **PASSAGE.**

The SPEAKER: The Chair recognizes the Representative from Dennysville, Representative McFadden.

Representative **McFADDEN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise to recognize and congratulate Coach Dan DeLuca and the Airline Community School District K-3 State Chess Champions. Just think these are kids five to eight years old. Think of the cognitive skills these young students must possess and are building upon. What a great extra-curricular activity for these young students. Think of the great background this prepares these students for in problem solving and other thought processes and the ability to plan and look ahead. I am sure many, many hours of practice and dedication must go into a State Championship. It is certainly quite a feat for these young students from a remote school of fewer than 100 students in eastern Hancock County competing against over 140 districts around the State. Maybe our delegation could challenge these young students to a match. No, maybe we had better scrap the idea, because they would probably embarrass us. Congratulations Coach Deluca and the students of the State Championship. You have proven you are the best in the State in your class. Thank you Mr. Speaker.

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

Representative **PINGREE**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Some of my good colleagues have already been giving me a hard time about why my chess team didn't win this year. I actually just wanted to extend my congratulations. I spent part of the day with the Airline Community chess team. I just want to draw your attention to items 5-5 and 5-6. Our chess teams in Deer Isle-Stonington have still claimed many of the other championships, but I have to say that the young airline students, the majority of which are young girls, are coming up. I have warned the Deer Isle-Stonington chess kids that they had better start practicing. I congratulate them. I'm sorry that the rest of the chess teams had to leave today, but I appreciate that they stuck around and I certainly want to congratulate them on their success.

Subsequently, this Expression of Legislative Sentiment was **PASSED** in concurrence.

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

Expression of Legislative Sentiment recognizing Deer Isle-Stonington Elementary School Chess Team.

(HLS 1844)

Which was **TABLED** by Representative PINGREE of North Haven pending **PASSAGE.**

Subsequently, this Expression of Legislative Sentiment was **PASSED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

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

Expression of Legislative Sentiment recognizing Deer Isle-Stonington High School Chess Team.

(HLS 1845)

Which was **TABLED** by Representative PINGREE of North Haven pending **PASSAGE**.

Subsequently, this Expression of Legislative Sentiment was **PASSED** and sent for concurrence. **ORDERED SENT FORTHWITH**.

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

Expression of Legislative Sentiment recognizing Jym St. Pierre, of Readfield.

(HLS 1849)

Which was **TABLED** by Representative EDER of Portland pending **PASSAGE**.

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

Representative **EDER**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. It's an honor and a pleasure to be able to stand here today and recognize James A. St. Pierre, a man who has dedicated his whole life to protecting the Maine environment. A man, who I'm sure, when history is written about the conservation movement, will be a giant in that story. Jym was born on the Saco watershed. He earned his BA and MPS degrees from the University of Maine and then from 1976 to 1989, he worked for the Department of Conservation. He served in senior staff positions in Maine with the Wilderness Society and the Sierra Club. He's the Maine Director of Restore the North Woods. He's a founding member of Citizens to Protect the Allagash. He's on the steering committee of the Maine Forest Biodiversity Project. There are many reasons, clearly, to recognize Jym St. Pierre and the work that he's dedicated his life to in protecting Maine's environment. But, today, I would like to recognize Jym for his work in 20 years of service on the board of the Maine League of Conservation Voters, of which he was a founding member. Jym recently retired from the board and we wish him well and I'm sure we have not seen the last of Jym. I hope that he finds a little bit more time to spend fishing on Pierce Pond with his father and taking photographs of his beloved Maine environment. Men and Women of the House, please join me in recognizing Jym St. Pierre.

The **SPEAKER**: The Chair recognizes the Representative from Winthrop, Representative Flood.

Representative **FLOOD**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I've known Jym, professionally, for 20 years and have always found him to be deeply thoughtful person committed to protecting the environment. His knowledge and his service to conservation and historical issues locally and statewide is outstanding. I'm very proud to know him and I'm glad he's receiving this worthy recognition today. Congratulations Jym. Thank you.

Subsequently, this Expression of Legislative Sentiment was **PASSED** and sent for concurrence.

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

HOUSE DIVIDED REPORT - Report "A" (7) **Ought to Pass as Amended by Committee Amendment "B"** (H-1007) - Report "B" (5) **Ought to Pass as Amended by Committee**

Amendment "C" (H-1008) - Report "C" (1) **Ought Not to Pass** - Committee on **LABOR** on Bill "An Act To Implement Task Force Recommendations Relating to Parity and Portability of Benefits for Law Enforcement Officers and Firefighters"

(H.P. 706) (L.D. 1021)

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

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

Representative **SMITH**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I moved that the House accept the majority report "Ought to Pass" as amended. This was done in deference to the majority of the Labor Committee. However, as Chair of the Labor Committee, I felt that was my responsibility. However, I do not support the report and I want to explain to you why. My vote in this committee action was "Ought Not to Pass." LD 1021 creates a special health insurance benefit for retired county and municipal firefighters and law enforcement. It provides that the State of Maine will subsidize 45% of the cost of this program with a projected cost of \$3.4 million in 2007 and \$3.8 million in 2008. This is money that will come out of the general fund. It goes without saying that access to healthcare is one of the most basic needs of every Maine resident and that one of the major problems facing this State is to make it accessible and affordable to everybody. I certainly respect and admire the firefighters and law enforcement officers in their diligence in presenting this and the work that they do, however, I need also to give respect to all the other working people of this State who do not have health insurance and have to access to it. The State has attempted to make healthcare available to all its citizens through the Dirigo program. Perhaps that's where the effort should be going. But, I do not think that the way to go is for the State to provide subsidized healthcare for the stronger and better organized, or best lobbyists organizations in the State. Healthcare should not become a matter of right for the strong, it should be a matter of right for all the people in the State. For that reason, in good conscience, I cannot support it. I certainly support universal healthcare for everyone in the state, but I cannot support the State taxpayers money, that comes from working people who cannot afford health insurance for themselves, I cannot support subsidizing a group which already has far more of a safety net than most of the people in the State. Thank you.

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

Representative **DUPLESSIE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise to speak in strong support of the majority report of the Labor Committee. This comes about from a study that was started in 2003. I was fortunate enough to co-chair that study with Madame President from the other body. The study was to look into portability or retirement benefits for law enforcement and firefighters within the State of Maine. The study was a two-year study to look at some of the problems of recruitment and retention for the public safety officers, the career officers doing these professions that protect every one of us every day. The more we looked into some of the portability issues with the straight retirement, it became more and more evident that we needed to also look at the healthcare problems of these employees and why they were not staying in their profession. We had extensive material within the State of Maine, New Hampshire and from a few other states studying this problem. It became evident that many employees were staying on longer than they should in some of these professions, which is even more dangerous. It's a young person's job. The life

expectancy of these employees is a lot lower than the average population. There's a serious problem with recruitment especially in Southern Maine. Not many years ago, often times when police departments and fire departments would advertise for applicants to take an entrance exam, 350 or 400 would apply. Now they're lucky to get 40 sometimes in some of these communities because they're hopping across the border, the people that want to dedicate themselves to this profession, be it law enforcement or firefighters. Because, in New Hampshire, the wages are a lot higher and the benefit package including the retirement and the healthcare when they retire. Many are going to Massachusetts for similar reasons. Through this study one of the options was to create more portability, which that is still in this bill, the original bill, which you're probably looking at just the amendments at this point, which will encourage the municipalities to allow more portability between the offices so they carry their time. If they want to go from one community after 15 years and spend another 10 or 15 years in another community, they want to encourage that. The healthcare issue was one of the driving factors that needed to be looked at. Some communities were losing police officers. County Sheriff's departments were losing police officers to the State Police because of the healthcare issues. State Troopers are the law enforcement in the State of Maine, they retire and there's health insurance. Last year, many of you remember, we did have a bill that did get up here and it was to actually just put a premium on the fire insurance tax on accident investigations and those reports. The insurance industry balked at that heavily and there was a couple of problems with it having to do with reciprocity between states and the insurance industry. The bill went back to committee and was reworked by the labor committee. They came up with a new option and that was to look at it as healthcare for retired fire and police officers to be similar as to what policy decisions of previous Legislatures, including this Legislature, have endorsed for the dedicated teachers that we have in the State of Maine. That's where the 45% formula comes up as a subsidy. Besides that, these employees also agreed that they would contribute 1.5% additional of their gross wages to also go in to help fund the plan. The employees would start contributing on January 1, 2007. The plan would not kick in until July 1, 2007. The funding for the State's share, yes, would be the general fund just like we fund other things here in State government, which is always up to Legislature to the next Legislature. It will be up to the next Legislature to start this funding. The State spends a great deal of money on many issues. It spends a great deal of money to the municipalities on many issues. This is one where the State, not like most states, because most states do contribute to the municipalities, to the fire and police protection in some form. In this State, the municipalities pick it all up. This would be one area where the State of Maine citizens could help the municipalities. It would be in the area of healthcare for the retirees. I encourage you to vote for the majority report. Thank you.

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

Representative HALL: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise today in opposition to the pending motion. Certainly, none of us will deny that municipal firefighters and law enforcement officers do an extremely important, demanding and dangerous job. We are all very, very glad that they are there to do that especially if we find ourselves in need of their services. Municipal firefighters and law enforcement officers already have a very generous retirement benefit that recognizes how dangerous, difficult and demanding their job is. They retire much sooner, much earlier than the average State worker. Municipal firefighters and law

enforcement officers negotiate their pay, benefits and working conditions through collective bargaining with municipalities. Our municipal firefighters and law enforcement officers through their unions have been unable to negotiate health insurance for their retirees as a benefit because it is just too costly for municipalities to absorb. Now we are faced with a dilemma. Because they've been unable to get this benefit, they're coming to their friends in the Legislature, asking us to give them the benefit that our municipalities are telling them they can't afford. I will remind you again, these are municipal employees. Benefits are negotiated from the municipalities. At a time when our State is facing a \$450 million structural gap, that's not even giving consideration to the billions of dollars of unfunded liability we have for retirement and health insurance for State employees, school teachers, judges, governors, Legislators, State Police and on and on and on. In addition to that couple of billion dollars that's out there that we have no plan to pay right now, we are still another \$450 million short every two years. This bill simply adds another \$7.5 million to the \$450 million structural gap. Please look at the fiscal note. Do the math. At a time when we need to be looking for cuts, we're talking about a vast expansion of State government, State spending, to pay a municipal expense. We're already not paying our bills to our hospitals. We're not funding education at 55% like we promised. We're not providing health insurance to a lot of people that need it. Again, our firefighters and our law enforcement officers at the municipal level, they deserve this benefit. They absolutely deserve it. They work hard, but the place for them to get it is from municipal government. They need to go back to the bargaining table and negotiate to get it. I urge you, Ladies and Gentlemen of the House, let's concentrate on doing the business of the State. Let's figure out how to pay the State's bills and the State's obligations and not open ourselves up to start trying to pay the bills of the municipalities. Another thing that I need to address, if we pass this legislation, what it amounts to is going out to every single rural community that has a volunteer fire department and that uses the Sheriff's Department and doesn't have local law enforcement, it involves us taking their tax dollars, bringing them into the State government and sending them to Portland, Bangor, Lewiston, Augusta, Holden and to every town that has its own law enforcement and its own professional firefighters. That's just not right. It's just not right to the rural communities that we're already beating up so badly through the EPS formula. To address the comments of the good Representative from Westbrook, Representative Duplessie, New Hampshire does indeed provide health insurance for their retired law enforcement officers and firefighters. Their retired law enforcement officers and firefighters must pay in 3.1% for their income for the entire time that they work in order to get that benefit. The State of New Hampshire, looking at how they do it, how do they provide that benefit, led me to a much more fiscally responsible solution that I'm not allowed to talk about right now. I urge you, let's move forward. Press the red button, defeat this motion and we can move on to a much more fiscally responsible solution that works, that provides the benefit that these men and women deserve and that doesn't add to the structural gap, that doesn't add to the unfunded liability and that's not fiscally irresponsible. Thank you.

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

Representative TWOMEY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Every single one of us should have health insurance, every single one of us. My mother and father should have had health insurance. We are the richest country in the world. It is a matter of priorities. I have sponsored single-payer every single time I've come up here. The problem

we have is if we keep pitting one organization against another, then the weakest of the weak don't have representation. I've been lobbied every day like the rest of you and I would tell those firefighters from my community, "I'm sorry, I have to speak up for those who don't even have any." You know what, they changed my mind. I kept going out and I kept saying the same story. I think Representative Smith said, I agree with 150%, as a matter of fact, that was my story in the halls. Because I said, "When you're happy and you get your piece of the pie, you're going to go home and you're not going to care about my memères and my pepères and people who don't have healthcare." And they said "That's not true." And I told them, "But when I go to Banking and Insurance, I don't see you there when I put my single-payer healthcare in." But they said they do care and I made a deal. You know, deal or no deal, well that's the new program. I went out and I said, "If you can write me a letter proving that you will come and support the work that we do to insure that every single person in the State of Maine has affordable health care, I will vote for you." You gave me the letter and you gave me your promise. The letter reads "Dear Representative Twomey: We support healthcare for every man, woman and child in Maine and in the nation. We view healthcare as a fundamental human right. The United States needs to join the rest of the so-called advanced nations and provide healthcare for all our citizens. Healthcare is not only a fundamental human right, but it is critical to our economic future. We stand ready to work shoulder to shoulder with others seeking universal healthcare. In the meantime, it is our obligation to seek the best for our members, especially our retirees." You know what, I've got the letter and I will hunt you down. I will find you and make sure that you keep your promise. I think you represent the finest. I think you have great benefits compared to some of those that I represent that don't have any, but I do believe that you have the right for the work that you do, and there are many other people that do important work as well. I don't take it for granted that people in the mill work hard too. When I was on the City Council, I always made sure you had the right equipment and that you had the best equipment to help protect our community and I would not want to walk into a burning building. I would not have to respond to accidents and see all that blood that you have to do everyday. I rode with a police officer for a whole shift when I was on the Council because I wanted to see what you go through when you get called and I did that. I did my homework. But, this is not to discard the people I was sent here to represent and those are people that don't have any insurance at all. I will vote for you this time and I want to make sure that your promise to me is that you will fight that every single one of us in the State of Maine should have healthcare. Again, it goes to Washington and it goes to a matter of priorities. It's not just our State finances, we spend foolishly on studying frogs or toilet seats. There's been a study that's ridiculous the money we spend. We could have healthcare for every single one of us if it was our priority. It should be. We need to organize people who don't have the strength to organize for themselves. Thank you Mr. Speaker.

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

Representative **BRANNIGAN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. She speaks from her heart and I must speak from my head, because I have no heart. There are two great things that have come from this effort. One is the showing, again, the absolute need for insurance and for healthcare for everyone. It just becomes more and more evident. These men and women have made it so. The second thing that has come from this is a great lobbying effort. They have a name for it, oops on the ground. If you ever think back on it, non-

professional non-hired lobbyists as courteous as persistent as they have been, so good they've convinced the Representative from Biddeford to change her mind. It is terrific. I commend them and I'm so glad that we are continuing to hammer away at the need, however, at the present time the health insurance that we have now for State workers and for our teachers has a unfunded liability of \$1.2 billion and the unfunded liability we have for State workers and teachers in their retirement system is \$3.2 billion and that one must be paid in the next 24 years. It is going to cost us billions more because we're going to have to pay it over time. We just can't take on more debt and with this plan, we will. It was said before that this is going to cost \$7 million or so per year. I'm sorry to say that the figures that I have, general fund impact of this bill, is \$35.65 million in the next two years. That's a lot of costs. Those are hidden costs, subsidies. Beyond that, with the new GASB 45, we have to reserve money. I am told we have to reserve between \$190 million and \$225 million. I will share with people, because I got these figures from the controller just as I walked in, and I'm sorry to say that it is that high. Even if it's only the \$7 million, we don't have it. Several people, so I don't identify any one person, have said "Can we vote for this? You'll kill it on the table." Well, of course I guess we will, because we don't have \$7 million unless an arrangement comes up at the very end which puts this off to the next biennium. It still will have a future cost in the neighborhood of \$30 million to \$40 million. I'm sorry to deliver that kind of message. I hope we can take care of these folks and all of our folks. Thank you Mr. Speaker.

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

Representative **BLANCHETTE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have to stand here tonight and I fully respect the Honorable Representative from Portland and his opinion on what we're doing. I also understand the good Representative from Holden's concerns that they have a better way to do this. I want to warn you right now, I know some of you think I get on a soap box, bear with me, I'm on it again. I make no apologies for it. I have fought for 20 years for police and fire safety. I will continue to fight as long as I can breath, for police and fire safety. We had a very good discussion at caucus. There were a lot of good questions that came out and I think a lot of reasonable answers came out. The thing that I need to point out to you is that all insurance plans start at some point in time. I don't know when the Maine State Legislature decided that we needed to offer insurance, medical insurance, prescription insurance, death benefits, dental insurance and life insurance to a part time citizen Legislature. We did that. This is the 122nd Legislature and we have very, very good coverage. There are many of us that are very thankful that we have that coverage and some take advantage of it to cover their families because the rates are reasonable and they can afford it. This is as it should be. Maine State employees that work for the State of Maine receive very good coverage. They can retire and they don't have to be at retirement age. When they hit some years, they can retire and they are covered with bridge insurance. Once they do retire and they become eligible for Medicare, under the Federal Government, their co-pay on their prescription plan still remains, in fact, until their death. Thank goodness. I am very, very thankful for that myself. My husband is a retired State employee and he is a very, very ill diabetic. I could not afford to buy his medicine if I had to, even on this exorbitant pay that I get as a State legislator. It wouldn't happen. Somewhere, somehow and someday we have to realize that we owe these people the chance to be covered with bridge insurance from the time they should retire until they can retire. Let me give you an

number of reasons why. This is not just to say "Okay, boy these are good people. They've saved my house. They've saved me. They wrote me speeding tickets and I love them for it. We're going to give them insurance." I have to tell you, I come from a town of 33,000 people. I have a municipal police department and a municipal fire department within my city. In my police department, I have nine people that are ready to retire. Nine. They can't. They can't afford the insurance. Some of them still have children at home or going through the University System that they're trying to pay for. I have 19 firefighters that should have retired but can't. The thing that hurts the worst is that I have all of these policemen and all of these fire personnel that want to retire and open up the gates to the young, bright minds that are leaving the State of Maine. We graduate a class of officers, police cadets and firefighters from our training school over here in Vassalboro and where do they go? I've heard everyone of you stand and plead, "We need to do things to retain the bright and the best." I have to tell you these graduates are the brightest and they are the best. Most of them have degrees from one of the universities here, if not when they join, they attain it while they're in service. They're bright. They cannot afford to stay in this State if they want to be in law enforcement or firefighting until there is room in the inn. How you make room in the inn is you let the old retire and the new come on. It's an investment in your life, your style of living, your protection of your children and, most of all, it's an investment in your State by allowing these very, very bright young men and women to enter into a service field that is most honorable and serves every one of us at one point in our life. I urge you to pass this. Let's take the first step that some prior Legislature had the guts take for us. That some Legislature before our time had the guts to take for all State employees and let's put it on the line and say, "They are a service we value and we can't afford to lose." There are many, many bright young men and women that would like to achieve the rank of lieutenant, captain or chief in service to the citizens of the State of Maine. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Levant, Representative Greeley.

Representative GREELEY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Let me first say that this does not affect me. I'm a police officer as many of you know. This does not affect me. I am not in the system where I would benefit from this in any way. There's no potential for me to benefit from this. I'm supporting this, but in no way is this self-serving. Having said that, this is the first time I've spoken on the House floor this year. I tend not to do it a lot. I probably speak once per year. I'm going to try to make this as succinct as I'm emotionally capable of. The reason why I say that is because I know of people that work in the fire service or the police department that need to retire. I know of a policeman in Bangor, Maine who's 61 years old. I know of one who started in 1971, he's in his 35th year as a police officer in Bangor. Those are two different people. This job, police work and fire work, is dangerous. It's not only dangerous, it's emotionally traumatic. Recently, a friend of mine, who's a policeman, went to a medical call where a baby was suffocating. The baby was dead when he arrived and the father had the baby, who was six months old, in his hands and held it to my friend said, "Do something." These are the emotional situations that police and firefighters deal with. I have seen a firefighter giving mouth-to-mouth resuscitation to a dead person, knowing there's nothing that they can do to bring them back, surrounded by the family. The life expectancy for police and firefighters is about five years less than average. The divorce rate's higher. The alcoholism rate's higher. It's a very tough job. I'm not saying that your job is not. A lot of people

have tough jobs. I'm a policeman and I make \$13.20 per hour. When you retire, after making \$13.20, your pension isn't going to be all that much. The odds are, no matter how old you are, you're going to have to get a second job. The fact is, I think, this is maybe one small way to help these people for officer safety. Do you want a firefighter responding to an emergency situation who is 20 years past his retirement date? Do you want a police officer responding to the domestic, where someone important to you is being beaten to death, and this person has a heart attack on the way there? I know of a situation where this happened to a deputy sheriff. About every two days in this country, a police officer dies in the line of duty. Many, many thousands are injured seriously. I don't know a lot about firefighters, I never did that job. I'm sure it's equally dangerous. If a police officer is injured on the job and goes on disability, the expense is higher than a regular pension. A regular pension is 50%. If you get hurt on the job, it's two-thirds. It's higher. It's higher to the municipality, more costs to the municipality. The retention factor is very big. Right now, police departments are having a hard time filling slots and many departments are running at a deficit because nobody wants to stay. Why should they? So you could work until you're 55 or 60 or older because you have to? There's one thing that keeps tugging at my mind, I'm not going to stand up much longer and tell you a bunch of horror stories, although my head's full of them, I wonder after 9-11 how this bill would have done. Thank you all.

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

Representative TUTTLE: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I speak to you, tonight, with high emotion. This is a difficult issue for someone, like myself, who's been in the line of EMS for 30 years. I do commend the debate that has occurred tonight because I think that's what makes this institution such a special place. As you heard the good Representative from Hampden, Representative Hall, who I admire greatly serving on the Labor Committee, that teacher health issue is not a negative with towns, or school districts because it is picked up by the State. Representative Twomey, the good Representative from Biddeford, who I have always told to always speak with her heart because if she stops doing that I think that we need to get a message every time. I listen to Representative Twomey and she has given us a message tonight. To my good friend and colleague Representative Brannigan, who we've served together for 25 years. He had mentioned that the firefighters, the courteous and courageous effort that they have done, I think shows a great importance and a fine job by them. He mentions an important point that a \$1.2 billion unfunded liability and a \$3.2 billion 24 year liability which is a daunting task. Having been a member of this institution I would remind you that we have had other daunting tasks in previous years, but collectively we have worked together for the betterment of the citizens of the State of Maine. I think that this is one of those issues. I don't need to remind us all that Legislators, after eight years, can leave here with State-paid health insurance. Many in this chamber will take advantage of that. As has been mentioned to you, the majority report addresses health needs of retired law enforcement and firefighters. These individuals put their lives at risk for the safety and welfare of the people of the State of Maine and often suffer, as you've heard here tonight, negative health consequences because of the hazards of the jobs they perform. The job is dangerous, stressful and tough on families. They often cannot retire because their health issues make the cost of insurance too high for them. They are forced to continue to do what is a young person's job which becomes more dangerous for them. I can tell

you I've served with a lot of friends that I've seen taking the last call while on duty. It has become increasingly difficult to recruit and retain law enforcement officers and firefighters because of poor health benefits. The majority report would provide parity with New Hampshire where the system has been initiated and works very well. It creates a retired county and municipal law enforcement officers and municipal firefighter's health insurance program in order to provide 45% State premium subsidy to retired law enforcement officers and firefighters who enroll in the program. The premium subsidy does not begin until July 1, 2007 and it is funded by a contribution by active employees to 1.5%, so they will be participants of this program. Mr. Speaker, Men and Women of the House, I think this is a good bill. It's long overdue and let's give it a chance. Let's do the right thing, the right thing for the people of the State of Maine. Something we could be proud of. Thank you.

The SPEAKER: The Chair recognizes the Representative from Boothbay, Representative Bishop.

Representative BISHOP: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I wish to recognize the honor and bravery of our firefighters and our law enforcement officers and I also wish to pose a question through the Chair.

The SPEAKER: The Representative may pose his question.

Representative BISHOP: Thank you Mr. Speaker. Given the good Representative from Portland, Representative Brannigan's statement that the future costs may exceed \$35 million, how will passage of this bill impact our State's credit rating? Thank you Mr. Speaker.

The SPEAKER: The Representative from Boothbay, Representative Bishop has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Brannigan.

Representative BRANNIGAN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. First of all, I already had my light punched in order to get up and say to you that the figures I gave you were figures that were given to me as I walked in. I will verify them and the sponsor has real doubts about that and at this time asks us to look at the pieces on our amendments. The costs run around \$33.4 million and \$33.8 million. I will verify the other costs and will let you know. The other body, when it is debated there, may have a different picture. I'm giving you the picture I've been given relative to unfunded liability, hidden costs, subsidies, etc. Until I do that, I wouldn't want to comment on our bonding abilities. I'll leave that to those who talk to the bond houses more than I do. Thank you.

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

Representative BOWEN: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I had set out here to take some notes on the debate before I said anything. I've got two notes, so far. One says, "\$35 million plus." The other note that I've written down is the word "guts," which came from the Representative from Bangor. It occurred to me that the vote we're about to take isn't a gutsy vote at all because we're going to approve a piece of legislation that's very costly, but we're not going to pay for it. We're going to make some future generation pay for it. We didn't go through the work of, when we were all working on the budget, going down and figuring out where this \$7 million, \$8 million, \$35 million or whatever it is, is going to come from. We didn't decide which program was going to get cut to fund this, or which tax were going to raise to fund this. This isn't gutsy at all. This vote is nothing to be proud of unless you're prepared to figure out where the money's coming from. That's what's left here. This is how we get into these messes with the

unfunded liability on the pension system. Some past Legislature decided it would be a great idea to offer these very rich benefits and they decided not to pay for it. Now we have to pay for it for years going forward. Billions of dollars. The same with the retiree health insurance for teachers and State employees. Some Legislature in the past decided that was going to be a great thing, put it into law and didn't set aside one nickel for it. We have a \$1.2 billion liability out there. We have saved zero to pay for it. Not one dime set aside to pay for that liability. This is a great deal. You get to press your green button. You get to, when we get out of here tonight, drive home in your car and pat yourself on the back for the great thing that you've done for our friends up in the gallery here and you didn't have to make the tough choice about where the money was going to come from. You didn't have to say no somebody else. You can say yes to them, but you don't have to say no to anybody else. It's some future generation, these kids down here, my eighth graders that were here paging this morning, my own kids and your kids, they're the ones that are going to have to say no because we keep piling on more obligations for future generations to fund. We don't seem to think twice about it. I can't imagine what the State budget is going to look like in 20 or 25 years with Medicaid going up double-digit rates every year slowly eating up the entire budget and all these other things that we promise people. Yes, we'll do this. Yes, we'll do this. We don't know how to fund it. We don't want to make those tough choices. We'll just push it off and make the next Legislature figure out how to do it. This isn't an issue about supporting our police officers and our firemen. We all support them. We all know the hard work they do, but let's be real. If this is something we really want to do, then let's go down and figure out how we're going to pay for it. Not just today, but down the road because that's where the big money is going to come. So, Mr. Speaker, I hope that we're able to defeat this motion and go back to the drawing board, and if this is something that this body decides it wants to do, then let's figure out how to do it right and stop fooling ourselves and patting ourselves on the back. Thank you.

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

Representative RINES: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Each one of us, when elected, brings with us, and we've had this discussion before, our collective wisdoms and learned skills from our lives. Like my good friends from Levant and Westbrook, I too have worked in the emergency services for 25 years. I currently am a volunteer. I no longer do it full time. I could stand and tell war stories all night, but that's not what this is about. The men and women that work in our local police departments, our local fire departments and EMS services are our first line of defense on all of the different fronts. We've had those conversations before. We need to remember that this piece of legislation that we're looking down at now is a continuing discussion that started in the 119th Legislature when the Fire Commission was founded. The Legislature, in their wisdom at that time, realized that the fire service in the State of Maine was in trouble. I don't say that tongue-in-cheek, I say that with all seriousness. In the 119th, the Legislature funded the Fire Commission, which has been diligently working since that time, meeting on a monthly basis, on a myriad of different topics. This one being one of them. They took up the topic earlier in 2000 and by 2003 we were studying what the cost and effect was going to be. Some of the facts I'm going to give you I've given to you before and they won't be new to you, but I just want to remind you about them. Ten years ago, in the State of Maine, there were over 12,000 firefighters in the State, a combination of paid career and volunteer. Ten years

later, that number is under 9,000 and it's continuing to drop. There are a lot of reasons for that and health insurance is one of those reasons, on both the levels, career and volunteer. We are approaching a crossroads extremely fast in the State of Maine. If you believe funding this type of a program is expensive, consider the alternative of funding full time fire and police for the entire State and what that figure looks like in the bottom line. Unless we figure out retaining and recruitment of firefighters, that's where we're headed. It is a job's bill, believe it or not. Each year, the Community College System, which we have all worked very hard to build, is graduating between 60 and 70 students per year and the fire science program between the campuses in South Portland and the campus in Bangor. Out of those 70 students, if we keep 10 in the State of Maine, we've had a good year. It's very simple, the jobs aren't here for them and we're not helping to create them. Here is one of those opportunities that we can take a bite at the apple to create the jobs at the lower end of the pay scale and help those on the upper end of the pay scale retire out. I will be supporting this and I would hope that you do as well. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Burns.

Representative **BURNS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. We are but one of 50 States in, as was pointed out earlier, the wealthiest, most powerful nation in the world. All too often, lately, I hear about what we can't do and what we can't afford to do. I think to myself, knowing what I know about this State and what I know about this country, that that's not who we are. We are a people who are about what can be done, not what can't be done. As the good Representative from Wiscasset and others have pointed out, this is something that if we don't address now, if we believe we can't afford to do this now, the price we'll pay for not doing it is going to be considerably more. Thank you Men and Women of the House.

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

Representative **SAMPSON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. We've heard a few sad stories here and we all recognize how honorable our men and women are that serve us as public servants. Many have asked for my support in the halls, with e-mails and on the phone and I've had to say the same thing to each of them, "We don't have the money." It is fiscally irresponsible for us to take this on when we already have unfunded liabilities and debt. I would wish that all people in Maine had wonderful retirement and insurance, but it is not fair for the people back home to pay for benefits that they, themselves, cannot afford for themselves. Thank you sir.

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

Representative **DUPLESSIE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I guess the good Representative, Representative Bowen did not completely read the committee report that we're currently voting on. The report is very clear. \$3.4 million from the general fund in the next biannual budget. \$3.4 million in year one and \$3.8 in year two. Those are figures from our fiscal office of the Legislature. They do our fiscal policy and that's what the committee report and that's what the fiscal note says. Yes, I will concur, that is putting off some future costs. Future costs, we do that often in this body because it is up to this Legislature and future Legislatures to decide State policy and, yes, those future costs in the next biennial budget that the next Legislature will deal with, that will be a policy decision, if they fund it or don't fund it. But, those costs that we're talking about in this bill is quite small out of a \$5.8 billion biennial budget

which actually will be closer to \$6 billion if not \$6.1 on the next biennial budget. It all comes to a balancing act of what the Legislature wants to establish for policy of this State. Yes, some unknown, unfunded future liability costs, it's no different that what we have in the current system for the State Employee Health Plan that some in this chamber participate in and collect from, nor the educational Health Insurance Plan that others in this chamber are eligible for, or, as the good Representative from Sanford has mentioned, serving as a Legislator, many in this chamber will collect from that State Health Insurance Plan funded by general fund dollars. Thank you.

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

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

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

Representative **BABBIDGE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm sure I'm not the only one in the room, but this one has been bothering me for a long time. A Republican colleague of mine, years ago said, "If you ever want to go into political life, get the fire department on your side." There are two ways to look at this question. One's political and one's on the merit of the bill. I think of Edmund Ross who was a Senator from Kansas in the mid-nineteenth century, actually it was after the assassination of Lincoln during the presidency of Andrew Johnson, who had to vote on the impeachment of Andrew Johnson, went against the majority and went against his constituents at the time, and his quote was, "I looked down into my open grave." Well, there is a bear in the room, but it's not that Thomas Nast cartoon, I believe it was Thomas Nast, where the nineteenth century Legislature has, in the back of the room, the large stomached lobbyists, trusts and the interests who were really pulling the strings of the Legislature. The people in the back of this room are our friends, our neighbors, our family and our people who we respect and admire. They're the good guys. I have to say, that as I look at the majority report, I have real concerns. Here I am, a person who wants universal health care, or at least, universal coverage, perhaps as much as anyone in this room. But, I do look at the report and I really feel the time to be vested is too short. I'm concerned about providing the fiscal impact of providing this much coverage of a person who's potentially in their 40s and what that means for State finances. I'm desperately looking for a way to help these people, but the majority report, I do not believe is it for me. If I may, Mr. Speaker, I'll end with a question that could be answered by anyone in the Chamber.

The SPEAKER: The Representative may pose his question.

Representative **BABBIDGE**: Thank you. I am concerned with, not concerned, but I do not quite understand, in either report actually, what the implication is of this bill on people who have less than 25 years of service, because that is included, but I need clarification from someone who would help me.

The SPEAKER: The Representative from Kennebunk, Representative Babbidge has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Westbrook, Representative Duplessie.

Representative **DUPLESSIE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. If I heard the question right from the good Representative from Kennebunk, Representative Babbidge, what are the implications on less than 25 years. It actually has some implication only because there are a few that are currently retired, that retired on 23 or 24 year

retirement plans. Very few, and it would cover them. Most all of municipalities have, since the mid 80s, have changed their retirement plans. There are not more 20, 22 or 24 plans. They're now on the 25 year plans. That's why the language had to reflect that, to pick up those few who actually retired with less than the 25 year plan. Everyone else will, more or less, in short time will be at the 25 year or more. I was under a 20 year plan when I retired, but I spent 28 years before I left. There are very few, even that were on the 20. Some of them did go to 24, 25, 26 or 27. I left because of the Legislature. This bill has minimal effect, if any effect, on myself because of the lucrative plan that we have as Legislators now that I've done my eight years. After this year I'm termed out. That's the effect, is just those few to pick up. That's why the language had to reflect that so we just wouldn't drop them off the cliff. Thank you.

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

Representative **RICHARDSON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have really just one thing to add to this thing. If you haven't already done the math, the debt that we currently owe amounts to \$200 million every year for 24 years.

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

Representative **BOWLES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I want to take you back in time. I want to take you back to last June, June 2, to be exact. A vote on LD 758 "An Act to Increase Retired Teacher's Health Insurance Benefits." At the time we took that vote, the health insurance benefit for retired teachers was at 40%. The proposal that we voted on that day would have taken it to 100%. It had a fiscal not of \$6.2 million in 08, \$9.5 million in 09 and just continued to escalate. We knew, when we voted for it, there was no way it could possibly be funded. I had e-mail after e-mail from teachers, both active and retired, who were given false hope that they were going to receive a benefit that we knew perfectly well we could not fulfill. That vote was 113-20. There were only 20 people who stood here and said, that night, the we acknowledge the contribution made by teachers, but we can't afford to fund this bill and we're not going to be hypocritical and vote for it, knowing we can't afford to fund it. I submit to you that is exactly the position we are in tonight. You're creating a false hope for the people that we've talked about all evening, some of the best people in our community, some of our closest friends, just as many of my closest friends are teachers. I had to face them then and tell them why I couldn't vote for it. I'm willing to face firefighters and policemen now and tell them why I can't vote for this. I'm not going to be part of a charade that votes for something that we know perfectly well we can't afford.

The SPEAKER: The Chair recognizes the Representative from York, Representative Moulton.

Representative **MOULTON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. When I was a reserve police officer back in 1974, I would say at this point, most, if not all of the people that I worked with are now retired. When I came back home from a little more education in '79 and '80, that group of people are now at the point of retirement and I've gotten a lot of e-mail the people that I went to grade school with, high school with and people that I worked with, and it is with regret that I rise this evening in opposition to the majority report for the reasons cited. As I understand the request, in terms of setting up a program whereby there is a set-aside, I believe that I can support such a program, but I cannot, in good conscience, look at the policy implications of the majority report and vote in

favor of it. So, Mr. Speaker, Ladies and Gentlemen, I do regret having to vote against this majority report. Thank you.

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

Representative **TUTTLE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Very briefly, the debate this evening, I think, has addressed a lot of important issues that we need to look at in this bill. I do commend the good Representative from Sanford, Representative Bowles, but as I said before, it will be a daunting task. I think, historically, this Legislature has met those tasks and worked together to do the right thing for the people of the State of Maine. This bill enhances recruitment and retention. It reduces the loss of public safety employees from Maine to neighboring states. It allows the older employees to retire in a timely manner so they don't end up dying on duty. It will incur municipal cost savings through the replacement of senior employees at top salaries with early entry level candidates, as the good Representative from Bangor, Representative Blanchette reminded us. Senior public safety employees who are more prone to on-duty injuries and workers' compensation issues are able to retire when eligible allowing younger, qualified candidates to come on the job, and to retire with a little bit of dignity. So, let's do the right thing. It will be a daunting task, but let's vote for this bill. Thank you Mr. Speaker.

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

Representative **DUPREY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I can't really add much to the debate other than I agree with pretty much everything on both sides that everybody has said. I agree with the people that said they deserve the benefit, and they do. I agree with the people who said we can't afford it. First of all, I'd like to acknowledge that I've never had a more respectful lobbying group ever. I've been down here for six years. They have been an absolute pleasure to work with, even though I've been on the other side working with them trying to find a compromise, I've never heard a foul word and I've never been sent an e-mail that was disrespectful. They've been utmost great people to work with, and I've negotiated in good faith. I feel comfortable with them up there today. Walking down the gauntlet today with all the police officers, I kind of wish they were here two days ago. I might have kept me from having things dumped on my head. Anyway, bring us down to reality here is, I'm not allowed to talk about the minority report. We have a fiscally responsible alternative and if you defeat the pending motion, we could possibly get to something that costs the State no money. The biggest thing I don't want to do is have to look in their eyes and say, "I voted for you," when in the back of my mind knowing there's no way in heck it's ever going to get funded. We do that too much around here. I looked in their eyes and I've told every single one of them that. There's too many empty promises out of this chamber. That's why we're in the mess that we're in. I just can't do it to those people. I can't do it. If it costs me politically, so be it, but I'd rather do the right thing for the right reason at the right time and be able to hold my head high and sleep at night. That's what we're supposed to be doing here. Thank you Mr. Speaker.

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

Representative **HARLOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I agree, it is the right thing to do and I will do the right thing. I will be voting for this. Thank you.

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

Representative **SYKES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Tough decisions. There is a word in the English language that is very, very difficult to pronounce. Parents have difficulty pronouncing that word. Teachers have difficulty pronouncing that word. Principals have difficulties pronouncing that word and we as Legislators, also have difficulty pronouncing that word. Ladies and Gentlemen of the House, that word has only two letters. Thank you.

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

Representative **BLANCHETTE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I do promise to be brief because I think everything that needed to be said, has been said. I just need to point out the fact that we're talking about growing jobs and industry within this State. There's not a day that goes by that we don't say we really need to have more jobs. Good paying jobs where people can educate their children, live in the town, buy property and pay property taxes. I have to tell you, when you open the field and you retire firefighters and police personnel that want to retire, but can't, you've opened up the job market to the very, very best and the brightest. I have to tell you a sad story, not that I want to jerk your heart strings, because I don't. It's a fact of life. I had a police officer on the Bangor Police Department that had a very massive heart attack and was in a coma and really unresponsive for about five years. We had to pay this. We had to take care of it and God knows we didn't regret one minute of it because he was beloved and respected by all. The fact was, it put our police department in a very, very bad situation. They were one officer short for that period of time, because as long as he was alive, he wasn't allowed to be replaced. He would never come back to work. There was no settlement offered on Worker's Comp because that would just have been astronomical. I have a number, any number of injured firefighters that are not only not able to work light duty, but can't work light duty. When you go into a fire department, there are not that many jobs that qualify as light duty jobs. When I have firefighters that, trying their best, but they've snapped a knee, they've hurt a back, they've wrenched an elbow and they have to go in. They know they're going to do a regulated burn, they ought to take a sick day, because the body won't do it. The overtime costs and the insurance liabilities that we face are going to add up to far greater figures than what starting out this insurance bridge for our public safety personnel will do. We have to start somewhere and I'm sure former Legislators felt every bit as anxious about starting the retirement system for employees, the bridge insurance for State employees. It's a tough job, but you know what, raising kids is a tough job too, but we all take it on, don't we, and we enjoy every minute of it. The hard is the easiest when you believe in what you're doing. I'm not going to have a problem looking at myself in the mirror when I vote for this, and you can bet I will vote for it. I don't think you will either because these people that you're going to be representing are not asking for the moon. They're asking for a chance to enjoy their life. Let's give it to them. Thank you Mr. Speaker.

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

Representative **SMITH**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Just very briefly, the \$3.4 million projection for 2007 and the \$3.8 million projection for 2008 was based upon an estimated 950 participants. Now we hear all this argument about, what is it, 10s or 100s or 1,000s

ready to retire if this benefit is given. If this indeed would happen, the costs are going to be hugely greater than \$3.4 million or \$3.8 million. Please consider that.

The SPEAKER: The Chair recognizes the Representative from Waterford, Representative Millett.

Representative **MILLETT**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will promise to be brief. I will say that this has been one of the better debates that we have engaged in on an issue of major consequence this year. I commend those who have spoken from both the heard and the head. I think we have identified the group that has come to us as a deserving, worthy and reputable group who have fought the good fight and brought their best proposal to us. The issues that I think have been argued tonight are important arguments that ought to be looked at from a future lens as well from a past experience. The Representative from Rockport described the history of unfunded liabilities when benefits were given in the 60s and 70s and nobody worried about the costs. I watched that process. I knew it was wrong and I know we're now going to pay for it for decades to come. The Representative from Westbrook described the process of occasionally deferring the effective date of a bill and worrying about the costs in future biennia. That leads to what we have come to call structural gaps. Each of these structural gaps and unfunded liabilities are sins of past Legislatures and temptations of current and future Legislatures. We need to think about the lessons that we should have learned, and try to learn from them as we act here tonight. I want to commend the good Chairs of Labor and Appropriations for the stands that they've taken tonight, and in part, as I close, help support the good Chair of Appropriations and the numbers that he has presented to you tonight. I know the circumstances in general under which he was given numbers tonight and I recognize that he is operating with less than a accurate and written calculation to share with you tonight. Knowing what I know about it, I'd like to say that it is a very important \$35 million to \$40 million figure that was mentioned by the good Chair, the Representative from Portland, Representative Brannigan. Some of you, those of you who are in the term-limited stages of your eight years here, will remember in the latter stages of the previous administration when times were good, there was an attempt to capitalize the State employee and teacher retiree health insurance fund. The previous Chief Executive proposed, and that Legislature actually contributed monies that grew to approximately \$100 million. We actually had begun to learn from the past and tried to reserve for the future. When times were tough in 2003, 2004 and again last year, we took all of that money back and we spent it. We basically concluded that we could not afford to reserve for the future. About a year and a half ago, the federal government adopted a standard called GASB 45, the General Accounting Standards Board requirement that all public and private employers begin to account for post-retirement benefits as part of their annual balance sheet. That now effects this government, just like it does a private sector employer. It really is important for us to think about the fact that we have started down that road when it was voluntary, pulled back when we couldn't afford it and now we're under the gun by federal legislation to begin to reserve, immediately, for the \$1.2 billion teacher and State employee health insurance benefit that is now on a pay as you go fund with almost no reserving. Some of you may not know that we took a stand, in the Appropriations bill that you passed a couple of weeks ago, that begins to do that. I take some pride in telling you that you have committed to a form of reserving. When the books close each fiscal year, 20% of the excess revenues, overestimates and unspent appropriations will now automatically go into a fund to begin reserving for that

existing liability for State employees and teachers. With luck, we may get \$4 million to \$5 million, maybe \$5 million or \$6 million, going into that fund this year. The \$35 million to \$40 million figure that Representative Brannigan mentioned is a new one on top of that. A brand new one that we would assume, in addition to the \$7 million plus biennial cost that is being pushed ahead by the proposal in report A, that would be part of the structural gap. In conclusion let me just say here's the way it will work. Our Commissioner of Administrative and Financial Services and our State Controller will now be required to report, on the balance sheet this June 30th and on the official statements that go to Wall Street, what the actuarial cost of reserved post-retirement benefits will be. We must do it or we will be subject to audit exceptions. Wall Street will see it and they will clearly look at it in the context of bond rating. If we fail to plan, we will plan to fail. I respect everybody. I think we are at a point where we just cannot afford to plan to fail.

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

ROLL CALL NO. 504

YE - Adams, Ash, Barstow, Blanchard, Blanchette, Bliss, Brautigam, Brown R, Bryant, Burns, Cain, Campbell, Canavan, Cebra, Churchill, Clark, Craven, Crosby, Curley, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Edgecomb, Faircloth, Farrington, Finch, Fischer, Fisher, Fletcher, Gerzofsky, Glynn, Greeley, Grose, Hanley S, Harlow, Hutton, Jackson, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, McCormick, Norton, O'Brien, Paradis, Patrick, Percy, Pilon, Pingree, Piotti, Rines, Robinson, Schatz, Simpson, Smith N, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Mr. Speaker.

NAY - Annis, Austin, Babbidge, Beaudette, Berube, Bierman, Bishop, Bowen, Bowles, Brannigan, Browne W, Bryant-Deschenes, Carr, Clough, Collins, Cressy, Crosthwaite, Curtis, Daigle, Duprey, Emery, Fitts, Flood, Hall, Hamper, Hanley B, Hogan, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Moulton, Muse, Nass, Nutting, Ott, Perry, Pinkham, Plummer, Rector, Richardson D, Richardson M, Richardson W, Rosen, Sampson, Saviello, Seavey, Sherman, Shields, Smith W, Sykes, Tardy, Thomas, Thompson, Trahan, Vaughan, Woodbury.

ABSENT - Cummings, Goldman, Jennings, McFadden, Moore G, Pineau, Richardson E, Stedman.

Yes, 73; No, 70; Absent, 8; Excused, 0.

73 having voted in the affirmative and 70 voted in the negative, with 8 being absent, and accordingly Report "A" **Ought to Pass as Amended** was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "B" (H-1007)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "B" (H-1007)** and sent for concurrence. **ORDERED SENT FORTHWITH**.

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

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (7) Ought Not to Pass - Minority (6) Ought to Pass as Amended by Committee Amendment "A" (H-950) - Committee on INSURANCE AND FINANCIAL SERVICES on Bill "An Act To Establish a High-risk Health Insurance Pool"

(H.P. 1365) (L.D. 1945)

TABLED - April 6, 2006 (Till Later Today) by Representative PERRY of Calais.

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

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

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

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

Representative VAUGHAN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. On April 4th, this body voted on a resolution to honor Maine's small businesses. In that resolution, one of the promises made, and I voted for that and many of you did as well, "Whereas, we firmly stand behind continued efforts to foster and develop a business culture that encourages and supports small business, including affordable health insurance for employees." Well, Ladies and Gentlemen, this is your opportunity to put your money where your vote was. This bit of legislation has come before us before. There have been quite a bit of comments crossing the aisle, both verbal and in paper form. A lot of opponents of this measure have implied that achieving the goals which are lowering the cost of health insurance and expanding coverage are unlikely and the chances of doing real harm to the State are great. The real harm has already been done. In 1993, this State enacted reforms which had the effect of destroying the health insurance industry and threw health insurance premiums into an incredible death spiral. We're feeling the effects of those today. It's not because hospital costs are too expensive. We're right in line with the rest of the country, in fact we may well be the lowest in New England. The 1993 legislation drove 12 insurance companies out of the State and basically created a monopoly. You'll notice that home owners and car insurance rates are not out of line with other states. You don't hear people complaining about their home owner or their car insurance rates. In fact, they might be lower than our adjacent neighbors. Since Maine has the second highest insurance premiums in the U.S., how much worse could it get. I appreciate the recognition for good intentions, but I disagree with the assertion that success is unlikely. These principles are working in many other states, some of which never created this problem in the first place. Opponents to reform have made the following points. LD 1945 essentially deregulates health insurance. Well, that's true. It's a good thing too. We have regulated insurance right out of existence. It repeals guaranteed issues that don't allow insurance companies to drop sick clients or charge widely fluctuating premiums. That is a somewhat convoluted statement. We need to get our term and facts straight. Guaranteed issue means an insurer must sell to anyone, regardless of how sick they are and at these rates, healthy people tend not to buy insurance. The converse meaning only people with health problems tend to buy health insurance. So, you wait until you're sick to buy it. A high-risk pool, which is used only when you first buy insurance. If you already have

coverage, you cannot be put into a high risk pool. That's not how it works. The risk pool used when you first buy, it otherwise covers mass uninsurable clients, as does guaranteed issue. The risk pool replaces guaranteed issue. It should be called guaranteed universal access, because that's what it does. Guaranteed renewability, something we have absolutely no intention of affecting, means the insurance company cannot drop you regardless of your health condition. No one is suggesting that that should be changed. The opponents have said older patients, women of child-bearing age and people with chronic conditions could be denied coverage altogether or charged a premium out of line with what their neighbors pay. No one is denied coverage. Although there would be a variety of rate structures, which I think is a pretty desirable thing to be looking for. No one, even high risk people would likely pay the exorbitant rates we now have under Maine's current structure. It's been incorrectly stated that the risk pool would need to be subsidized by the federal and state government. That's simply not true. This bill recognizes that although there is federal seed money available to insure the startup of the high risk pool, the model we propose is funded by the private sector because, as we can imagine, once it got up and running, it would be very easy to borrow money and knock it right back out of existence. That's exactly what happened in 1993. To those who would say experience in other states with such high risk pools shows limited success, I simply reply, "Their premiums are all lower than ours." We have the second highest health insurance costs in the country, after New Jersey which has lost of money and lots of jobs, and we don't. Another misguided assertion is the enrollment rates. Enrollment rates are low, costs are high and the plans tend to attract only the sickest of the sick. Well, that's the way it's supposed to be and that's who they're geared for, generally about one percent of the individual market. In the whole State, that amounts to between 500 and 1,000 people. That 500 to 1,000 people that one percent, makes up 40% of the claims paid out. That makes a major difference in the rates of those people when they're not included in the regular risk pool. A certain reform lobbying group stated, "Reports from Washington State show that because of high premiums, only one in seven of those eligible signs up." Their risk pool premiums may be similar in cost to our standard premiums. Maybe even lower, so how many regular risk Mainers are going without insurance now in our current market for the very same reason? High cost is not a rational argument. Another red herring argument. The number of enrollees in Washington is only about 2,800. Maine experimented in high risk pools from 1988 until 1994 and never had more than 500 participants. Like I just said, the risk pools are meant to handle only the upper extremes with chronic diseases, high cost consumers or those with preexisting conditions comprising about one percent. The risk pool from 1988 through 1994 was doing its job. Opponents have further stated these pool have not reduced the number of uninsured or expanded care. I disagree and I can prove it. Guaranteed issue, on the other hand, has seriously increased the number of uninsured due to increased premium rates, and it's going up every year. Compared to today, we were in pretty good shape in 1993, in fact, we had a flyer which talked about the uninsured in the State of Maine. Well, a lot of those uninsured who are being counted are members of MaineCare. What's really going on when you look at private insurance is, in risk pool states in other areas of New England such as Connecticut and New Hampshire, they're looking at a 74% and 78% insured rate, respectively. Guaranteed issue states like Maine and Vermont are looking at 67% and 68% insured rates with private health insurance. Many people are actually able to get out of the risk pool after showing a

good faith effort, for example, in maintaining their doctor's advice on blood pressure medication. There's an incentive of lower premiums to get them back into the regular insurance pool. No one, once insured in a lower rate classification, the regular pool, is forced to enter the risk pool or any higher rate class. Here's another false belief. This legislation would also remove mandates on insurance companies such as mental health parity, minimum maternity stays and prostate cancer screening. LD 1945 removes no mandates except guaranteed issue. In fact, we do know that all of Maine's mandates, in total, provide a valuable service in helping provide preventative care and holding down overall costs as opposed to the alternative which would be special riders. All of Maine's mandated benefits add a total of 3.3% to the premium of a stripped-down policy. If we can cut premiums in half, who cares about 3.3%. We've had it in writing, from insurers wishing to enter the market, that if they were able to come into the state, they would lower premiums immediately by 30%. That was a few years ago. I've also heard that LD 1945 would move Maine in the wrong direction on health care. It would undermine important consumer protections and do little to control costs. Actually, unless you choose to ignore most of the U.S., which has better health insurance for a fraction of the cost, I would have to disagree with all of these statements. In fact, states have been progressively repealing guaranteed issue and enacting risk pools. As a result, they have been seeing the return of competition, better coverage and lower rates. Ladies and Gentlemen, if you want to cut the cost of Maine insurance in half, if you want to improve Maine's business and job climate and if you want to do the biggest service for your constituents and for small business that you could possibly imagine then you would oppose the pending motion and vote for the minority report. Thank you Ladies and Gentlemen.

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

Representative PERRY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am speaking in support of the "Ought Not to Pass" motion. We have an experiment that Maine is working with to create accessibility to healthcare and affordable healthcare, which, hopefully in a part of that, will be affordable health insurance. This bill asks to use the same funding source that that program is asking to use and that assessment comes from the same sources that we are working with for this today. I'm going to read a couple of things to you, just in terms of Maine and healthcare. The healthcare spending, in 2002, as a percentage of personal income, Maine ranks sixth. This is healthcare spending. Most of that is driven by prescription drugs, provider costs and increase of use of services. In response to the change of some of the ratings in the small group market, and you might have this, it is from the National Federation of Independent Business, they essentially say that overall rates in the small group market can come down only if there is a significant influx of previously uninsured small businesses into the market, but there is no indication that such an influx would occur in the immediate future. We are a small market. We are an aging market. What we are trying to do with the Dirigo program is bring people in before they get catastrophically ill so that we can prevent the need for a high risk pool and so that they can be with insurance and stay with insurance through an illness, not to have to lose their job or find a way to pay for this while they're paying for their illness because now they're uninsured in order to get into the high risk pool. Let's complete the work that we have started. In the Dirigo legislation there is a report that needs to be looked at in Maine and it will come out in 2007. That is one year. What's the rush. Thank you.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Burns.

Representative **BURNS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I noticed my colleague Representative Twomey wasn't here and in here stead, I just wanted to say, "Single-payer universal healthcare." And for me I would like to say, "Single-payer universal healthcare." Thank you Men and Women of the House.

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

Representative **RINES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Could I request the Clerk to read the Committee Report?

Representative **RINES** of Wiscasset **REQUESTED** that the Clerk **READ** the Committee Report.

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

The SPEAKER: The Chair recognizes the Representative from Frankfort, Representative Lindell.

Representative **LINDELL**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. There are a lot of misconceptions circulating concerning this very modest proposal designed to save our failing individual health insurance market. Individual health insurance market. We're not talking about large group plans. We're not talking about State Employees insurance. We're not talking about the Dirigo health insurance plan. We're not talking about universal health insurance, Mr. Speaker. What we're talking about is a market for health insurance that's relied upon by individuals who do not have access to a state insurance plan, who do not have access to a teacher's insurance plan, who do not have access to a company insurance plan or any other group insurance plan. These are the farmers, the fishermen and the self-employed business people. These are the people who have to buy a health insurance policy for themselves or their families alone. This is a very specific market in this State. Our regulations have damaged that market. Our regulations require that any carrier operating in that market simply issue an insurance policy to anybody who applies, regardless of their health. Now, that's fine as a social policy, but it is disastrous as a way to sell health insurance. The result is that most of the carriers have left the State and we're left with one carrier, Anthem, we know them well, which covers over 90% of the market. Even Anthem, now, which has 90% of this market, has admitted that they're losing money. Mr. Speaker, this market is dying. It is in a death spiral. Time and time again Anthem has either opposed or has been neither for nor against this type of legislation. I can't say why, perhaps it's because they felt they had a strong position being one of the sole providers in the market and weren't eager to see new competition come in. Maybe it was because they would have to pay an assessment to fund the risk pool. I don't know the answer to that, but what's telling is, now Anthem favors this move because they recognize that the market is in a death spiral. We are at the edge of a crisis, Mr. Speaker, and if we don't defeat this motion and go on to enact this legislation, we are going to find ourselves coming in, either in an emergency session or in the next session, with a critical issue because thousands of Mainers will be getting notices that the carrier that covers 90% or more of the individual market is leaving the State. Indeed this is exactly what caused the State of New Hampshire to set up a high risk pool. It is exactly what caused the State of Kentucky, which had guaranteed issue, to set up a high risk pool. We are in a death spiral, Mr. Speaker. The small group market? It's stable. The large group market is stable. Prices are high. Right now in the individual market, most people have \$5,000 or more deductible

policies for which they are paying hundreds of dollars per month just to have that essential basic coverage. It is an untenable situation. What the risk pool will do is finally allow more competition to come into this state. I will invite carriers to come back in and underwrite these individual policies, to screen applicants for health and to charge premiums based upon the age and the health of the individual. The result will be lower premiums for the vast majority of people. Those who don't qualify for lower premiums or those who can't get that policy issued to them will automatically qualify for the risk pool. What is a risk pool? A risk pool is just another insurance policy, Mr. Speaker. At our hearings, in committee, we had the administrator of New Hampshire's risk pool come and testify, for an hour or more, perhaps two hours, describing the success of this high-risk pool in New Hampshire and how the number of options have expanded. They now have five different plans available. They have different levels of deductibles. They have different options. They have primary care benefits. They have prescription drug benefits. They have mental health benefits. Indeed, their policy is to structure benefits that are similar to those benefits in the private market. The premiums are subsidized so that they're competitive with the private market. Indeed, it was his testimony that they've pushed down premiums and elevated benefits in the private market because of the risk pool competing with that private market. Indeed, if we look at the premiums and look up a plan similar to the Option B under the Dirigo Choice Plan, that's currently offered in the State of Maine, they have an Option B, Managed Care Plan for a 40 year old in the high risk pool with diabetes, hemophilia or any condition that would automatically disqualify them in for an underwritten health insurance policy, is exactly identical to the premiums we pay here for Dirigo Choice. So, no, people are not going to get thrown into a risk pool and be forced to pay higher premiums. Some people will be given the choice of a risk pool with similar premiums that they're paying now, and everybody else will get lower premiums, more choices, better options and, even better, finally, Mr. Speaker, we will have a way to encourage those young individuals, the young and healthy who opt out of our system, who chose not to buy health insurance, we'll be able to give them an affordable option that they can take up and they can cover themselves with and cover their families. This will expand coverage, Mr. Speaker. It will not diminish coverage. Thank you.

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

Representative **PILON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Between 1988 and 1994, Maine had a high risk pool. Enrollment never exceeded 450 people. Low enrollment, in part, was due to funding problems. When the high risk pool was started in Maine, insurers funded the pool and later it was funded by a surcharge on hospitals. Finally it was funded by tax-payers. The Legislature ended the pool in 1994 due to financing. Costs for the high risk pool were going up while covered lives were going down. New Hampshire's high risk pool, in 2004 to 2005, covered 158 people, collected \$487,000 in premiums, had \$1.6 million in claims and paid \$366,000 in administration fees. This is not the road we want to take the people of Maine down. Please support "Ought Not to Pass." Thank you.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Marrassé.

Representative **MARRACHE**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise just to point out a few points on this issue. Number one, I believe the date to get Federal funding for this high risk pool has past, so we would not be able to collect that money. You can correct me if somebody

knows the exact date. The other thing I wanted to remind people is that if you log on to the internet, and some of you have your computers hooked in right now, type in "uninsured health insurance rates" and you will find that the number of people who have been uninsured in this entire Country has only risen, exponentially, over that last few years. If a number of States have high risk pools in place, why is the number rising? Because it's not working. Thank you.

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

Representative **HARLOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. It's interesting to see how different people can have different views on the same information. High risk pools are, at best, questionable in my point of view. According to the World Health Organization, presently this country has 30 states with high risk pools. This obviously has not brought the cost of health insurance down to any measurable degree. The United States has the highest rates in the world, spending over 15% of the gross national product on health insurance. Nearly half, 48%, of all people in the United States with below average incomes report that it extremely, very or somewhat difficult to get medical care when they need it. That, consequently, means that more people end up in health pools. If the gauge of the quality of a society is how they treat their infants, we have one of the highest infant mortality rates in the industrialized world. It looks like we're a second-rate banana republic, healthcare wise. Risk pool premiums are two and a half times as high in Florida, for example, and while Montana is legally permitted to charge as high as 400% of the standard premium, currently no one pays more than 250%. Wow. In Minnesota, one of the most generous states, risk pool insurance is less than 25% more expensive. That would be \$3,000 to \$4,000 in the State of Maine. The purpose of insurance is to pool everyone together to try to reduce the disaster of a major health catastrophe that we cannot afford. Risk pools make it so the healthy don't pay as much, thus denigrating the very purpose of health insurance by making those who have a catastrophe not able to afford health insurance anymore, as it becomes more expensive. No matter how we cut it, we will be encouraging people to go without insurance if they actually pay more to get into a risk pool. The reply will be that additional costs will be paid by the government through subsidies. Somehow, someone has to pay. The most important thing to keep in mind is that we have to get everyone insured, if possible. This is not like high risk car insurance where your driving causes you to get into the pool. This is usually something of which you have no control. High risk pools encourage cherry picking by insurance companies, that is, just insuring the healthy. I will not be supporting the high risk pool concept. However, I do respect the other sides point of view on this issue. Although, I am completely in opposition to it. Thank you very much.

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

Representative **BRAUTIGAM**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I don't intend to bore you with a long speech, I'm sure I can accomplish that with a short one. I do want to make a couple of points that haven't been made. One is that this bill actually contains a new tax on healthcare that will amount to \$23 million. It hasn't been mentioned yet, but it's true. There's no savings to offset this tax. It's a new tax on healthcare for high risk pools. We'll call it the high risk pool tax. Section 3908, paragraph 2. Do the math. Another point, high risk pools discriminate against the sick people in our society. As one of the leading newspapers in Maine said, "There are strong ethical and practical reasons why people

shouldn't pay more for health insurance if they are sick or at greater risk of being sick." A person who smokes may choose to smoke and might pay more, and our policies do not allow that. Someone who is not careful, as a driver, might pay more for auto insurance. I think it's quite a different notion to apply that concept to someone with Hemophilia, cancer, Multiple Sclerosis, Diabetes or any of the other conditions that might land them in a high risk pool. High risk pools do nothing to lower insurance premiums. The speaker, who spoke for an hour or two at our committee hearing, actually testified that premiums did not go down in New Hampshire upon the implementation of high risk pools there. He could not say whether he thought they would go down in Maine. The committee received no information that would persuade me that there would be any substantial premium reduction should we enact this bill. Finally, and most importantly to me, high risk pools divide our communities. With high risk pools, it's like putting all the healthy people into one line and all the sick people into another line. The healthy people get, at a reasonable cost, a good benefit and the sick people, at a higher cost, get kind of a shabby benefit with limits. It just doesn't ring like good policy to me. We're all in this together. This is a step in the direction of a kind of a healthcare apartheid. I don't think we should be putting that into our statute books. The threat of an expensive medical condition drives us to seek the peace of mind of insurance. That's the essence of insurance. Pooling risk, piece of mind. We all pay a little bit more than we would probably need, so that if we lose the lottery of life, we and our families can have some financial protection. High risk pools destroy that paradigm. They drive a wedge between the sick and the healthy and between the young and the old. Let's not shuffle the deck chairs on the Titanic. Let's get back to the real business of saving health costs in our whole healthcare system so that everyone can have affordable healthcare. Please join with me to support the Majority "Ought Not to Pass." Thank you.

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

Representative **GLYNN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I wasn't going to rise on this topic, but where so many members of the committee felt compelled to address the topic, I felt that I needed to add my voice and this prospective. During our debate that we've had in committee on healthcare and healthcare reform, there's something that's been going on which I call the "Great Dirigo Distraction." It really is truly a distraction. All bills, regarding healthcare reform, like this bill LD 1945, all measures to correct the marketplace, all measures to make meaningful reforms and all measures to lower the cost of health insurance have been rejected in our committee based on the promise, and the sole promise, that Dirigo Health is the end-all solution for all issues in the healthcare system here in Maine. That's the only bill that we're going for. That's the only bucket that we're going to put all our marbles in. I stand here before you to tell you that that isn't a correct philosophy and, in fact, it's going to take several solutions in order to correct the crisis that we are experiencing right now in Maine on healthcare. We have 130,000 Mainers that go without health insurance because they can't afford the premiums and they're priced out of the market. Dirigo has been a solution to only 10,000 people in Maine. That's such a small number, such a small percentage of the problem. How can we turn our backs on everyone else? While Dirigo is a solution for some people, and that's great, we should look at that solution. What about everybody else? What about everybody else? Don't they deserve some relief? I don't know about you, but when I went home, after the last session, I received calls of constituents receiving 12% increases, 16% increases and 20% increases in

their health insurance. Employers are making a decision between giving a raise to their employees or paying for the cost of their health insurance. How can we say no, no, no, again to another reform measure, again to another solution and again to another piece of the puzzle that's going to help lower health insurance? I don't think we can. We're not in that position. One of the things that I thought was most striking during this debate at our committee level was that, in fact, if LD 1945 passes, all private-market health insurance products will go down. Among those private healthcare products is the Dirigo product itself, making it more affordable itself, making a more affordable option for people. With all of the facts in, it makes sense that we would do what is necessary to instill competition into this marketplace. I'm no fan of having one health insurance company for all purposes in our State. I don't think we should have an Anthemopoly. I think we should have a number of health insurance companies. I think we need a private market. I think we need competition and I know we need LD 1945. Please join with me in opposing this motion.

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

Representative BLISS: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Thank you Mr. Speaker. I am certainly not an expert on insurance and I'm very pleased that I have so many good colleagues here who sit on the Insurance Committee and sat through this lengthy debate. I did actually read this bill and I would like to address a question to any of the members of the committee who care to respond.

The SPEAKER: The Representative may pose his question.

Representative BLISS: Thank you Mr. Speaker. My question relates to something that the good Representative from Falmouth alluded to and I'm pleased that he mentioned it because I thought I was reading this incorrectly. I believe that section 3908 paragraph 2 of this bill pretty clearly assesses a new \$23 million tax on the people of the State of Maine because the board can assess every insurer up to \$3 per person per month presumably forever. There's no reason to believe that the insurance companies are actually going to pay this money out of their profits, but rather pass it along to the consumers. I'm wondering if there's anyone on the committee who can clarify, for me, or disabuse me of the believe that this, in fact, a new \$23 million per year tax. Thank you Mr. Speaker.

The SPEAKER: The Representative from South Portland, Representative Bliss has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from New Castle, Representative McKane.

Representative MCKANE: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. You could consider this, the assessment for the high risk pool, a tax of possibly \$23 million, but by implementing this plan, we'll save billions. Right now we have a plan that's taxing the health insurance system \$43.7 million and really hasn't made a dent in the uninsured in this State. Thank you.

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

Representative VAUGHAN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. When the government charges you something and you don't get anything for it, that's a tax. This is an assessment by the insurance industry which they, of course, will be paying because they're the ones that are levying it. In New Hampshire, their levy went from; I believe it was \$2 down to one penny because they had too much money in their risk pool.

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

Representative DUDLEY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm delighted to hear a member from the other side of the aisle agree with me in saying that a fee is not a tax.

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

ROLL CALL NO. 505

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Percy, Perry, Pilon, Pingree, Piotti, Rines, Sampson, Schatz, Simpson, Smith N, Smith W, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosby, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgecomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Millett, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Saviello, Seavey, Sherman, Shields, Sykes, Tardy, Thomas, Trahan, Vaughan.

ABSENT - Cummings, Jennings, Moore G, Pineau, Stedman. Yes, 72; No, 74; Absent, 5; Excused, 0.

72 having voted in the affirmative and 74 voted in the negative, with 5 being absent, and accordingly the Majority Ought Not to Pass Report was **NOT ACCEPTED**.

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

The Bill was **READ ONCE**. Committee Amendment "A" (H-950) was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-950)** and sent for concurrence.

Representative BRAUTIGAM of Falmouth **OBJECTED** to sending this matter **FORTHWITH**.

SENATE PAPERS

Non-Concurrent Matter

Resolve, Authorizing Certain Land Transactions by the Department of Conservation, Bureau of Parks and Lands

(H.P. 1415) (L.D. 2015)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-991) AS AMENDED BY HOUSE AMENDMENT "A" (H-1000) thereto in the House on April 12, 2006.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-991) AS AMENDED BY HOUSE AMENDMENT "A" (H-1000) AND SENATE AMENDMENT "A" (S-612)** thereto in **NON-CONCURRENCE**.

Representative PIOTTI of Unity moved the House **RECEDE AND CONCUR.**

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

Representative PIOTTI: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. It has been a long week. This amendment, that's before you, fixes a small, but important problem in the bill. You may recall that this deal involves public lots scattered around the State. Most of those are in the unorganized territories. There are, however, two lots that are in the organized territories. These lots generate stumpage income and a small portion of that stumpage income flows back to pay for the schools in those towns. Once these lots are privately owned, they will generate, instead, tax revenue. That tax revenue will be in excess of the revenue generated from stumpage value, therefore, it's a good deal for the town. However, it's recently come to our attention that the stumpage revenue was going directly to schools and under the new scheme, that would not necessarily happen. Most parties agree that that is the right thing to do. Keep it the way it's always been, the towns, however, receiving a little bit more revenue. This amendment corrects that problem and I urge you to support it.

Subsequently, the House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH.**

UNFINISHED BUSINESS

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

SENATE DIVIDED REPORT - Majority (11) Ought to Pass as Amended by Committee Amendment "C" (S-437) - Minority (2) Ought Not to Pass - Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act To Amend the Laws Governing the Enactment Procedures for Ordinances"

(S.P. 507) (L.D. 1481)

- In Senate, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (S-437) AS AMENDED BY SENATE AMENDMENT "C" (S-554)** thereto.

TABLED - April 6, 2006 (Till Later Today) by Representative CUMMINGS of Portland.

PENDING - Motion of Representative BLANCHARD of Old Town to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report. (Roll Call Ordered)

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

Representative WALCOTT: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today to urge you to vote against the pending motion. This issue has come before us during both of my terms in this body. I could not support this during the 121st Legislature and I cannot support it this session either. Just last year this bill was before us, but at the last minute was recommitted to the committee. It seems this is one of those bills that, if we submit it and rework it often enough, maybe someday we will eventually pass it. Let's not let that day be today. The city government of Lewiston, for example, has done some great work in the area of development and beautifying our city, especially in the downtown area. Today the area looks so much different than from just five or 10 years ago. During the last couple of years, though, some citizens learned of a project that would have changed the downtown residential

community area forever. When I talk about community, I am talking about the interpersonal relationships that you form with neighbors, not the buildings in that area. Through hard work, and working with the city, this project was changed from something that would have forever, and in many minds, negatively changed the community. I have wondered, at times, what if things had been different. What if someone hadn't been paying attention? Something that the City viewed as a positive change for Lewiston may have gone forward and would have gone through and changed the face of Lewiston forever and destroyed that downtown community. What about this? What if the people that tried to change the outcome, through the public process, but the City did not work with them and went forward with their plans anyway? You know, the citizens of Lewiston are no different than the citizens of any town or city in Maine. They want to have influence on the outcomes of their government. That is the Maine way. We see it every day when people call or write to us, or when they come to testify on bills that are important to them. The decision on whether or not to have, or change, local referendum procedures should be left to local communities as the Maine Constitution envisioned. Even if we can constitutionally do this in this chamber, and I still have reservations about this bill's constitutionality, we should still not do it. Just because we can do a thing, does not mean that we have to, or that we should do it. Some towns don't have referendum procedures. Some do. Some, like Belfast, used to have them, but by a vote of the citizens, they took that power away from themselves. This is the way the Constitution envisioned it, local citizens having the control. Two hundred years ago, John Adams said, "The government turns every contingency into an excuse for enhancing power in itself." It seems this remains true through the centuries, as it was 200 years ago, as it is now and how it likely will be 200 years from now. This bill limits, and in many ways, will take away the rights of citizens to petition their local governments. This bill enhances the power of local governments in a manner that will not always immediately be obvious, would unquestionably harm the power of people to affect change at the local level. It is an empowering of government at the expense of citizens. In Maine, citizens have historically had the power to question and petition their government in various ways. They can do a local referendum. They can do a people's veto of State laws. They can do citizen initiative of legislation. Maine people take this power and responsibility seriously. They have not, and do not, use it for frivolous matters. It would be unfortunate for this Legislature to restrict the right of people on local issues. You know, from time to time, citizens may question or even attempt a people's veto of an action we have taken in this Legislature. It could be a action with which most of us might agree. As we know, this took place on legislation we passed just last year. While I may disagree with the attempt to veto such an action, I would never question the right of people to take it upon themselves to make such an attempt. I, as a citizen, have the right to sign or not sign petitions. I also have the right to vote on an issue at the ballot box. All of these rights, including the right to petition our governments, both State and local, are rights that are a part, a very important part, of our Maine democracy. LD 1481 as amended is an attack on the right as us of citizens to petition our local government. I submit it is a attack on the very foundation of Maine's independent, citizen-minded form of locally controlled democracy. Mr. Speaker, in closing, I quote a man both credited with writing much our federal Constitution and our fourth president James Madison, "What is government itself but the greatest of all reflections on human nature. If men were angles, no government would be necessary. If angles were to govern men, neither external nor internal controls on government

would be necessary." Mr. Speaker, as much as we would have it be otherwise, we, in this body, are not angles. The right of people to petition their government and to veto acts of the government is one of those controls of which Madison spoke. It is a control that we should know that we must leave intact. If you truly believe in local control, please join me in voting no on the pending motion. Thank you Mr. Speaker.

Representative BURNS of Berwick moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Burns.

Representative **BURNS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Having spoken to my towns on this issue, it's clear to me that the power to address these issues truly resides at the local level and does not need me to usurp that power. Thank you Mr. Speaker, Men and Women of the House.

Representative BARSTOW of Gorham **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Fletcher.

Representative **FLETCHER**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I find we're at a very interesting point in this discussion. I heard the previous speakers talk about the right of people to express and vote on their views. So what is the motion before us? To stop that process. If this passes, we will not be able to exchange the ideas that pertain to this bill. Yet, I hear a very strong demand that people be able to voice their views and express what there is. So I would ask you to not only defeat this motion so we can discuss this bill, the merits, the risks and the rewards, but also do it so it's out in the open and not kill it with a procedural matter. How would you feel if you were at your town council and you had a concern about a project and somebody said, "I move we indefinitely postpone this?" This is about speech, access and allowing people to discuss and vote on an issue. Let us vote on the merits of the bill, not a procedural motion. Thank you very much for your consideration.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Burns.

Representative **BURNS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. This is simply about the principles of federalism which this nation is founded on only as they apply to that State and the municipalities rather than the federal government and the states. I have every confidence in the ability of the municipalities of this State to make decisions and if they make decisions that conflict with the will of the people in the district, in the municipality, then those people are entitled to speak up. It is not for me to usurp that power from them. I'm not hindering the discussion here, I am simply making a proposal that we indefinitely postpone. Please feel free to engage in the debate.

Representative BARSTOW of Gorham **REQUESTED** that the Clerk **READ** the Committee Report.

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

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Wheeler.

Representative **WHEELER**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. My town has been involved with this with the malls on Route 1. What they wanted to do was build them pretty near to the York line. We had a petition in the town and the people voted it down. What

happened? The person that wanted to build the mall took the town to court and it cost the town a lot of money, but the court ruled in favor of Kittery. So, I am going to vote against this bill. Thank you Mr. Speaker.

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

ROLL CALL NO. 506

YEA - Adams, Blanchette, Bryant, Burns, Canavan, Clark, Craven, Davis K, Dudley, Dunn, Duplessie, Eder, Faircloth, Gerzofsky, Glynn, Goldman, Grose, Harlow, Hutton, Jackson, Lerman, Lundeen, Makas, Mazurek, McKane, Merrill, Miller, Norton, O'Brien, Paradis, Patrick, Percy, Perry, Pingree, Rines, Simpson, Smith N, Smith W, Trahan, Tuttle, Twomey, Walcott, Watson, Webster, Wheeler, Mr. Speaker.

NAY - Annis, Ash, Austin, Babbidge, Barstow, Beaudette, Berube, Bierman, Bishop, Blanchard, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant-Deschenes, Cain, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosby, Crosthwaite, Curley, Curtis, Davis G, Driscoll, Duchesne, Dugay, Duprey, Eberle, Edgecomb, Emery, Farrington, Finch, Fischer, Fisher, Fitts, Fletcher, Flood, Greeley, Hall, Hamper, Hanley B, Hanley S, Hogan, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Koffman, Lansley, Lewin, Lindell, Marean, Marley, Marraché, McCormick, McFadden, McKenney, McLeod, Millett, Mills, Moody, Moulton, Muse, Nass, Nutting, Ott, Pilon, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Sampson, Saviello, Schatz, Seavey, Sherman, Shields, Sykes, Tardy, Thomas, Thompson, Valentino, Vaughan, Woodbury.

ABSENT - Cummings, Daigle, Jennings, Moore G, Pineau, Stedman.

Yes, 46; No, 99; Absent, 6; Excused, 0.

46 having voted in the affirmative and 99 voted in the negative, with 6 being absent, and accordingly the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers **FAILED**.

The SPEAKER: The Chair recognizes the Representative from Blue Hill, Representative Schatz.

Representative **SCHATZ**: Thank you Mr. Speaker. Mr. Speaker, Women and Men of the House. As you heard earlier, I supported this bill when it came out of committee. I thought that the prospect of legislative closure on matters decided at the local level would relieve and ease some of the strife and stress that visits our communities during times of controversial growth and development. However, I have been thinking about this for a good deal of time since it's come out of our committee and I've considered the implications of 1481 and after that long thought period, I've concluded that the bill not only intrudes on the responsibilities of local government, but it also undermines the integrities and principles of municipal governments. As you know, the legislative bodies of the towns are the very same people that elected us. I feel we should not micromanage the roles of our patriots, our counterparts in local governments. So, please vote against 1481.

The SPEAKER: The Chair recognizes the Representative from New Castle, Representative McKane.

Representative **MCKANE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The first thing I'd like to say is I'd like to address this handout that we just got in green. It talks about some of the myths of 1481. The first myth is the citizen's initiative in Damariscotta would not have been allowed if LD 1481 had become law. True, it would not have had anything to do with it, however, if Damariscotta did not have two

very alert women who were on the ball and watched the process and got the process moving in time, it might have affected us in a very bad way. The citizens of Damariscotta voted two to one that they wanted a size cap because we didn't want a big box store in our neighborhood. That's fine, there's nothing against big box stores in general, it's just we didn't want it where they were going to put it. We had some very alert people who got this together. Had they not been so alert, and had this gone through the building process and had 1481 been in place there could have very well been bulldozers out there right now in Phillip's field next to Route 1. Another myth, citizens will lose control. That's not a myth. That's true. If this bill became law, we would lose some control. We have to follow the letter of the law in order to get a moratorium, or a citizen's initiated referendum in place. It's a very difficult one to follow and the time limit is very constrained. This bill attempts to address a problem that some large developers are having with those pesky citizen's referendums. Why do we have those pesky citizen's referendums? Because we'll see our communities start moving off in a direction that we don't want it to move in and as citizens we have the right to change that direction and we always have. It's always worked. We're being lead to believe that those big, bad communities are running roughshod over those poor developers. I work for those developers. I've been in construction all my life and many of us here live in those developments. There are a lot of good developments here. Some of those developments, we don't want. We might not want some kind of a dump, a liquid national gas facility or a whatever you want. We want to be able to determine where those go and if we mess up, as a town, and we don't follow the processes in 1481, we're out of luck. There's no recourse. There's no turning back. This bill is being sold as a pro-business bill and it very well might be. It does help a few and maybe makes a slightly better business environment for a few. There's nobody who would like to see a better business environment in this State than myself. I'll point to my record, as one measure would call it, the second highest business rating in the Legislature. I believe very strongly in improving the business environment in this State. But not at the expense of democracy. Not at any cost. This isn't worth it. There are other inherent problems with 1481 so many that I'm told there are 10 different amendments coming. Probably more than that by now. There is a lot wrong with this bill and the people will know it when they find out about it too. We hadn't heard about this bill until Tuesday when it was in the newspaper. Up until then, it was only word of mouth. The opposition to this bill is grassroots. It's come right from the people. The initiation from this bill came from the top down, it came from some very well funded organizations. But, the opposition, by word of mouth, is grassroots. I think now it's finally come out in the news. This week we're going to hear a lot more about it. We found out about it in our district. We're highly sensitized to it in our district, but it was really only the real estate lobby that was aware of this bill until then. It is about local control, or the loss of it, and the citizens of the State, when they find out about it, don't like it. The 75 day time limit is simply not enough. Just the wording in the referendum takes time. The public notices that have to be in the newspaper, the collection of signatures and the vote itself all have to be done in that 75 day time. Some of us don't go to every planning board meeting, we don't read the planning board minutes and when this finally comes out in the news paper, we have a weekly for our town, so there's a week knocked right off, possibly, right there that you wouldn't get. So, it's not necessarily 75 days, its 75 days, go, the race is on. This bill started with just a 30 day time limit and that shows you where the entities are at, that wanted to start, because it is absolutely impossible to do it in the 30 day time

period, and that's what they wanted I'm afraid to say. They wanted to completely get past us. Damariscotta selectmen took a unanimous vote, as a Board of Selectmen, to take a stand opposing this bill. There's a very good letter here written by the Chairman of the Board of Selectmen of Damariscotta, Dick McLean. He states, and I'll just read one line of it, "LD 1481 does nothing more than deny and revoke the rights of a community, and in the case of Damariscotta, a vibrant, honorable and intelligent community. We do the best we can. We make a comprehensive plan that tries to look years out, but if someone had told us even last year that in our community they are going to try and put a 186,000 square foot Wal-Mart on Philip's field off of Route 1, we wouldn't have believed them. We would have laughed at them. But it was true and we weren't ready for them with our comprehensive plan. Fortunately, we were ready with some alert people and some aware people." There is nothing in LD 1481 that couldn't be adopted by local procedures in a community and put into their own comp plan, but communities don't do this because the towns and the cities of the State want to keep their own control. They want to control their own destiny. They don't want the State passing down another law that they can very well pass themselves if they wanted it. The reason communities don't have this law is because they don't want it. They have a comprehensive plan. This bill takes away a fundamental right of a community. A right that they have had for, how many hundred years? It gives a tool to those who are skilled at working the system to push their, possibly, unwanted agenda through. This bill does favor large developers. There is nothing wrong with large developers. I have nothing against large developers. As I've said before, I have worked for them all of my adult life, among other people. Many of us live in those developments. They're built in communities that want those developments. Had they not been in a community that wanted them, we would have had the options to stop them. One of those options will be taken away. We're not just talking about housing. We're talking about all kinds of development. All future developments will have a definite finish line. A finish line that many in a community won't realize until it's too late. The developers, at present and in the past, have had to get to know their communities. They've had to feel the pulse of their communities. They've had to become part of the communities or the communities could get upset and say, "No, we don't like what you're doing." Now it's not going to be that anymore. It's going to be a race to the finish line. If you get past that 75 day finish line, you're home free. Communities need some recourse if they make a mistake. They have it now, as they always have. There's a lot wrong with this bill. The time limit is too short. There are questions about the future uses of permitted land. Local communities could enact this law if they so choose. The problems attempted to be confronted with this bill, if they need to be addressed at all, should be addressed in a completely new bill. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Burns.

Representative BURNS: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. The premise of home rule and the principles of democracy dictate that the issues of land use, as complex as they may be, are the purview and are at the discretion of the people of the municipalities. Again, I say, it is not my place to usurp that power from them. I remind you that not too long ago, the Supreme Court of this nation made a decision regarding eminent domain that, I believe, outraged quite a few people in this state and states across the Union. I think it's important to keep that in mind because I think it relates to this issue. Thank you.

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

Representative **BARSTOW**: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **BARSTOW**: Thank you Mr. Speaker. Could somebody in the chamber please answer for me, in filing number S-437, Committee Amendment "C" that is before us in this motion, where we completely strip out the ability of citizens to petition their government?

The SPEAKER: The Representative from Gorham, Representative Barstow has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Auburn, Representative Simpson.

Representative **SIMPSON**: Thank you Mr. Speaker. Mr. Speaker Men and Women of the House. One of these days you might get my name right, thank you. I don't have an answer from myself, but I do have one here from the Maine Municipal Association. "Holding citizens accountable for executing and completing a process they cannot legally control is somewhat unfair." It goes on to say that, basically, people won't be able to get to an election. While it doesn't take away your right to petition for redress, you may not ever get to vote.

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

Representative **TRAHAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm going to rise, just briefly, to tell you a story of why I oppose this legislation. Back last year, unfortunately, we had a very large manufacturing plant close down and put some folks out of work, Sylvania. After the Sylvania plant closed down, there were some potential businesses that wanted to come to Waldoboro to relocate. Quietly, I was called on a nice warm afternoon and asked to sign a letter of support for a business to come to Waldoboro. Yet, when I asked what that business was. I was given just small pieces of information and very little description of what that business would be. Come to find out, I was the last of the Legislative Delegation, including the Congressional Delegation, I was the last one left to sign off. I said, "Until I know more about this business, I will not sign off. How will it affect my community? This business is on the Waldoboro River. How will it affect my community?" The response was, "Well, we need to dredge our river." Our salt water river where 200 families rely on the clam flats for a living. Where hundreds of others rely on the river for a lobster industry. Well, Ladies and Gentlemen, I said, "No" and I wouldn't sign the letter. I know that some folks are well intended and you think that others will always honor the process and underhanded things won't occur. That's not reality. These large businesses have lawyers, they have folks that will get the job done. In the end, your constituents, your citizens, will not be well represented in the process. I've been here too and I've watched this bill go down in flames. I've seen it start with a great deal of support, but in the end, after we debate it, it goes down in flames. I hope this is no exception this year.

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

Representative **FAIRCLOTH**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. When I'm not in this chamber, I have more opportunity to participate in road races, in the State of Maine, and I run slow in my road races, but I do run myself. The problem I have with the version of this legislation before us is that it puts the citizens of a municipality in a race and then says to them, "Somebody else will, at intermittent parts of the race, do the running for you." Whether that other party is

motivated or not. The way it works is that the citizens may have a problem with a particular permit that was granted, but they do not control the certification process for certifying that question. Those citizens do not control the time it takes to put that measure on the ballot once they've turned in their valid number of signatures. I could understand, and in fact am possibly sympathetic with, a process that says, "Citizens, you have a certain amount of time for what you are responsible for, to get your signatures in on time." That might be a process that I could support, but as currently written I'm very skeptical about how this is written even though, because I've heard a lot of hot rhetoric here about this and Representative Trahan is right, as he often is, where he refers to, you know, we can't ward against all underhanded activity. I think there's a lot of well intentioned people, like the good Representative from Bar Harbor, Representative Koffman who is one of the most thoughtful people I know about planned growth and working intelligently in this process. Where I do not support this as proposed, I think that we do need to consider the factor of is there a way when a grant applicant has gone through investments for architects and for others and hopes to find an end of that process, a book end for that process, the we look at a way of getting there. Unfortunately, the way this has been sent to us from another body is clear to me this is not the way to get there. We can't force the citizens into a race that they do not control. I thank the Men and Women of the House.

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

Representative **TWOMEY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I've sat through this bill, I swear, six years. It's a bill that refuses to die. The originator used to sit right around here and after that bill, that person lost their race because what this is all about, it just goes to the heart of the people's voice. There's no other way to discuss it. You can debate the 71 days and you can debate why, who and what. It strikes at the heart of the people's voice. It's as simple as that. I've been here for six years. Nothing gets people angrier than if you threaten to take away their referendum vote. Your phone does not stop ringing. So, those of you who are new, this bill has been called many different things. The players are still the same players. I referred to the bill to the original name, but I won't say it here. I just want to tell you that this bill is a bad bill. It's simply a bad bill. It strikes at the referendum process. It strikes at your towns that want to make their own decisions. MMA is opposed to this. It is a bad bill. It is about the people's voice. A citizen's referendum, that's what this goes to.

The SPEAKER: The Chair recognizes the Representative from Bowdoinham, Representative Hutton.

Representative **HUTTON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I was quick to get up. I am just still trying to figure out where the problem is that we're trying to solve. When I was a Selectman six years ago, this bill was also before us and it stumped me then as well because in my little community of Bowdoinham, someone had bought a wonderful piece of property by the waterfront that also included a very small grass runway. A little airport. People from all over the world would occasionally land there and it was really nice, but the people who bought it were from Vermont, not that I have anything against Vermonters. They came in saying that they were going to keep our wonderful little airport. They put in a plan for a subdivision to take away the little airport and build nice big houses on it. Well, the citizens initiated their referendum process and we had a town meeting. Unfortunately, I wasn't able to attend because I was up here. From all accounts of the town meeting, people talked and they aired their differences. People

on both sides came to an agreement and, low and behold, they cut back on the number of houses. The little airport is still there so people can land and have their airplanes. Kids in our community can take flying lessons. I'm still trying to figure out, I have yet to hear of one real problem that hasn't been solved by the process we already have. To me, to solve a problem by drastically taking away somebody's fundamental right to petition their government, it's incredulous. It really is incredulous. How could you do this? If someone could tell me what the real problem was, and I've heard it's housing, low-income housing, but I've yet to hear one real problem that's come forward about. I'd really like to ask that question through the Chair of what the problem is.

The SPEAKER: The Representative from Bowdoinham, Representative Hutton has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Gorham, Representative Barstow.

Representative **BARSTOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I think the problem that we have seen, as a committee and speaking on behalf of the State and Local Government Committee, is looking a matter of fairness and equality in this process. We, as Legislators, come into here, at least those of us who are still in the chamber listening right now, and we do our best to respect the majority and protect the minority. It was just one year ago that we were standing in this session and in this chamber looking to protect the minority under certain civil rights provisions. We have turned this bill, the opponents have, into the Wal-Mart bill, the big-box bill and everything but the other pieces that we have seen before our committee. The individual homeowner, the small business and the affordable housing. You will see before you, a yellow sheet that outlines a project that was done for affordable housing in South Portland in the former Maine Youth Center Property by Mr. Berman. You will notice that this process, without any citizen petition and by going through all of the proper steps of public hearing, application and receiving the proper permits, took over two years. This was a very good project. It was a vibrant project and it still remains a vibrant project. As I stated before, our committee, and myself personally, have dealt with this issue over the last year and a half. In trying to craft a compromise which has had several different versions, this is true, we're trying to take this emotional issue and put in a fair and equitable timeline for everybody, who is involved in this process, to understand. We look at this as an opportunity to enhance the rights of citizens to petition and to be involved in their local government. Under the 75 day provision, there's been this talk of running out the clock, of municipal officers not acting in good faith on behalf of their citizens and the time that it takes to process this. There have been experts on both sides that say that 75 days are enough and 75 days are not enough. The option that's being forgotten in this debate, because it's being overshadowed with raw emotion, is the fact that a municipality and its local elected officials can enact a moratorium which would then give time for a referendum vote to go out, either through citizen initiative or by the municipal officers enacting it upon their own. This is a matter of affordable housing. This is a matter of economic development, as much as we want to overshadow it by repeating it over and over again that it is about the big-box stores. I applaud Damariscotta. I applaud the mid-coast towns that I have seen the headlines of that are looking to act proactively, before applications are even in, to process any kind of permits to allow this type of development, the big-box development to go forward. That is what we are trying to encourage, but also, at the same time, put in a timeline following the process that is already in place so that everybody

understands what the timeline is and in what accordance to act. I hope that my colleagues will look beyond some of the rhetoric that has come out. Look at the facts on this issue. Vote with your conscience and I hope your conscience leads you to supporting the Majority "Ought to Pass" as amended report. Thank you.

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

Representative **HOTHAM**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Men of the House. I can honestly tell you that I came into this chamber tonight undecided about this bill. As I have been in the paper industry, I really appreciate all the information that's come across our desks since the debate's started. I have to tell you that I'm really concerned about the loss of local control. Many times, in this chamber, we pass laws for Portland, Rockport, Damariscotta and York County. I can tell you that I don't think this is a problem in Dixfield, Maine. Quite frankly, we need to leave this decision to the towns and the cities in the Great State of Maine. I don't feel comfortable passing a law that's for all the towns out there where there may not be a problem. Let them decide if a 75 day limit is in order here. I think the more enabling legislation we pass to those towns, that allows them to do that, the better the system goes. When you stop to think about it, I think the town of Dixfield, everybody passes the 75 day rule, the town of Dixfield will not and that will be our marketing plan. Come to Dixfield, we don't have a 75 day plan. I really think that this is where we have to let the market drive what's happening and what needs to happen. Let's defeat this bill. Let's let the towns decide and control their own futures. Thank you.

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

Representative **HARLOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I look at this as a law looking for something to happen. When I was the Mayor of Portland, we built Hadlock Field for the Sea Dogs. Any problems we had could be resolved without the State getting in the middle of it. As a matter of fact, our good Representative Adams was concerned about the parking and the owner, Dan Burke, took care of the parking and took care of everything so it would be taken care of. We did not need the State to come down and say, "You will do this." The second thing was, the City of Portland is the 19th most favorable city to do business in in the United States. They voted six to one against this law, at a council meeting. So, you can't say this is an unfriendly city to do business. They're very friendly. We've also gone through a bill this year already. We talk about the rights of businesses, and we certainly should talk about the rights of homeowners. The railroad parking its train within 20 feet of a house and leaving its diesel running and said, "This is our property, we were here first." I think the neighbors have that same right, or whatever, and I think the town has the right to designate who will and who will not do anything in their town. Is this fair to a developer? Is this fair to the neighbors? Let the town make that decision. Home rule has always been a pretty important part of our State, I think. Most towns have some type of petition process already to protect everybody. If the people don't want it, they won't go through the petition. Since 1987, there have not been very many projects that have been stopped. The one that was stopped in Portland, that I can think of, most of you have been able to enjoy the fact that it was stopped. That was the Portland Waterfront referendum. Had that not been stopped, it would not have been the Portland waterfront, it would have been the Portland condominium. You would not have been able to see the ocean from Commercial Street. That's a very important aspect to

protect that neighborhood and to protect out city. I'm kind of sick of having big brother standing over us telling us what to do in our city or your city or your town. I think it's time to let the people in the towns do what they want to do because they know better than we do. The best example I can think about is notification. We're told that they always notify and everybody will know it's going on before it happens. Back a couple of months ago in my neighborhood, they were going to move a dump, not right in my neighborhood but it's probably about a mile and a half away, from the Bayside neighborhood of Portland and put it in between a couple of housing projects. They never told anybody until the project was done. It's going to be within 50 feet of the Presumpscot River. That's 53 acres of beautiful land that's going to go to pot and we couldn't do anything because they didn't let us know in time. So, don't say, "Trust them." Trust me. Thank you very much. Have a good day.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Fletcher.

Representative FLETCHER: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'll try to be brief. When I think of this, I think there's three key principles that we have to really look at. One of them is, any democracy has to be based on an open and fair process to allow people to participate. I'm a firm believer in home rule, as a matter of fact, I think State government is way too big and I'm glad to see that there are so many people that agree we do not need to tell people how to run their lives. I'm encouraged. I'm very encouraged that we've seen the light and people can make decisions for themselves. Having said that, I'll go on to principle two. The other principle is that there has to be a fair play concept. We do not go on the baseball field and make up the rules as we are going along. Everybody knows what the rules are when you go out to play. The third concept is if people have rights, they also have responsibility. That means they need to be involved. I'm just saying, I'm on a planning board. We have very defined ordinances we go by. We have rules, so many days after the application is filed, we have to make a determination. Some would say that's infringing on the citizens' rights. Some would say, "Because I want to maintain my right forever to come back and protest about a permit, that's infringing on my rights." I would ask you to think of the responsibility side of the equation which says that if I want to exercise my rights, I have to be responsible and involved. I do not think there's anything unreasonable about what's being proposed. Yes, the clock will run and people will have to get involved, and they will have to be involved in their communities. I think that's positive. Yes, there will be a fair play. There'll be rules of the game that we all need to understand, but it will be well defined. You know what the process is. It will not be capricious and arbitrary. It will not depend on what this particular town council wants to do versus the other town council. It will be defined. That, to me, is fair. That, to me, is what democracy is about and I do not think that the horror stories that we hear will happen. If people want to get involved, they can. Everything has to have closure. It cannot go on forever. I would ask you to just think about that. We hear the horror stories, but this isn't what this is about in my mind. It's about fair play, an open and well defined process and people being required to exercise their rights to petition their government in a responsible manner. I will not mention TABOR, but I will. There was a defined process. The petitions had to be in at a certain time. They may or may not have made it. We'll see what the Maine law court decides. There was a closure. Some would argue 52,000, or whatever the number was, signed. Their rights are being violated because they cannot use that signature forever. No, it's not right. Everything has closure. Thank you for your consideration.

The SPEAKER: The Chair recognizes the Representative from York, Representative Moulton.

Representative MOULTON: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of a bill tonight that seeks to redress a harm that has been inflicted upon people of the State of Maine. I'm going to draw upon two dates given to us just a couple of minutes ago by the good Representative from Portland. Actually the dates are slightly different. In 1870, a past Legislature put on the books, a law that is still there. You'll find it in Title 1, section 302 which guarantees rights of what I call fair play for an applicant for a permit. That law applies State-wide, not only to municipalities, but also the State of Maine itself and its constituent agencies and that is if somebody goes in for a permit, an application of any sort, they become vested with the rules of the game that exist when they apply. That is a fair rule. You don't change the rules midstream or after the fact. Now comes into play the second date that the good Representative gave us, but I'll correct it slightly. A decision was made by the Maine Supreme Court in 1988, not 1987, but he was pretty close. In 1988, the law court upheld a citizen initiative in Portland, which we call the Fisherman's Wharf case. It's interesting to note that in making the decision in this case, the court had to rule on the validity and application of the law that I just referred to. It's very interesting that the court treated the law as applying some of the time, but not all of the time. The reason why the court took that approach is it seems that the Maine Legislature had passed a law that exempted, whatever measure was being proposed, from the application of this law going back to 1870. The court ruled, "Well, back in Cape Neddick we call it the old 'what's good for the goose is good for the gander' rule." And the court ruled, correctly, that if the State Legislature was going to exempt itself from the application of this law respecting changing the rules of the game on a State level, then certainly a municipality could do the same. Whether it happens by way of a town council vote or a citizen initiative doesn't matter. It could be applied retroactively if the measure, itself, said that it exempted itself from this rule of construction. The law is on the books. Suddenly, the rules changed for a lot of people and I'm not talking about Wal-Mart. I'm talking about the people in businesses that are in our constituent communities. I represent a lot of those people and a lot of those businesses and they certainly are not anywhere close to the size of Wal-Mart. The application still holds. We have a process that governs how land is used locally. It's called zoning. It involves a long and arduous process by which communities decide, by way of the town meeting, town council vote or what have you. What those laws will govern for land use prospectively, not reactively and not vigilantly and certainly not by mob rule. I'm not accusing anyone of anything, but I can tell you as an attorney in the practice of law, that if I've got somebody opposing something that they don't like, that if we don't win in front of the planning board and then the appeals court, I'm certainly going to tell them about the Fisherman's Wharf case followed recently by the case in Kittery referred to by the good Representative from Kittery. So, what we've got in front of us, Ladies and Gentlemen of the House, is a measure that provides a reasonable date of closure. Not one that goes back and makes that Statute more than a rule of construction, but it does give communities a second chance, a limited second chance. So, we're not here to throw out home rule. This body should be well aware that I would not support such a measure and many of you would not. I do not view this as throwing out home rule. In terms of control, local control, there is a deadline imposed, and this has much been debated in the other body, it is being debated tonight in this body. The proponents of this measure, including myself,

recommend it for adoption by this body because it is reasonable, particularly in cases where there is a public hearing involved and the process gets much drawn out. You have a handout in front of you that talks about the former juvenile facility down in South Portland. It took years. If the community was upset with the process, under that scenario, they had plenty of time to adopt a measure. Certainly the people in mid-coast have taken, upon themselves, the responsibility. They're concerned about a large volume business. They have acted prospectively and are to be commended for it. As the good Representative from Winslow has just stated, if anything, it binds us all to be better informed to act prospectively. This measure, Mr. Speaker, is one that is designed to provide closure because we need to have a fair shake for those people involved in the process. You've got to put them on notice early in the process that they may not be able to exercise a permit. You should not be waiting until after they've received it because then they've expended time and effort in a process that comes up zero. Most of the things that draw our attention do go through a public hearing. If I want to get a building permit, or my neighbor who owns a lot wants a building permit, there's no public hearing on that. If he decides on to add on a home occupation, that usually involves a public hearing and that's at the lowest level. You talk about subdivisions, commercial developments and in most of our communities there are rules requiring public hearings and it gives the public ample time to see whether or not it fits in with what the town needs to live and to thrive as a community. If they need to change the rules, they can do so. This measure does not strip home rule. For those that put it in those terms, I'm sorry, I respectfully disagree. I think that the body needs to see it on its own terms. I would certainly encourage this body to vote in favor of it. Thank you Mr. Speaker.

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

Representative GLYNN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the pending motion and I'd like to give a couple of reasons why. You've heard from a number of members of this body who served at the local government level. I have to say I always thought that one of the most needed things in our chamber here is not to do away with term limits, but in fact, it's to get more people who have served locally, on local boards of selectmen, councilors, aldermen and school board members and get them in the Legislature because so many of the decisions that we make as lawmakers directly impact their ability to act and to protect the community at the local level. You heard from the Representative from Portland, former councilor, Representative Harlow, you heard from the Representative from Bowdoinham, former selectwoman, Representative Hutton, you heard from the former city councilor of Biddeford, Representative Twomey and now you're hearing from Representative Glynn, the former at-large city councilor from South Portland. We're all telling you the same thing which is, this dramatically affects the ability of the public and your town council and boards of selectmen to be able to act and protect the public. This is such a serious, serious issue. The Maine Municipal Association opposed this legislation. They have opposed it right from the beginning. Bulletin after bulletin after bulletin. Another bulletin on April 7th that I gave, as a handout, to the members of this body, kind of going over some of the reasons. Let me tell you what it's like at the local level on a city council when you're dealing with these issues. We had a problem in South Portland, a serious problem. Our serious problem was our ordinances weren't up to date on fire protection standards for oil tanks and oil tank farms. A company, Irving Oil, bought a facility, in our city, and had gone down and proceeded

to rip down an oil tank farm and build another one in our community. Those ordinances hadn't been updated in 30 years. We haven't had an applicant in 40 years. We didn't know we had a problem until a bunch of lawyers sat down, found every loophole in our ordinances, ordinances that were drafted many generations before the board was sitting there, and then they proceeded to shoot at us like fish in a barrel. We had the ability, working with our residents, to stop, take some breathing time and update our ordinances. We didn't even have, in place, a requirement that earthen berms, large enough to be able to take the oil if a tank was to open up, be able to have it contained and not run through our city. These are the types of things that we're exposed to. Your boards of selectmen and your councilors are not gypsy fortune tellers. They have no idea what's coming down the pike. They have no idea what attorneys are looking at their ordinances looking for loopholes, looking for this and looking for that and how those things are going to be interpreted. Look at us, here in the Legislature, reviewing our laws and changing our laws every day because somebody takes the plain meaning of words and interprets it in a totally contrary way that you and I read. That happens at the local level too. The difference is they are very much more part-time than we are. They don't have the ability and the access to the staff that we do. If this bill passes, they won't have the ability to react. Let me give you another example of an issue. Cell phone towers is a great example. Fifteen years ago, nobody had a cell phone. There were no cell phone towers out in these communities. When they went through the comprehensive planning process and town adopted a comprehensive plan, they didn't provide for that. That technology wasn't there. Their ordinances conform with the comprehensive plan. It isn't until somebody goes down and they take out a permit to put a cell phone tower in the middle of your historic district, in town, do you realize that your ordinances are out of whack. What happens then? It's too late. You can't do anything. Your board of selectmen, your councilors and your alderman need to be able to step in. They need to be able to pause, update the rules, fix them and stop the damage. I thought it was interesting that a handout came around from the good Representative from Gorham, Representative Barstow detailing the affordable housing project that former State Representative Suslovic was quite involved in, in my district, which was the reuse of the Maine Youth Center. That project, as it went forward, was a community project. It involved a lot of public notice, a lot of working groups and a lot of involvement by both the Legislature and the community. At no point in time did anyone intercede into that project and stop it with a petition process, a moratorium or any of the things called for in LD 1481. You had a community process, that's why. There are so many things that go forward without a community process that aren't following these rules. In fact, that tends to be the problem. I want to leave you with one other example. In our city we have ordinances that cover zones. There are particular zones that you have. For instance, you'll have a residential neighborhood you might live in. You might live in a mixed use zone. Those rules of notification that you receive, for instance when you are accustomed to receiving notice of an abutter being able to put forward a project and getting written notification, you get those when the project is a defined one and it's within a specific boundary. But, if the council, selectmen or aldermen, through the comprehensive plan or through these zoning regulations, change the text of a zoning ordinance and suddenly they allow new uses in your neighborhood, you don't get a written notification of that. You don't get written notification of that. Your notice is when somebody starts staking off the ground behind your house and then you ask the question, "Hey, what's going up over here? I

didn't know they could put that up in my backyard. I didn't know they could put that alongside of my house. Gee, how come I didn't get a notice?" Well, you didn't get a notice because that's an overall zoning regulation, it's not specific and would trigger the notification. These issues, local selectmen and councilors need to deal with. They need the ability to act. They need the tools. The public, in your community, demand the ability to address their grievances with their local councilors or selectmen. If a community wants this bill, they have the power to put it in their charter. By passing this bill, we are destroying home rule because we are amending everyone's city charters and town charters and superseding what they want in their communities, what we want in our communities and what I want in my community. For all these reasons, you should vote against it. Thank you.

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

Representative **KOFFMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I've been sitting here listening to some very wise and thoughtful remarks on both sides of this debate trying to figure out for myself where we may see some agreement and where we may share some points of view. I began to think about the beginning of our day where we pledge allegiance to a republic and to the principles for which it stands. Those principles of democratic process, in fairness, are certainly principles we all support and abide by. I don't think, personally, there are any unprincipled folks here who are trying to weaken the democracy. We may have difference of opinion about it. Most of us will agree enough comments have been made that government and governance doesn't always work as well as it should at the local level. Communities are caught off guard by development projects. They're unprepared, caught off guard and feel vulnerable and maybe taken advantage of. There are voters, citizens of towns, who feel that their government hasn't kept them abreast of a potential change in their community and they feel aggrieved. We have problems with governance at various levels, I suppose, but this bill doesn't try and fix government altogether. The bill's addressed at one small part of the governance process. It has to do with land use permitting. When we go out to get a land use permit, we get an application for that land use from the town and it begins the process. Hopefully, that process is open, depending on the nature of the community. I hope that process is open and that the citizenry are aware that an application process has begun, that hearings are going to be held, that traffic studies are going to be done, that environmental permits are going to be obtained, that design standards are going to be reviewed and that planning boards, appeal boards and design and appeal boards will be meeting. I hope there's public notice in the papers and that people have ample opportunity to participate in what is usually a months and months long process. If at any stage in that process the citizens are so alarmed as to the nature of the project that they want to gather a petition and put a stop to it, prospectively or retroactively, that can be done. A retroactive referendum is really a piece of that permitting process. It's the final stage of that permitting process, if you will. It begins with an application. Where does it end? Does it end with a final permit? Nope. It ends when you have either avoided a citizen's retroactive referendum to undo that final permit or that you've overcome, through a vote, that referendum. Your application process is really bounded by two things. It's like a bookshelf. On one side you have a bookend, that's the application process getting it started. On the other end you have the citizens retroactive referendum to undo the permit. The whole process is bounded, it's bounded. But, it's not so bounded, and this bill does not so

bind things, as to jeopardize or handicap the chance for a referendum to succeed because that referendum can start any time after the application process for that matter. It can't be so unbounded as to leave an investor facing an abyss of uncertainty and financial risk. Government that isn't fair and government that isn't just is not going to be respected. The Constitution tries to balance the interests of property and the interests of political rights. This bill does not intrude on that, it tries to set some functioning boundaries for it. It's certainly out of balance to say, "You've got your final permit, start saying your prayers because anytime in the distant future, until you have actually put something in the ground, invested in the ground, no matter if you put a half of a million dollars of your cash into the planning, the traffic studies, the design, the engineering, your lawyers and all of that, never mind that investment, until you put a hole in the ground or a stake in the ground, you're not vested. You're vulnerable." I don't think that's fair. I don't think that's fair governance at all. Finally, I think that if we were to make this sort of improvement in the governance process, tell folks where the end zone is so when they get to the 10 yard line you don't say, "Oops, it's actually another 40 yards. Oops, it's another 40 yards and another couple of thousand dollars for your lawyer, etc. etc." Rather, there's some sense of finality. If you play the game right and fair, you should get a fair response from the process. In making this sort of change, you're also sending a signal to developers. The reason I cosponsored this bill is because I talked to developers, builders who build homes, mostly affordable homes in what we call traditional neighborhoods, the kind of neighborhood I grew up in where you could walk to school. Believe it or not, sometimes these developers run into really difficult problems trying to do such a simple thing as build a traditional neighborhood. I've been an advocate for this and they'll come up to me, and had come up to me, and said, "Koffman, it's very fine for you to talk about these nice ideas about smart growth and good development. Where are you when I have to face the kinds of challenges that come to me over these projects?" It seems to me that whether our investors are altruistic and community driven or not, if they know that they have, within that application process, the possibility of a retroactive initiative to undo the permit, there might be, there sure would be for me, an incentive to work with the community to try an engage them often and actively, to get them participating in the plan long before it gets to a final permit. Get the community buying in and invested in this proposal, whatever it may be. I have a feeling frankly, and finally that this bill will actually improve the governance process and Representative Fletcher of Winslow mentioned that as well. I really do believe that if we could get this bookend on the bookshelf, we'll be improving our business climate and giving investment opportunities for investors to invest in our communities without fearing risk and having the chilling effect of uncertainty. Thank you Mr. Speaker.

Representative **BOWLES** of Sanford inquired if a Quorum was present.

The Chair ordered a quorum call.

More than half of the members responding, the Chair declared a Quorum present.

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

Representative **ADAMS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Michael Jackson does not have more lawyers working for him right now than LD 1481 has working, on us out in the hallway, right now. Bela Lugosi has not led so many lives as LD 1481 has led to come back to us tonight. Under sheep's clothing, LD 1481 has crept into the Legislative pasture, under different numbers, at least every two

years since the last century. It's been defeated, that I can count, under different names, at least four times. It's been declared unconstitutional twice. It's been killed. It's been tabled. It's been amended. It's back again. It's taken down at intervals of a few months. The State and Local Government Committee has jolted it with electricity, Grandpa Munster under one arm and Bela Lugosi under the other to bring it back to us on the floor. Lazarus, himself, takes notes about LD 1481. I ask that you bear with me while I tell you why. I'm going to ask, now and again, that you dip into the leaf litter on your desks to bring up a piece of paper, now and again. I ask that you bear with me while I describe, to you, why I have concerns about the bill that comes to us under the literal cover of darkness tonight and why I think you might want to look at it very carefully before you embrace what is under the fleece that's approaching you. Last time this bill was here, in the 121st Legislature, I was a blushing freshman. I come from a tiny town in Oxford County, Maine. I am still just a simple country boy. I'm a wide-eyed sophomore now. I wander the streets of Augusta in amazement at the tall buildings. But I'm not so new that I do not know that now is the time in our session when the hour is late, when time is short and bad ideas get passed. I rise to tell you why I think this is a bad idea. This is the most heavily lobbied bill of our entire session. Out there right now, waiting for us, wringing their hands happily over the little bon-fires they build daily out of our dashed hopes, there is a raft of lobbyists. I am dismayed to see that they are joined by good, fine, wonderful, elected members of this body who referred to the fellow citizens who put us here as members of the public engaged in "Mob rule." You may find that quote in the *Portland Press Herald*, the 11th of April, 2006, page 1, column 5, by one of the sponsors of this bill. That very same "mob" put in it's seats you, myself, Representative Bowles, my friend, Representative Richardson, our Speaker, Representative Duplessie, our number two in the corner on this side. "Mob rule" - when that is brought up, I hear the dry chuckle of Alexander Hamilton on other side, who said to James Madison, who's been quoted tonight by proponents of this, "Your people, sir, are a mob. Your people, sir, are a great beast." Tonight we have a chance to decide whether it's Mr. Jefferson's vision or Mr. Hamilton's that we embrace. Here is why I think Mr. Hamilton and the sponsors and shapers of LD 1481 are wrong. If you will bring it up upon your desks, you will find first what advocates of this bill rarely tell you, that LD 1481 overturns two unanimous Maine State Supreme Court Decisions. Two unanimous Maine State Supreme Court Decisions: Fisherman's Wharf, 1988; Kittery Retail, 2004. If you don't know exactly what is in both of them, before you rock forward to press your buttons, you'd better start reading them right now, before I finish and before you vote, because much of what you know about your civil life at home depends upon them. Both guaranteed citizens rights, under certain circumstances, to be absolutely absolute and retained in their rights to petition their governments. Secondly, both guaranteed builders certain vested rights in the proper process. Two thing you need to know about those rather dry subjects. Number one, the fact I'm sitting up night reading Maine State Supreme Court Decisions shows you just how bereft of interest a Legislator's social life can be in Augusta. Secondly, for builders, Maine has some of the most liberal vested rights in all New England. You get your permit, you start substantial construction and your rights are vested. That's what's at risk in the bill tonight. Developers will call it, "Dig a hole, put up a pole." They have to do a little more than that, but not much more, to make sure that once they've commenced construction, their rights are vested. Vested, for the rest of us not lawyers, means secure. No future changes of the rule apply to you once you're vested. You're in. Not finish substantial

construction, just start it. Now, for some advocates of the bill before you tonight, that is not enough. Some builders might argue that they want more rights and say people, like that aforementioned "mob", have too many and they deserve less. That is the function, the purpose, the thrust, and will be the result of LD 1481 should it pass. LD 1481, eight months ago, was found unconstitutional by the Attorney General of the State of Maine. As it's predecessor, LD 389, two years ago, had been found unconstitutional. One version stripped citizens unduly of their rights. This version, originally, stripped towns unduly of their rights. The bill before us tonight strips both citizens and towns of their rights. Because you're being equally unkind to everybody, you're constitutional? Well, this may be not unconstitutional, but it is also unkind and in a rapidly changing Maine, I'm encouraging you to think about before you leap upon it tonight. From the debris on your desk, if you can find it - should I find it on mine, you can find it on yours - I request that you bring up the Senate Amendment that became the bill that's before us tonight. It proposes, for those of us not lawyers, that all your rights as a builder are no longer vested in actually starting work, but in the first permit you get. You as are vested then as you would be if you stood outside with a shovel. That first permit is the first shot. For us civilians, that first shot means a footrace has now commenced between builders and citizens. There is, before you, a series of high hurdles and hot beds of coal. You've got to get across them all. You must make it all the way to the end before 75 days is over. I want you to read those words, very carefully that appear on that page. No public hearing is required to be held about this. It's artful wording, very craftily done. No public hearing is ever required to be done about it unless your town already requires it. But, the Legislature isn't telling you that it must be done. For all kinds of municipal land permits, pick the paper up and read the list, all kinds of municipal land permits. It covers everything. Pick the paper up and read it. It covers everything from an outhouse to a boathouse and from a penthouse to a pigsty. All Municipal land use permits. Don't worry about the fictitious person we keep hearing about who supposedly goes out and gets 2,000 signatures on a petition to force his grumpy neighbor to take down a garage. Don't think about "Big Boxes." Think about everything that is covered by the bill. To that list, then add things you never thought of, cell towers, massive microwave dishes and wind turbines. It applies to all those things as well. Each permit granted starts a different 75 day clock ticking. Each permit starts a different clock ticking. I asked my town clerk about this, "So, what if there are 16 permits?" She said, "Well, that would be 16 different time clocks all set at a different time, all ticking off 75 different days. Wait." She says to me, "Who's supposed to be keeping track of all those 16 different time clocks?" She is, I imagine. Your town clerk, I imagine. Ladies and Gentlemen of the House, I suggest if we're going to talk about "Big Boxes", you send your selectmen down to your favorite "Big Box" and buy all the alarm clocks you can find if you decide to pass LD 1481 because you're going to need every single one of them. Here is why. As your town clerk is keeping that count, you line up all those ticking alarm clocks. Now, while they're ticking, what if a grumpy citizen or a cranky competitor to the builder in question decides to get up a citizen's petition from that aforementioned "mob" some people in this chamber seem to be afraid about. Well then, the petition wording must be approved, promulgated, printed, circulated, returned and certified, an election set and an election held, all within 75 days. Unless your town has the gestation period of a fruit fly I doubt very much that you're going to be able to accomplish that. Remember, Men and Women of the House, Maine State Law require that absentee paper ballots be available in every election,

30 days before the election. Count it backwards from the 75 days. It takes two weeks to print them all just before that. What are we truly talking about? What subtlety and craft went into finding that 75 day figure? Now, if you don't like citizens or the "mob," as some refer to them, you might like money, if you're running a town. Those elections cost money. Your town will have to pay for them. Most towns in the State of Maine, and that includes the one I live in, have elections only either at town meeting or in June or in November. Now, what if your selectmen get grumpy and decide to call the election outside the 75 days. If you've got three selectmen, two can do it. You sassed one of their wives at the last town meeting, they don't plow your road next winter and they set the election you want to have 76 days out. Anybody here ever lived in Smalltown, Maine? Anybody here ever seen anything like that happen? God forbid. Your clock has ticked down. So, what if your town decides, "Okay, we're going to pass a moratorium as some of our friends up the coast have." Those towns represented by our friends Representative McKane, Representative Trahan, Representative Bowen and others who are considering how to control their own fate. What if your town does pass a moratorium on all kinds of construction? The Town of Phippsburg, represented by our friend Representative Percy, is trying to consider that right now. What can they do about a house building moratorium until they get plans in place? So what. You put forward a moratorium on some kind of construction, or on growth. This bill has no exception for moratoriums. Very cleverly crafted. The clock continues to tick while your town sits on its moratorium. If 75 days pass, you have no more rights to bring it back. Your town clerk's and your town father's hands are tied and the clock keeps ticking. Now, some of you are going to say, "Well, goodness, there's a way out of the woods. Instead of 75 days, we'll make it 90 days. We'll make it 100 days. We'll make it 300 days. And we're good fellows because we're dealing with a real problem here." Well, you may hear from citizens of Westbrook, Maine who took an entire year against terrible odds, working at it every week to finally get their zoning the way they wanted it, against tremendous pressure from the outside world and had to make it retroactive in order to be effective. Or the good citizens of Damariscotta represented by our friend, Representative McKane, who can tell you very clearly that working at lightning speed against dreadful odds it took them 10 months to do the simplest form of ordinance that they'd never had on the books before and never thought they'd ever need in this world. So, let's set that aside. Let's say all the clocks ring and we all drop down in exhaustion. The thing is all over. All the 75 days are done. Your town clerk goes to the front door, unlocks it on the first day that they're open for four hours per week and in walks a grinning lawyer from Portland with another application for one more permit. The clock starts again. The whole process starts again. Your next election may be called. Your next election must be held. Your next election must be paid for. What have we accomplished? What was done? What problem was really solved? Dig deep into those town pockets because here comes one election, and another, and another and another. So, say your town gets by all that and you've gotten through your 75 days and you decide, "Well now, we'd like, amiably, to change some of these permits." You can't. It is illegal to change them. More than just being illegal to change them, they are eternal. Pick the bill up, lines 23 to 26, "Permits thus granted, if not dealt with before the 75 days and somehow altered," either stopped by an election or some other method, "They are permanent." Read the language of the bill. You can never change the permit. Your town meeting can't. The town petition can't. Your town selectmen can't. There is no way whatsoever to revise that

permit once it becomes permanent. No way exists, legally, to do so unless you write exemptions and new hurdles into the law the very second you pass it. You never, never have a chance to change it after that. Only in Never, Never Land do things never, never change. I doubt that Peter Pan is your town planner. Maine is changing rapidly, Men and Women of the House. We must be able to respond quickly to the pressures that we never dreamed of as the world closes in upon us. When we voted the other night, about Katahdin Lake, I said that Maine has what the world wants. They've thrown it away. They wasted it. They dropped it. They sold it. They turn to us because we have it. They will get a good degree of it, but not all of it if we keep our eyes open. Some will tell you this bill is about affordable housing. You will search the bill in vain for any mention of the words "affordable housing." It does not appear there. In fact, the other body, the unmentionable body, the out of body at the other end of the hallway, rejected that very idea. It's not part of the bill because they didn't want it to be. I would have preferred that it do so, however, take it as it stands. The bill freezes, in place, those permits. Think of what that means. Twenty-five years from now the old parking lot cannot become a new park. The restaurant on the town wharf, which closed, can never go back to the lobster pound it once was. Specifically, in my district we have two of the largest industrial junkyards ever created in the State of Maine. They are 60 and 70 years old. My town wants to eliminate a brown field, remove those junkyards, make streets, make affordable housing and make commercial property possible. You pass LD 1481 - junkyard today, junkyard forever. My town did not ask for that and I wager your town did not either. Think a little further up the coast. Scrap yard today, scrap yard forever. Toxic waste dump built for a paper company yesterday, toxic waste dump forever. In the town represented by a person unique among us all, our dear friend Representative Peter Rines, Nuclear Waste dump today, Nuclear Waste dump forever. What does it mean, Men and Women of the House, this state law? Does it apply to LURC? Does it apply to the northern reaches of the State of Maine being bought and sold by the rich every day in lots the size of Rhode Island? Does it apply to them? Do the permits fit them as us? Can they ever be changed? Are we tying their hands as well? What about those townships in which there are no citizens? Who runs the affairs there? Who raises the petitions? Who pays the bills? What does it mean for Maine's 60 or so sanitary, sewer and many, many water districts? Did you know you have that many? They have quasi-municipal powers, you know. They grant land permits. They meet all the time. They issue binding permits just as your town selectmen can. Are you in a sanitary district? Do you know? Did you go to the meeting last night? Do you know about the permit? Pass LD 1481 and start attending. Bring your alarm clock with you. I hope, Men and Women of the House, that since all of your selectmen will start carving in stone, the minute the 75-day period has passed that your town clerk has a hotline to Charlton Heston. He's going to have to keep those stone tablets coming. Nothing can be changed. Read the wording of the bill. Men and Women of the House, at the end his long and interesting life, Mark Twain said, "You know, he enjoyed people, and he also enjoyed the weather, but the more that he saw of some people the more he knew that lightning strikes just were not distributed correctly." You vote for LD 1481. Vote upon it. Vote for it. If your town selectmen didn't ask for it first and have to wake up to it later, and if your town meeting never heard of it until it becomes law and you "gotta explain it there" and you announce, to the folks at home, it's illegal for them now to tell their town politicians by petition on whatever they want, whenever they want to because some Portland lawyer stopped you in the hallway and told you to

do it and you can never change your own town's land permits cause some Portland lawyer told you that was the way you should conduct your affairs. I think you'll find out how quickly lightning can be redistributed. Ladies and Gentlemen, government is not a game of Gotcha. Democracy doesn't mean sticking your leg the furthest into the path of somebody you like the least. I warn you, somebody has always got longer legs than yours. The unintended consequences of this bill are extraordinary and they are long. How long do you think the public, the "mob" as aforementioned by some, when they feel the pinch of this bill, how are they going to react? Do you think that their reaction to LD 1481 will stop here? If it passes, what will the next round of response be in the next Legislature? And to do what? And to do it to who? There is nothing in this bill, that is forced upon your town if you decide to vote for it, that your town could not do on its own if it wanted to. You could do it, design it, pass it and embrace it all by yourselves. Belfast did it exactly that way, the town represented by our friend Representative Walter Ash. It voted to strip its own citizens of their right to deal with this kind of issue in public referendum. It does happen. Your town is guaranteed the right to do those things in the State Constitution. The same State Constitution that guarantees the right to petition, to every citizen, his and her government and explains that in that relationship, between them and us, they occupy the superior position and we the inferior. They talk and we listen. Men and Women of the House, that simple proposition is as old as colonial Maine. It is the one thing that the American Colonies asked for, short of outright revolution, the full right of British citizens to petition government for the hearing of our grievances. The one thing, perhaps if we had gotten it, that would have all of our history different, if George III had listened. Men and Women of the House, do you know what Monday is? Monday is a holiday, yes, I know. It's the 17th of April. The 18th of April, what happened in the United States? It was the year 1775, 231 years ago, a "mob," as some would call them, of ragtag colonial farmers lined up on the greens at Lexington and Concord against 200 and 300 of the King's grenadiers, resplendent and in outfit, gleaming in brass, shining bayonets in the morning sun, and the line did not break. If it had that day, all our history would be different. If George III had said, "Alright, you're British citizens, you got it." All of our history would have been different. Washington? Unsuccessful Tobacco Farmer. Jefferson? Mountaintop Scribbler. Adams? Trouble makers, every one of them, every one of them. You would have been glad to be rid of this one. Alexander Hamilton, who feared the "mob"? Lord High Chancellor of Her Majesty's Crown Colony of New York, and Speaker Richardson would have lead us in a rousing chorus of God Save the Queen this morning beneath a wonderful picture of Queen Elizabeth II, protector of our liberties and the sovereign that gives us all the rights she thinks are good for us. That is the posture of LD 1481. Instead, we have a Constitution, Ladies and Gentlemen. It's written by members of that "mob" that Hamilton, and some of us in this chamber, fear, the colonial rabble, that most of us descend from, plus the immigrants who flocked to a country that promised such wonderful rights to all. You know, the lobby is outside. Their faces are pressed against the glass of the door like kids looking into a candy shop at Christmas. They're ready to eat. But, we're alone in here. They can't hear us. Isn't there, at last, some part of being an American citizen that we just won't back off from? Is there not, at last, some small circle of our rights, which may be convenient to our neighbors, as theirs are sometimes inconvenient to us, that we just can't be pushed off, or fought off, or bought off? Is there not one of those four freedoms, painted on the Norman Rockwell calendar we all saw as little kids in the

kitchen, that, at night, you might not be proud, alone at home, to go and put your checkmark next to? I've always liked the one about freedom of speech. We use it here. Or, Men and Women of the House, you go and vote for 1481, you welcome the host of its cousins who will come marching in here in reaction to it in the next Legislature and at the next town meeting when you go home and Mrs. Smith toddles up to you to ask you, "So what did you do in the 122nd Legislature, dear?" You can proudly answer, "Health plans? Oh well no, no, we tried to abolish the one we had, sorry. Tax reform? Well, we nibbled around the edges, sorry. Circuit breaker? Well, we ran out of money, sorry. But, Mrs. Smith, by golly, we gathered up all our courage and in one night we made Moxie the State Drink. We granted free fishing licenses to 100 year old people." Every 95 year old I know is breathless with anticipation. "And we made it legal to blast fuzzy creatures with a crossbow." I wish very much my seatmate Representative Moody were here. "And, Mrs. Smith, we did one more thing. We passed 1481 and made it so that if you go to the polls on Election Day and sign the wrong petition without reading it first, I sure voted to make your opinion worthless, your act illegal and you an outlaw. Now, Mrs. Smith, how about signing my nomination petitions while you're at it?" Men and Women of the House, there's no proven need for LD 1481, despite what some in the hallway might tell you and despite what some in this chamber may fear of the "mob", of which you and I are a part. There's nothing in it your town can't do now, or can't do better and can't do for yourselves. I supported the indefinite postponement of the bill before. I urge you to vote for the "Ought Not to Pass" report now. My light, when I put it up there, is going to be red. I hope yours is too. Mr. Speaker, I believe a roll call has been called for, and if it has not, I so ask for one now. Because, when it comes down to basic Constitutional rights, for every citizen that will be voting, on the eve of the Battle of Lexington and Concord, I want to know, and I want the citizens of Maine to know, who stands with Joe and Jane Maine citizen and, who here, stands with George III.

The SPEAKER: The Chair recognizes the Representative from Boothbay, Representative Bishop.

Representative BISHOP: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The only advantage to following a great, class act, is that you already have a large audience. Well, I had pages of notes to guide me, but instead, and I'm sure to you're collective sighs, I will be brief. First, let me give you a quote that I enjoy. Of course, you all have to realize that this applies to no one under this roof, but rather applied only at the turn of the last century, and to our Federal Senate. I quote the very late Senator from Alabama, John Tyler Morgan, "A lie is an abomination to God, but an invaluable tool to a politician." I feel, in truth, I need to make one small and important point on this bill. This legislation focuses on the fairness problem by limiting the time that a permit can be challenged. It does not, it would not and it will not limit the inherent right or ability of a citizen in Maine to challenge a permit. This legislation only establishes a very visible finish line that all can clearly see, a finish line that cannot change at the whims of money and influence and a finish line that, at by its very existence, will foster open and early debate, such as took place in Damariscotta and Newcastle and encourage the timely and thoughtful adoption of municipal regulations governing growth. This bill will help people focus on what's important to them. This legislation would, once again, make a building permit to really live up to its name. Thank you Mr. Speaker.

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

Representative **SIMPSON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Timely and thoughtful planning is what we all want to do in our communities. The citizens of my great city spent a good deal of time creating a comprehensive land use plan. Shortly after finishing, the city, negotiating behind closed doors, decided that the comprehensive land use plan was meaningless and that large hill that was to be a buffer between commercial development and residential neighborhoods could, instead, be commercial development all on its own. When it made the front page of our local paper, citizens were outraged. They all came to the city council meeting where the vote would be held to allow this to happen. They begged, they beseeched and they pleaded with the city council, "Don't do this." They said, "The comprehensive land use plan is merely advisory, we do not need to follow it," and proceeded to vote against what the local people said. So, the citizens banded together, "What shall we do? What shall we do?" We went and petitioned the city for an initiative to stop this new development. They took a little while and they said, "I'm sorry, this language isn't good. Try again." It took three city council meetings, which is six weeks, for the city of Auburn to finally agree to the question language. In the city of Auburn you need 10% of those voting in the last gubernatorial election to sign your petition. It took another 40 days. Then, the city of Auburn waited another month to set a date for a vote. All the while, giving out all the permits and finally they set the date for the vote for six months later. By the time the day came, when the people of the city of Auburn could vote on this change to our comprehensive land use plan, which citizens had worked on for years, that hill, that was to be a buffer between where people live and commercial development, had already been blasted away. So, we're here to fix a problem because poor developers never have an end game, when in fact, I think Representative Adams made it very clear, that 75 days isn't really workable. If you look at the city of Lewiston where the charter says in order for the people to have a petition, it has to be available for 60 days at the city hall. If you add on to that the law requiring that absentee ballots be available for 30 days, that's 90 days just for those two processes. If we pass this bill as it is written, the citizens of Lewiston will never be able to undo anything; their city council does, by petition. They will have no redress of grievances. If you all want to go home and say that what you did was to take away people's constitutional right for redress of grievances, feel free. I would be happy to see who'll be sitting in your seat next year.

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

Representative **FAIRCLOTH**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I was planning on voting red, but now that I know if I vote green I might join the British royal family, I'm tempted to go that direction. That would be making good for someone from my family background. It's tempting. I just don't picture Representative Barstow or Representative Koffman in a powdered wig. I don't picture them as people who are unduly influenced by lawyers or lobbyists. I have been very impressed by the Chair of this committee's honest brokering of this discussion. He has been accurate and fair in every discussion I've had with him on this issue. Though I still oppose the Majority Report, he has been very meticulous in the way he has presented this case. I think that he is accurate that there could be a moratorium even if this were to pass. The town could pass that moratorium and extend this for quite some time and offer further safeguards for the people. I think that it is

also accurate that if this were to pass, if a junkyard vested before or if a junkyard vested after this happened it would not change the situation one bit. You can't take away someone's junkyard once it's vested before or after this passes. Neither way. So, you might have to use eminent domain if you want to move that junkyard out, but you won't change it by zoning, no matter what happens on how you vote on this issue. I see a problem and I've described that problem, that if there's going to be a race, then the citizens need to be the ones who are in control of that race, and unfortunately I don't think this version does that. I think that when I listen to Representative Koffman, he raises a valid issue and I am not going to disparage it. When he raises that you invest in architects, engineers, fees for designs and traffic plans and you have not vested, he is right. He is telling the truth and I think there is something to be considered. I do not think that certain people from another body have sent us the right version to address this issue. Let us not dismiss this issue. Let us not treat it as an affront to our entire society, because it is not. There is a way to work together on this issue and to deflate the harshness that I've heard on either side, not from anyone in this room, but I have had people's character impugned because of how they stand on these issues. Even though I happen to disagree with the Majority Report as written, I see a lot of merit in how we might be able to address this in the future. I ask us to consider, I hope you will join me in voting "Ought Not to Pass" on this measure and join me in supporting the Minority Report. I hope you will consider a way to deal with this thoughtfully and carefully. I thank the members of the House.

The SPEAKER: The Chair recognizes the Representative from York, Representative Moulton.

Representative **MOULTON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The problem that we face is common for all of us. We're dealing with a conflict of rights on both sides of the issue. I listen with particular attention to the statement from the good Representative from Auburn, Representative Simpson and I'd like to add a story. It was only a year ago in two night's time that a local community decided, without forethought and without prior notice, that the minimum lot size was not big enough. The community that had relied upon that same minimum lot size for over 30 years prior to those two nights, suddenly found itself in a position where one night the planning board decided, "Oh, we're going to disregard the plan that we just recently adopted and we're going to increase the minimum lot size." The next night they happened to be on the agenda with the board of selectmen and asked them to pass a temporary moratorium that would freeze development such that you had to build on the larger lot size. This is before the public even had a chance to vote on it. There sat a client of mine my mom's age, and friend, who just happened to have a piece of land that met the requirements for two lots and she was planning on dividing at a time in the future when she needed the money. Suddenly, that was stripped away from her because in a flash overnight, town officials decided that they wanted to keep out some lowlife developers who weren't trying to put up a big box, but happened to be doing an infill strategy and stripped away the rights of that woman to be able to do something. A number of us objected to the fact that they disregarded their own zoning ordinance and they temporarily lifted that temporary measure such that a few people were able to affect some changes. With all due respect to the members of this body, I do speak for people that have been affected by the process. Just like our forbearers, who sometime long after my family moved into York, finally got around to dealing with the tyranny of a foreign power. This measure has come up again because we do need to address the rights of the people who have to go through the process. We

have to restore fairness to the process. I would recommend to the good Representative from Portland that, when he goes down to his local retailer of choice and buys an alarm clock, that he use it to deal with the fact that this body has a responsibility, under law, to make laws. In this very Legislature I can name two examples right at hand where we have changed the law such that the Maine Supreme Court now has a different standard to use in a specific instance. We feel that we've done a good job. Just because the law court has ruled in a couple of cases, to which the good Representative has referred to, doesn't mean that that law cannot change if the change is needed. Certainly, in this case, we do need to stand up for the rights of those who have to go through the process. I do recommend this bill for passage because it is a modest measure to address that conflict which we are called upon to address by our votes. When the lights go on, I ask you to put on the green light. Thank you.

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

Representative **MAKAS**: Thank you Mr. Speaker. Mr. Speaker, Women and Men of the House. As a sports fan, I've been concerned about the fact that people are talking about fair play. I've even heard about some of the developers being referred to as the minority or as the victims of this whole situation. I simply would like to say that 75 days may be adequate time for a developer. He or she knows what they want to do and they've already looked over the situation, whereas 75 days may not be enough for the citizens of a community. They are not aware of what is being planned. They haven't had a chance to organize themselves ahead of time. The fact of the matter is that if the development is a good idea, one that could be soundly supported, the developer does not need to fear the citizens. That is what fair play is all about. As a result, I'll be voting against the current motion. Thank you.

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

Representative **VALENTINO**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I was not planning on speaking on this but my seatmate was so eloquent, he made me rise to this occasion. As he quotes Jefferson and Madison and Hamilton, I looked up on my computer a nice little quote for Thomas Jefferson to quote back to him. Jefferson had stated "A democracy is nothing more than mob rule where 51% of the people may take away the rights of the other 49." With that, Mr. Speaker, we have heard that this bill strips the citizens and the towns of their rights. I say what about stripping the developers of their rights, along with the hundreds and thousands of dollars and the years that they have spent on a project. What about their rights? What about the money they have spent? What of the time that they've put into this? We have also heard that this bill comes back year after year after year from Socrates. If this bill comes back year after year after year, maybe it is because there is a problem and this Legislature has not addressed the problem. I hear about a race to the finish line. I do not call it a race to the finish line when people spend months and years of going through permit processes. I consider it more of a slow crawl. It says this overturns two Supreme Court decisions, I ask "Who says this?" The Attorney General, the committee that studied this or the Legislator that says this is going to happen. I hear that this is the most heavily lobbied bill of this session. I seem to recall many people lining the halls and the corridor to this chamber day after day, week after week, on other bills that we have just voted on here tonight. I hear that this is a wolf in sheep's clothing. Who is the wolf? The developer? The members of this Legislature? The towns? I hear that we are taking away people's Constitutional rights. We are not taking

away their rights, we are having 75 days. They still have their Constitutional rights. That this strikes at the very heart of the people's voice, to restrict the referendum period, I ask, "Why do they not get involved at the beginning of this?" When it says that we must go to every sanitary waste meeting and if we don't like it the next day, I say shame on the people for not knowing what is going on in your town. It is no different then when people complain about our elected politicians and they didn't bother to go to the polls and vote. I say shame on them for not participating in this. I think we should get back to the central question of what this is about and the work that this committee has done. What this bill does, it says the current system is unpredictable and unfair. Applicants invest tremendous amounts of time and money undergoing permit application and review. Under the current system, even after all that investment, a permit may be retroactively revoked, creating tremendous risk and uncertainty for developers and investors. I read also from Richard Barringer from the Muskie School of Public Service, "LD 1481 gives reasonable developers a measure of assurance that their lawfully obtained final approvals will not be withdrawn after a fair and reasonable amount of time. It gives aggrieved citizens fair and adequate opportunity to make their voices heard." I read also from the Maine State Housing Authority, "LD 1481 is fair, common sense legislation that simply says that once an individual, business or non-profit developer has received a lawfully issued land use permit or approval from the municipality, then after a certain amount of days has passed, they cannot change the rules of the game." It says that residents should have the final say on how their community is developed. I agree. I sat on the city council. I was a measure of the comprehensive plan review and I can tell you people don't come to the meetings. They should come to the meetings. They should find out. If they don't like the zoning ordinance and if they don't like the comprehensive plan then the time to do it is before. I also read here from a letter from Reny's. In bold print they say "Why aren't legislators pushing for better noticing requirements and communication about possible controversial projects?" I agree 100% of that. I also look here at how the city of Portland, for example, has required that prior to seeking subdivision or site plan approval, applicants first give public notice and hold neighborhood meetings to present the project to the neighborhood. This should be done before, not after. If the towns want to enact rules and widen it from 500 feet to 5,000 feet on the notice, have a developer put up a four by eight sign and say, "I'm going to be doing a project on this property." Then do it, but do it before. Don't do it after somebody has spent two years of time, hundreds of thousands of dollars and then go and change the rules. I will be supporting 1481.

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

Representative **WALCOTT**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would just respond to all the debate. I was the lucky one to be able to speak first. I think there's a misconception. I don't care whether Portland or Lewiston or Auburn has a 75 day period that you have to meet. My point was, that decision the Constitution envisioned would be made at the local level. The procedures for local referendum are in city charters and town charters and that's how they're decided. They're not decided by this body, the other body and the Chief Executive. For some reason on this one issue, and I have my ideas as to why, certain people want this body to make the decision for the local government. Is it because the local governments aren't doing that? Then, fine. Go home and go to your city council or your town council, or your town selectmen and say, "We need this because we need to protect what you

guys decide to allow for permits." That's fine. If the city of Lewiston decides to do that, fine. I don't think it's appropriate for us to do it for the entire State of Maine. I mentioned before, Belfast turned around and decided that by a vote of the citizens we weren't going to have this right to have a local referendum on this issue. That was Belfast's decision. On that note, Mr. Speaker, I would like to pose a question through the Chair.

The SPEAKER: The Representative may pose his question.

Representative **WALCOTT**: Thank you Mr. Speaker. I mentioned in my earlier speech that some towns have no referendum procedure at all and some do. My question is, will this state law supersede what towns have decided for themselves, and then everybody has this process? Is that what this law will do? If so, that's another concern of mine. I would thank anybody who can answer that question.

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

Representative **BARSTOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I appreciate the question from the good Representative from Lewiston and will do my best to try to answer it in a simple manner. If there were a charter in an individual municipality that did not have initiative, this would not add it to it. An example that was given, outside of this chamber and talking informally, is the city of Belfast, which, I believe was cited, does not have initiative beyond this process. What would be allowed, however Mr. Speaker and Ladies and Gentlemen of the House, would be a municipalities ability in the 75 days to enact a moratorium, which has been mentioned before in my previous debate. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Webster.

Representative **WEBSTER**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have concerns, both for business and for citizens and I think this is a very complex issue. Obviously we're struggling with this issue. I would like to pose a question through the Chair.

The SPEAKER: The Representative may pose his question.

Representative **WEBSTER**: Thank you Mr. Speaker. Ladies and Gentlemen of the House, I would like to know if there is agreement, or a legal interpretation, as to whether a moratorium stops the clock on the 75 days. Thank you Mr. Speaker.

The SPEAKER: The Representative from Freeport, Representative Webster has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Gorham, Representative Barstow.

Representative **BARSTOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I thank the good Representative from Freeport for his question. The answer to that is yes. The clock would stop with a municipal moratorium enacted by the local legislative body if it so chooses under its local control. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Webster.

Representative **WEBSTER**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I guess my question is, is there agreement or is that simply the interpretation of our fine chair?

The SPEAKER: The Representative from Freeport, Representative Webster has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Gorham, Representative Barstow.

Representative **BARSTOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I thank the

Representative from Freeport for allowing me to follow up. That is the interpretation of our analyst for our committee.

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

Representative **ADAMS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Several questions were posed in the general direction of which I sit by some of the previous speakers. One question was who says that this overturns state Supreme Court decisions. Answer, Maine Municipal Association in the *Broadsides* that you've been getting on our desks. As regards, number two, 51% to 49%, Representative Valentino is correct. I believe Thomas Jefferson beat John Adams for the presidency for just about that percentage and my family has never gotten over it since. Number three, please vote red, the color of the coats of the British grenadiers we chased down the road 200 years ago. Thank you Mr. Speaker.

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

ROLL CALL NO. 507

YEA - Annis, Austin, Barstow, Beaudette, Berube, Bierman, Bishop, Blanchard, Bliss, Bowen, Bowles, Brannigan, Browne W, Bryant-Deschenes, Carr, Cebra, Churchill, Clough, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Dugay, Duprey, Eberle, Edgecomb, Emery, Farrington, Fischer, Fitts, Fletcher, Flood, Goldman, Hall, Hanley B, Hanley S, Joy, Kaelin, Koffman, Lansley, Lewin, Lindell, Marean, Marley, McCormick, McFadden, McKenney, Millett, Moulton, Muse, Nass, Nutting, Pilon, Pinkham, Piotti, Plummer, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Sampson, Saviello, Seavey, Sherman, Shields, Sykes, Tardy, Thomas, Thompson, Valentino, Vaughan, Woodbury.

NAY - Adams, Ash, Babbidge, Blanchette, Brautigam, Brown R, Bryant, Burns, Cain, Campbell, Canavan, Clark, Collins, Craven, Crosby, Davis K, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Eder, Faircloth, Finch, Fisher, Gerzofsky, Glynn, Greeley, Grose, Hamper, Harlow, Hogan, Hotham, Hutton, Jackson, Jacobsen, Jodrey, Lerman, Lundeen, Makas, Marraché, Mazurek, McKane, McLeod, Merrill, Miller, Mills, Norton, O'Brien, Ott, Paradis, Patrick, Percy, Perry, Pingree, Rector, Richardson D, Rines, Schatz, Simpson, Smith N, Smith W, Trahan, Tuttle, Twomey, Walcott, Watson, Webster, Wheeler, Mr. Speaker.

ABSENT - Cummings, Jennings, Moody, Moore G, Pineau, Stedman.

Yes, 75; No, 70; Absent, 6; Excused, 0.

75 having voted in the affirmative and 70 voted in the negative, with 6 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. Committee Amendment "C" (S-437) was **READ** by the Clerk.

On motion of Representative TARDY of Newport, **TABLED** pending **ADOPTION** of **Committee Amendment "C" (S-437)** and later today assigned.

ENACTORS
Resolve Pursuant to the Constitution
Public Land Mandate

Resolve, Authorizing Certain Land Transactions by the Department of Conservation, Bureau of Parks and Lands

(H.P. 1415) (L.D. 2015)

(H. "A" H-1000 and S. "A" S-612 to C. "A" H-991)

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

Representative CLARK of Millinocket **REQUESTED** a roll call on **FINAL PASSAGE**.

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

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

In accordance with the provisions of Sections 21 and 23 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken.

ROLL CALL NO. 508

YEA - Adams, Annis, Ash, Austin, Babbidge, Barstow, Beaudette, Berube, Bishop, Blanchard, Blanchette, Bliss, Bowen, Brannigan, Brautigam, Brown R, Browne W, Bryant-Deschenes, Burns, Cain, Campbell, Canavan, Carr, Cebra, Churchill, Clough, Collins, Craven, Crosby, Curley, Curtis, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Emery, Faircloth, Farrington, Finch, Fischer, Fisher, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hotham, Hutton, Jacobsen, Jodrey, Kaelin, Koffman, Lerman, Lewin, Lindell, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Ott, Paradis, Percy, Perry, Pilon, Pingree, Piotti, Plummer, Rector, Richardson D, Richardson M, Richardson W, Rines, Robinson, Rosen, Sampson, Saviello, Schatz, Seavey, Shields, Simpson, Smith N, Smith W, Sykes, Tardy, Thompson, Trahan, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Bierman, Bowles, Bryant, Clark, Cressey, Crosthwaite, Fitts, Jackson, Joy, Lansley, Patrick, Pinkham, Richardson E, Sherman, Thomas, Vaughan.

ABSENT - Cummings, Jennings, Moody, Moore G, Pineau, Stedman.

Yes, 129; No, 16; Absent, 6; Excused, 0.

129 having voted in the affirmative and 16 voted in the negative, with 6 being absent, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

Acts

An Act To Implement Task Force Recommendations Relating to Parity and Portability of Benefits for Law Enforcement Officers and Firefighters

(H.P. 706) (L.D. 1021)

(C. "B" H-1007)

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

On motion of Representative HALL of Holden, was **SET ASIDE**.

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "B" (H-1007)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "A" (H-1028)** to **Committee Amendment "B" (H-1007)** which was **READ** by the Clerk.

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

Representative HALL: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Very quickly, I know we spent a lot time talking about this bill tonight. This amendment simply does two things. Number one, it increased the contribution that we're asking firefighters and law enforcement officers to make from one and a half percent to two percent. It just puts a little bit more money into fund. The second thing that it does is it becomes very fiscally responsible by requiring that before you can retire and receive your health insurance benefit as a retiree, you must work and put in five years while paying into this system. What it does, if you look at the fiscal note, it makes absolutely zero cost for the first five years that it's in effect, obviously, because nobody's paying. During that time, we will build up a fund of over \$10 million. Hopefully, in the future, we will be able to supplement that money with some appropriations, some state money, and we will be able to actually have a system that works. We won't be looking at system that's starting off with a \$100 million unfunded liability, which is what we're talking about. We just got information from the State Controller's Office and this bill, without this amendment, has a \$100 million unfunded liability that we are creating by its adoption. My bill right here is going to create, I believe it still, with this amendment, creates some unfunded liability but it is substantially smaller and gives us a great deal of time to get the ball rolling, to get some money coming in and have a head start on these benefits that we're going to pay out. It's the fiscally responsible thing to do. It also makes it much, much, much greater likelihood that we are actually going to be able to fund this. We are actually going to be able to do this. We are not making an empty promise to the brave men and women that are sitting up there in the gallery and that are all over the State tonight. I ask you, please consider pressing the green button one time and pass this amendment and do the fiscally responsible thing. Thank you Mr. Speaker.

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

Representative DUPLESSIE: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I believe this issue's already been well debated earlier this evening. Based on that, I respectfully move that we indefinitely postpone this amendment and I request a roll call.

Representative DUPLESSIE of Westbrook moved that **House Amendment "A" (H-1028)** to **Committee Amendment "B" (H-1007)** be **INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-1028)** to **Committee Amendment "B" (H-1007)**.

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 Hampden, Representative Duprey.

Representative DUPREY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. You know, these indefinite postponement motions, why don't we just let the bill stand on its merits and vote it down. You know, come on. It's a good amendment. Let's give it a shot, up or down. If you defeat the pending motion and then if the amendment dies, I could live

with it. But, to indefinitely postpone, I mean, come on. The amendment deserves an up or down vote.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-1028) to Committee Amendment "B" (H-1007). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 509

YEA - Adams, Ash, Beaudette, Blanchette, Brannigan, Bryant, Burns, Cain, Campbell, Canavan, Clark, Craven, Crosby, Davis G, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Faircloth, Farrington, Fisher, Gerzofsky, Goldman, Greeley, Grose, Hanley S, Harlow, Hutton, Lundeen, Makas, Marley, Miller, Norton, O'Brien, Paradis, Patrick, Percy, Pilon, Pingree, Piotti, Rines, Schatz, Simpson, Smith N, Thomas, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Mr. Speaker.

NAY - Annis, Austin, Babbidge, Barstow, Berube, Bierman, Bishop, Blanchard, Bliss, Bowen, Bowles, Brautigam, Brown R, Browne W, Bryant-Deschenes, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis K, Duprey, Eder, Edgecomb, Emery, Finch, Fischer, Fitts, Fletcher, Flood, Glynn, Hall, Hamper, Hanley B, Hogan, Hotham, Jackson, Jacobsen, Jodrey, Joy, Kaelin, Koffman, Lansley, Lerman, Lewin, Lindell, Marean, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Millett, Mills, Moulton, Muse, Nass, Nutting, Ott, Perry, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Sampson, Saviello, Seavey, Sherman, Shields, Smith W, Sykes, Tardy, Thompson, Trahan, Vaughan, Woodbury.

ABSENT - Cummings, Jennings, Moody, Moore G, Pineau, Stedman.

Yes, 56; No, 89; Absent, 6; Excused, 0.

56 having voted in the affirmative and 89 voted in the negative, with 6 being absent, and accordingly the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-1028) to Committee Amendment "B" (H-1007) FAILED.**

Representative TUTTLE of Sanford **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-1028) to Committee Amendment "B" (H-1007).**

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

The SPEAKER: A roll call has been ordered. The pending question before the House is adoption of House Amendment "A" (H-1028) to Committee Amendment "B" (H-1007). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 510

YEA - Annis, Austin, Babbidge, Beaudette, Berube, Bierman, Bishop, Bliss, Bowen, Bowles, Brannigan, Brown R, Browne W, Bryant-Deschenes, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis K, Duchesne, Duplessie, Duprey, Edgecomb, Emery, Finch, Fischer, Fitts, Fletcher, Flood, Goldman, Grose, Hall, Hamper, Hanley B, Hogan, Hotham, Jacobsen, Jodrey, Kaelin, Lansley, Lerman, Lewin, Lindell, Marean, Marraché, Mazurek, McFadden, McKane, McKenney, McLeod, Merrill, Millett, Mills, Moulton, Muse, Nass, Nutting, Ott, Perry, Pinkham, Plummer, Rector, Richardson D, Richardson M, Richardson W, Robinson, Rosen, Sampson, Saviello, Seavey, Sherman, Shields, Smith W, Sykes, Tardy, Thompson, Trahan, Woodbury.

NAY - Adams, Ash, Barstow, Blanchard, Blanchette, Brautigam, Bryant, Burns, Cain, Campbell, Canavan, Clark, Craven, Crosby, Davis G, Driscoll, Dudley, Dugay, Dunn, Eberle, Eder, Faircloth, Farrington, Fisher, Gerzofsky, Glynn, Greeley,

Hanley S, Harlow, Hutton, Jackson, Joy, Koffman, Lundeen, Makas, Marley, McCormick, Miller, Norton, O'Brien, Paradis, Patrick, Percy, Pilon, Pingree, Piotti, Richardson E, Rines, Schatz, Simpson, Smith N, Thomas, Tuttle, Twomey, Valentino, Vaughan, Walcott, Watson, Webster, Wheeler, Mr. Speaker.

ABSENT - Cummings, Jennings, Moody, Moore G, Pineau, Stedman.

Yes, 84; No, 61; Absent, 6; Excused, 0.

84 having voted in the affirmative and 61 voted in the negative, with 6 being absent, and accordingly **House Amendment "A" (H-1028) to Committee Amendment "B" (H-1007) was ADOPTED.**

Representative DUPLESSIE of Westbrook moved that the House **RECONSIDER** its action whereby **House Amendment "A" (H-1028) to Committee Amendment "B" (H-1007) was ADOPTED.**

On further motion of the same Representative, **TABLED** pending his motion to **RECONSIDER** whereby **House Amendment "A" (H-1028) to Committee Amendment "B" (H-1007) was ADOPTED** and later today assigned.

SENATE PAPERS

The following Joint Resolution: (S.P. 851)

JOINT RESOLUTION ENDORSING TAIWAN'S PARTICIPATION IN THE WORLD HEALTH ORGANIZATION

WHEREAS, good health is essential to every citizen of the world, and access to health information and services of the highest standard is necessary to improve public health; and

WHEREAS, the World Health Organization set forth in the first chapter of its charter the objective of attaining the highest possible level of health for all persons; and

WHEREAS, the achievements of Taiwan, the Republic of China, in the field of health are substantial, including having the highest life expectancy levels in Asia; having maternal and infant mortality rates comparable to those of western countries; eradicating infectious diseases such as cholera, smallpox and the plague; and being the first country in Asia to eradicate polio and provide children with Hepatitis B vaccinations; and

WHEREAS, Taiwan's population of 23,500,000 is larger than that of 3/4 of the member states already in the World Health Organization; and

WHEREAS, the United States Centers for Disease Control and Prevention and its Taiwanese counterpart agencies have enjoyed close collaboration on a wide range of public health issues; and

WHEREAS, in recent years Taiwan has expressed a willingness to assist financially and technically in international health activities supported by the World Health Organization; and

WHEREAS, with the great potential of the cross-border spread of diseases, such as the human immunodeficiency virus (HIV), tuberculosis, malaria, severe acute respiratory syndrome (SARS) and the recent outbreak of avian flu, it is crucial for all countries, including Taiwan, to have direct and unobstructed access to information and assistance from the World Health Organization in order to limit successfully the spread of various infectious diseases; and

WHEREAS, the European Parliament called on the World Health Assembly in Geneva, Switzerland to accept observer status for Taiwan and called on its member states to support the application of Taiwan as an observer to the World Health Organization; and

WHEREAS, in 2002, the United States House of Representatives and the United States Senate authorized the Secretary of State to endorse observer status for Taiwan at the

World Health Assembly and the United States House of Representatives repeated its endorsement in 2005; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-second Legislature now assembled in the Second Regular Session, on behalf of the people we represent, take this opportunity to commend Taiwan's efforts to improve world health and support its efforts to gain observer status at the World Health Organization; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to President George W. Bush; to Secretary of Health and Human Services Michael O. Leavitt; to Dr. Lee Jong-wook, Director-General of the World Health Organization in Geneva, Switzerland; to Kuo-tung Lang, Director-General of the Taipei Economic and Cultural Office in Boston; and to the Members of the Maine Congressional Delegation.

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

CONSENT CALENDAR

First Day

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

(H.P. 1471) (L.D. 2080) Bill "An Act To Accelerate Private Investment in Maine's Wireless and Broadband Infrastructure" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1018)**

(H.P. 1475) (L.D. 2087) Bill "An Act To Implement Recommendations Concerning Temporary Guardian and Conservator Laws" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1023)**

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

ENACTORS

Emergency Measure

An Act To Address Potential Shortages of Influenza Immunizing Agents in Maine

(H.P. 1496) (L.D. 2106)

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

Representative PINGREE of North Haven **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

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

ROLL CALL NO. 511

YEA - Adams, Annis, Ash, Austin, Babbidge, Barstow, Beaudette, Berube, Bierman, Bishop, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Bryant-Deschenes, Burns, Cain, Campbell, Canavan, Carr, Cebra, Churchill, Clark, Clough, Collins, Craven, Cressey, Crosby, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Edgecomb, Emery, Faircloth, Farrington, Finch, Fischer, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Glynn,

Goldman, Greeley, Grose, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jacobsen, Jodrey, Joy, Kaelin, Koffman, Lansley, Lerman, Lewin, Lindell, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Ott, Paradis, Patrick, Percy, Perry, Pilon, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Rines, Robinson, Rosen, Sampson, Saviello, Schatz, Seavey, Sherman, Shields, Simpson, Smith N, Smith W, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Twomey, Valentino, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - NONE.

ABSENT - Cummings, Duprey, Hall, Jennings, Moody, Moore G, Pineau, Stedman.

Yes, 143; No, 0; Absent, 8; Excused, 0.

143 having voted in the affirmative and 0 voted in the negative, with 8 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Portions of Chapter 10: Significant Wildlife Habitat, a Major Substantive Rule of the Department of Inland Fisheries and Wildlife

(H.P. 1481) (L.D. 2090)

(C. "A" H-983)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 135 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Acts

An Act To Ensure the Long-term Capacity of Municipal Landfills

(S.P. 712) (L.D. 1795)

(C. "A" S-539)

An Act To Implement the Recommendations of the Joint Standing Committee on Education and Cultural Affairs Regarding the Telecommunications Relay Services Advisory Council Pursuant to Reviews Conducted under the State Government Evaluation Act

(H.P. 1495) (L.D. 2105)

(S. "A" S-579)

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

Resolves

Resolve, Directing the Commissioner of Administrative and Financial Services To Establish a Working Group To Develop Options for the Long-term Renovation and Use of the Stone Buildings, the Administrative Building and the Center Building Formerly Occupied by the Augusta Mental Health Institute

(H.P. 1241) (L.D. 1733)

(C. "A" H-973)

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

An Act To Offer Financial Institutions an Option for Payment of the Maine Franchise Tax

(S.P. 678) (L.D. 1761)
(H. "A" H-953 to C. "A" S-453)

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

On motion of Representative HUTTON of Bowdoinham, was **SET ASIDE**.

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

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

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

ROLL CALL NO. 512

YEA - Annis, Ash, Austin, Babbidge, Barstow, Beaudette, Bierman, Bishop, Blanchard, Bowen, Bowles, Brannigan, Brautigam, Browne W, Bryant-Deschenes, Cain, Campbell, Carr, Cebra, Churchill, Clark, Clough, Collins, Cressey, Crosby, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Duprey, Eberle, Edgecomb, Emery, Faircloth, Farrington, Fischer, Fisher, Fitts, Fletcher, Glynn, Goldman, Greeley, Hall, Hamper, Hanley B, Hanley S, Hotham, Jackson, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lerman, Lewin, Lindell, Lundeen, Marean, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Millett, Mills, Moulton, Muse, Nass, Norton, Nutting, Ott, Paradis, Perry, Pilon, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Sampson, Saviello, Seavey, Sherman, Shields, Smith N, Sykes, Tardy, Thomas, Thompson, Trahan, Valentino, Vaughan, Webster, Woodbury, Mr. Speaker.

NAY - Adams, Blanchette, Bliss, Bryant, Burns, Canavan, Craven, Eder, Finch, Gerzofsky, Grose, Harlow, Hogan, Hutton, Koffman, Makas, Miller, O'Brien, Patrick, Percy, Rines, Schatz, Simpson, Smith W, Twomey, Walcott, Watson, Wheeler.

ABSENT - Berube, Brown R, Cummings, Flood, Jennings, Moody, Moore G, Pineau, Stedman, Tuttle.

Yes, 113; No, 28; Absent, 10; Excused, 0.

113 having voted in the affirmative and 28 voted in the negative, with 10 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

SENATE PAPERS

The following Joint Order: (S.P. 854)

ORDERED, the House concurring, that when the Senate adjourns on Thursday, April 13, 2006, and the House adjourns on Friday, April 14, 2006, they do so until Wednesday, April 26, 2006, at 10 o'clock in the morning.

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

READ and **PASSED** in concurrence.

The **SPEAKER**: The Chair recognizes the Representative from Phippsburg, Representative Percy who wishes to address the House on the record.

Representative **PERCY**: Mr. Speaker, in reference to roll call number 493 on LD 141, had I been present, I would have voted yes.

The **SPEAKER**: The Chair recognizes the Representative from Saco, Representative Valentino who wishes to address the House on the record.

Representative **VALENTINO**: Mr. Speaker, on LD 1761 I had wanted to vote no and I'd like the record to reflect that.

On motion of Representative JACKSON of Allagash, the House adjourned at 10:44 p.m., until 10:00 a.m., Friday, April 14, 2006.